

2020 Regular Session

HOUSE BILL NO. 846

BY REPRESENTATIVE WRIGHT

TAX/TAX REBATES: Provides relative to the Competitive Projects Payroll Incentive Program

1 AN ACT

2 To amend and reenact R.S. 51:3121(A)(7), (B)(1)(b)(v), and (C)(1), (2), and (3)(a) and to
3 enact R.S. 51:3121(B)(1)(b)(vi) through (ix) and 3122, relative to the competitive
4 projects payroll incentive program; to provide relative to the program's eligibility
5 requirements; to extend the duration of the program; to remove certain approvals; to
6 provide relative to certain requirements for participation in the program; to provide
7 for certain limitations; to establish a payroll incentive for certain businesses impacted
8 by certain public health emergencies; to provide for the amount of the incentive; to
9 provide for definitions; to provide for eligibility; to provide for requirements and
10 limitations; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 51:3121(A)(7), (B)(1)(b)(v), and (C)(1), (2), and (3)(a) are hereby
13 amended and reenacted and R.S. 51:3121(B)(1)(b)(vi) through (ix) and 3122 are hereby
14 enacted to read as follows:

15 §3121. Competitive Projects Payroll Incentive Program

16 A. Definitions. For purposes of this Section, the following words or terms
17 as used in this Chapter shall have the following meanings, unless a different meaning
18 appears from the context:

19 * * *

20 (7) "Qualified business" means a business certified by the secretary as
21 meeting the eligibility requirements of Subsection B of this Section, ~~approved by the~~

1 ~~Joint Legislative Committee on the Budget to participate in the program,~~ and
2 executing a contract providing the terms and conditions for its participation.

3 * * *

4 B. Eligibility requirements. (1) A business shall be eligible for participation
5 in the program if all of the following requirements are met:

6 * * *

7 (b) The business will primarily engage in one of the following activities at
8 the project site:

9 * * *

10 (v) Cybersecurity.

11 (vi) Renewable or a recycling process.

12 (vii) Agri-bio industry.

13 (viii) COVID virus screening, protective gear, medical devices, drugs, or
14 equipment for treatment of COVID infected patients.

15 (ix) Other activities as recommended by the secretary ~~and approved by the~~
16 ~~Joint Legislative Committee on the Budget.~~

17 * * *

18 C. Applications and contract approval and administration. (1) ~~At the~~
19 ~~invitation of the secretary,~~ a A business may apply for a contract by submitting to the
20 department ~~such~~ the certified statements and substantiating documents as the
21 department may require.

22 (2) The secretary ~~may~~ shall certify eligibility of the business ~~and request~~
23 ~~approval by the Joint Legislative Committee on the Budget of its participation to~~
24 participate in the program ~~on~~ in accordance with terms and conditions specified by
25 the secretary in a proposed contract, if the secretary determines all of the following:

26 (a) The business meets the eligibility requirements provided for in
27 Subsection B of this Section.

28 (b) Participation in the program is needed in a highly competitive site
29 selection situation to encourage the business to locate or expand in the state.

1 (c) Securing the project will result in a significant positive economic benefit
2 to the state.

3 (3)(a)(i) ~~Upon the approval by the Joint Legislative Committee on the~~
4 ~~Budget of participation in the program by the business, the~~ The secretary shall
5 execute the contract with the business, and provide a copy to the Department of
6 Revenue prior to the payment of any benefits under the contract.

7 (ii) No new contract shall be approved on or after ~~July 1, 2022~~ July 1, 2026,
8 but contracts existing on that date may continue and may be renewed.

9 * * *

10 §3122. Competitive Projects Payroll Incentive Program for COVID-19-Impacted
11 Businesses

12 A. For purposes of this Section, the following words shall have the following
13 meanings unless the context clearly indicates otherwise:

14 (1) "Benefit rate" shall mean the rate for new jobs created by a COVID-19-
15 impacted business that pay at least the federal minimum wage. The benefit rate for
16 eligible businesses shall be six percent of the wages for each new job.

17 (2) "COVID-19-impacted business" means any business that satisfies all of
18 the following criteria:

19 (a) The business is registered to do business in the state of Louisiana.

20 (b) The business is assigned a North American Industry Classification Code
21 of 44, 45, or 72.

22 (c) The business had a physical and active operation in Louisiana on March
23 13, 2020.

24 (d) The business filed its advance notification on or before December 31,
25 2021, and included a project start date. Advance notifications for a COVID-19-
26 impacted business may include a project start date that precedes the advance
27 notification filing date, but the project start date shall not be before March 13, 2020,
28 nor shall it be after December 31, 2021.

1 (3) "New jobs" shall mean employment with a COVID-19-impacted business
2 where each employee satisfies all of the following criteria:

3 (a) The employee is employed by the COVID-19-impacted business at its
4 place of operation.

5 (b) The employee is a Louisiana resident.

6 (c) The employee's hire or rehire date is on or after May 15, 2020.

7 (d) The employee is paid, as a base wage, at least the federal minimum wage
8 excluding tips, bonuses, and commissions.

