

Regular Session, 2013

SENATE BILL NO. 122

BY SENATOR CHABERT

TAX/TAXATION. Makes changes to both the Investor Tax Credit and the Import Export Cargo Credit of the Ports of Louisiana Tax Credit Program and provides a new termination date for the credit. (8/1/13)

1 AN ACT

2 To amend and reenact R.S. 47:6036(B)(8) and (13), (C)(1)(b), (G), the introductory
3 paragraph of (I)(1), (I)(1)(c), and (2)(a), relative to the Ports of Louisiana tax credit;
4 to provide the term of the credit; to provide for the activities and projects to which
5 the credit applies; to provide with respect to certain determinations and certifications;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6036(B)(8) and (13), (C)(1)(b), (G), the introductory paragraph
9 of (I)(1), (I)(1)(c), and (2)(a) are hereby amended and reenacted to read as follows:

10 §6036. Ports of Louisiana tax credits

11 * * *

12 B. Definitions.

13 For purposes of this Section, the following words shall have the following
14 meanings unless the context clearly indicates otherwise:

15 * * *

16 (8) "Port or port and harbor activity" shall mean and include **any activity**
17 **when the trade or business is conducted on premises in which a duly recognized**

1 effect to the state of the tax credits provided for the capital costs of the project,
 2 whether from increased port or port and harbor activity because of the grant of the
 3 tax credit or otherwise **securing the project will result in a significant positive**
 4 **economic benefit to the state. "Significant positive economic benefit" means net**
 5 **positive tax revenue that shall be determined by taking into account direct,**
 6 **indirect, and induced impacts of the project based on a standard economic**
 7 **impact methodology utilized by the commissioner, and the value of the credit,**
 8 **and any other state tax and financial incentives that are used by the department**
 9 **to secure the project.** If the commissioner with the approval of the committee so
 10 certifies, then the Department of Economic Development ~~may~~ **shall** grant a tax credit
 11 equal to the total capital costs of a **such** qualifying project to be taken at five percent
 12 per tax year; **or shall grant such other amount of tax credit to be taken at such**
 13 **other percentage which is warranted by the significant positive economic benefit**
 14 **determined by the commissioner.** However, the total amount of tax credits granted
 15 on a qualifying project shall not exceed the total cost of the project.

16 (c) The tax credit shall be earned by investors at the time expenditures are
 17 made by an investing company; however, tax credits shall not be applied against a
 18 tax liability until the project is approved by the department after certification from
 19 the commissioner with the approval of the committee ~~and the state bond commission~~
 20 and capital cost expenditures are certified by the department. The Department of
 21 Economic Development shall certify capital cost expenditures no less than twice
 22 during the duration of the qualifying project unless the investing company agrees,
 23 in writing, to reimburse the Department of Economic Development for the costs of
 24 any additional certifications.

25 * * *

26 G. Termination of Investor **and Import Export Cargo** Tax Credits.

27 The provisions of Subsection C **and I** of this Section shall be effective until
 28 ~~January 1, 2017~~ **January 1, 2020**, and no investor tax credit **or import export cargo**
 29 **credit** pursuant to the provisions of this Section shall be granted after such date.

Proposed law reduces the capital cost of a "qualifying project" from \$5 million to one and one-half million dollars.

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, but not limited to the NAISC 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 requires 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 removes the need for certification approval from the state bond commission.

Proposed law requires DED to issue the Investor Tax Credit if the commissioner of administration certifies, after approval of the Joint Legislative Committee on the Budget, certifies 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 authorizes DED the option 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. However, the total amount credits still cannot exceed the total cost of the project.

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 removes the need for certification approval from the state bond commission.

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 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 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.

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 August 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))