

2016 First Extraordinary Session

SENATE BILL NO. 3

BY SENATORS LAFLEUR AND ALARIO

ECONOMIC DEVELOPMENT. Provides relative to enterprise zone requirements, incentives, and effectiveness, and establishes a sunset date for the program. (Item #27)(gov sig)

1 AN ACT

2 To amend and reenact R.S. 51:1781, 1787(A)(2)(a) and (3), and (B)(3)(c) and (5) and to
3 enact R.S. 51:1787(A)(1.1) and (B)(3)(d), relative to incentives for businesses under
4 the Louisiana Enterprise Zone Act; to provide with respect to the enterprise zone
5 program; to provide for certain eligibility requirements; to provide for applicability;
6 to provide for effectiveness; to provide relative to the sunset of the program; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 51:1781, 1787(A)(2)(a) and (3), and (B)(3)(c) and (5) are hereby
10 amended and reenacted and R.S. 51:1787(A)(1.1), and (B)(3)(d) are hereby enacted to read
11 as follows:

12 §1781. Short title

13 A. This Act may be cited as the Louisiana Enterprise Zone Act.

14 **B. The provisions of this Chapter shall sunset July 1, 2017.**

15 * * *

16 §1787. Incentives

17 A. The board, after consultation with the secretaries of the Department of

1 Economic Development and Department of Revenue, and with the approval of the
2 governor, may enter into contracts not to exceed five years to provide:

3 (1) For either:

4 * * *

5 (1.1)(a) The amount of state sales and use tax rebate or investment
6 income tax credit allowed under this Section shall be limited to one hundred
7 thousand dollars of rebate or credit for each net new job created under this
8 Chapter. This limitation shall apply only to businesses participating in the
9 Enterprise Zone Program.

10 (b) A business subject to this limitation shall not receive any sales and
11 use tax rebate or investment income tax credit until it has provided all
12 documentation, including filing of its annual certification report, as required by
13 program rules and has shown proof of the creation of the net new job. Each net
14 new job shall be counted as new only for purposes of earning the one hundred
15 thousand dollars of sales and use tax rebate or investment income tax credit in
16 the year of its creation.

17 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, for either
18 a ~~two~~ three thousand five hundred dollar tax credit per net new ~~employee~~ job for
19 participating companies located in an enterprise zone or a one thousand dollar
20 tax credit per net new job for participating companies located outside of an
21 enterprise zone as determined by the company's average annual employment
22 reported under the Louisiana Employment Security Law during the taxable year for
23 which credit is claimed. This tax credit may be applied to any state income tax
24 liability or any state corporate franchise tax liability, but not liabilities for penalty or
25 interest, due or outstanding at the time the credit is generated. However, credits may
26 be applied to a due or outstanding tax liability attributable to tax years prior to the
27 year in which the credit is generated only if the tax liability is the result of an
28 assessment, administrative, or judicial proceeding by the Department of Revenue
29 after an audit, provided that no further interest or penalty shall be accrued on such

1 tax liability after the credit is generated. If the entire credit cannot be used in the year
 2 claimed, the remainder may be applied against the income tax or corporate franchise
 3 tax for the succeeding ten taxable years or until the entire credit is used, whichever
 4 occurs first. These credits shall also apply to those tax liabilities, but not liabilities
 5 for penalty or interest, identified in tax years where existing contracts generate the
 6 credit.

7 * * *

8 (3) The tax credit provided in Paragraph (2) of this Subsection shall be
 9 applicable only to a position within the state that **is in excess of the median**
 10 **statewide number of employees of the business, including affiliates, that** did not
 11 previously exist in the business enterprise **prior to the contract effective date** and
 12 that is filled by a person who is a citizen of the United States and who is domiciled
 13 in Louisiana, or who is a citizen of the United States and becomes domiciled in
 14 Louisiana within sixty days after his employment in such position, performing duties
 15 in connection with the operation of the business enterprise as a regular, full-time
 16 employee. The total number of credits allowed to a business enterprise for employees
 17 who are citizens of the United States and who become domiciled in Louisiana within
 18 sixty days after employment shall not exceed fifty percent of the total number of
 19 credits allowed to the business enterprise under the contract.

20 B. The board may enter into the contracts provided in Subsection A of this
 21 Section provided that:

22 * * *

23 (3) * * *

24 (c) **Notwithstanding any other provision of law to the contrary, a**
 25 **business which is assigned a North American Industry Classification Code of 23,**
 26 **5613, or 721 and whose advance notification is not filed before April 1, 2016,**
 27 **shall be ineligible to receive benefits pursuant to this Section.**

28 (d) The certifications required by Subparagraph (a) of this Paragraph shall
 29 be updated annually if the business is to continue receiving the benefits of this

1 Chapter.

2 * * *

3 (5)(a) Except as provided in Subparagraph ~~(b)~~(c) of this Paragraph, the
4 business creates **either:**

5 **(i)** a minimum of the lesser of five net new permanent jobs to be in place
6 within the first two years of the contract period **as determined by the company's**
7 **average annual employment reported under the Louisiana Employment**
8 **Security Law,** or

9 **(ii)** the number of net new jobs equal to a minimum of ten percent of the
10 existing employees, minimum of one, within the first year of the contract period **as**
11 **determined by the company's average annual employment reported under the**
12 **Louisiana Employment Security Law.**

13 (b) **For purposes of Subparagraph (a) of this Paragraph, the**
14 **methodology for averaging shall be determined by department rule.**

15 (c) A business which has an estimated construction period for its building
16 greater than two years may, for good cause shown, obtain an extension of not more
17 than two years to comply with the requirements of Subparagraph (a) of this
18 Paragraph.

