SLS 17RS-320 **ORIGINAL**

2017 Regular Session

SENATE BILL NO. 150

BY SENATORS CHABERT AND MORRELL

TAX/TAXATION. Provides for the Ports of Louisiana tax credits. (gov sig)

AN ACT

To amend and reenact R.S. 47:6036(C)(1)(b), (G), the introductory paragraph of R.S. 47:6036(I)(1), (I)(1)(c) and (2)(a) and to repeal R.S. 47:6036(K), relative to the Ports of Louisiana tax credits; to streamline the approval process; to change the overall credit caps; to extend the sunset date of the credit; to remove an expired reporting provision; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6036(C)(1)(b), (G), the introductory paragraph of R.S. 47:6036(I)(1), (I)(1)(c) and (2)(a) are hereby amended and reenacted to read as follows:

§6036. Ports of Louisiana tax credits

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C. Investor tax credit.

(1) * * *

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(b) The Investor Tax Credit provided for in this Subsection shall be granted by the Department of Economic Development for a qualifying project if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget~~, and the state bond commission~~ certifies to the secretary of the department that securing the project will result in a significant positive economic benefit to the state. "Significant positive economic benefit" means net positive tax revenue that shall 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 the department to secure the project. If the commissioner with the approval of the committee so certifies, then the Department of Economic Development may grant a tax credit equal to seventy-two percent of the total capital costs of such qualifying project to be taken at five percent per tax year or shall grant such other amount of tax credit to be taken at such other percentage which is warranted by the significant positive economic benefit determined by the commissioner, but no tax credit granted for a qualifying project shall exceed one million eight hundred thousand dollars per tax year. However, the total amount of tax credits granted on a qualifying project shall not exceed the total cost of the project. In addition, the investor tax credits granted by the department to any recipient pursuant to this Section shall be limited to an amount which shall not result in a reduction of tax liability by all recipients of such credits to exceed ~~four million five hundred~~ **six million two hundred fifty** thousand dollars in any fiscal year.

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G. Termination of investor and import-export cargo tax credits.

The provisions of Subsection C and I of this Section shall be effective until ~~January 1, 2020~~ **July 1, 2021**, and no investor tax credit or import-export cargo tax credit pursuant to the provisions of this Section shall be granted after such date.

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I. Import-export cargo tax credit.

(1) Certification of taxpayer. Only those taxpayers who have received certification from the secretary of the Department of Economic Development shall be eligible to take the tax credits provided for by this Subsection and then only for

the taxable year or years and for the amount provided for in the commissioner of administration's certification, approved by the Joint Legislative Committee on the Budget ~~and the state bond commission~~, provided for in Item (2)(a)(ii) of this Subsection as allocated by the secretary. The secretary shall promulgate rules in accordance with the Administrative Procedure Act which establish the process by which a taxpayer shall apply for certification.

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(c) The secretary shall provide a statement of certification to each taxpayer which he has certified as eligible to take the tax credit after approval of the Joint Legislative Committee on the Budget ~~and the state bond commission~~, which shall contain the taxable year or years for which the taxpayer is allowed the tax credit and the amount of tax credit allocated for such taxable year or years. The secretary shall also transmit a copy of such statement to the secretary of the Department of Revenue.

(2)(a)(i) For taxable years beginning on and after January 1, 2014, there shall be allowed a credit against the individual income, corporation income, and corporation franchise tax liability of a taxpayer who has received certification pursuant to the provisions of Paragraph (1) of this Subsection; provided that the credit shall be allowed only against the tax liability of the international business entity which receives the certification. The amount of the credit shall be equal to the product of multiplying three dollars and sixty cents by the taxpayer's number of tons of qualified cargo for the taxable year which exceeds the pre-certification tonnage or the product of multiplying the number of dollars by the taxpayer's number of tons of qualified cargo for the taxable year or portion of a taxable year which exceeds the pre-certification tonnage which is warranted by the significant positive economic benefit determined by the commissioner pursuant to Item (ii) of this Subparagraph, whichever is less. For purposes of this Item, "pre-certification tonnage" means the number of tons of cargo which meets the definition of qualified cargo for purposes of this credit, and which was owned by the international business entity receiving the credit, were imported or exported to or from a manufacturing, fabrication, assembly, distribution, processing, or warehouse facility located in Louisiana, and which were so moved by way of an oceangoing vessel berthed at public port facilities in Louisiana during the 2013 calendar year. However, each tax credit granted to a taxpayer shall be subject to the same limit as is provided for a qualifying project pursuant to Subparagraph (C)(1)(b) of this Section. In addition, the import-export cargo tax credits granted by the department to any recipient pursuant to this Section shall be limited to an amount which shall not result in a reduction of tax liability by all recipients of such credits to exceed ~~four million five hundred~~ **six million two hundred fifty** thousand dollars in any fiscal year.

