

Regular Session, 2013

HOUSE BILL NO. 688

BY REPRESENTATIVE JOHNSON

TAX CREDITS: Provides a credit against income and corporation franchise tax liability to certain businesses which offer essential services during emergency situations

1 AN ACT

2 To enact R.S. 47:6039, relative to tax credits; to authorize a tax credit against Louisiana
3 income and corporation franchise tax for certain businesses which offer essential
4 services during certain emergency situations; to provide for certain definitions; to
5 provide for eligibility; to provide for the amount of the tax credit; to provide for
6 certain requirements and limitations; to provide for an effective date; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6039 is hereby enacted to read as follows:

10 §6039. Tax credit; businesses which offer essential services during certain
11 emergency situations

12 A. There shall be a credit against all Louisiana income or corporation
13 franchise taxes for businesses which offer essential services for qualified expenses
14 or investments made in preparation for the business to remain open to serve the
15 public during and immediately after an emergency situation or natural disaster. To
16 be eligible for the tax credit, qualified expenses and investments shall be those that
17 are certified by the Department of Revenue as eligible. The total aggregate amount
18 of tax credits which may be issued for all taxpayers for purposes of this Section shall
19 not exceed one million dollars in any tax year. The amount of the tax credit for
20 qualified expenses or investments of less than twenty thousand dollars shall be equal

1 to the actual amount of the expenses or five thousand dollars, whichever is less. The
2 amount of the tax credit for qualified expenses or investments in excess of twenty
3 thousand dollars shall be equal to the actual amount of the expenses or twenty-five
4 thousand dollars, whichever is less. The tax credit may be claimed each year
5 qualified expenses or investments are incurred; however, no taxpayer shall be
6 granted a credit for more than three years in a five-year period.

7 B.(1) To be eligible for the tax credit, a business shall first receive pre-
8 clearance of its emergency preparedness plan from the Office of Emergency
9 Preparedness and Homeland Security, hereinafter referred to as "office". An
10 emergency plan shall include the estimated amount of qualified expenses and
11 investments which the business intends to claim for purposes of the tax credit, as
12 well as any documents or other materials required by the office relative to the pre-
13 clearance process. The office shall by rule establish requirements for application for
14 and approval of pre-clearance status. Each tax year, the authority for the office to
15 grant pre-clearance status to emergency preparedness plans shall be limited to that
16 number of plans containing estimated qualified expenses and investments which, in
17 the aggregate, would generate no more than one million dollars in tax credits.

18 (2) To claim a tax credit, in addition to any other documentation the
19 Department of Revenue may require, a business shall also submit to the department
20 evidence of the pre-clearance status of its emergency preparedness plan.

21 C. For purposes of this Section, the following words shall have the following
22 meanings unless the context clearly indicates otherwise:

23 (1) "Emergency situation" shall mean and include the period of time in
24 which a mandatory evacuation order is issued by a local governing authority or a
25 gubernatorially declared disaster in anticipation of a weather event such as a
26 hurricane or tropical storm.

27 (2) "Essential services" shall mean and include services rendered to the
28 general public necessary to protect the health, welfare, and safety of the public.
29 Essential services shall include businesses which offer services such as gas stations,

1 pharmacies, grocery stores, hospitals, network or radio broadcasting stations,
2 restaurants, and trucking businesses which transport essential commodities to gas
3 stations, pharmacies, grocery stores, and hospitals.

4 (3) "Qualified expenses or investments" shall mean and include expenses or
5 investments made by a business which offers emergency services to the public
6 during emergency situations in anticipation of preparing the business to remain open
7 during the emergency situation. Qualified expenses or investments shall include
8 expenses incurred for the purchase of generators, weatherproofing items such as
9 window coverings, and supplies necessary to sustain the business, including its
10 employees, during the emergency situation.

11 D. In order for the business to qualify for the tax credit, the business shall
12 remain open to the general public during the duration of the emergency situation.
13 Any business which closes for any portion of the emergency situation shall not be
14 eligible for the credit. In addition, the business shall post a sign in a prominent place
15 openly and easily viewed by the public that the business shall remain open during the
16 emergency situation.