19 ~~(e)~~(d) Provided the business entering the contract provided in Subsection A
20 of this Section is a nonprofit organization organized to finance the development and
21 construction of buildings and infrastructure to serve a public institution of higher
22 education, the new permanent jobs required in Subparagraph ~~(B)(6)(a)~~ **(B)(5)(a)** of
23 this Section may be created by the public institution of higher education.

24 ~~(d)~~(e) The provisions of this Section shall be applicable to all contracts
25 entered into under the provisions of Subsection A after January 1, 2002.

26 * * *

27 Section 2. The provisions of this Act shall apply to any new contract for which an
28 advance notification has been filed on or after April 1, 2016, and to the renewal of any
29 existing contract occurring on or after April 1, 2016.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

The original instrument was prepared by James Benton. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

SB 3 Reengrossed

2016 First Extraordinary Session

LaFleur

Present law, relative to the La. Enterprise Zone Act, provides that the Department of Economic Development and the Department of Revenue, may enter into contracts, with a maximum term of five years, to provide for either of the following:

- (1) The use of customer-owned tooling in a compression molding process.
- (2) Purchases of the material used in the construction of a building, or any addition or improvement thereon, for housing any legitimate business enterprise and machinery and equipment used in that enterprise.

Proposed law retains present law.

Proposed law provides that the amount of state sales and use tax rebate or investment income tax credit allowed will be limited to \$100,000 of rebate or credit for each net new job created under the Louisiana Enterprise Zone Act. Further provides that this limitation will only apply to businesses participating in the enterprise zone.

Proposed law provides that a business subject to this limitation will not receive any sales and use tax rebate or investment tax credit until it has provided all documentation, including filing of its annual certification report, as required by program rules and has shown proof of the creation of the net new job. Each net new job will only be counted as new for purposes of earning the \$100,000 of sales and use tax rebate or investment income tax credit in the year of its creation.

Present law provides for a tax incentive credit of \$2,500 per net new employee as determined by the company's average annual employment report for companies within the enterprise zone. Further specifies the conditions under which the credit may be used.

Proposed law changes references to the amount of the tax incentive credit for each new job as follows:

- (1) Increases the tax credit from \$2,500 to \$3,500 for companies located in an enterprise zone.
- (2) Creates a tax credit of \$1,000 for companies located outside of an enterprise zone.

Present law provides that the tax credit provided in present law will be applicable only to a position within the state and that is filled by a person who is a U.S. citizen and who is domiciled in Louisiana, or who is a U.S. citizen and becomes domiciled in Louisiana within 60 days after his employment in such position, performing duties in connection with the

operation of the business enterprise as a regular, full-time employee. The total number of credits allowed to a business enterprise for employees who are U.S. citizens and who become domiciled in Louisiana within 60 days after employment will not exceed 50% of the total number of credits allowed to the business enterprise under the contract.

Proposed law retains present law but changes applicability guideline to refer only to a position within the state that is in excess of the median statewide number of employees of the business, including affiliates, that did not previously exist in the business enterprise prior to the contract effective date.

Proposed law provides that a business which is assigned a North American Industry Classification Code of 23, 5613, or 721 and whose advance notification is not filed before April 1, 2016, will be ineligible to receive benefits.

Present law provides that the business creates:

- (1) A minimum of the lesser of five net new permanent jobs to be in place within the first two years of the contract period, or the number of net new jobs equal to a minimum of 10% of the existing employees, minimum of one, within the first year of the contract period.
- (2) The number of net new jobs equal to a minimum of 10% of the existing employees, minimum of one, within the first year of the contract period.

Proposed law retains present law but adds the requirement of using the company's average annual employment reported under the La. Employment Security Law for purposes of determining if the business is in compliance with present law. Further provides that the methodology for averaging will be determined by department rule.

Proposed law will apply to any new contract that an advance notification has been filed on or after April 1, 2016, and to the renewal of any existing contract occurring on or after April 1, 2016.

Proposed law provides a sunset date of July 1, 2017, for the program.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 51:1781, 1787(A)(2)(a) and (3), and (B)(3)(c) and (5); adds R.S. 51:1787(A)(1.1) and (B)(3)(d))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Makes corrections to identify the proper North American Industry Classification Code.

Senate Floor Amendments to engrossed bill

1. Increases the tax credit for companies located in an enterprise zone for the creation of a new job.
2. Creates a tax credit for companies located outside of an enterprise zone for the creation of a new job.

3. Provides a sunset date of 7/1/2017 for the program.
4. Makes Legislative Bureau and Bureau Note technical corrections.