(ii) The tax credit provided for in this Subsection shall be allowed if the commissioner of administration certifies to the secretary of the Department of Economic Development that provided for in this Subsection whether from the increased utilization of public port facilities and other activity in Louisiana associated with the import or export of the international business entities qualified cargo will result in a significant positive economic benefit to the state. "Significant positive economic benefit" means net positive tax revenue that shall be determined by taking into account direct, indirect, and induced impacts of the port and state activity 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 the department to secure the port and state activity because of the tax credit, and such certification is approved by the Joint Legislative Committee on the Budget, which approval shall not be granted earlier than July 1, 2014~~, and the state bond commission~~.

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Section 2. R.S. 47:6036(K) is hereby repealed.

Section 3. The provisions of this Act shall supercede and control to the extent of any conflict between this Act and Act No. 125 of the 2015 Regular Session of the Legislature as amended by Act No. 29 of the 2016 First Extraordinary Session of the Legislature.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 150 Original 2017 Regular Session Chabert

Present law provides for an investor tax credit of up to $1.8 million per project for 72% of the capital costs associated with a qualifying port project that is approved by the commission of administration, the Joint Legislative Committee on the Budget, and the state bond commission. Proposed law removes the requirement of prior approval by the state bond commission.

Present law provides that the 72% credit rate and the $1.8 million per project cap are effective through June 30, 2018, and will increase to a 100% credit rate and a $2.5 million per project cap on and after July 1, 2018. Proposed law removes the July 1, 2018, increase and retains the credit rate and per project cap at their current levels for the remainder of the program.

Present law provides an annual program cap for the investor credit of $4.5 million until June 30, 2018, and provides that the annual cap will increase to $6.25 million thereafter. Proposed law increases the annual program cap for the investor credit to $6.25 million for the remainder of the program.

Present law provides for an import-export cargo tax credit of up to $1.8 million per taxpayer at the rate of $3.60 per ton of qualified cargo that is approved by the commission of administration, the Joint Legislative Committee on the Budget, and the state bond commission. Proposed law removes the requirement of prior approval by the state bond commission.

Present law provides that the $3.60 per ton credit rate and the $1.8 million per taxpayer cap are effective through June 30, 2018, and will increase to a $5 per ton credit rate and a $2.5 million per taxpayer cap on and after July 1, 2018. Proposed law removes the July 1, 2018, increase and retains the credit rate and per taxpayer cap at their current levels for the remainder of the program.

Present law provides an annual program cap for the cargo credit of $4.5 million until June 30, 2018, and provides that the annual cap will increase to $6.25 million thereafter. Proposed law increases the annual program cap for the cargo credit to $6.25 million for the remainder of the program.

Present law terminates both the investor credit and the import-export cargo credit on January 1, 2020. Proposed law extends the termination date of both credits to July 1, 2021.

Present law requires the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to review the credit to determine if the economic benefit provided by the credit outweighs the loss of revenue realized by the state as a result of awarding the credit. Requires the House and Senate committees to make their recommendations no later than March 1, 2017, to either continue the credit or to terminate the credit. Proposed law repeals the review and reporting requirement.

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

(Amends R.S. 47:6036(C)(1)(b), (G), 47:6036(I)(1)(intro para), (I)(1)(c) and (2)(a); repeals R.S. 47:6036(K))