

2016 Regular Session

HOUSE BILL NO. 950

BY REPRESENTATIVE FOIL

TAX/TAX REBATES: Establishes a rebate for certain research and development activities

1 AN ACT

2 To enact Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 47:6361, relative to rebates; to authorize contracts for certain
4 state rebates; to provide for definitions, requirements, and limitations; to provide for
5 the amount, payment, and issuance of rebates; to authorize the promulgation of rules
6 and regulations; to provide for the administration of the rebates; to provide for
7 applicability; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
10 1950, to be comprised of R.S. 47:6361 is hereby enacted to read as follows:

11 CHAPTER 5. RESEARCH AND DEVELOPMENT REBATE

12 §6361. Rebates; contracts for certain research and development activities

13 A. The Department of Economic Development may enter into contracts to
14 provide incentive rebates to qualifying entities. The amount of the incentive rebate
15 authorized in this Section shall be as follows:

16 (1) The incentive rebate for companies who employ fifty or less employees
17 in the state and who are eligible to claim a federal income tax credit pursuant to 26
18 U.S.C. 41(a) for increasing research activities shall be equal to thirty percent of the
19 Louisiana qualified research expenses for the taxable year.

20 (2) The incentive rebate for companies who receive a federal Small Business
21 Innovation Research Grant as created by the Small Business Innovation
22 Development Act of 1982 (P.L. 97-219), reauthorized by the Small Business

1 Research and Development Enhancement Act (P.L. 102-564), and reauthorized again
2 by the Small Business Reauthorization Act of 2000 (P.L. 106-554), shall be equal to
3 thirty percent of the award received during the tax year.

4 B. As used in this Section, the following terms shall have the meaning
5 hereafter ascribed to them, unless the context clearly indicates otherwise:

6 (1) "Department" shall mean the Department of Economic Development.

7 (2) "Person" shall mean a natural person.

8 (3) "Qualifying entities" shall mean companies who meet either of the
9 following:

10 (a) The company employs fifty or less employees in the state and is eligible
11 to claim a federal income tax credit pursuant to 26 U.S.C. 41(a) for increasing
12 research activities.

13 (b) The company receives a federal Small Business Innovation Research
14 Grant as created by the Small Business Innovation Development Act of 1982 (P.L.
15 97-219), reauthorized by the Small Business Research and Development
16 Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business
17 Reauthorization Act of 2000 (P.L. 106-554).

18 (4) "Qualified research expenses" and "qualified research" shall have the
19 same meanings as those terms are defined in 26 U.S.C. §41, as amended.

20 C.(1) Each qualifying entity seeking the incentive rebate authorized in this
21 Section shall apply to the Department of Economic Development. The entity shall
22 submit the application by December thirty-first of the year following the calendar
23 year in which the entity qualified for the incentive rebate. The application shall
24 include all of the following:

25 (a) A federal income tax return and supporting documentation that shows the
26 amount of the federal research credit for the same taxable year.

27 (b) The total amount of qualified research expenses and the qualified
28 research expenses in this state.

1 (c) The total number of persons employed in Louisiana by the company and
2 the number of those persons employed in Louisiana directly engaged in research and
3 development.

4 (d) The average wages of the persons employed in Louisiana not directly
5 engaged in research and development and the average wages of the persons
6 employed in Louisiana directly engaged in research and development.

7 (e) The average value of benefits received by all persons employed in
8 Louisiana.

9 (f) The cost of health insurance coverage offered to all persons employed in
10 Louisiana.

11 (g) At the department's request, the representative of the company shall
12 provide federal income tax information related to the federal research and
13 development credit. This information shall include but shall not be limited to IRS
14 forms 8821 and 4506.

15 (h) Any other information required by the Department of Economic
16 Development.

17 (2) The Department of Economic Development shall approve or disapprove
18 each application. However, no rebate shall be granted to a company pursuant to the
19 provisions of this Section unless the rebate is approved by the Department of
20 Economic Development.

21 (3) Notwithstanding any provision of law to the contrary, the secretary of the
22 Department of Revenue shall make the incentive rebate authorized pursuant to the
23 provisions of this Section from the current collections of the taxes imposed by Title
24 47 of the Louisiana Revised Statutes of 1950, as amended.

25 D. The following types of entities that do not have a pending or issued
26 United States patent directly related to the qualified research expenditures claimed
27 under this Section are ineligible to apply for or receive benefits under this Section,
28 unless specifically invited by the secretary of the department to do so:

1 (1) Professional services firms as defined in rules and regulations
2 promulgated by the department.

3 (2) Businesses primarily engaged in custom manufacturing and custom
4 fabricating as defined in rules and regulations promulgated by the department.

