

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 694 by Representative Robideaux

TAX/AD VALOREM-EXEMPTION: Establishes a program to authorize the granting of ad valorem tax exemption contracts by the Board of Commerce and Industry for certain businesses

Synopsis of Senate Amendments

1. Changes provisions governing parish participation in the program, including the addition of the parish law enforcement district and the assessor as entities which must approve participation, the deletion of the specific circumstances under which a parish would participate in the program, and the modification of the effect of a parish's withdrawal.
2. Removes "clean technology", "destination health care", "renewable energy", and "other business sectors targeted by the secretary" as the types of activities eligible for exemption.
3. Requires the targeted non-manufacturing business to create 50 "new direct jobs".
4. Removes the requirement for approval by the governor.
5. Requires a term of 10 years for the contract.
6. Removes the exception to the Public Records Law for certain records in the custody of a parish governing authority pertaining to a project under consideration for inclusion in the program.
7. Makes the state the sole defendant in any taxpayer challenger to the correctness of an assessment based upon the constitutionality of any exemption authorized under proposed law.

Digest of Bill as Finally Passed by Senate

Robideaux

HB No. 694

Proposed law establishes a program to implement the exemption provided by the proposed constitutional amendment contained in HB 674 for "targeted non-manufacturing businesses" (hereinafter "business") to be implemented and administered by the Department of Economic Development (hereinafter "DED"). DED is required to adopt and promulgate such rules as are necessary for the administration of the program in compliance with the APA, and such rules shall not be promulgated without approval of the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

Proposed law provides that a contract for exemption is available only in parishes which have agreed to participate in the program. Participation by a parish is subject to the approval of the parish governing authority, all municipalities and school boards which levy an ad valorem tax, the law enforcement district and the assessor.

Proposed law provides that any one of the local entities which approve participation may also withdraw the participation of a parish, effective 90 days after the date upon which such entity provides written notification to the secretary of DED (hereinafter "secretary") its intention to discontinue participation. The withdrawal of a participating parish does not affect existing contracts.

Proposed law provides that an eligible businesses shall meet all of the following requirements:

- (1) The business must undertake a project to establish a new or expanded "facility" in La.

"Facility" is defined as the new or expanded site of a targeted non-manufacturing business's activities in La., including buildings, improvements, equipment and other property necessary to such operation, which is owned or leased for a term of more than 5 years. "Facility" does not include the land underlying the facility and other property pertaining to the facility on which ad valorem taxes have previously been paid, inventories, consumables, and any property eligible for the manufacturing exemption provided by the present constitution.

- (2) The primary activities at the facility are or will be: corporate headquarters, distribution facilities, data services facilities, research and development operations, and digital media and software development centers.

- (3) A business primarily engaged in retail sales, real estate, professional services, natural resource extraction or exploration, financial services, or venture capital funds is not eligible for the program unless the business provides at least 50 new "headquarters jobs" or "shared service center jobs".

"Headquarters jobs" is defined as executive, administrative, or professional jobs based at a principal or regional office located in La., in which are located the principal or regional executive officers normally constituting a principal or regional headquarters providing corporate governance.

"Shared service center jobs" is defined as jobs based at a business located in La. that performs specific corporate operational tasks for the business or its affiliates or customers, such as accounting, human resources, payroll, or purchasing.

No business engaged in gaming or gambling is eligible for the program

- (4) Within the time period provided in the contract, the business makes capital expenditures of \$25 million dollars for the facility, and creates and maintains at least 50 "new direct jobs".

"New direct jobs" is defined as permanent full-time positions of employment (working 30 or more hours per week) exclusive of contract labor, based at the facility and filled by La. residents, and not existing in the state prior to implementation of the project and the effective date of the contract.

5. At least 50% of total annual sales by the business from a La. site are to out-of-state buyers, or to in-state buyers but the product or service is resold by the purchaser to an out-of-state buyer for ultimate use, or to the federal government, or any combination thereof. The secretary, at his discretion, may include sales by associated affiliates of the business in determining the percentage of sales meeting this requirement.

Proposed law authorizes a business undertaking a project in a participating parish to apply for a contract at the invitation of the secretary or any of the local governmental entities which approve parish participation. Application shall entail submission to DED of such certified statements and documentation as DED may require.

The secretary may recommend the project to the State Board of Commerce and Industry for a contract upon determining that the applicant meets the requirements and the exemption would be advantageous in a competitive site selection situation to encourage the establishment of a targeted non-manufacturing business facility which is expected to yield significant positive economic benefit to the state and the parish.

Proposed law requires the proposed contract terms and conditions to include:

1. A term of 10 years.
2. Performance obligations, including required capital expenditures and new direct jobs, and the time for performance of such obligations.
3. Monitoring by DED, reporting by the business and auditing of contract performance.
4. Consequences of failure to perform contract obligations.

Proposed law requires that approved contracts be sent by the secretary to the assessor and governing authority of the respective. Such entities 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 requires the state to be the "sole proper defendant" in any taxpayer challenge to the correctness of an assessment based upon the constitutionality of an exemption provided for in the proposed law.

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.

(Adds R.S. 47:4351-4355)