
DIGEST

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Robideaux

HB No. 694

Abstract: Authorizes the secretary of the Dept. of Economic Development on behalf of the State Board of Commerce and Industry to enter into ad valorem tax exemption contracts with certain businesses that locate or expand a project in La. if the project includes at least \$25 million in capital investments.

Present constitution and present law authorize political subdivisions of the state to impose ad valorem taxes.

Proposed law retains present law and establishes a program for the granting of contracts for ad valorem tax exemptions by the Board of Commerce and Industry (hereinafter board) for business projects which entail capital investments in excess of \$25 million which are expected to yield significant positive economic benefit to the state. The program shall be implemented and administered by the Dept. of Economic Development (hereinafter department) and shall be available and operate in all parishes, and, if applicable, municipalities and school districts which have elected to participate therein.

Proposed law provides definitions for purposes of proposed law.

Proposed law provides for optional participation in the program by parish governments. A parish may choose to participate in the program and approve the granting of ad valorem tax exemptions in the following manner: approval of all projects recommended by the department, or all projects recommended by the department which meet specific criteria determined by the parish, or projects on a case by case basis. However, in any parish which has elected to participate in the program, the program shall not be operable within any municipality or school district unless the governing authority of the municipality or school district has elected to participate in the program on the same bases as was chosen by the parish.

Proposed law provides that the election to participate in the program by a parish governing authority shall be evidenced by the adoption of an ordinance. Participation in the program shall be for an indefinite term and may be rescinded at any time by the parish governing authority, or, if applicable, the governing authority of a municipality or school district. Withdrawal by a parish, municipality, or school district shall not affect existing contracts or renewals thereof.

Proposed law provides the criteria for eligibility of a business to participate in the program:

- (1) A business which has at least 50% of the total annual sales from a La. site or sites is to

out-of-state customers or buyers, in-state customers or buyers but the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or the federal government, or any combination thereof.

- (2) The activities of the business at a La. site or sites include corporate headquarters, logistics, warehousing, data center, clean technology, destination health care, research and development, renewable energy, digital media and software development, or other business sector targeted by the secretary as a focus of the department's economic development efforts.
- (3) The business intends to either locate a project or undertake an expansion project in La., either of which shall involve a capital expenditure of at least \$25 million by the business or an affiliate or partner on its behalf.

Proposed law further provides that the secretary, at his discretion, may include sales by affiliates of the business in determining the percentage of sales meeting the requirements for eligibility.

Proposed law provides that the following types of business are ineligible for participation in the program:

- (1) With the exception of a business providing at least 25 new headquarter jobs or shared service center jobs, a business primarily engaged in retail sales, real estate, professional services, natural resource extraction or exploration, financial services, or venture capital funds.
- (2) Businesses engaged in gaming or gambling.

Proposed law provides that a business may apply for a contract upon invitation of the secretary or the parish governing authority. The application shall consist of the business furnishing to the department such certified statements and substantiating documents as the department may require.

Proposed law authorizes the secretary, at his discretion, to recommend a qualified business for a contract in either of the following circumstances:

- (1) The granting of a contract would be advantageous in the case of a competitive site selection situation so as to encourage a new business to locate its project in the state.
- (2) The granting of a contract would encourage an existing business to locate an expansion project in the state.

Proposed law provides that the terms of a contract shall be recommended by the secretary and provides for minimum contract terms with respect to duration, performance, audits, and violations.

Proposed law requires approval of each contract by the board and the governor and in certain circumstances by the parish governing authority, municipality, or school district.

Proposed law requires that approved contracts be sent by the secretary to the assessor and governing authority of the respective parish, and, if applicable, municipality, or school district. Such parties shall also be notified by the secretary if a contract is renewed, expires, is suspended, or cancelled.

Proposed law authorizes the secretary to suspend or cancel a contract if it is determined that a business has failed to meet the eligibility requirements of the program or the performance objectives of the contract. A contract suspension would remove the exemption for the calendar year in which the failure occurred. A contract cancellation would remove the exemption for the calendar year in which it occurred and all future years. Upon receipt of notification from the secretary that a contract was suspended or cancelled, the assessor shall adjust the property assessment in the manner provided by law. Taxes becoming due for a prior year due to removal of an exemption shall, at the discretion of the tax collector, be collectable immediately or with the taxes for the current year.

Proposed law authorizes the rulemaking by the department in compliance with the Administrative Procedure Act.

Effective for all calendar years commencing after the constitutional amendment proposed in House Bill No. 674 of this 2012 R.S. is adopted and becomes effective.

(Amends R.S. 44:4.1(B)(29); Adds R.S. 47:4351-4355)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Adds requirement that a project include at least \$25 million in capital investments in La.
2. Deletes the 24 month waiting period for effectiveness of a parish's discontinuation of participation in the program.
3. Adds specific circumstances under which a parish may indicate its approval of ad valorem tax exemption contracts for certain businesses.
4. Adds authorization for a parish governing authority to invite an eligible business to apply for a tax exemption contract.
5. Adds provisions for the approval of specific ad valorem tax exemption contracts by a parish governing authority.

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Clarifies the application of the proposed public records limitation by providing that a record in the custody of a parish governing authority pertaining to a project is confidential to the same extent as a record in the custody of the department pursuant to present law relative to economic development negotiations.
2. Includes a reference to the public records limitation in the Public Records Law.
3. Specifies that the required minimum \$25 million capital expenditure be made by the business or an affiliate or partner on its behalf.
4. Specifies that the secretary executes the contract on behalf of the State Board of Commerce and Industry.
5. Provides that the secretary notify the assessor and the governing authority if a contract is renewed.
6. Changes references to "year", "tax year", and "taxable year" to "calendar year."

House Floor Amendments to the reengrossed bill.

1. Adds approval authority for municipalities and school districts relative to program participation and the granting of ad valorem tax exemption contracts.