

2016 First Extraordinary Session

HOUSE BILL NO. 71

BY REPRESENTATIVES BARRAS, ABRAMSON, ADAMS, AMEDEE, BISHOP, BROADWATER, COX, DANAHAY, DAVIS, GLOVER, HILFERTY, HOFFMANN, JAMES, MAGEE, GREGORY MILLER, NORTON, PEARSON, PUGH, STOKES, WILLMOTT, AND ZERINGUE

TAX CREDITS: Reduces the amount of certain Enterprise Zone tax credits and removes certain hotels from eligibility (Item #27)

1 AN ACT

2 To amend and reenact R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(c) and (5) and to enact R.S.  
3 51:1787(A)(1)(c) and (B)(3)(d), (6), and (7), relative to the Enterprise Zone Program;  
4 to provide for eligibility; to reduce the amount of certain tax credits; to provide for  
5 computation of average annual employment; to provide for applicability; to provide  
6 for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(c) and (5) are hereby amended  
9 and reenacted and R.S. 51:1787(A)(1)(c) and (B)(3)(d), (6), and (7) are hereby enacted to  
10 read as follows:

11 §1787. Incentives

12 A. The board, after consultation with the secretaries of the Department of  
13 Economic Development and Department of Revenue, and with the approval of the  
14 governor, may enter into contracts not to exceed five years to provide:

15 (1) For either:

16 \* \* \*

17 (c)(i) For projects for which the advance notification is filed on or after April  
18 1, 2016, the amount of the rebate of sales and use taxes and the investment income

1 tax credit granted pursuant to the provisions of this Paragraph shall not exceed one  
2 hundred thousand dollars per net new job created under this Chapter.

3 (ii) A business shall not receive any sales and use tax rebate or refundable  
4 investment income tax credit until it has provided all documentation, including filing  
5 the annual certification report as required by rule, and has shown proof of the  
6 creation of the net new jobs.

7 (iii) For purposes of determining the maximum rebate or income tax credit  
8 allowed, each net new job shall only be counted once. The limitation provided for  
9 in this Subparagraph shall only apply to the sales and use tax rebates and refundable  
10 investment income tax credits granted to businesses participating in the Enterprise  
11 Zone Program.

12 \* \* \*

13 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, for a two  
14 thousand five hundred dollar tax credit per net new employee as determined by the  
15 company's average annual employment reported under the Louisiana Employment  
16 Security Law during the taxable year for which credit is claimed. For projects for  
17 which the advance notification form is filed on or after April 1, 2016, the amount of  
18 the credit provided for in this Subparagraph shall be one thousand dollars per net  
19 new employee, unless the net new employee for which the credit is claimed was  
20 receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and  
21 Children (WIC), Medicaid, unemployment benefits, or any other benefits from a  
22 similar public assistance program, as provided for in rule by the Department of  
23 Economic Development, during the six-month period prior to employment. The  
24 amount of the credit for each net new employee meeting these qualifications shall  
25 be three thousand five hundred dollars. This tax credit may be applied to any state  
26 income tax liability or any state corporate franchise tax liability, but not liabilities  
27 for penalty or interest, due or outstanding at the time the credit is generated.  
28 However, credits may be applied to a due or outstanding tax liability attributable to  
29 tax years prior to the year in which the credit is generated only if the tax liability is

1 the result of an assessment, administrative, or judicial proceeding by the Department  
2 of Revenue after an audit, provided that no further interest or penalty shall be  
3 accrued on such tax liability after the credit is generated. If the entire credit cannot  
4 be used in the year claimed, the remainder may be applied against the income tax or  
5 corporate franchise tax for the succeeding ten taxable years or until the entire credit  
6 is used, whichever occurs first. These credits shall also apply to those tax liabilities,  
7 but not liabilities for penalty or interest, identified in tax years where existing  
8 contracts generate the credit.

9 \* \* \*

10 (3) The tax credit provided in Paragraph (2) of this Subsection shall be  
11 applicable as follows:

12 (a) For projects for which an advance notification was filed before April 1,  
13 2016, only to a position within the state that did not previously exist in the business  
14 enterprise and that is filled by a person who is a citizen of the United States and who  
15 is domiciled in Louisiana, or who is a citizen of the United States and becomes  
16 domiciled in Louisiana within sixty days after his employment in such position,  
17 performing duties in connection with the operation of the business enterprise as a  
18 regular, full-time employee.

