The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Chabert (SB 122)

Present law authorizes the Department of Economic Development (DED) to grant a credit against corporate income and franchise tax liability equal to the total capital costs of a "qualifying project", to be taken at 5% per tax year, limited to the total cost of the project.

"Qualifying project" is defined as a project sponsored or undertaken by a public port and one or more investing companies that has a capital cost of not less than $5 million and at which the predominant trade or business activity conducted will constitute industrial, warehousing, or port and harbor operations and cargo handling, including any "port or port and harbor activity".

"Port or port and harbor activity" is defined as any trade or business described in the 1997 North American Industry Classification System (NAICS) within Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling).

Proposed law reduces the capital cost of a "qualifying project" from $5 million to one and one-half million dollars. Excludes projects at which the predominant trade or business activity conducted will constitute industrial operations and bulk liquid/gas facilities from the definition of "qualifying project".

Proposed law expands the definition of "port or port and harbor activity" to any activity when the trade or business is conducted on port authority premises including, NAICS Code-described businesses set forth in present law (above) and adds Industry Number 336611 (Ship Building and Repair) and Industry Number 213112 (Support Activities for Oil and Gas Operations).

Present law authorizes DED to issue the Investor Tax Credit for a "qualifying project" if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget and the state bond commission certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided, whether from increased port or port and harbor activity because of the grant of the tax credit or otherwise.

Proposed law authorizes DED to issue the Investor Tax Credit if the commissioner of administration certifies, after approval of the Joint Legislative Committee on the Budget, that securing the project will result in a "significant positive economic benefit to the state." "Significant positive economic benefit" is defined as net positive tax revenue that must be determined by taking into account direct, indirect, and induced impacts of the project based on a standard economic impact methodology utilized by the commissioner, and the value of the credit, and any other state tax and financial incentives that are used by DED to secure the project.

Proposed law requires DED to grant, in lieu of a credit equal to the total capital costs of the project taken at 5% per tax year, another amount of tax credit to be taken at such other percentage which is warranted by the "significant positive economic benefit" determined by the commissioner.

Proposed law provides that no tax credit may be granted for a qualifying project which exceeds $2.5 million per tax year. In addition, the total amount of the Investor Tax Credits which may be granted by DED for all qualifying projects in any fiscal year cannot exceed $12.5 million per fiscal year.

Present law authorizes the secretary of DED to certify "international business entities" for an Import Export Cargo Credit against the individual and corporate income and corporate franchise tax equal to the product of multiplying $5 by the "international business entity's" number of tons of "qualified cargo" for the taxable year, but only for all or a portion of a fiscal year if the commissioner of administration certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided whether from increased utilization of public port facilities because of the tax credit or otherwise, and the certification is approved by the Joint Legislative Committee on the Budget and the state bond commission.

"International business entity" is defined as a taxpayer entity, all or a portion of whose activities involve the import or export of breakbulk or containerized cargo to or from manufacturing, fabrication, assembly, distribution, processing, or warehousing facilities located within Louisiana.

"Qualified cargo" is defined as any breakbulk or containerized machinery, equipment, materials, products, or commodities owned by an "international business entity" which are imported or exported to or from a manufacturing, fabrication, assembly, distribution, processing, or warehouse facility located in Louisiana and which are so moved by way of an oceangoing vessel berthed at a public port facility during the taxable year.

Proposed law authorizes the secretary of DED to certify the credit for an international business entity if the commissioner of administration certifies to the secretary that the increased utilization of public port facilities and other activity in Louisiana associated with the import or export of the international business entities qualified cargo will result in a "significant positive economic benefit to the state." "Significant positive economic benefit" is defined as net positive tax revenue that shall be determined by taking into account direct, indirect, and induced impacts of the port and state activity based on a standard economic impact methodology utilized by the commissioner, and the value of the credit, and any other state tax and financial incentives that are used by DED to secure the port and state activity. Approval of the certification by the Joint Legislative Committee on the Budget and the state bond commission is still required.

Proposed law authorizes DED the option to grant, in lieu of a credit equal to the product of multiplying $5 by the number of tons of cargo for the taxable year or a portion of a fiscal year, a credit equal to the product of multiplying the number of dollars by the taxpayer's number of tons of qualified cargo for the taxable year or portion of a taxable year which is warranted by the "significant positive economic benefit" determined by the commissioner, if it is less than $5.

Proposed law specifies that the credit can be allowed only against the tax liability of the international business entity which receives the certification.

Proposed law extends the termination date of the Investor Tax Credit from January 1, 2017 to January 1, 2020 and terminates the Import Export Credit on that same date.

Effective July 1, 2013.

(Amends R.S. 47:6036(B)(8) and (13), (C)(1)(b), (G), (I)(1)(intro para), (I)(1)(c), and (2)(a))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Caps the Investor Tax Credit for a "qualifying project" at $2.5 million per tax year and places an overall cap of $12.5 million for tax credits granted for all qualifying projects in a fiscal year.

2. Limits DED's option to grant a per-ton Import Export Cargo Tax Credit equal to the number of dollars per ton which is warranted by the "significant positive economic benefit" determined by the commissioner to less than $5 per ton.

3. For purposes of the Investor Tax Credit, deletes the clause "but not limited to" from the provision defining "port or port and harbor activity" as any activity when the trade or business is conducted on port authority premises "including" the NAICS Code-described businesses.

4. Excludes from the Investor Tax Credit "qualifying projects" projects at which the predominant trade or business activity conducted will constitute industrial operations and bulk liquid/gas facilities.

5. Restores the commissioner of administration's discretion in present law to grant an Investor Tax Credit of 5% per tax year.

6. Restores the approvals needed for both credits from the state bond commission in present law.