5 E. The total amount of rebates that shall be issued pursuant to the provisions
6 of this Paragraph (1) of Subsection A of this Section shall be limited to five million
7 dollars per calendar year, and the total amount of rebates that shall be issued
8 pursuant to the provisions of this Paragraph (2) of Subsection A of this Section shall
9 be limited to five million dollars per calendar year. The Department of Economic
10 Development shall approve rebates on a first-come, first-served basis until the
11 maximum amount of rebates have been issued; however, all rebate requests received
12 on the same business day shall be treated as received at the same time, and if the
13 aggregate amount of rebate requests received on a single business day exceeds the
14 total amount of available rebates, rebates shall be approved on a pro rata basis. If the
15 total amount of rebates applied for in any particular year exceeds the amount of
16 rebates authorized for that year, the excess shall be treated as having been applied
17 for on the first day of the subsequent year and shall be paid as a priority against the
18 next year's maximum amount of authorized rebates.

19 F. The department shall administer the provisions of this Section and shall
20 have the following powers and duties in addition to those granted by other laws of
21 this state:

22 (1) To monitor the implementation and operation of this Section and conduct
23 a continuing evaluation of the program.

24 (2) To assist any company in obtaining the benefits of any incentive or
25 inducement program authorized by Louisiana law.

26 (3) To promulgate program rules and regulations in consultation with the
27 secretary of the Department of Revenue, in accordance with the Administrative
28 Procedure Act as are necessary to implement the provisions of this Section.

1 (4) To receive information from the Department of Revenue regarding the
2 company, its direct and indirect owners, and the amount of any incentive rebates
3 claimed pursuant to this Section. This information shall not be public record and
4 shall be subject to the same prohibition of disclosure as confidential records in the
5 possession of the Department of Revenue.

6 (5) To verify all relevant records and accounts of any company applying for
7 the incentive rebates provided for by this Section.

8 G. An entity that receives an incentive rebate pursuant to the provisions of
9 this Section shall not qualify for any other state tax credit administered by the
10 Department of Economic Development for the purpose of research and development
11 for the same calendar year.

12 Section 2. The provisions of this Act shall be applicable for all taxable years
13 beginning on and after January 1, 2016.

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

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 950 Original

2016 Regular Session

Foil

Abstract: Authorizes a state rebate incentive for certain research and development activities that is payable from current state tax collections.

Present law provides for nonrefundable income or corporation franchise tax credits for certain research and development activities. Specifically, authorizes a tax credit for taxpayers who employ less than 50 persons who claim a federal income tax credit under federal law. The amount of the credit is equal to 40% of the La. qualified research expenses for the taxable year.

Present law authorizes a nonrefundable income or corporation franchise tax credit for a taxpayer who receives a federal Small Business Innovation Research Grant as created and provided for by federal law. The amount of the credit is equal to 40% of the award received during the tax year.

Proposed law retains present law.

Proposed law authorizes the Dept. of Economic Development (DED) to enter into contracts to provide incentive rebates to qualifying entities which meet either of the following:

- (1) The company employs 50 or less employees in the state and is eligible to claim a federal income tax credit for increasing research activities. The amount of the rebate is equal to 30% of the La. qualified research expenses for the taxable year. Proposed law caps the amount of rebates issued at \$5 million per calendar year.
- (2) The company receives a federal Small Business Innovation Research Grant as created and provided for in federal law. The amount of the rebate is equal to 30% of the award received during the tax year. Proposed law caps the amount of rebates issued at \$5 million per calendar year.

Proposed law requires qualifying entities to submit an application to DED by Dec. 31st of the year following the calendar year in which the entity qualified for the incentive rebate. Further provides for information required to be submitted with the application including the applicant's federal income tax return and supporting documentation that shows the amount of the federal research credit for the same taxable year.

Proposed law requires the incentive rebates to be paid from the current collections of the taxes imposed by present law.

Proposed law specifically excludes professional service firms and businesses primarily engaged in custom manufacturing and custom fabricating that do not have a pending or issued U. S. patent directly related to the qualified research expenditures from participating in this incentive program unless specifically invited by the secretary of the department to do so.

Proposed law requires DED to approve rebates on a first-come, first-served basis until the maximum amount of rebates have been issued. Rebate requests received on the same business day shall be treated as received at the same time, and if the aggregate amount of rebate requests received on a single business day exceeds the total amount of available rebates, rebates shall be approved on a pro rata basis. Rebates applied for in any particular year in excess of the amount of rebates authorized for that year shall be treated as having been applied for on the first day of the subsequent year and shall be paid as a priority against the next year's maximum amount of authorized rebates.

Proposed law requires DED to administer the provisions of proposed law including to monitor the implementation and operation of proposed law, conduct a continuing evaluation of the program, assist any company in obtaining the benefits of any incentive or inducement program, and to receive information from the Dept. of Revenue regarding the company, its direct and indirect owners, and the amount of any incentive rebates claimed.

Proposed law prohibits an entity that receives an incentive rebate pursuant to proposed law from qualifying for any other state tax credit established in present law administered by DED for the purpose of research and development for the same calendar year.

Applicable for all taxable years beginning on and after Jan. 1, 2016.

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

(Adds R.S. 47:6361)