

ACT No. 663

2016 Regular Session

HOUSE BILL NO. 783

BY REPRESENTATIVE ABRAMSON AND SENATORS THOMPSON AND
WALSWORTH

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~~
21 ~~include the same procedures and requirements under R.S. 51:1787 for rebates~~
22 ~~involving local sales and use taxes, including but not limited to the requirement that~~
23 ~~any such request for a rebate of local sales and use taxes be accompanied by an~~
24 ~~endorsement resolution approved by the governing authority of the appropriate~~

1 ~~municipality, parish, port district, or industrial district board in whose jurisdiction~~
 2 ~~the employer is or will be located.~~ either:

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

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

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

26 (b)(i) A project facility expense rebate equal to one and one-half percent of
 27 the amount of qualified capital expenditures for the facility or facilities designated
 28 in the contract.

29 (ii) For purposes of this Subsection, the term "qualified capital expenditures"
 30 shall mean the amounts classified as capital expenditures for federal income tax

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

10 (iii) A qualified business shall be allowed to increase its qualified capital
 11 expenditures to the extent the qualified business' capitalized basis is properly reduced
 12 by claiming a federal credit.

13 §2457. Filing claim to receive rebate; determination; repayment

14 A. Payroll rebate.

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

19 * * *

20 ~~B. (5)~~ If the actual verified gross payroll for the employer's fiscal year for
 21 which the employer is applying for his third annual rebate does not show a minimum
 22 of five new direct jobs and is not of an amount which equals or exceeds a total of
 23 five hundred thousand dollars, or, where applicable according to R.S. 51:2455(E)(1),
 24 two hundred fifty thousand dollars, the tax liability for the tax period in which the
 25 failure to show such minimum occurs shall be increased by the amount of rebates
 26 previously allowed. If at any other time during the ten-year period when the
 27 employer applies for a rebate at the end of the employer's fiscal year, the actual
 28 verified gross payroll for such fiscal year does not show a minimum of five new
 29 direct jobs and an amount which equals or exceeds a total of five hundred thousand
 30 dollars, or, where applicable according to R.S. 51:2455(E)(1), two hundred fifty

1 thousand dollars, the rebates shall be suspended and shall not be resumed until such
2 time as the actual verified gross payroll shows a minimum of five new direct jobs
3 and an amount which equals or exceeds five hundred thousand dollars or, where
4 applicable according to R.S. 51:2455(E)(1), two hundred fifty thousand dollars. No
5 rebate shall accrue or be paid to the employer during a period of suspension.

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

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

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

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

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

26 (a) A properly completed rebate request shall be submitted to the Department
27 of Revenue on forms provided by the Department of Revenue. A properly completed
28 rebate request shall mean a rebate request that is signed and includes the general
29 information required on the face of the request, a copy of the executed incentive
30 contract, a copy of each invoice over fifteen thousand dollars, and all required

1 schedules. The request shall be submitted electronically unless the secretary of the
2 Department of Revenue authorizes submission of the request in an alternate form.

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

18 (c) Failure of the Department of Revenue to timely pay rebates as provided
19 herein shall entitle the taxpayer to interest, which shall begin to accrue three months
20 after the completed rebate request is received at the rate established pursuant to the
21 provisions of R.S. 13:4202. Payments of interest authorized according to the
22 provisions of this Section shall be made from the current collections of taxes
23 collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title
24 47 of the Louisiana Revised Statutes of 1950, as amended.

25 C. Issuance of project facility expense rebate.

26 (1) Application for the payment of the project facility expense rebate granted
27 pursuant to this Section shall be filed no later than six months after the Department
28 of Economic Development signs a project completion report and it is received by the
29 Department of Revenue, the political subdivision, and the business. The project

1 completion report shall not be signed until the project is complete and the contract
2 has been approved by the board and the governor.

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

5 (a) A properly completed project facility expense rebate request shall be
6 submitted to the Department of Revenue on forms provided by the Department of
7 Revenue. A properly completed project facility expense rebate request shall mean
8 a rebate request that is signed and includes the general information required on the
9 face of the request, a copy of the executed incentive contract, and a copy of all
10 required schedules. The request shall be submitted electronically unless the
11 secretary of the Department of Revenue authorizes submission of the request in an
12 alternate form.

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

17 D. Extensions of application filing deadlines.

18 For purposes of filing the application provided for in Subsections B and C of
19 this Section, upon request, the business filing the application shall be granted a
20 thirty-day extension of time in which to file its application, provided the request for
21 extension is received by the Department of Revenue prior to the expiration of the
22 filing period. In addition to the thirty-day extension, the Department of Revenue is
23 authorized to grant the business an additional extension of time, not to exceed sixty
24 days, in which to file its application, provided that the business provides reasonable
25 cause for the granting of the additional extension.

26 E. Issuance Local Sales and Use Tax Rebate.

27 (1) Within ninety days from the date that a properly completed rebate request
28 submitted by a taxpayer is received by the appropriate local taxing authority, the
29 taxing authority shall review the rebate request and issue a rebate to the taxpayer for
30 allowed items and shall notify the taxpayer of any disallowed items. For purposes

1 of this Subsection, a properly completed rebate request shall mean a rebate request
2 that is signed and includes the general information required on the face of the
3 request, a copy of each invoice, and all required schedules.

4 (2) A taxpayer requesting reconsideration of any disallowed item shall do so
5 within sixty days from receipt of the notification of the disallowed items by
6 resubmitting a properly completed rebate request for the disallowed items to the
7 taxing authority for reconsideration. The time periods for reconsideration of
8 disallowed items in a rebate request shall be the same as the time periods for
9 consideration of the initial rebate request.

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

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

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

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

28 F. Violation of terms of the contract.

29 If a collecting agency receives notice that the rebate, or any part thereof, has
30 ceased by reason of a violation of the terms of the contract under which the rebate

