

2020 First Extraordinary Session

HOUSE BILL NO. 54

BY REPRESENTATIVE IVEY

TAX/AD VALOREM-EXEMPTION: Provides for ad valorem tax exemptions for certain capital investment projects (Item # 28)

1 AN ACT

2 To enact Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the Louisiana

3 Revised Statutes of 1950, to be comprised of R.S. 47:1721 through 1729, relative

4 to ad valorem tax; to provide for abatement exemptions from ad valorem property

5 taxes for certain property for capital investment projects; to establish requirements

6 for eligibility and applications for exemptions; to provide for local, standard, and

7 executive ad valorem tax exemptions; to provide for cooperative endeavor

8 agreements; to provide for exemption applications; to provide for the terms and

9 values of exemptions; to provide for definitions; to provide for political subdivision

10 approval; to provide for gubernatorial approval; to provide for the consideration,

11 approval, and granting of the exemption; to provide for a statement of purpose; to

12 provide for oversight; to provide for a withdrawal process; to provide for

13 effectiveness; to provide for reporting; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the

16 Louisiana Revised Statutes of 1950, comprised of R.S. 47:1721 through 1729, is hereby

17 enacted to read as follows:

1 CHAPTER 1-A. THE LOUISIANA CAPITAL INVESTMENT

2 PROGRAM FOR DIVERSE ECONOMIC GROWTH

3 PART I. GENERAL PROVISIONS

4 §1721. Statement of purpose

5 The Louisiana Capital Investment Program is hereby established to create an
6 economic development tool that empowers local governments and their
7 constituencies to attract capital investments from industry sectors they deem
8 compatible and advantageous to the community. The Louisiana Capital Investment
9 Program will provide businesses in qualifying industry sectors an ad valorem
10 property tax exemption in the form of an abatement on all qualifying capital
11 investments. Capital investments create diverse economic growth and development.

12 The Louisiana Capital Investment Program will empower local governments and
13 their constituencies to incentivize and attract specific industries with capital
14 investments. This will provide growth and opportunities that will result in economic
15 and employment opportunities reflecting the values and vision of local communities.

16 §1722. Definitions

17 For the purposes of this Chapter the following words have the following
18 meanings:

19 (1) "Board" shall mean the Board of Commerce and Industry.

20 (2) "Department" shall mean the Department of Economic Development.

21 (3) "Local authorities" shall mean the school board, the parish governing
22 authority, any incorporated municipality in which the project is located, the sheriff,
23 and the law enforcement district under the control of the sheriff.

24 (4) "Parish authorities" shall mean the school board, the sheriff, and the
25 parish governing authority.

26 §1723. Oversight

27 In compliance with the Administrative Procedure Act, the department shall
28 adopt and promulgate rules as are necessary for the effective administration of the
29 Louisiana Capital Investment Program. In addition, these rules shall be subject to

1 review by the House Committee on Ways and Means and the Senate Committee on
2 Revenue and Fiscal Affairs in the same manner and to the same extent as the review
3 of the standing committees provided for in R.S. 49:968(B)(1).

4 PART II. CAPITAL INVESTMENT

5 PROGRAM PARTICIPATION

6 §1724. Notification

7 The department shall notify parish authorities within ten days of the effective
8 date of the creation or modification of any capital investment abatement program.
9 The notification shall provide for program details, enrollment deadlines, specific
10 language requirements for resolutions, and forms identifying the programs with
11 spaces for applicants to indicate which program they wish to participate in.

12 §1725. Enrollment

13 A. A parish shall be enrolled in a capital investment program upon the
14 approval of all parish authorities, which shall be evidenced by submitting a
15 resolution of approval to the department.

16 B. A parish that disapproves participation in any program shall submit a
17 resolution to the department stating such. If no parish authority notifies the
18 department that it disapproves participation in the program within sixty days of the
19 effective date of the program, the parish shall be automatically enrolled in the
20 program.

21 C. Any parish authority that has submitted a resolution of disapproval to the
22 department may change its position and approve the program by submitting a
23 resolution to the department rescinding the previous disapproval resolution.

24 D. Except as provided in R.S. 47:1726, enrollment in a capital investment
25 program shall be continuous.

26 §1726. Terms of withdrawal

27 A. A parish may withdraw from a program within five years following its
28 enrollment in the program. To withdraw from a capital investment program all parish
29 authorities must submit a resolution to the department stating such. Any resolution

1 to withdraw from a capital investment program shall be effective ninety days
2 following the receipt of withdrawal by the department.

3 B. Notwithstanding the provisions of Subsection A of this Section, if the
4 legislature passes any law substantively changing a capital investment program, a
5 parish may withdraw from that program and shall evidence the withdrawal by a
6 resolution to the department. Any resolution submitted to the department pursuant
7 to this Subsection shall be submitted no later than sixty days after the effective date
8 of the applicable legislation.

9 PART III. INDUSTRY SECTORS AND

10 EXEMPTION PROGRAMS

11 §1727. Industry sectors and exemption programs

12 A. Manufacturing. For the purposes of the program established in this
13 Chapter, the manufacturing sector shall include but is not limited to entities
14 participating in industrial manufacturing, pharmaceutical manufacturing,
15 semiconductor manufacturing, automotive manufacturing, and green energy
16 manufacturing.

