

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

TAX CREDITS: Provides relative to certain port and harbor activities for purposes of qualifying for the ports of La. tax credit

DIGEST

Present law authorizes the Department of Economic Development (DED) to grant a credit against corporate income and franchise tax liability equal to the total capital costs of a "qualifying project", to be taken at 5% per tax year, limited to the total cost of the project.

"Capital costs" is defined as all costs and expenses incurred by one or more investing companies in connection with the acquisition, construction, installation, and equipping of a qualifying project during the period commencing with the date on which the acquisition, construction, installation, and equipping commences and ending on the date on which the qualifying project is placed in service.

Proposed law provides in order to meet the definition of capital costs the costs and expenses must be paid after July 1, 2013.

Present law provides the following definitions:

- (1) "Qualifying project" is defined as a project 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 industrial, warehousing, or port and harbor operations and cargo handling, including any port or port and harbor activity.
- (2) "Port or port and harbor activity" means trade or business activity conducted on premises in which a duly recognized port authority as described in the 2012 North American Industry Classification System (NAICS) within Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling).

Proposed law reduces the capital cost of a qualifying project from \$5 million to \$1.5 million. Excludes projects at which the predominant trade or business activity conducted will constitute industrial operations and bulk liquid or gas facilities from the definition of "qualifying project".

Proposed law expands the definition of "port or port and harbor activity" to any activity when the trade or business is conducted on port authority premises including, NAICS Code-described businesses set forth in present law (above) and adds Industry Number 336611 (Ship Building and Repair) and Industry Number 213112 (Support Activities for Oil and Gas Operations).

Present law authorizes DED to issue the Investor Tax Credit for a "qualifying project" if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget, which approval shall not be granted earlier than July 1, 2014, and the state bond commission certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided, whether from increased port or port and harbor activity because of the grant of the tax credit or otherwise.

Proposed law authorizes DED to issue the Investor Tax Credit if the commissioner of administration certifies, after approval of the Joint Legislative Committee on the Budget, that securing the project will result in a "significant positive economic benefit to the state". "Significant positive economic benefit" is defined as net positive tax revenue that must be determined by taking into account direct, indirect, and induced impacts of the project based

on a standard economic impact methodology utilized by the commissioner, and the value of the credit, and any other state tax and financial incentives that are used by DED to secure the project.

Proposed law requires DED to grant, in lieu of a credit equal to the total capital costs of the project taken at 5% per tax year, another amount of tax credit to be taken at such other percentage which is warranted by the "significant positive economic benefit" determined by the commissioner.

Proposed law provides that no tax credit may be granted for a qualifying project which exceeds \$2.5 million per tax year. In addition, the total amount of the Investor Tax Credits which may be granted by DED for all recipients cannot exceed \$6.25 million per fiscal year.

Present law provides that the tax credit will be earned by investors at the time expenditures are made by an investing company; however, tax credits will not be applied against a tax liability until the project is approved by the department after certification from the commissioner with the approval of the committee and the state bond commission and capital cost expenditures are certified by the department.

Proposed law provides that the tax credit will not apply to a tax liability before July 1, 2014, and not until capital cost expenditures are certified only by the department.

Proposed law extends the termination date of the Investor Tax Credit from January 1, 2017, to January 1, 2020.

Effective July 1, 2013.

(Amends R.S. 47:6036(B)(2)(intro para), (8) and (13), (C)(1)(b) and (c), (G))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the engrossed bill

1. Amended the bill to incorporate the changes to the Investor Tax Credit portion of the Ports of Louisiana Tax Credit law which are contained in SB122 re-reengrossed.
2. Adds "Capitol cost" definition and requirements.
3. Changes the "Port or port and harbor activity" definition.
4. Decreases the capital cost of a project to qualify for the credit from \$5 million to \$1.5 million.
5. Caps grants for a project at \$2.5 million per tax year, and limits DED from granting to any recipient a tax credit that will result in a reduction of tax liability by all recipients of such credits to exceed \$6.25 million in any fiscal year.
6. Authorizes a credit if a project will result in a significant positive economic benefit and provides a definition.
7. Extends the termination date of the Investor Tax Credit from January 1, 2017, to January 1, 2020.
8. Provides the effective date of July 1, 2013.