

2016 Regular Session

HOUSE BILL NO. 783

BY REPRESENTATIVE ABRAMSON

TAX/TAX REBATES: Relative to the Louisiana Quality Jobs Program

1 AN ACT

2 To amend and reenact R.S. 51:2456(B), 2457(A)(1), (B), and (C), and 2461 and to enact
3 R.S. 51:2457(A)(5) and (6), (D), (E), and (F), relative to the Louisiana Quality Jobs
4 Program; to provide relative to incentive rebates; to provide for definitions; to
5 provide relative to sales and use tax rebates; to provide for a project facility expense
6 rebate; to extend the termination date of the program; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 51:2456(B), 2457(A)(1), (B), and (C), and 2461 are amended and
10 reenacted and R.S. 51:2457(A)(5) and (6), (D), (E), and (F) are hereby enacted to read as
11 follows:

12 §2456. Rebate; payments

13 * * *

14 B.(1) In addition to the rebates provided in this Chapter, an employer who
15 has executed a contract under the provisions of this Chapter and who meets the
16 requirements of R.S. 51:2455(E) shall be entitled to ~~the same sales and use tax~~
17 ~~rebates or refundable investment income tax credit authorized in R.S. 51:1787, if the~~
18 ~~employer meets the enterprise zone program hiring requirements and all other~~
19 ~~limitations, procedures, and requirements in R.S. 51:1787. Any contract executed~~
20 ~~under this Chapter which provides for a rebate of local sales and use taxes shall~~

1 ~~include the same procedures and requirements under R.S. 51:1787 for rebates~~
2 ~~involving local sales and use taxes, including but not limited to the requirement that~~
3 ~~any such request for a rebate of local sales and use taxes be accompanied by an~~
4 ~~endorsement resolution approved by the governing authority of the appropriate~~
5 ~~municipality, parish, port district, or industrial district board in whose jurisdiction~~
6 ~~the employer is or will be located. one of the following rebates:~~

7 (a)(i) A rebate of sales and use taxes imposed by the state, or any political
8 subdivision as provided for in Item (B)(1)(a)(ii) of this Section, on purchases of
9 materials used in the construction of a building, or any addition or improvement
10 thereon, for housing any legitimate business enterprise and machinery and equipment
11 used in that enterprise.

12 (ii) When an advance notification to file an application for benefits under
13 this Chapter includes a rebate of sales and use taxes imposed by a political
14 subdivision, including the office of sheriff in the case of a law enforcement district,
15 the department shall notify the appropriate local governing body of receipt of the
16 application. An endorsement resolution or letter of approval shall be submitted by
17 the appropriate local governing body within ninety days of receipt of notification
18 from the department that an advance notification to file an application for benefits
19 under this Chapter has been received. The board shall have the authority to approve
20 or deny a request for the rebate of the state sales and use taxes if a local governing
21 body fails to submit an endorsement resolution, written reasons for denial, or a
22 written request for delay of consideration of the application within the time allowed.
23 In the event that all local sales and use taxes are dedicated and are unavailable to be
24 rebated, no endorsement resolution shall be required of a local governing authority
25 before the board considers its application for benefits under this Chapter.

26 (iii) All requests for a rebate of local sales and use taxes shall be
27 accompanied by the endorsement resolution or letter of approval from the
28 appropriate local governing body in whose jurisdiction the establishment is to be
29 located.

