

Regular Session, 2012

HOUSE BILL NO. 694

BY REPRESENTATIVE ROBIDEAUX

AN ACT

To enact Chapter 5 of Subtitle V of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:4351 through 4355, relative to ad valorem taxation; to establish a program for the granting of ad valorem tax exemption contracts for certain businesses; to provide for the administration of the program; to provide for optional participation by parishes, municipalities, law enforcement districts and assessors, and school districts; to provide for eligibility for participation in the program; to authorize contracts under certain circumstances; to provide for contract terms, conditions, and limitations; to provide with respect to approval of contracts and notification of certain entities relative to contracts; to provide with respect to contract suspension and cancellation; to authorize rulemaking; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 5 of Subtitle V of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:4351 through 4355, is hereby enacted to read as follows:

CHAPTER 5. CONTRACTS FOR BUSINESSES

§4351. Definitions

For the purposes of this Chapter, the following terms shall have the meanings indicated unless the context clearly indicates otherwise:

(1) "Board" means the State Board of Commerce and Industry or its successor.

(2) "Business" means any individual, firm, joint venture, association, corporation, estate, partnership, business trust, receiver, syndicate, or any other legal business entity.

1 (3) "Contract" means a contract executed between the board and a targeted
2 non-manufacturing business, granting the exemption for a facility.

3 (4) "Department" means the Louisiana Department of Economic
4 Development.

5 (5) "Exemption" means the exemption from ad valorem property tax
6 provided by Article VII, Section 21(L) of the Constitution of Louisiana for targeted
7 non-manufacturing business facilities and granted under this program.

8 (6) "Facility" means the new or expanded site of a targeted
9 non-manufacturing business's activities in Louisiana, including buildings,
10 improvements, equipment and other property necessary or beneficial to such
11 operation, which is owned or leased for a term of more than five years by the
12 business. "Facility" does not include the land underlying the facility and other
13 property pertaining to the facility on which ad valorem taxes have previously been
14 paid, inventories, consumables, and property eligible for the manufacturing
15 exemption provided by Article VII, Section 21(F) of the Constitution of Louisiana.

16 (7) "Headquarters jobs" means executive, administrative, or professional
17 jobs based at a principal or regional office located in Louisiana, in which are located
18 the principal or regional executive officers normally constituting a principal or
19 regional headquarters providing corporate governance. Such principal or regional
20 executive officers include but shall not be limited to chief executive officer, chief
21 operating officer, and other senior level officers or appropriate regional equivalents.

22 (8) "New direct jobs" means permanent full-time positions of employment,
23 meaning working thirty or more hours per week, exclusive of contract labor, based
24 at the facility and filled by Louisiana residents, and not existing in the state prior to
25 implementation of the project and the effective date of the contract.

26 (9) "Program" means the program provided for in this Chapter for the
27 granting of ad valorem tax exemptions pursuant to the authority granted under
28 Article VII, Section 21(L) of the Constitution of Louisiana.

29 (10) "Project" means the establishment and operation of a new facility or
30 expanded existing facility in Louisiana by a targeted non-manufacturing business.

1 (11) "Secretary" means the secretary of the Department of Economic
2 Development.

3 (12) "Shared service center jobs" means jobs based at a business located in
4 Louisiana that performs specific corporate operational tasks for the business or its
5 affiliates or customers, such as accounting, human resources, payroll, or purchasing.

6 (13) "Targeted non-manufacturing business" means a business, other than a
7 manufacturer, that meets the requirements of R.S. 47:4354.

8 §4352. Program administration

9 There is hereby established a program to implement the exemption provided
10 by Article VII, Section 21(L) of the Constitution of Louisiana. The program shall
11 be implemented and administered by the Department of Economic Development,
12 which shall adopt and promulgate such rules as are necessary for the administration
13 of the program in compliance with the Administrative Procedure Act except that the
14 department may promulgate such rules only after approval of the House Committee
15 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs
16 meeting jointly within sixty days of publication of such proposed rules in the State
17 Register.

18 §4353. Parish participation

19 A. A contract for the exemption shall be available only in parishes which
20 have agreed to participate in the program. A parish participates in the program upon
21 approval by all of the following local governmental entities:

22 (1) The parish governing authority.

23 (2) All municipalities in the parish which levy an ad valorem tax.

24 (3) All school boards in the parish which levy an ad valorem tax.

1 (4) The parish law enforcement district.

2 (5) The assessor.

