

2018 Regular Session

SENATE BILL NO. 493

BY SENATOR LUNEAU

TAX/TAXATION. Makes permanent reductions to certain tax incentive rebate programs.
(gov sig)

1 AN ACT
2 To amend and reenact R.S. 51:1787(A)(1)(a)(iv), 2455(A) and (D)(3), 2457(B)(3)(b) and
3 (B)(3)(c), and 3121(C)(3)(b)(i) and(C)(4)(c), to enact R.S. 51: 2456(B)(1)(a)(iv) and
4 (B)(1)(b)(iv), and to repeal Section 3 of Act No. 126 of the 2015 Regular Session of
5 the Legislature and Section 2 of Act 28 of the 2016 First Extraordinary Session of
6 the Legislature, relative to limitations on tax incentive rebate programs; to provide
7 for issuance of rebate payments for certain tax incentive programs; to provide for an
8 effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 51:1787(A)(1)(a)(iv), 2455(A) and (D)(3), 2457(B)(3)(b) and
11 (B)(3)(c), and 3121(C)(3)(b)(i) and (C)(4)(c) are hereby amended and reenacted and R.S.
12 51:2456(B)(1)(a)(iv) and (B)(1)(b)(iv) are hereby enacted to read as follows:

13 §1787. Incentives

14 A. The board, after consultation with the secretaries of the Department of
15 Economic Development and Department of Revenue, and with the approval of the
16 governor, may enter into contracts not to exceed five years to provide:

17 (1) For either:

1 (a)(i) The rebate of sales and use tax imposed by the state and imposed by its
 2 political subdivisions upon approval of the governing authority of the appropriate
 3 municipality or the appropriate parish where applicable, or both, and of the
 4 governing authority of any other political subdivision, including the office of sheriff
 5 in the case of a law enforcement district, for the following:

6 * * *

7 (iv) For advance notifications filed on or after July 1, 2018, the sales and
 8 use tax rebate authorized in Item (i) of this Subparagraph shall be limited to
 9 eighty percent of the sales and use taxes paid. Requests for rebates of state sales
 10 and use tax pursuant to this Section and R.S. 51:2456(B) shall be processed by the
 11 Department of Revenue as follows:

12 (aa) A properly completed rebate request shall be submitted to the
 13 Department of Revenue on forms provided by the Department of Revenue. For
 14 purposes of this Section, a properly completed rebate request shall mean a rebate
 15 request that includes the general information required on the face of the request, is
 16 signed and includes a copy of the executed incentive contract, a copy of each invoice
 17 over fifteen thousand dollars, and all required schedules. The request shall be
 18 submitted electronically unless the secretary of the Department of Revenue grants
 19 permission to submit the request in an alternate form.

20 (bb) Within ~~ten business~~ sixty days of the receipt of a properly completed
 21 rebate request, the Department of Revenue shall rebate eighty percent of the total
 22 amount claimed for rebate in the rebate request. Within ~~three~~ six months of the date
 23 of filing the rebate request, the Department of Revenue shall audit the rebate request.
 24 During such ~~three~~ six-month period, the Department of Revenue shall disallow items
 25 determined to be ineligible for rebate. Within ten business days following the
 26 expiration of such ~~three~~ six-month period, the Department of Revenue shall rebate
 27 the remaining twenty percent of the amount claimed on the rebate request less any
 28 amounts properly disallowed during the ~~three~~ six-month audit period. The
 29 Department of Revenue shall make such rebates from the current collections of the

1 taxes collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of
2 Title 47 of the Louisiana Revised Statutes of 1950, as amended. Any sales and use
3 tax rebate issued **pursuant to this Section** shall be subject to subsequent audit by the
4 Department of Revenue, and any rebate amount determined to be in excess of that
5 which should have been allowed shall be subject to collection by the Department of
6 Revenue.

7 (cc) Failure of the Department of Revenue to timely pay rebates as provided
8 herein shall entitle the taxpayer to interest, which shall begin to accrue ~~three~~ **six**
9 months after the completed rebate request is received at the rate established pursuant
10 to the provisions of R.S. 13:4202. Payments of interest authorized according to the
11 provisions of this Section shall be made from the current collections of taxes
12 collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title
13 47 of the Louisiana Revised Statutes of 1950, as amended.