1 **(b) A project facility expense rebate equal to one and one-half percent of the**
2 **amount of qualified capital expenditures for the facility or facilities designated in the**
3 **contract.**

4 **(2) For purposes of this Subsection, the term "qualified capital expenditures"**
5 **shall mean the amounts classified as capital expenditures for federal income tax**
6 **purposes that are related to the project, plus exclusions from capitalization provided**
7 **for in Internal Revenue Code Section 263 (a)(1)(A) through (L), minus the**
8 **capitalized cost of land, capitalized leases of land, capitalized interest, capitalized**
9 **costs of manufacturing machinery and equipment, to the extent the capitalized costs**
10 **of manufacturing machinery and equipment are excluded from sales and use tax**
11 **pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing**
12 **building. If a business purchases an existing building and capital expenditures are**
13 **used to rehabilitate the building, only the cost of the rehabilitation shall be**
14 **considered qualified capital expenditures.**

15 **(3) A qualified business shall be allowed to increase its qualified capital**
16 **expenditures to the extent the qualified business' capitalized basis is properly reduced**
17 **by claiming a federal credit.**

18 §2457. Filing claim to receive rebate; determination; repayment

19 A. Payroll rebate.

20 (1) After the end of the fiscal year of an employer for which an employer has
21 qualified to receive a payroll rebate, the employer shall file an application for the
22 annual rebate as required in R.S. 51:2456 with the Department of Economic
23 Development.

24 * * *

25 ~~B. (5)~~ **(5) If the actual verified gross payroll for the employer's fiscal year for**
26 **which the employer is applying for his third annual rebate does not show a minimum**
27 **of five new direct jobs and is not of an amount which equals or exceeds a total of**
28 **five hundred thousand dollars, or, where applicable according to R.S. 51:2455(E)(1),**
29 **two hundred fifty thousand dollars, the tax liability for the tax period in which the**

1 failure to show such minimum occurs shall be increased by the amount of rebates
2 previously allowed. If at any other time during the ten-year period when the
3 employer applies for a rebate at the end of the employer's fiscal year, the actual
4 verified gross payroll for such fiscal year does not show a minimum of five new
5 direct jobs and an amount which equals or exceeds a total of five hundred thousand
6 dollars, or, where applicable according to R.S. 51:2455(E)(1), two hundred fifty
7 thousand dollars, the rebates shall be suspended and shall not be resumed until such
8 time as the actual verified gross payroll shows a minimum of five new direct jobs
9 and an amount which equals or exceeds five hundred thousand dollars or, where
10 applicable according to R.S. 51:2455(E)(1), two hundred fifty thousand dollars. No
11 rebate shall accrue or be paid to the employer during a period of suspension.

12 ~~€. (6)~~ An employer that has qualified pursuant to R.S. 51:2455 is eligible to
13 receive rebates under this Chapter only in accordance with the provisions under
14 which it initially applied and was approved. If an employer that is receiving rebates
15 expands, it may apply for additional rebates based on the gross payroll anticipated
16 from the expansion only, pursuant to R.S. 51:2455.

17 B. Issuance of state sales and use tax rebate.

18 (1) Qualifying purchases of material used in the construction, addition, or
19 improvement of a building made on or after the effective date of the contract shall
20 be eligible for the rebate and shall be included in the application for payment of the
21 rebate of sales and use taxes.

22 (2) Application for the final payment of the rebate of state sales and use
23 taxes granted pursuant to this Section shall be filed no later than six months after the
24 Department of Economic Development signs a project completion report and it is
25 received by the Department of Revenue, the political subdivision, and the business,
26 or no later than thirty days after the end of the calendar year in the case of customer-
27 owned tooling used in a compression-molding process. The project completion
28 report shall not be signed until the project is complete and the contract has been
29 approved by the board and the governor.

1 (3) Requests for rebates of state sales and use taxes pursuant to this Section
2 shall be processed by the Department of Revenue as follows:

3 (a) A properly completed rebate request shall be submitted to the Department
4 of Revenue on forms provided by the Department of Revenue. A properly completed
5 rebate request shall mean a rebate request that is signed and includes the general
6 information required on the face of the request, a copy of the executed incentive
7 contract, a copy of each invoice over fifteen thousand dollars, and all required
8 schedules. The request shall be submitted electronically unless the secretary of the
9 Department of Revenue authorizes submission of the request in an alternate form.