19 (b) For projects for which an advance notification was filed on or after April  
20 1, 2016, only to a position within the state that is in excess of the median statewide  
21 number of employees of the business, including affiliates, that did not previously  
22 exist in the business enterprise prior to the contract effective date and that is filled  
23 by a person who is a citizen of the United States and who is domiciled in Louisiana,  
24 or who is a citizen of the United States and becomes domiciled in Louisiana within  
25 sixty days after his employment in such position, performing duties in connection  
26 with the operation of the business enterprise as a regular, full-time employee.

27 (c) The total number of credits allowed to a business enterprise for  
28 employees who are citizens of the United States and who become domiciled in

1 Louisiana within sixty days after employment shall not exceed fifty percent of the  
2 total number of credits allowed to the business enterprise under the contract.

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

5 \* \* \*

6 (3)

7 \* \* \*

8 (c) Notwithstanding any other provision of law to the contrary, a business  
9 that is assigned a North American Industry Classification Code of 5613 or 721, and  
10 whose advance notification is not filed before April 1, 2016, shall be ineligible to  
11 receive benefits pursuant to the provisions of this Section.

12 (d) The certifications required by Subparagraph (a) of this Paragraph shall  
13 be updated annually if the business is to continue receiving the benefits of this  
14 Chapter.

15 \* \* \*

16 (5)(a) Except as provided in Subparagraph (b) of this Paragraph, the business  
17 creates a either:

18 (i) A minimum of the lesser of five net new permanent jobs to be in place  
19 within the first two years of the contract period, as determined by the company's  
20 average annual employment reported under the Louisiana Employment Security  
21 Law.

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

26 (b) For purposes of Subparagraph (a) of this Paragraph, the methodology for  
27 determining a company's average annual employment shall be established by  
28 department rule.



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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 71 Reengrossed

2016 First Extraordinary Session

Barras

**Abstract:** Reduces the amount of the credit per net new job created for certain projects and eliminates eligibility for certain accommodation businesses. Further increases the amount of the credit for certain new jobs.

Present law establishes the enterprise zone program through which businesses may enter into contracts with the Board of Commerce and Industry to receive income tax credits or sales and use tax rebate payments in exchange for the creation of a certain number of jobs that involve employees who meet certain residency and other requirements.

Proposed law limits the amount of the sales and use tax rebate or the investment income tax credit, for projects for which an advance notification is filed on or after April 1, 2016, to \$100,000 per net new employee created.

Proposed law requires that the net new job be counted only once for purposes of the cap on the amount of the benefit.

Proposed law increases the amount of the income tax credit from \$2,500 to \$3,500 per net new job created for employees who have been receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), Medicaid, unemployment benefits, or benefits from a similar public assistance program as determined by the Dept. of Economic Development, for projects for which the advance notification form is filed on or after April 1, 2016. Proposed law decreases the amount of the income tax credit from \$2,500 to \$1,000 for net new jobs created for employees not receiving these benefits.

Proposed law eliminates accommodation businesses with a North American Industry Classification System (NAICS) Code of 5613 and 72 from program eligibility if no advance notification form for the businesses' project has been filed before April 1, 2016.

Proposed law provides exceptions to proposed law for certain businesses participating in the La. Quality Jobs Program and the Competitive Projects Payroll Incentive Program.

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

(Amends R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(c) and (5); Adds R.S. 51:1787(A)(1)(c) and (B)(3)(d), (6), and (7))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Increase the amount of the income tax credit for each net new employee to \$3,500 if the employee is receiving SNAP, WIC, or Medicaid benefits or is considered unemployable by traditional standards, or lacking in basic skill.
2. Limit the amount of the sales and use tax rebate or the investment income tax credit to \$100,000 per net new employee, plus \$1,000 per retained employee, when the employee is retained for three years after execution of a contract and the retained employee existed prior to execution of the contract.

3. Remove administrative and support service industries with an NAICS Code 5613 from program eligibility.
4. Specify that the requirement that an employee be receiving "some form of public assistance" means that the employee is receiving SNAP, WIC, or Medicaid benefits.
5. Authorize the Dept. of Economic Development to determine the methodology used to compute a company's average annual employment for purposes of determining eligibility.

The House Floor Amendments to the engrossed bill:

1. Delete provisions of proposed law relative to using the number of retained employees as a factor in calculating the maximum allowable sales and use tax rebate or investment tax credit.
2. Reduce the amount of the income tax credit per net new job created for employees who were not receiving some form of public assistance prior to employment from \$2500 to \$1000.
3. Provide exceptions to proposed law for certain businesses participating in the La. Quality Jobs Program and the Competitive Projects Payroll Incentive Program.
4. Made technical changes.