9 B. There is hereby established a rebate for any eligible COVID-19-impacted
10 business that meets the requirements of this Section. The amount of the rebate shall
11 be based on the benefit rate for each new job. In order to qualify for the rebate, the
12 COVID-19-impacted business shall create a minimum of five new jobs between May
13 15, 2020, and December 31, 2021, and shall create a minimum new annual payroll
14 from new jobs of at least forty thousand dollars before December 31, 2021. In order
15 to determine the number of new jobs eligible for the rebate established pursuant to the
16 provisions of this Section, the applicant's employment baseline shall be the total
17 number of active full-time and part-time employees at the COVID-19-impacted
18 business's place of operation that are Louisiana residents on May 14, 2020. The term
19 of COVID-19-impacted business contracts shall not exceed a term of five-years.

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 846 Engrossed

2020 Regular Session

Wright

Abstract: Expands businesses eligible to participate in the Competitive Projects Payroll Incentive Program, extends the termination of the program from July 1, 2022, to July 1, 2026, removes discretionary authority of the secretary of the Dept. of Economic Development to invite businesses to participate in the program and approvals of the Joint Legislative Committee on the Budget, and establishes a new rebate for COVID-19-impacted businesses.

Present law establishes the Competitive Projects Payroll Incentive Program (hereinafter "program") for qualified businesses to receive a rebate of up to 15% of eligible new payroll and for either a sales and use tax rebate for capital expenditures for a facility designated in the contract or for a project facility expense rebate.

Proposed law retains present law.

Present law defines an eligible business as a business that has at least 50% of its total annual sales from a Louisiana site to out-of-state customers, or to in-state customers who resell the product or service to an out-of-state customer for ultimate use, or the federal government and the business is primarily engaged in activities that include manufacturing of durable goods including automobiles, motorcycles or other passenger vehicles, aircraft, spacecraft, medical devices, batteries or other power storage devices, manufacturing of pharmaceutical products, conversion of natural gas to diesel, jet fuel, or other refined fuels, or data storage or data services. Further requires an eligible business to offer, within 90 days of qualifying for the incentive rebate, a basic health benefits plan to its employees.

Proposed law retains present law but expands the businesses eligible to participate in the program to include businesses engaged in cybersecurity, renewable or a recycling process, the agri-bio industry, or COVID virus screening, protective gear, medical devices, drugs, or equipment for treatment of COVID infected patients.

Present law authorizes businesses to participate in the program upon invitation by the secretary of the Dept. of Economic Development (DED) and approval by the Joint Legislative Committee on the Budget (JLCB). Further authorizes other business activities to be eligible to participate in the program as recommended by the secretary of DED and approved by JLCB.

Proposed law changes present law by eliminating the requirement that businesses be invited to participate in the program by invitation of the secretary of DED and JLCB's requirement to approve a business to participate in the program. Further eliminates the requirement that JLCB approve other business activities in order to be eligible to participate in the program.

Present law authorizes the secretary of DED to certify eligibility of the business and request approval by JLCB of its participation in the program, if the secretary determines all of the following:

- (1) The business meets the eligibility requirements provided for in present law.
- (2) Participation in the program is needed in a highly competitive site selection situation to encourage the business to locate or expand in the state.
- (3) Securing the project will result in a significant positive economic benefit to the state.

Proposed law eliminates the requirement that JLCB approve a business's participation in the program. Otherwise retains present law.

Present law prohibits any new contracts from being approved on or after July 1, 2022, but contracts existing on that date may continue and may be renewed.

Proposed law extends the termination date for new contracts to be entered into from on or after July 1, 2022, to on or after July 1, 2026.

Proposed law establishes a rebate for any eligible COVID-19-impacted business (impacted business) assigned a North American Industry Classification Code of 44, 45, or 72 that had a physical and active operation in La. on March 13, 2020, and that has filed its advance notification on or before Dec. 31, 2021. In order to qualify for the rebate, the impacted business shall create a minimum of five new jobs between May 15, 2020, and Dec. 31, 2021, and shall create a minimum new annual payroll from new jobs of at least \$40,000 before Dec. 31, 2021.

Proposed law establishes the benefit rate for the rebate to be six percent of the wages for each new job created. In order to determine the number of new jobs eligible for the rebate, the

applicant's employment baseline shall be the total number of active full-time and part-time employees at the impacted business's place of operation that are La. residents on May 14, 2020. Proposed law prohibits the term of an impacted business's contract from exceeding five years.

Proposed law defines "new jobs" as employment with an impacted business where each employee is employed by the impacted business at its place of operation, the employee is a La. resident, the employee's hire or rehire date is on or after May 15, 2020, and the employee is paid, as a base wage, at least the federal minimum wage excluding tips, bonuses, and commissions.

(Amends R.S. 51:3121(A)(7), (B)(1)(b)(v), and (C)(1), (2), and (3)(a); Adds R.S. 51:3121(B)(1)(b)(vi)-(ix) and 3122)

Summary of Amendments Adopted by House

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

1. Establish a rebate for any eligible COVID-19-impacted business that meets certain eligibility requirements. Further provides for the amount of the rebate, maximum term of the contract, and other incentive requirements.