10 (b) Within ten business days of receipt of a properly completed rebate
11 request, the Department of Revenue shall rebate eighty percent of the total amount
12 claimed for rebate in the rebate request. Within three months of the date of filing the
13 rebate request, the Department of Revenue shall audit the rebate request. During the
14 three-month period, the Department of Revenue shall disallow items determined to
15 be ineligible for rebate. Within ten business days following the expiration of the
16 three-month period, the Department of Revenue shall rebate the remaining twenty
17 percent of the amount claimed on the rebate request less any amounts properly
18 disallowed during the three-month audit period. The Department of Revenue shall
19 make the rebates from the current collections of the taxes collected pursuant to
20 Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title 47 of the Louisiana
21 Revised Statutes of 1950, as amended. Any sales and use tax rebate issued shall be
22 subject to subsequent audit by the Department of Revenue, and any rebate amount
23 determined to be in excess of the amount that should have been allowed shall be
24 subject to collection by the Department of Revenue.

25 (c) Failure of the Department of Revenue to timely pay rebates as provided
26 herein shall entitle the taxpayer to interest, which shall begin to accrue three months
27 after the completed rebate request is received at the rate established pursuant to the
28 provisions of R.S. 13:4202. Payments of interest authorized according to the
29 provisions of this Section shall be made from the current collections of taxes

1 collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title
2 47 of the Louisiana Revised Statutes of 1950, as amended.

3 C. Issuance of project facility expense rebate.

4 (1) Application for the payment of the project facility expense rebate granted
5 pursuant to this Section shall be filed no later than six months after the Department
6 of Economic Development signs a project completion report and it is received by the
7 Department of Revenue, the political subdivision, and the business. The project
8 completion report shall not be signed until the project is complete and the contract
9 has been approved by the board and the governor.

10 (2) Requests for the project facility expense rebate pursuant to this Section
11 shall be processed by the Department of Revenue as follows:

12 (a) A properly completed project facility expense rebate request shall be
13 submitted to the Department of Revenue on forms provided by the Department of
14 Revenue. A properly completed project facility expense rebate request shall mean
15 a rebate request that is signed and includes the general information required on the
16 face of the request, a copy of the executed incentive contract, and a copy of all
17 required schedules. The request shall be submitted electronically unless the
18 secretary of the Department of Revenue authorizes submission of the request in an
19 alternate form.

20 (b) The Department of Revenue shall make the rebate payment from the
21 current collections of the taxes collected pursuant to Chapter 2, Chapter 2-A, or
22 Chapter 2-B of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as
23 amended.

24 D. Extensions of application filing deadlines.

25 For purposes of filing the application provided for in Subsections (B) and (C)
26 of this Section, upon request, the business filing the application shall be granted a
27 thirty-day extension of time in which to file its application, provided the request for
28 extension is received by the Department of Revenue prior to the expiration of the
29 filing period. In addition to the thirty-day extension, the Department of Revenue is

1 authorized to grant the business an additional extension of time, not to exceed sixty
2 days, in which to file its application, provided that the business provides reasonable
3 cause for the granting of the additional extension.

4 E. Issuance Local Sales and Use Tax.

5 (1) Within ninety days from the date that a properly completed rebate request
6 submitted by a taxpayer is received by the appropriate local taxing authority, the
7 taxing authority shall review the rebate request and issue a rebate to the taxpayer for
8 allowed items and shall notify the taxpayer of any disallowed items. For purposes
9 of this Subsection, a properly completed rebate request shall mean a rebate request
10 that is signed and includes the general information required on the face of the
11 request, a copy of each invoice, and all required schedules.

12 (2) A taxpayer requesting reconsideration of any disallowed item shall do so
13 within sixty days from receipt of the notification of the disallowed items by
14 resubmitting a properly completed rebate request for the disallowed items to the
15 taxing authority for reconsideration. The time periods for reconsideration of
16 disallowed items in a rebate request shall be the same as the time periods for
17 consideration of the initial rebate request.

