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## DIGEST

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HB 628 Engrossed

2025 Regular Session

Crews

**Abstract:** Establishes the Louisiana Dividend Program (hereafter the "program") within the Dept. of Treasury (hereafter "department") in order to return a portion of certain tax collections to qualifying applicants and provides for funding, administration, qualification, and restrictions relative to the program.

### PROGRAM

Proposed law (R.S. 49:351 et seq.) establishes the program within the department applicable the first July 1st in which there is no individual income tax levied in the state.

#### *Qualification*

Unless an individual qualifies as an "ineligible individual", as explained below, proposed law authorizes an individual to receive a dividend pursuant to proposed law if all of the following criteria are met:

- (1) The individual applies to the department in accordance with proposed law.
- (2) The individual was 18 years of age or older during the qualifying year. Includes an individual whose eighteenth birthday occurs within the qualifying year. Defines "qualifying year" to mean a fiscal year for which sufficient revenues are deposited into the La. Dividend Fund ("fund") in order to meet the requirements of proposed law (R.S. 49:355(A)) with respect to payment of a dividend.
- (3) Is a state resident on the date of application.
- (4) Was a domiciliary of the state during the entire qualifying year.
- (5) Is a citizen of the U.S., an alien lawfully admitted for permanent residence in the U.S., an alien with refugee status under federal law, or an alien that has been granted asylum under federal law.
- (6) Was in compliance during the qualifying year with the military selective service registration requirements imposed pursuant to federal law (50 U.S.C. App. 453), if those requirements were applicable to the individual, or the individual has come into compliance with such registration requirements after being notified of the lack of compliance.

Defines "individual" to mean a natural person. Further defines an "ineligible individual" as an individual who otherwise would have been eligible for a dividend, but meets either of the following criteria:

- (1) During the qualifying year, was convicted in this state of a felony.
- (2) During all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a crime for which an offender may be sentenced to death or imprisonment at hard labor or a misdemeanor, if the individual has been convicted of a prior crime for which an offender may be sentenced to death or imprisonment at hard labor or has been convicted of two or more prior misdemeanors.

Proposed law authorizes a parent, guardian, or other authorized representative to claim a dividend on behalf of a disabled individual or an interdict if the disabled individual or interdict is otherwise eligible to receive the dividend. Defines "disabled" to mean physically or mentally unable to complete and sign an application due to a serious emotional disturbance; a visual, orthopedic, or other health impairment; or a developmental disability. Proposed law additionally requires payment of a dividend to a deceased's estate if the individual dies after applying for the dividend.

#### *Application*

Proposed law authorizes payment of a dividend from the fund only if the balance in the fund exceeds \$400M at the end of the qualifying year. Once this condition is met, requires the treasurer to post notice on his website that a dividend will be paid and when the application period will open for that dividend payment. Further requires all applications for that dividend payment to be submitted between July 1 and Sept. 30; however, authorizes an otherwise eligible individual to apply after Sept. 30 if the individual is an active duty member of the armed forces and was deployed during the application period. Grants these individuals until 90 days after the end of deployment to apply for the dividend.

Proposed law authorizes the treasurer to require an individual to provide proof of eligibility and may use other information available from other state departments, agencies, boards, or commissions to determine the eligibility of an individual. Provides that the sharing of any such information with the treasurer for the purposes of determining eligibility shall not otherwise cause shared information exempted from disclosure pursuant to the Public Records Law to be subject to disclosure and requires the treasurer to maintain the confidentiality of any such information. Requires the treasurer to consider all relevant circumstances in determining the eligibility of an individual for a dividend; however, prohibits the residency of an individual's spouse from being the principal factor relied upon by the treasurer in determining the residency of the individual.

Proposed law requires the department to develop and furnish an application form for claiming a dividend. Requires the form to include notice of penalties for false statements and claims in connection with claiming a dividend, a statement of eligibility, and a certification of residency. Further requires that an individual must personally sign the application for a dividend unless:

- (1) The applicant is disabled or an interdict, in which case the parent, legal guardian, or other authorized representative shall sign the application.
- (2) The applicant is a member of the armed forces who is serving on active duty outside of the U.S., in which case an individual with a power of attorney from the member of the armed forces that authorizes in specific or general terms the individual to file on behalf of that armed services member may sign the application.

Further provides that the penalty and enforcement provisions in proposed law (R.S. 49:361) for false claims made in connection with a dividend application shall apply to an individual who claims a dividend on behalf of another.