17 B. Technology. For the purposes of the program established in this Chapter,
18 the technology sector shall include but is not limited to data centers, and laboratories.

19 C. Telecommunication. For the purposes of the program established in this
20 Chapter, the telecommunication sector shall include but is not limited to entities
21 providing or assisting in providing rural broadband services.

22 D. Healthcare. For the purposes of the program established in this Chapter,
23 the healthcare sector shall include but is not limited to hospitals and clinics.

24 E. Logistics, warehouse, and distribution sector. For the purposes of the
25 program established in this Chapter, the logistic, warehouse, and distribution sector
26 shall include but is not limited to entities participating in warehouse storage and
27 distribution.

28 F. Map. The department shall maintain an interactive map on its website
29 identifying available exemptions by parish, industry sector, and program.

1 PART IV. PROGRAM PROCEDURES2 §1728. Capital Investment Project Exemption

3 A. Exemptions. In accordance with Article VII, Section 21(F) of the
4 Constitution of Louisiana, there are hereby established standard, local, and executive
5 ad valorem tax exemptions for capital investment projects.

6 B. Standard exemption. (1) Procedure. The department shall establish an
7 application procedure for the standard exemption in accordance with the constitution.

8 (2) Review. The board shall review all standard exemption applications in
9 a timely manner and confirm program eligibility for each application.

10 (3) Approval. Within ten days of confirmation of program eligibility by the
11 board, the board, with the assistance of the department, shall provide the applicant
12 and local authorities with a copy of the conditional approval.

13 C. Local exemption. (1) Eligibility. The local exemption shall be available
14 only when the standard exemption is available. No applicant shall be eligible for the
15 local exemption until the applicant has received final approval by the department for
16 a standard exemption. Each parish shall establish eligibility requirements for the
17 local exemption in accordance with the constitution. The application for the local
18 exemption shall be on forms designed and prescribed by the department.

19 (2) Review. The department shall forward a copy of the application within
20 three days of receipt to each impacted local authority that levies a millage and in
21 whose jurisdiction the project will be located. The department shall provide the local
22 authority with an analysis of the project applying for the exemption. Each local
23 authority shall review the application in conjunction with the department's analysis
24 and issue a resolution or letter, in the case of a sheriff, approving or rejecting the
25 exemption within sixty days of receipt of the application from the local authority. In
26 reviewing the application, a local authority may hold a public meeting for the
27 purpose of receiving public input.

28 (3) Cooperative endeavor agreement. Upon the local authority's approval of
29 the exemption, the local authority and the applicant, with the assistance of the

1 department, shall enter into a cooperative endeavor agreement evidencing the
2 exemption. The cooperative endeavor agreement shall provide for an ad valorem tax
3 exemption of up to one hundred percent of the property tax and for a term of not
4 more than fifteen years.

5 (4) Final approval. The local authority shall provide the department with a
6 copy of the final cooperative endeavor agreement and a copy of all resolutions or
7 letters approving the exemption.

8 D. Executive exemption. (1) Eligibility and Application. The governor
9 shall be permitted to provide an executive exemption for capital investment projects
10 in accordance with the constitution.

11 (2) Invitation and offer. The governor may offer any entity an executive
12 exemption from ad valorem property taxes. The exemption may be for up to one
13 hundred percent of the property taxes for a specific term decided at the governor's
14 discretion. The board shall require local approval prior to the governor granting the
15 executive exemption. The executive exemption shall be evidenced by a
16 gubernatorial executive order providing the terms and conditions of the exemption.
17 No later than thirty-five days prior to the issuance of any gubernatorial executive
18 order providing an exemption, the governor shall provide all applicable local
19 authorities a draft of the executive order. Local authorities shall have a thirty-day
20 period, beginning the day the draft executive order is received, to reject the proposed
21 exemption. A rejection by any political subdivision shall be evidenced by resolution
22 or if the rejection is from the sheriff, by letter. If a local authority does not provide
23 notice of rejection within the thirty-day notice period, the exemption will be deemed
24 approved by each local authority.

25 §1729. Reporting

26 Within thirty days after the submittal of an application for an exemption
27 pursuant to this Chapter, the department shall produce a cost-benefit analysis for the
28 project that identifies the projected state and local fiscal impact of the project. The
29 analysis shall include information related to employment, state and local revenues,

1 state and local infrastructure requirements, and the effect of using state and local
 2 public services. The employment related analysis shall include information on the
 3 project construction employment, project permanent employment, and project
 4 indirect employment. All non-coincidental and non-proprietary data used in the
 5 analysis shall be made available to the public by the department upon written
 6 request.

7 Section 2. This Act shall take effect and become operative if and when the proposed
 8 amendment of Article VII, Section 21(F) of the Constitution of Louisiana contained in the
 9 Act which originated as House Bill No. 36 of this 2020 First Extraordinary Session of the
 10 Legislature is adopted at a statewide election and becomes effective.