14 * * *

15 §2455. Incentive rebates

16 A.~~(†)~~ An employer who has entered into a contract may receive a rebate for
17 the taxable periods specified in the contract entered into pursuant to the provisions
18 of this Chapter **as follows:**

19 **(1) For projects for which an advance notification was filed before July**
20 **1, 2015,** in an amount which shall be equal to the benefit rate as defined in R.S.
21 51:2453(1), multiplied by the gross payroll, as defined in R.S. 51:2453(3), of new
22 direct jobs as defined in R.S. 51:2453(4), for the taxable period as verified by the
23 Department of Economic Development through the use of information provided to
24 it by the Louisiana Workforce Commission. In no instance shall a rebate be
25 determined by multiplying the value of the health care benefits by the benefit rate.

26 (2) For projects for which an advance notification was filed on or after July
27 1, 2015, ~~pursuant to this Section~~, no rebate shall exceed the amount of the benefit
28 rate as defined in R.S. 51:2453(1), multiplied by eighty percent of the gross payroll,
29 as defined in R.S. 51:2453(3), of new direct jobs as defined in R.S. 51:2453(4), for

1 the taxable period as verified by the Department of Economic Development through
2 the use of information provided to it by the Louisiana Workforce Commission. In no
3 instance shall a rebate be determined by multiplying the value of the health care
4 benefits by the benefit rate.

5 * * *

6 D.(1)

* * *

7 (3)(a) Applications shall be filed no later than twenty-four months after the
8 filing of the advance notification, except for ~~advances~~ **as provided in**
9 **Subparagraph (b) of this Paragraph.**

10 **(b) For advance notifications** filed on or after January 1, 2014, and before
11 January 31, 2014, applications may be filed at any time prior to January 31, 2016.

12 * * *

13 §2456. Rebate; payments

14 * * *

15 B.(1) In addition to the rebates provided in this Chapter, an employer who
16 has executed a contract under the provisions of this Chapter and who meets the
17 requirements of R.S. 51:2455(E) shall be entitled to either:

18 (a)(i)

* * *

19 * * *

20 **(iv) For advance notifications filed on or after July 1, 2018, the sales and**
21 **use tax rebate authorized in Item (i) of this Subparagraph shall be limited to**
22 **eighty percent of the sales and use taxes paid.**

23 (b)(1)

* * *

24 * * *

25 **(iv) For advance notifications filed on or after July 1, 2018, the project**
26 **facility expense rebate shall be limited to one and two-tenths percent of**
27 **qualified capital expenditures for the facilities or facilities designated in the**
28 **contract.**

29 §2457. Filing claim to receive rebate; determination; repayment

* * *

B. Issuance of state sales and use tax rebate.

* * *

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

* * *

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

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

1 * * *

2 §3121. Competitive Projects Payroll Incentive Program

3 * * *

4 C. * * *

5 * * *

6 (3) * * *

7 * * *

8 (b) The contract shall provide for a rebate to the qualified business based
9 upon new payroll and shall include the following provisions:

10 (i) ~~The~~ **For projects for which an invitation to apply is extended by the**
11 **secretary before July 1, 2015, the** percentage of new payroll eligible for rebate, up
12 to a maximum of fifteen percent. ~~With respect to~~ **For** projects for which an invitation
13 to apply is extended by the secretary on or after July 1, 2015, ~~pursuant to this~~
14 ~~Section,~~ the percentage of new payroll eligible for rebate shall not exceed twelve
15 percent.

16 * * *

17 (4) * * *

18 * * *

19 (c)**(i)** In lieu of the sales and use tax rebate, a qualified business shall be
20 entitled to a project facility expense rebate equal to one and one-half percent of the
21 amount of qualified capital expenditures for the facility or facilities designated in the
22 contract for which an invitation to apply was extended by the secretary before July
23 1, 2015.

24 **(ii)** With respect to projects for which an invitation to apply is extended by
25 the secretary on or after July 1, 2015, a qualified business shall be entitled to a
26 project facility expense rebate equal to one and two-tenths percent of the amount of
27 qualified capital expenditures for the facility or facilities designated in the contract.