Proposed law prohibits a disabled or interdicted individual from maintaining a claim against the state or an officer or employee of the state based on actions taken by his or her guardian or authorized representative with respect to management or disposal of a dividend received on behalf of the disabled or interdicted individual.

Proposed law establishes a procedure for appeals of a determination that an individual is ineligible for a dividend or ineligible to claim a dividend on behalf of another. Requires payment of a \$25 appeal fee and a request that the department review its decision. Requires the department to provide the appellant with a final written decision within four months after the administrative appeal is filed. If the individual is aggrieved by the decision of the department after all administrative proceedings, proposed law authorizes the individual to appeal that decision to the nineteenth judicial district court. Further provides that an appeal does not entitle the aggrieved individual to a trial de novo. Requires the appeal to be based on the record of the administrative proceeding from which appeal is taken and the scope of appeal is limited to matters contained in the record of the administrative proceeding. Further provides that unless the individual has received a waiver pursuant to proposed law, the department is required to return the \$25 appeal fee to the individual upon a final determination on appeal that the individual is eligible for that dividend. Authorizes a waiver of the \$25 appeal fee if, during the qualifying year for that dividend, the individual was a member of a family with an income equal to or less than the federal poverty guidelines for Louisiana set by the United States Department of Health and Human Services.

Proposed law authorizes the legislature to pass a concurrent resolution with a 2/3 vote to express its intent to utilize fund and subfund monies for capital outlay projects in the comprehensive capital outlay budget.

#### *Dividend amount and notice*

Proposed law provides that if sufficient monies have been deposited into the fund to require payment of a dividend (R.S. 49:355(A)), then no later than Oct. 15 of the payment period, the treasurer is required determine the value of each dividend and shall submit notice of the amounts required for appropriation from the fund and subfund to the House Committee on Appropriations and the Senate Committee on Finance for inclusion in the General Appropriation Bill. Establishes a calculation for determining the amount of each dividend by requiring the treasurer to:

- (1) Determine the total amount available for dividend payments by subtracting both of the following from the unobligated balance of the fund as of the end of the qualifying year:
  - (a) The total amount necessary to pay prior year dividends from the fund in the current year to applicants who were deployed during the application period or who successfully prosecuted an appeal of a determination that the individual was ineligible for a dividend.
  - (b) The amount necessary to pay costs of administering the dividend program.
- (2) Determine the number of individuals for whom payment may be made by adding both of the following:
  - (a) The number of applicants eligible to receive a dividend payment in the current payment period and the number of estates eligible to receive a dividend payment for the current payment period pursuant to proposed law.
  - (b) The number of ineligible individuals, which figure shall be supplied to the department by the secretary of the Dept. of Public Safety and Corrections no later than Oct. 5 each year.
- (3) Divide the total amount calculated to be available by the total number of individuals for whom payment may be made.

Proposed law requires the treasurer, by Oct. 15 of an applicable payment period, to post on the department's website the value of each dividend for that payment period and the balance of the fund at the end of the qualifying year.

#### *Duties of the department*

Proposed law imposes certain duties on the department, including but no limited to:

- (1) Payment of dividends from the fund between Nov. 1 and March 31 of an applicable payment period. Further requires any dividend not paid by March 31 to be administered as unclaimed property pursuant to present law (R.S. 9:151 et seq.).
- (2) Promulgation of rules pursuant to the Administrative Procedure Act for the implementation and administration of proposed law.
- (3) Assisting residents of the state, particularly in rural areas, who need assistance to establish eligibility and to apply for dividends.
- (4) Establish a fraud investigation unit to assist in the investigation and prosecution of fraudulent activity by applicants.

#### *Confidentiality*

Proposed law provides that information on each dividend application, except the applicant's name, is confidential. Authorizes release of such information in certain limited circumstances.

#### *Exemption from seizure*

Proposed law exempts 20% of a recipient's dividend from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. Requires a writ of *fiери facias* directing seizure of any part of a dividend to be served on the treasurer.

Prohibits acceptance by the department of an assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend prior to May 1 of the payment period. Requires the department to send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains all of the following:

- (1) Notification that all or part of the individual's dividend has been seized under a writ of execution or court order.
- (2) The name and address of the court that issued the writ or order.
- (3) The case number for which the writ or order was issued.
- (4) The amount seized under the writ or order.
- (5) Notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made.