3 B. Any one of the local governmental entities listed in Paragraph (A)(1) of
4 this Section may withdraw the participation of a parish. The withdrawal of a
5 participating parish shall become effective ninety days after the date upon which any
6 one of the local governmental entities provides written notification to the secretary
7 of its intention to discontinue participation. The withdrawal of a participating parish
8 shall not affect existing contracts.

9 §4354. Targeted non-manufacturing business

10 A targeted non-manufacturing business shall meet all of the following
11 requirements:

12 (1) The business undertakes a project to establish a new or expanded facility
13 in the state.

14 (2) The primary activities at the facility are or will be among the following
15 targeted non-manufacturing business activities: corporate headquarters, distribution
16 facilities, data services facilities, research and development operations, and digital
17 media and software development centers.

18 (3) With the exception of a business providing at least fifty new headquarters
19 jobs or shared service center jobs, a business primarily engaged in retail sales, real
20 estate, professional services, natural resource extraction or exploration, financial
21 services, or venture capital funds, shall not be eligible for the program. No business
22 engaged in gaming or gambling shall be eligible for the program.

23 (4) Within the time period provided in the contract, the business shall make
24 capital expenditures of at least twenty-five million dollars for the facility, and create
25 and maintain at least fifty new direct jobs.

26 (5) At least fifty percent of total annual sales by the business from a
27 Louisiana site or sites are to out-of-state customers or buyers, or to in-state
28 customers or buyers but the product or service is resold by the purchaser to an
29 out-of-state customer or buyer for ultimate use, or to the federal government, or any
30 combination thereof. The secretary, at his discretion, may include sales by closely

1 associated affiliates of the business in determining the percentage of sales meeting
2 this requirement.

3 §4355. Contracts

4 A. At the invitation of the secretary or any of the local governmental entities
5 listed in R.S. 47:4353(A)(1), a targeted non-manufacturing business undertaking a
6 project in a participating parish may apply for a contract by submitting to the
7 department such certified statements and documentation as the department may
8 require.

9 B. The secretary may recommend the project to the board for a contract upon
10 determining the applicant meets the requirements of a targeted non-manufacturing
11 business, and the exemption would be advantageous in a competitive site selection
12 situation to encourage the establishment of a targeted non-manufacturing business
13 facility which is expected to yield significant positive economic benefit to the state
14 and the parish. The secretary, at his discretion, may include sales by affiliates of the
15 applicant business in making the fifty percent determination required under R.S.
16 47:4354(E). The secretary's recommendation shall include proposed contract terms
17 and conditions.

18 C. The contract shall include the following provisions:

19 (1) A term of ten years.

20 (2) Performance obligations, including required capital expenditures and new
21 direct jobs, and the time for performance of such obligations.

22 (3) Monitoring by the department, reporting by the business and auditing of
23 contract performance.

24 (4) Consequences of failure to perform contract obligations.

25 D. Upon approval by the board, the secretary shall execute the contract on
26 behalf of the board and provide a copy of the contract to the assessor and the parish
27 governing authority of the respective parish. The secretary shall notify the assessor
28 and parish governing authority if a contract is suspended or cancelled.

29 E. In the event the secretary determines that a business has failed to meet the
30 eligibility requirements of the program or the performance obligations of the

1 contract, the secretary may, at his discretion, suspend or cancel the contract. A
2 contract suspension shall remove the exemption for the year in which the failure
3 occurred, but secretary may lift the suspension following a year in which eligibility
4 requirements and performance obligations are met, and the exemption shall then be
5 restored effective for that year. A contract cancellation shall remove the exemption
6 for the calendar year in which the failure occurred and all future years. Upon receipt
7 of notification from the secretary that a contract is suspended or cancelled, the
8 assessor shall adjust the property assessment in the manner provided by law. Taxes
9 becoming due for a prior year due to removal of an exemption shall, at the discretion
10 of the tax collector, be collectable immediately or with the taxes for the current year.

11 Section 2. The state shall be the sole proper defendant in any taxpayer challenge to
12 the correctness of an assessment based upon the constitutionality of an exemption provided
13 for in this Act.

14 Section 3. This Act shall take effect and become operative for all calendar years
15 commencing after the proposed amendment adding Article VII, Section 21(L) of the
16 Constitution of Louisiana contained in the Act which originated as House Bill No. 674 of
17 this 2012 Regular Session of the Legislature is adopted at the statewide election to be held
18 on November 6, 2012, and becomes effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____