DIGEST

Hutter HB No. 215

Abstract: Establishes the Ports of Louisiana Investor Tax Credit which authorizes the issuance of tax credits equal to 5% of the capital costs of qualifying port and port infrastructure projects.

Proposed law provides that "capital costs" shall include all costs and expenses incurred by one or more investing companies in connection with the acquisition, construction, installation, and equipping of a qualifying project. "Capital costs" shall not include property owned or leased by the investing company or a related party before the commencement of the acquisition, construction, installation, or equipping of the qualified project unless the property was physically located outside the state for a period of at least one year prior to the date the qualifying project was placed in service.

Proposed law provides that a "qualifying project" shall include a project to be sponsored or undertaken by a public port and one or more investing companies that has a capital cost of not less than $5 million and at which the predominant trade or business activity conducted will constitute port or port and harbor activities.

Proposed law authorizes a tax credit against state income tax equal to 5% of the capital costs of a qualifying project. Further provides that the tax credit shall be earned by investors at the time expenditures are made by an investing company for the taxable period in which the credits are earned. Tax credits may not be applied against a tax liability or transferred until capital cost expenditures are certified by the Dept. of Economic Development (DED).

Proposed law requires DED to certify capital cost expenditures no less than twice during the duration of the qualifying project unless the investing company agrees, in writing, to reimburse the department for the costs of any additional certifications.

Proposed law requires execution of a cooperative endeavor between the investing company proposing the qualifying project and the public port in whose geographic jurisdiction the qualifying project is to be located indicating cooperation and support among all the parties. Proposed law authorizes the tax credit to be carried forward as a credit against subsequent tax liability for a period not to exceed 10 years.

Proposed law authorizes and provides for requirements for the transferability of an investor tax credit. Authorizes a fee of up to $200 per transferee and provides that the carryforward period for a credit that is transferred or sold begins on the date the credit was originally earned.

Proposed law provides for the certification and administration of the tax credit. Authorizes DED to determine, through the promulgation of rules, which projects and capital cost expenditures qualify for tax credits. Further requires that all rules are subject to oversight by the House Ways and Means and the Senate Revenue and Fiscal Affairs committees.

Proposed law requires that an application for initial certification include a preliminary budget, the estimated capital costs of the qualifying project, the qualifying project's estimated Louisiana payroll, a detailed description of the qualifying project, a statement that the proposed project will qualify as a qualifying project, estimated start and completion dates, the name of each investing company, and any other information required by DED.

Proposed law requires DED to submit its initial certification of a project to the investing company and to the secretary of the Dept. of Revenue (DOR). Further requires the Dept. of Transportation and Development to inspect the construction site of the qualifying project to verify that capital costs expenditures have been expended by the investing company.

Proposed law requires DED to prepare a written report, with input from the Legislative Fiscal Office, outlining the overall impact of the tax credits and the economic impact of the tax credits on the port and maritime industry located in this state and regionally.

Proposed law authorizes the recapture of credits if DED finds that funds for which an investing company received credits are not invested in and expended with respect to capital costs of a qualifying investment.

Proposed law authorizes DOR to recover disallowed credits through any collection remedy authorized by present law and initiated within three years from Dec. 31 of the year in which the credits were earned. Further authorizes the assessment of interest on recovered credits at a rate of three percentage points above the rate provided in present law, which shall be computed from the original due date of the return on which the credit was taken.

Proposed law authorizes DED to promulgate rules and regulations as are necessary to implement the provisions of proposed law subject to legislative oversight by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

Proposed law provides that the provisions of proposed law shall be effective until Jan. 1, 2015, and prohibits tax credits from being granted after such date.

(Adds R.S. 47:6035)

Summary of Amendments Adopted by House

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

1. Changes the amount of the tax credit from up to 5% to equal to 5%.