17 E. The credit authorized by the provisions of this Section shall be taken as
18 a credit against the applicable tax or taxes of the taxpayer in the taxable period in
19 which the qualified expenses or investments are incurred. If the amount of the tax
20 credit exceeds the Louisiana income or corporation franchise tax liability of the
21 taxpayer, then any unused or excess credit may be carried forward for a period not
22 to exceed ten years.

23 F. The Department of Revenue and the Office of Emergency Preparedness
24 and Homeland Security shall promulgate rules and regulations in accordance with
25 the Administrative Procedure Act for purposes of implementation and administration
26 of the tax credit program authorized by this Section.

27 Section 2. The provisions of this Act shall apply to income tax years beginning on
28 and after January 1, 2014, and to corporation franchise tax years beginning January 1, 2015.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Johnson

HB No. 688

Abstract: Authorizes a tax credit against all La. income or corporation franchise taxes for businesses which offer essential services for qualified expenses or investments made in preparation for the business to remain open to serve the public during an emergency situation or natural disaster.

Proposed law authorizes a tax credit against all La. income or corporation franchise taxes for businesses which offer essential services for qualified expenses or investments made in preparation for the business to remain open to serve the public during and immediately after an emergency situation or natural disaster. Qualified expenses or investments shall be those expenses or investments certified as such by the Department of Revenue.

Proposed law provides that the amount of the tax credit for qualified expenses or investments of less than \$20,000 shall be equal to the actual amount of the expenses or \$5,000, whichever is less. The amount of the credit for qualified expenses or investments in excess of \$20,000 shall be equal to the actual amount of the expenses or \$25,000, whichever is less. No taxpayer shall be granted a credit for more than three years in a five-year period. The total aggregate amount of tax credits which may be issued in any tax year for all taxpayers for purposes of this Section shall not exceed \$1 million.

Proposed law provides for eligibility requirements for receipt of the tax credit, which include having an emergency preparedness plan which has received pre-clearance status from the Governor's Office of Homeland Security and Emergency Preparedness (hereinafter office). An emergency preparedness plan shall include an estimate of the amount of expenses and investments which the business intends to claim for purposes of the tax credit.

Proposed law authorizes the office to establish by rule the requirements for application for and approval of pre-clearance status. Each tax year, the authority for the office to grant pre-clearance status to emergency preparedness plans is limited to that number of plans which contain estimated qualified expenses or investments which, in the aggregate, would generate no more than \$1 million in tax credits.

Proposed law defines "essential services", "emergency situation", and "qualified expenses or investments".

Proposed law provides that in order for a business to qualify for the tax credit, the business shall remain open to the general public during the duration of the emergency situation. Additionally, the business shall post a sign in a prominent place easily viewed by the public that the business shall remain open during the emergency situation. Any business which closes for any portion of the emergency situation shall not be eligible for the credit.

Proposed law provides that if the amount of the tax credit exceeds the taxpayer's tax liability, then any unused or excess credit may be carried forward for a period not to exceed 10 years.

Proposed law authorizes rulemaking by the Dept. of Revenue and the Governor's Office of Homeland Security and Emergency Preparedness.

Applicable to income tax years beginning on and after Jan. 1, 2014, and corporation franchise taxes beginning on and after Jan. 1, 2015.

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

(Adds R.S. 47:6039)

Summary of Amendments Adopted by House

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

1. Adds limitation of \$1 million per tax year for the total aggregate amount of tax credits which may be issued.
2. Adds eligibility requirements which include the Dept. of Revenue's certification of expenses or investments as eligible, and the business having had its emergency preparedness plan pre-cleared by the Governor's Office of Homeland Security and Emergency Preparedness.
3. Adds limitation on the number of emergency preparedness plans which may be pre-cleared in a tax year.
4. Adds authority for rulemaking by the Dept. of Revenue and the Governor's Office of Homeland Security and Emergency Preparedness.