SENATE SUMMARY OF HOUSE AMENDMENTS

SB 135 By Senator Claitor

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

TAX/TAXATION. Changes the sunset date of the research and development tax credit program; reduces the amount of the credit by requiring all employees to be counted in the size of the business, rather than only resident employees; and changes its calculation. (gov sig)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Changes proposed law sunset date from June 30, 2013 to December 31, 2019.

2. Changes the research and development tax "rebate" program back to a "credit" program as it currently exists in present law.

3. Adds R.S. 47:6038 and R.S. 51:2306 relative to submission of certain reports by secretary of Dept. of Economic Development to the Joint Legislative Committee on the Budget.

4. Removes the authorization of the Department of Revenue to require an applicant to submit additional information before a credit is paid.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

Present law grants refundable and transferable research and development tax credits for expenditures incurred or Small Business Innovation Research Grant funds received through December 31, 2013.

Proposed law changes the termination date of the credit program from June 30, 2013 to December 31, 2019.

Present law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) of 8% of the "state's apportioned share" of the taxpayer's expenditures for increasing research activities, if the taxpayer employs 100 or more Louisiana residents; 25% if he employs 50 to 99 Louisiana residents.

The "state's apportioned share" was defined as the excess of the taxpayer's qualified research expenses for the taxable year over the base amount as defined in the federal law, multiplied by a percentage equal to the ratio of the qualified research expenses in the state for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

Proposed law grants a "credit" of 8% of the difference of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year minus the "base amount", if the taxpayer employs 100 "persons" in the state; 20% if he employs 50 to 99 "persons".

"Base amount" is defined as 70% of the average annual "qualified research expenses within Louisiana" during the three years preceding the taxable year.

Present law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(b) of 40% of the "state's apportioned share" of the taxpayer's qualified research expenses conducted in this state if the taxpayer employs fewer than 50 Louisiana residents.

Proposed law grants a credit of 40% of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year if the taxpayer employs fewer than 50 "persons".

Present law granted a further credit of 25% of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claimed the alternative incremental tax credit under 26 U.S.C. §41.

Proposed law deletes this provision.

Present law authorizes a taxpayer who receives a federal Small Business Innovation Research Grant a credit in an amount equal to 40% of the award received during the tax year.

Proposed law requires the size of the "entity" for purposes of determining the amount of the credit earned to be determined by the total number of employees based on the aggregate of all affiliated companies.

Present law provides that certain entities, individuals, and estates or trusts can claim the credit.

Proposed law prohibits a taxpayer from receiving any other incentive administered by DED for any expenditures for which he receives a credit.

Proposed law specifically grants DED the authority to audit all relevant records and accounts of applicants for the credit.

Applicable to tax years beginning on and after January 1, 2011.

Proposed law requires secretary of the Dept. of Economic Development to report each January 30th to the Joint Legislative Committee on the Budget information concerning the granting and denial of tax credits and rebates ("tax incentives") administered by the department, including a list of recipients of each tax incentive and applicants denied tax incentives over the past calendar year, and the names and primary place of business of each applicant.

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

(Amends R.S. 47:6015; adds R.S. 47:6038 and R.S. 51:2306)

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