

Regular Session, 2011

SENATE BILL NO. 81

BY SENATORS MILLS, ALARIO, CHEEK, LAFLEUR, LONG, MICHOT, MURRAY
AND NEVERS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ECONOMIC DEVELOPMENT. Creates the Louisiana Buy Local Purchase Incentive Program to promote the consumption of Louisiana agricultural products by granting incentive payments to certain restaurant establishments for purchases of Louisiana agricultural products. (gov sig)

AN ACT

To enact R.S. 3:266(23) and 284, relative to establishing a monetary incentive program to promote purchases of Louisiana agricultural products; to authorize the development and establishment of the Louisiana Buy Local Purchase Incentive Program Fund within the state treasury; to authorize an incentive payment for certain purchases of Louisiana agricultural products by certain restaurant establishments; to provide for the administration of the incentive payment; to provide with respect to financing; to provide for definitions; to provide for certain requirements and termination of the program and fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:266(23) and 284 are hereby enacted to read as follows:

§266. Powers of authority

The authority shall have all the powers necessary to give effect to and carry out the purposes and provisions of this Chapter, including, in addition to all other powers granted by other provisions of this Chapter, the powers to:

* * *

(23) Establish, administer, and supervise an incentive program to

promote the purchase of Louisiana agricultural products.

* * *

§284. Louisiana Buy Local Purchase Incentive Program

A. Title; creation

There is hereby created the Louisiana Buy Local Purchase Incentive Program, hereinafter referred to as the "program", within the Louisiana Department of Agriculture and Forestry, to be administered and supervised by the Louisiana Agricultural Finance Authority, in order to grant incentive payments to Louisiana restaurant establishments for purchases of Louisiana agricultural products.

B. Declaration of purpose

The Legislature of Louisiana hereby finds and declares that the health, safety, and welfare of the people of this state are dependent upon the continued encouragement, development, growth, and expansion of Louisiana farmers and agricultural products. Louisiana residents rely on Louisiana farmers and agricultural processors as their primary source of safe, nutritional, and affordable food. Furthermore, agricultural industries are a major source of employment for Louisiana residents. Therefore, it is declared to be the purpose of this Act to encourage and promote the consumption of Louisiana agricultural products by providing incentive payments to certain Louisiana restaurants for the purchase of Louisiana agricultural products.

C. Definitions

For purposes of this Chapter, the following terms shall have the meaning hereinafter ascribed to them, unless the context clearly indicates otherwise:

(1) "Louisiana coastal waters" shall have the same meaning as provided for in R.S. 49:214.23(4) in the coastal zone law.

(2) "Louisiana coastal zone" shall have the same meaning as provided for in R.S. 49:214.23(5).

(3) "LAFA" means the Louisiana Agricultural Finance Authority.

1 **(4) "Louisiana agricultural products" means the following products**
2 **produced in Louisiana: agronomic, aquacultural, floricultural, horticultural,**
3 **silvicultural, and viticultural products, including but not limited to: plants,**
4 **crops, livestock, dairy products, and fruits; crawfish, catfish, other fish, shrimp,**
5 **oysters, crabs, underutilized species, and any other seafood and freshwater**
6 **food; and all meat and meat products including beef, veal, pork, mutton,**
7 **poultry, and products made therefrom.**

8 **(5)(a) "Produced in Louisiana" means the process of manufacturing,**
9 **planting, cultivating, growing, catching, or harvesting in Louisiana of Louisiana**
10 **agricultural products, including such products produced in Louisiana coastal**
11 **waters, the Louisiana coastal zone, and in the territorial waters of the state.**

12 **(b) "Produced in Louisiana" shall also mean catching or harvesting**
13 **seafood in waters seaward of the territorial waters of the state by the holder of**
14 **a Louisiana commercial fisherman's license who transports and sells his catch**
15 **to a licensed Louisiana wholesale/retail seafood dealer located within the state**
16 **of Louisiana.**

17 **(6) "Restaurant establishment" means any establishment which has a**
18 **special Class "R" restaurant permit issued pursuant to R.S. 26:73(B) in the**
19 **Alcohol Beverage and Tobacco law, or any establishment which meets the**
20 **definition of "restaurant establishment" as defined in R.S. 26:73(C)(1).**

21 **D. Fund**

22 **(1) There is hereby established a special fund in the state treasury to be**
23 **known as the Louisiana Buy Local Purchase Incentive Program Fund,**
24 **hereinafter referred to as the "fund".**

25 **(2) After compliance with the requirements of Article VII, Section 9(B)**
26 **of the Constitution of Louisiana relative to the Bond Security and Redemption**
27 **Fund, any public or private grants, gifts, and donations received by the state or**
28 **the Department of Agriculture and Forestry for the purposes of this Section**
29 **shall be credited to the fund. No state general fund monies shall be**

1 appropriated to the fund.

