

Regular Session, 2012

SENATE BILL NO. 724

BY SENATOR WHITE

ECONOMIC DEVELOPMENT. Provides relative to the Louisiana Quality Jobs Programs Act. (8/1/12)

AN ACT

To amend and reenact R.S. 51:2453, relative to the Louisiana Quality Jobs Programs Act; to provide for definitions, terms, conditions, procedures, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:2453 is hereby amended and reenacted to read as follows:

§2453. Definitions

The following words or terms as used in this Chapter shall have the following meaning, unless a different meaning appears from the context:

(1) "Benefit rate" means the following percentages:

(a) For new direct jobs created which pay at least fourteen dollars and fifty cents per hour inclusive of wages and the value of the health care benefits paid or offered in accordance with Paragraph (2) of this Section, the benefit rate shall be five percent, provided that at least fifty percent of the employees holding new direct jobs accept the health care benefits offered.

(b) For new direct jobs created which pay at least nineteen dollars and ten cents per hour inclusive of wages and the value of the health care benefits paid or

1 offered in accordance with Paragraph (2) of this Section, the benefit rate shall be six  
2 percent, provided that at least fifty percent of the employees holding new direct jobs  
3 accept the health care benefits offered.

4 (2) "Employer" shall mean a legal person who executes a contract with the  
5 department pursuant to the provisions of this Chapter and who offers, or will offer  
6 within ninety days of the effective date of qualifying for the incentive rebates  
7 pursuant to the provisions of this Chapter, a basic health benefits plan to the  
8 individuals it employs in new direct jobs in this state which shall be determined by  
9 the Department of Economic Development to have a value of at least one dollar and  
10 twenty-five cents per hour.

11 (a) The "basic health benefits plan" or the "health insurance coverage"  
12 required to be offered or provided by this Paragraph shall also include coverage for  
13 basic hospital care, and coverage for physician care, as well as coverage for health  
14 care, which shall be the same coverage as is provided to employees employed in a  
15 bona fide executive, administrative, or professional capacity by the employer who  
16 are exempt from the minimum wage and maximum hour requirements of the federal  
17 Fair Labor Standards Act, 29 U.S.C.A. §201, et seq.

18 (b) To qualify for a contract pursuant to this Chapter, employers must meet  
19 one of the following provisions:

20 (i) Must be one of the following six Vision 2020 cluster industries:  
21 biotechnology, biomedical, and medical industries serving rural hospitals;  
22 micromanufacturing; software, auto regulation, Internet, and telecommunications  
23 technologies; environmental technology; food technologies; and advanced materials.  
24 Any cluster of industries added after May 1, 2002, shall qualify for a contract  
25 pursuant to this Chapter, if it qualifies under Items (ii) through (vi) of this  
26 Subparagraph.

27 (ii) Must be a manufacturer, as defined by North American Industry  
28 Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-339, 511-  
29 512, and 54171, as the employer's primary function.

1 (iii) Must be an oil and gas field services business as defined in North  
2 American Industry Classification System (NAICS) code 213112 which has new  
3 direct jobs that pay not less than thirty thousand dollars per year and meet the health  
4 insurance benefits required under this Paragraph and have Louisiana as the national  
5 or regional headquarters of a multistate business whose service territory includes at  
6 least Louisiana and the Gulf of Mexico.

7 (iv) Must have, or will have within one year, sales of at least fifty percent of  
8 its total sales to out-of-state customers or buyers, to in-state customers or buyers if  
9 the products or service is resold by the purchaser to an out-of-state customer or buyer  
10 for ultimate use, or to the federal government.

11 (v) Must be located in an area designated by the Department of Economic  
12 Development as a distressed region. A distressed region shall be either of the  
13 following:

14 (aa) A parish which is within the lowest twenty-five percent of parishes based  
15 on per capita income.

16 (bb) A census tract block group that is below the state median per capita  
17 income, based upon the latest federal decennial census.

18 (cc) If an area is designated a distressed region, such designation shall be  
19 maintained for the period of the initial quality jobs contract executed pursuant to this  
20 Chapter and during the renewal period of any such contract. To qualify, an employer  
21 shall either be located in a distressed region or at least fifty percent of the new direct  
22 jobs of the employer shall be filled by persons who reside in a distressed region.

23 (c) The following employers or persons engaged in the following professions  
24 or service industries shall not be eligible for any rebate under this Chapter:

25 (i) Retail employers as identified by the North American Industry  
26 Classification System code sections 44 and 45.

27 (ii) Business associations and professional organizations as defined in North  
28 American Industry Classification System (NAICS) code 8139.

29 (iii) State and local government enterprises.

(iv) Real estate agents, operators, and lessors.

(v) Automotive rental and leasing.

(vi) Local solid waste disposal, local sewage systems, and local water systems businesses.