18 (3) Rebate requests may be submitted electronically with the approval of the
19 local taxing authority.

20 (4) Failure by a local taxing authority to timely process and pay a local sales
21 and use tax rebate in accordance with the provisions of this Subsection shall entitle
22 the taxpayer to interest on the amount of the allowed items contained in the properly
23 completed rebate request. Interest shall begin to accrue on the date the properly
24 completed rebate request or reconsideration of disallowed items in a properly
25 completed rebate request is received by the taxing authority at the rate established
26 pursuant to the provisions of R.S. 13:4202.

27 (5) Sales and use taxes imposed by a political subdivision that are dedicated
28 to the repayment of bonded indebtedness or dedicated to schools shall not be eligible
29 for rebate. All other state and local sales and use taxes shall be eligible for rebate.

1 (6) No governing authority of a political subdivision or sheriff's office shall
 2 charge any fee or require any employment practice that conflicts with state or federal
 3 law as a precondition to authorizing tax benefits under this Chapter. The governing
 4 authority of each political subdivision or sheriff's office shall, after all requirements
 5 of this Chapter have been met, promptly rebate any sales and use taxes to the entity
 6 entitled to such rebate.

7 F. Violation of terms of the contract.

8 If a collecting agency receives notice that the rebate, or any part thereof, has
 9 ceased by reason of a violation of the terms of the contract under which the rebate
 10 was granted, then the amount of the rebate for the year in which the violation
 11 occurred and for each year thereafter in which the violation is not remedied shall be
 12 considered a tax due as of December thirty-first of the year in which the violation
 13 occurred, and for each year thereafter in which a rebate is used and the violation is
 14 not remedied, and it shall be collected by the collecting agencies in the same manner
 15 and subject to the same provisions for the collection of other tax debts.

16 * * *

17 §2461. Application deadline

18 On and after ~~January 1, 2018~~ July 1, 2018, no new ~~applications to receive~~
 19 ~~incentive tax credits or rebates~~ advance notifications under this Chapter shall be
 20 ~~approved~~ accepted by the Department of Economic Development. However, an
 21 employer which, prior to ~~January 1, 2018~~ July 1, 2018, has been approved by the
 22 department to receive incentive tax credits or rebates under the program shall
 23 continue to receive tax credits or rebates pursuant to the terms of its agreement with
 24 the state of Louisiana as long as the employer retains its eligibility.

25 Section 2. This Act shall become effective on July 1, 2016; if vetoed by the governor
 26 and subsequently approved by the legislature, this Act shall become effective on July 1,
 27 2016, or on the day following such approval by the legislature, whichever is later.

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)]

HB 783 Engrossed

2016 Regular Session

Abramson

Abstract: Provides relative to a sales and use tax rebate and a project facility expense rebate through the Louisiana Quality Jobs Program and extends the termination date of the program.

Present law provides for the Quality Jobs Program, which authorizes the granting of contracts by the Board of Commerce and Industry to businesses for the purposes of providing rebates and tax credits for the achievement of certain performance by the business. The term of the contract is five years. Authorizes a rebate equal to the benefit rate as defined in present law multiplied by 80% of the gross payroll of new direct jobs.

Present law entitles employers participating in the Quality Jobs Program to receive the same benefits authorized through the Enterprise Zone Program.

Proposed law replaces the additional benefits in present law that an employer is entitled to receive through the Enterprise Zone Program with the following rebates:

- (1) A sales and use tax rebate for the purchases of materials used in the construction, addition, or improvement of a building used to house the business or its equipment.
- (2) A project facility expense rebate equal to 1.5% of the qualified capital expenditures for the facility.

Proposed law defines "qualified capital expenditures" as capital expenditures for federal income tax purposes related to the project plus exclusions from certain capitalizations as provided for in the Internal Revenue Code, minus certain capitalized costs for land, interest, and machinery.