2 (3)(a) Subject to appropriation by the legislature, monies in the fund
3 shall be used solely to grant incentive payments under the Louisiana Buy Local
4 Purchase Incentive Program as provided in this Section to eligible restaurant
5 establishments for purchases of Louisiana agricultural products and for all
6 ordinary and necessary operating and administrative costs and expenses
7 associated with implementation of this Section, provided that the ordinary and
8 necessary operating and administrative costs and expenses shall not exceed five
9 percent of monies appropriated from the fund.

10 (b) The monies in the fund shall be invested by the state treasurer in the
11 same manner as monies in the state general fund. All interest earned from the
12 investment of the monies in the fund shall be deposited in and remain in the
13 fund. All unexpended and unencumbered money in the fund at the end of the
14 year shall remain in the fund.

15 E. Program

16 (1) The amount of the incentive payment pursuant to this Section shall
17 be four percent of the total costs of the Louisiana agricultural products
18 purchased by the eligible restaurant establishment during a fiscal year.

19 (2) An application for an incentive payment pursuant to this Section
20 shall be provided by LAFA and shall be submitted by an interested restaurant
21 establishment to LAFA within the application period set forth by LAFA based
22 upon the restaurant establishment's purchases of Louisiana agricultural
23 products within that fiscal year.

24 (3) In accordance with the Administrative Procedure Act, LAFA in
25 cooperation with the commissioner of the Department of Agriculture and
26 Forestry shall promulgate rules and regulations as are necessary to implement
27 the provisions of this Section including but not limited to rules and regulations
28 regarding the period within which an application for the incentive shall be
29 submitted in order to be eligible to receive an incentive payment, and the

1 documentation required to be maintained and provided by a restaurant
2 establishment applying for the incentive payment. The regulations may require
3 producers of Louisiana agricultural products to obtain license numbers issued
4 by LAFA evidencing the eligibility of the Louisiana agricultural products
5 produced by them.

6 (4) A restaurant establishment applying for the incentive payment
7 authorized pursuant to this Section shall be required to provide and maintain
8 sufficient documentation evidencing the amount of purchases of Louisiana
9 agricultural products and eligibility to claim the incentive payment as
10 determined by LAFA in regulations issued pursuant to Paragraph (3) of this
11 Subsection.

12 (5) If there is insufficient money in the fund to fully satisfy all timely filed
13 applications for incentive payments, then incentive payments shall be
14 distributed to the applicants on a pro-rated basis based upon the proportion of
15 Louisiana agricultural products purchased by the applicant to the total amount
16 of such purchases by all applicants.

17 (6) The aggregate amount of incentive payments for the purchase of
18 Louisiana agricultural products issued to restaurant establishments pursuant
19 to this Section shall not exceed seven million dollars, in the aggregate, per fiscal
20 year.

21 **F. Termination of program and fund**

22 The program and fund created pursuant to this Section shall terminate
23 on December 31, 2014. Therefore, no rebate payments authorized according to the
24 provisions of this Section shall be granted after December 31, 2014. Any
25 unexpended and unencumbered monies in the fund at the end of the program
26 shall revert to the state general fund.

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

The original instrument was prepared by Danielle Doiron. The following digest, which does not constitute a part of the legislative instrument, was prepared by Christopher D. Adams.

DIGEST

Mills (SB 81)

Proposed law creates the Louisiana Buy Local Purchase Incentive Program within the Department of Agriculture and Forestry, administered and supervised by the Louisiana Agricultural Finance Authority, hereinafter referred to as "LAFA" to promote the consumption of Louisiana agricultural products by providing incentive payments to certain Louisiana restaurants for the purchases of Louisiana agricultural products.

Proposed law creates a special fund in the state treasury to be known as the Louisiana Buy Local Purchase Incentive Program Fund, hereinafter referred to as the "fund", supervised and administered by LAFA, to grant eligible restaurant establishments incentive payments for purchases of Louisiana agricultural products.

Proposed law requires compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund. Any public or private grants, gifts, and donations received by the state or the Department of Agriculture and Forestry for the purposes of this Section and any other revenues as may be provided by law shall be credited to the fund. Additionally, funds may be appropriated to the fund by the Legislature. State general fund appropriations are prohibited from being appropriated to the fund.

Proposed law provides that, subject to legislative appropriation, all monies in the fund shall be used solely to grant incentive payments to eligible restaurant establishments for purchases of eligible Louisiana agricultural products. Monies in the fund may be used to pay all ordinary and necessary operating and administrative costs and expenses association with the implementation of proposed law, provided that such costs and expenses shall not exceed five percent of monies appropriated from the fund. The monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund. All interest earned from the investment of the monies in the fund shall be deposited in and remain to the credit of the fund. All unexpended and unencumbered money in the fund at the end of the year shall remain in the fund.

Proposed law provides for definition of purpose of program.