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)]

HB 54 Reengrossed

2020 First Extraordinary Session

Ivey

Abstract: Establishes the La. Capital Investment Program which provides for the consideration and approval of standard, local, and executive capital investment project ad valorem tax exemptions.

Present constitution provides for the exclusive list of ad valorem tax exemptions.

Proposed law provides definitions for the terms "board", "department", "local authorities", and "parish authorities".

Proposed law requires the Department of Economic Development hereinafter "dept.", to adopt and promulgate rules to administer the program in compliance with present law.

Proposed law establishes a notification process that requires the dept. to notify parish authorities within 10 days of the creation or modification of a capital investment program. Proposed law further provides that the notification shall include program details, deadlines, language for resolutions, and specific forms.

Proposed law establishes an enrollment process for the program. A parish can enroll in a program upon the approval of all parish authorities evidenced by a resolution submitted to the dept.

Proposed law provides that if a parish disapproves participation in a program it shall submit a resolution to the dept. stating such. Proposed law further provides that if no parish authority notifies the dept. that it disapproves participation within 60 days of the program's effective date, the parish shall be automatically enrolled.

Proposed law authorizes a parish to change disapproval to approval by rescinding the disapproval resolution.

Proposed law authorizes a parish to withdraw from a program within five years following enrollment. Proposed law further provides a parish can withdraw if all parish authorities submit a resolution stating such. The withdrawal is effective 90 days following the dept.'s receipt of the resolution.

Proposed law provides that if the legislature passes a law that substantively changes a capital investment program a parish may withdraw from the program by resolution stating such. The resolution must be submitted no later than 60 days after the effective date of the applicable legislation.

Proposed law identifies businesses that constitute the manufacturing, technology, telecommunication, healthcare, logistic, warehouse, and distribution sectors for the purposes of this program.

Proposed law creates a standard ad valorem tax exemption for capital investment projects.

Proposed law requires the dept. to establish an application procedure for the standard exemption in accordance with the constitution. Proposed law further provides that the Board of Commerce and Industry shall review a standard ad valorem tax exemption in a timely manner and confirm program eligibility for each application. Within 10 days of confirmation, the board shall provide the applicant and local authorities with a copy of the conditional approval.

Proposed law creates a local ad valorem tax exemption for capital investment projects.

Proposed law establishes an application for a local ad valorem tax exemption and requires the dept. to design and provide the application forms.

Proposed law requires that the dept. forward a copy of an application to each impacted local authority that levies a millage and in whose district the project will be located.

Proposed law requires the dept. to provide the local governing authority and all relevant political subdivisions with an analysis of every proposed project requesting an exemption in the parish.

Proposed law requires a local authority within 60 days of receipt to review each project application in conjunction with the dept.'s analysis and issue a resolution or a letter, in the case of a sheriff, approving or rejecting the application. During this time local authorities may hold public meetings to receive public input.

Proposed law provides that if the local authority approves the application, the local authority and the applicant, with the assistance of the dept., shall enter into a cooperative endeavor agreement evidencing the exemption.

Proposed law requires the local authority to provide the board with a copy of the cooperative endeavor agreement and a copy of any resolution or letter approving the exemption.

Proposed law creates an executive ad valorem tax exemption for capital investment projects.

Proposed law provides that the governor may offer any entity an executive exemption. The exemption may be for up to 100% of the property taxes of the project and for a specific term to be decided by the governor.

Proposed law requires local approval prior to the execution of the executive order providing for an exemption. A local authority must evidence rejection of the exemption within 30 days of receipt or the exemption will be deemed approved.

Proposed law requires the executive exemption to be evidenced by a gubernatorial executive order providing the terms and conditions of the exemption.

Proposed law requires the dept. to produce a cost-benefit analysis for the project that specifically identifies the projected state and local fiscal impact, information related to employment, state and local revenues, state and local infrastructure requirements, and the effect of using state and local public services.

Effective if and when the proposed amendment of Article VII, Section 21(F) of the Constitution of La. contained in the Act which originated as House Bill No. 36 of this 2020 1st E.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 47:1721 through 1729)

Summary of Amendments Adopted by House

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

1. Create new parts within the chapter.
2. Add a statement of purpose for the La. Capital Investment Program.
3. Add definitions for "local authorities" and "parish authorities" and remove the term and definition of "political subdivision".
4. Add provisions for the adoption and promulgation of rules in compliance with the Administrative Procedure Act.
5. Add provisions relative to the notification, enrollment, and withdrawal processes.
6. Add provisions to identify different industry sectors established within the La. Capital Investment Program.
7. Change the processes for the review and approval of the standard exemption.
8. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Change "local authority" to "parish authority" for the purpose of enrollment in the capital investment program.
2. Change "local authority" to "parish authority" for the purpose of withdrawal from the capital investment program.
3. Change "board" to "department" in provisions related to local exemption eligibility.
4. Change "parish authority" to "local authority" in provisions related to the local exemption.
5. Change "political subdivision" to "local authority" in provisions related to the executive exemption.

6. Add provisions requiring the department to produce a cost-benefit analysis for each project.
7. Make technical changes.