28 **(iii)** For purposes of this Subparagraph, the term "qualified capital
29 expenditures" means amounts classified as capital expenditures for federal income

1 tax purposes related to the project plus exclusions from capitalization provided for
2 in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized
3 cost of land, capitalized leases of land, capitalized interest, capitalized costs of
4 manufacturing machinery and equipment to the extent capitalized manufacturing
5 machinery and equipment costs are excluded from sales and use tax pursuant to R.S.
6 47:301(3), and the capitalized cost for the purchase of an existing building. When a
7 qualified business purchases an existing building and capital expenditures are used
8 to rehabilitate the building, only the costs of the rehabilitation shall be considered
9 qualified capital expenditures. Additionally, a qualified business shall be allowed to
10 increase its qualified capital expenditures to the extent the qualified business's
11 capitalized basis is properly reduced by claiming a federal credit. A qualified
12 business earns the project facility expense rebate in the qualified business's fiscal
13 year in which the project is placed in service but the qualified business may not be
14 issued the project facility expense rebate until the Department of Economic
15 Development signs a project completion report or such other time as provided for by
16 rule or regulation.

17 * * *

18 Section 2. Section 3 of Act No. 126 of the 2015 Regular Session of the Legislature
19 and Section 2 of Act No. 28 of the 2016 First Extraordinary Session of the Legislature are
20 hereby repealed in their entirety.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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 493 Engrossed

2018 Regular Session

Luneau

Present law sunsets on June 30, 2018, a 20% reduction of payroll rebates made in Act No. 126 of the 2015 R.S. to the Louisiana Quality Jobs and Competitive Projects Payroll Incentive tax incentive programs.

Proposed law makes the rebate reductions permanent by eliminating the reversion to prior law rebate rates.

Proposed law requires advanced notifications filed on or after July 1, 2018, the sales and use tax rebate authorized in present law will be limited to 80% of the sales and use taxes paid. Further provides that the project facility expense rebate shall be limited to one and 1.2% of qualified capital expenditures for the facilities or facilities designated in the contract.

Present law within ten business days of the receipt of a properly completed rebate request, the Department of Revenue shall rebate 80% of the total amount claimed for rebate in the rebate request.

Proposed law retains present law but changes the rebate time from 10 to 60 days.

Present law provides that within three months of the date of filing the rebate request, the Department of Revenue shall audit the rebate request. During such three-month period, the Department of Revenue shall disallow items determined to be ineligible for rebate. Within ten business days following the expiration of such three-month period, the Department of Revenue shall rebate the remaining 20% of the amount claimed on the rebate request less any amounts properly disallowed during the three-month audit period.

Proposed law retains present law but changes the audit time, the time to disallow items determined to be ineligible for a rebate, and the rebate of the remaining 20% of the claimed rebate from three months to six months.

Present law provides for sales tax rebates for the Louisiana Quality Jobs and Enterprise Zone programs for state and local sales taxes paid on the construction of the facility.

Proposed law reduces these sales tax rebates to 80% of the state and local sales taxes paid on the construction of the facility as to advance notifications received after July 1, 2018.

Present law provides for a project facility expense rebate of 1.5% of the qualified capital expenditures for the facility for the Louisiana Quality Jobs program in lieu of the sales tax rebate at the applicant's option.

Proposed law reduces the project facility expense rebate to 1.2% of the qualified capital expenditures for the facility as to advance notifications received after July 1, 2018.

Proposed law clarifies that the maximum 15% of new payroll eligible for the rebate under the Competitive Project Payroll Incentive program applies for projects for which an invitation to apply was extended before July 1, 2015; this maximum percentage reduces to 12% for projects to which an invitation to apply is extended on or after July 1, 2015.

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

(Amends R.S. 51:1787(A)(1)(a)(iv), 2455(A), (D)(3), 2457(B)(3)(b) and (B)(3)(c), 3121(C)(3)(b)(i) and (C)(4)(c); adds R.S. 51:2456(B)(1)(a)(iv) and (B)(1)(b)(iv); and repeals Section 3 of Act 126 of 2015 R.S. and Section 2 of Act 28 of 2016 1E.S.)

Summary of Amendments Adopted by Senate

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

1. Provides a cap for sales and use rebates of 80% for the sales and use taxes paid.
2. Changes the time frame for the filing and the distribution of rebates, and extends the audit period of certain rebates.