Proposed law provides for definitions of terms to describe eligibility of Louisiana agricultural products and restaurant establishments:

- (1) "LAFA" means the Louisiana Agricultural Finance Authority.
- (2) "Louisiana agricultural products" means the following products produced in Louisiana: agronomic, aquacultural, floricultural, horticultural, silvicultural, and viticultural products, plants, crops, livestock, dairy products, fruits, and seafood, including but not limited to crawfish, catfish, other fish, shrimp, oysters, crabs, underutilized species, other seafood and freshwater food, meat and meat products, including but not limited to beef, veal, pork, mutton, poultry, and products made thereof.
- (3)(a) "Produced in Louisiana" means the process of manufacturing, planting, cultivating,

growing, catching, or harvesting in Louisiana of Louisiana agricultural products, including such products produced in Louisiana coastal waters, the Louisiana coastal zone, and in the territorial waters of the state.

- (b) "Produced in Louisiana" also means catching or harvesting seafood in waters seaward of the territorial waters of the state by the holder of a Louisiana commercial fisherman's license who transports and sells his catch to a licensed Louisiana wholesale/retail seafood dealer located within the state of Louisiana.
- (4) "Restaurant establishment" is defined as any establishment which has a special class "R" restaurant permit issued under the Alcohol Beverage laws, R.S. 26:73(B), or any establishment which meets the definition of "restaurant establishment" as defined in the ABT laws at R.S. 26:73(C)(1), which sets out the following criteria:
 - (a) Operates a place of business whose average monthly revenue from food and nonalcoholic beverages exceeds fifty percent of its total average monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic beverages.
 - (b) Serves food on all days of operation.
 - (c) Maintains separate sales figures for alcoholic beverages.
 - (d) Operates a fully equipped kitchen used for the preparation of uncooked foods for service and consumption of such foods on the premises.
 - (e) Has a public habitable floor area of no less than five hundred square feet. This law does not apply to business locations that apply to or have been licensed to sell or serve alcoholic beverages prior to August 1, 2006, and have not discontinued the sale and service of such beverages for more than six months.
- (5) "Coastal waters" has the same meaning as in R.S. 49:214.23(4), which are bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone, which have measurable seawater content (under normal weather conditions over a period of years).
- (6) "Coastal zone" has the same meaning as in R.S. 49:214.23(5), which is the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in R.S. 49:214.24, which are strongly influenced by each other, and in proximity to the shorelines, and uses of which have a direct and significant impact on coastal waters.

Proposed law provides for criteria of program:

- (1) The amount of the incentive payment is four percent of the total costs of the "Louisiana agricultural products" purchased by the "restaurant establishment."
- (2) An application for an incentive payment shall be provided by LAFA and shall be submitted to LAFA within the application period set forth by LAFA upon the "restaurant establishments" purchases of "Louisiana agricultural products" within that fiscal year.
- (3) In accordance with the Administrative Procedure Act, LAFA in cooperation with the commissioner of the Department of Agriculture and Forestry shall promulgate rules and regulations as are necessary to implement the provisions of this Section including but not limited to rules and regulations regarding the period within which an application for the incentive shall be submitted in order to be eligible to receive an incentive payment, and the documentation required to be maintained and provided by a restaurant establishment applying for the incentive payment. The regulations

may require producers of Louisiana agricultural products to obtain license numbers issued by LAFA evidencing the eligibility of the Louisiana agricultural products produced by them.

- (4) The restaurant establishment applying for the incentive payment is required to provide and maintain sufficient documentation evidencing the amount of purchases of Louisiana agricultural products and eligibility to claim the incentive payment as determined by LAFA.
- (5) If there is insufficient money in the fund to fully satisfy all timely-filed applications for incentive payments, then incentive payments must be distributed to the applicants on a pro-rated basis based upon the proportion of "Louisiana agricultural products" purchased by the applicant to the total amount of such purchases by all applicants.
- (6) The aggregate amount of incentive payments for the purchase of "Louisiana agricultural products" issued to restaurant establishments pursuant to this Section shall not exceed seven million dollars, in the aggregate, per fiscal year.

Proposed law requires the program and fund to terminate on December 31, 2014. No rebate payments shall be granted after December 31, 2014. Any unexpended and unencumbered monies in the fund at the end of the program shall revert to the state general fund.

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

(Adds R.S. 3:266(23) and 284)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill.

- 1. Prohibits state general fund monies from being appropriated to the fund.
- 2. Provides that monies in the fund are subject to being appropriated by the legislature.
- 3. Authorizes operating and administrative expenses, not to exceed 5% of monies appropriated, to be paid from the fund.
- 4. Provides that unexpended and unencumbered monies in the fund at the end of the program shall revert to the state general fund.
- 5. Technical amendments.

Senate Floor Amendments to engrossed bill.

- 1. Legislative Bureau technical amendments.
- 2. Specifies that grants, gifts, and donations received for the fund are credited to the fund.