Proposed law requires the appropriate local governing authority approve a rebate of local sales and use taxes as provided for in proposed law. Further requires the request for a rebate of local sales and use tax be accompanied by the approval.

Proposed law requires the application for final payment of either the sales and use tax rebate or the project facility expense rebate to be filed no later than six months after a project completion report has been signed and received by the Dept. of Revenue (DOR), the political subdivision, and the business or, no later than 30 days after the end of the calendar year for certain businesses involved in the compression-molding process when the application is for final payment of the sales and use tax rebate.

Proposed law requires a properly completed rebate request to be submitted for requests for the rebate of either the sales and use tax or the project facility expense and requires the requests to be submitted electronically unless the secretary has authorized an alternate method.

Proposed law requires payment of 80% of the sales and use tax rebate within 10 days of receipt of the request. Further requires the DOR to audit the rebate requests for sales and use taxes and authorizes the DOR to withhold from the remaining 20% of the rebate any amounts determined through the audit to be ineligible for rebate.

Proposed law authorizes payments of interest to a taxpayer who has requested a sales and use tax rebate pursuant to the provisions of proposed law when the DOR fails to timely pay the rebate.

Proposed law requires the DOR, upon request of the business, to grant a 30 day extension of time within which a business has to file an application. Further authorizes the DOR to grant an additional 60 day extension for reasonable cause.

Proposed law a local taxing authority to review a rebate request for local sales and use taxes and issue or disallow a rebate within 90 days of receipt by the local taxing authority of a properly completed rebate request. Further authorizes a taxpayer to request reconsideration of any disallowed items, but requires the taxpayer to do so within 60 days of receipt of the notice that items have been disallowed.

Proposed law authorizes payments of interest to a taxpayer who has requested a local sales and use tax rebate pursuant to the provisions of proposed law when the local governing authority fails to timely pay the rebate.

Proposed law provides for collection of rebates issued when there has been a violation of the terms of the contract providing for the rebate.

Proposed law extends the termination date of the program from January 1, 2018 to July 1, 2018.

(Amends R.S. 51:2456(B), 2457(A)(1), (B), and (C), and 2461; Adds R.S. 51:2457(A)(5) and (6), (D), (E), and (F))

Summary of Amendments Adopted by House

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

1. Require the appropriate local governing authority to approve via endorsement resolution or letter of approval any applications for a rebate of local sales and use tax pursuant to the provisions of proposed law and require the approval accompany the request for the rebate of the local sales and use tax.
2. Require applications for either the sales and use tax rebate or the project facility expense rebate to be filed no later than six months after a project completion report has been signed. For sales and use tax rebates, provide an alternate application deadline of 30 days after the end of the calendar year for certain businesses involved in a compression-molding process.
3. Require properly completed requests for either the sales and use tax rebate or the project facility expense rebate to be submitted electronically to the DOR, unless the secretary has authorized an alternate method of submission.
4. Require the DOR to rebate 80% of the rebate requested within 10 days of receiving the request. Further requires the DOR to audit the rebate request within three months of receiving the rebate request and authorizes the DOR to withhold from the remaining 20% rebate any amounts disallowed as a result of the audit.
5. Authorize interest payments when the DOR fails to timely pay a rebate.
6. Require a 30-day extension of time to file an application be granted by the DOR at the applicant's request. Further authorize the DOR to grant an additional 60-day extension when the applicant is able to show reasonable cause.

7. Require a local governing authority to review a request for local sales and use tax rebate and to issue a rebate or notify the taxpayer of disallowed items within 90 days of receipt of the properly completed rebate request and provide the procedure for requesting reconsideration of any disallowed item.
8. Authorize interest payments by the local governing authority when it fails to timely pay a rebate of local sales and use tax.
9. Provide for collection of any amount of a rebate issued when the terms of the contract providing for the rebate is violated.
10. Extend the termination date of the program from January 1, 2018 to July 1, 2018.