Proposed law further requires the department to promulgate rules to establish fees for processing claims on dividends and assignments of dividends. Requires such fees to be deducted from the amount of the dividend remaining after payment of the portion claimed or assigned, or, if the entire dividend is claimed or assigned, requires the fees to be deducted before the dividend is paid to the creditor or assignee.

#### *Subpoena power*

Proposed law authorizes the treasurer or any member of his staff designated by him to compel the production of public and private records by issuing a subpoena. Further provides that pursuant to proposed law shall be issued only upon approval of a judge of the district court of the parish in which the department is domiciled upon application in writing by the treasurer. Requires the judge to issue a written decision within 72 hours after receipt of such application. Provides methods for service of the subpoena. Provides remedy by court order if a person refuses to obey a subpoena issued pursuant to the provisions of proposed law.

#### *Penalties and enforcement*

If an individual is convicted of a crime in connection with a false statement made pursuant to proposed law and the conviction is not reversed, proposed law requires the individual forfeit all dividends paid pursuant to proposed law and is permanently ineligible for payment of a future dividend.

Proposed law further requires the treasurer to refer a debt to the office of debt recovery if he determines that a dividend should not have been claimed by or paid to an individual. Requires all such recovered amounts to be deposited into the fund. Establishes a three year period after payment is sent within which an improperly paid dividend is to be referred to the office of debt recovery; however, if the treasurer determines that the individual exercised gross negligence or recklessly disregarded a material fact in connection with a false statement made in an application, then the debt is to be referred within six years of payment. If the department finds that an individual, in claiming a dividend, or an individual, in certifying another person's eligibility, wilfully misrepresented, exercised gross negligence with respect to, or recklessly disregarded a material fact pertaining to eligibility, proposed law authorizes the department to issue an order against the individual for the imposition of a civil fine of up to \$3,000; loss of eligibility to receive the next five dividends; or both.

Proposed law provides that the appeal provisions of proposed law apply to a penalty determination.

## **FUNDING**

Proposed law establishes the fund within the state treasury for the purposes of financing the program. Requires deposit of 25% of all mineral revenues collected by the state in excess of \$650M after all other allocations of such revenues required by the constitution and present law (R.S. 39:116). Proposed law defines "mineral revenues" to mean all revenues received in a fiscal year by the state as a result of the production of or exploration for minerals, including severance taxes, royalty payments, bonus payments, or rentals. Specifically excludes from the definition any revenues designated as nonrecurring pursuant to present constitution, any revenues received by the state as a result of grants or donations when the terms or conditions thereof require otherwise, and revenues derived from any tax on the transportation of minerals.

Proposed law provides for the investment, and use of monies in the fund. Further establishes the Restorative Justice Subfund (hereafter "subfund") within the fund. If the requirements of proposed law relative to payment of dividends have been met, then no later than Oct. 15 of the payment period, the treasurer is required to transfer from the fund into the subfund an amount equal to the total amount of dividends that would have been paid to ineligible individuals. Requires monies in the subfund be appropriated to corrections services within the Dept. of Public Safety and Corrections for costs related to incarceration.

## **PUBLIC RECORDS EXEMPTIONS**

Present law (R.S. 44:4.1) authorizes certain information to be exempted from disclosure as a public record. Proposed law retains present law and adds provisions of the La. Dividend Program relative to previously protected information and information on dividend application forms to the authorized

list of exemptions.

### **EXEMPTION FROM SEIZURE**

Present law (R.S. 13:3881) exempts certain income or property of a debtor from seizure. Proposed law retains present law and adds an exemption for 20% of any dividend paid pursuant to proposed law.

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

(Amends R.S. 44:4.1(B)(35) and adds R.S. 13:3881(B)(11) and R.S. 49:351 through 361)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Remove provision requiring automatic payment of a dividend if certain conditions are met.
2. Add provision authorizing the legislature to pass a concurrent resolution with a 2/3 vote to express its intent to utilize fund and subfund monies for capital outlay projects in the comprehensive capital outlay budget.
3. Change application period from Jan. 1 through March 31 to July 1 through Sept. 30.
4. Change date by which Dept. of Corrections must supply certain information from April 5 to Oct. 5.
5. Change date by which treasurer must post notice of payment of a dividend and its amount from April 15 to Oct. 15.
6. Change dates by which treasurer is required to pay dividends from July 1 through Dec. 31 to Nov. 1 through March 31.