(vii) Nonprofit organizations, unless the Department of Economic Development determines that the new direct jobs created by the organization would have a significant impact on Louisiana.

(viii) Employers engaged in the gaming industry as identified by the North American Industrial Classification System code sections 713210 and 721120.

(ix) Attorneys.

(d) The Department of Economic Development may promulgate rules annually listing other employers, professions, or service industries which are eligible and are not eligible for any rebate pursuant to this Chapter and such rules shall not take effect unless presented to and approved by both the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs in a public meeting held for such purpose.

**(3) "Facility management contract" means a contract between a employer and another company whereby the company agrees to operate all or part of the employer's manufacturing facility.**

~~(3)~~ **(4)** "Gross payroll" means wages for the new direct jobs as defined herein upon which the particular benefit rate is calculated.

~~(4)~~ **(5)** "New direct job" means employment in this state of an employee working at the average hours per week provided for in R.S. 51:2455(E)(2), who was not previously on an employer's payroll in Louisiana, nor previously on the payroll of such employer's parent entity, subsidiary, or affiliate in Louisiana, or previously on the payroll of any business whose physical plant and employees are substantially the same as those of the employer in Louisiana. Such job shall be with an employer that has qualified to receive a rebate pursuant to the provisions of this Chapter, which job did not exist in this state prior to the effective date the application was filed by

1 the employer with the Department of Economic Development pursuant to the  
2 provisions of R.S. 51:2455 and which job is filled by an individual domiciled in the  
3 state of Louisiana. "New direct job" shall not mean any job that is a result of job  
4 shifts due to the gain or loss of an in-state contract to supply goods and services.  
5 "New direct job" shall not mean any employees who were retained following the  
6 acquisition of all or part of an in-state business by an employer.

7 ~~(5)~~ **(6)** "Wages" means all remuneration for services from whatever source,  
8 including commissions and bonuses and the cash value of all remuneration in any  
9 medium other than cash, and dismissal payments which the employer is required by  
10 law or contract to make. Gratuities customarily received by an individual in the  
11 course of his work from persons other than his employer shall be treated as wages  
12 received from his employer. The reasonable cash value of remuneration in any  
13 medium other than cash and the reasonable amount of gratuities shall be estimated  
14 and determined in accordance with the Internal Revenue Code and its rules and  
15 regulations. The term "wages" shall not include the following:

16 (a) The amount of any payment with respect to services performed after  
17 January 1, 1951, to or on behalf of an individual in its employ under a plan or system  
18 established by an employer which makes provision for individuals in its employ  
19 generally, or for a class or classes of such individuals, including any amount paid by  
20 an employer for insurance or annuities, or into a fund to provide for any such  
21 payment, on account of:

22 (i) Retirement.

23 (ii) Sickness or accident disability.

24 (iii) Medical and hospitalization expenses in connection with sickness or  
25 accident disability.

26 (iv) Death, provided the individual in its employ:

27 (aa) Has not the option to receive, instead of provision for such death benefit,  
28 any part of such payment or, if such death benefit is insured, any part of the premium  
29 or contributions to premiums paid by his employer.

1 (bb) Has not the right, under the provisions of the plan or system or policy  
2 of insurance providing for such death benefit, to assign such benefit or to receive  
3 cash consideration in lieu of such benefit either upon his withdrawal from the plan  
4 or system providing for such benefit or upon the termination of such plan or system  
5 or policy of insurance or of his services with such employer.

6 (v) A bona fide thrift or savings fund, providing:

7 (aa) Such payment is conditioned upon a payment of a substantial sum by  
8 such individuals in its employ.

9 (bb) Such sum paid by the employer cannot under the provisions of such plan  
10 be withdrawn by an individual more frequently than once in any twelve-month  
11 period, except upon an individual's separation from that employment.

12 (b) Any payment made to, or on behalf of, an employee or his beneficiary  
13 under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26  
14 U.S.C. 3306(b)(5)(G).

15 (c) Any payment made, or benefit furnished, to or for the benefit of an  
16 employee if at the time of such payment or such financing it is reasonable to believe  
17 that the employee will be able to exclude such payment or benefit from income under  
18 an educational assistance program as described in 26 U.S.C. 127 or a dependent care  
19 assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C.  
20 3306(b)(13).

21 (d) The payment by an employer, without deduction from the remuneration  
22 of the individual in its employ, of the tax imposed upon such individual in its employ  
23 under Section 3101 of the federal Internal Revenue Code with respect to domestic  
24 services in a private home of the employer or for agricultural labor performed after  
25 December 31, 1980.

26 (e) Dismissal payments which the employer is not required by law or contract  
27 to make.

28 (f) The value of any meals and lodging furnished by or on behalf of an  
29 employer to an individual in his employ, provided the meals and lodging are

1 furnished on the business premises of the employer for the convenience of the  
2 employer.

3 ~~(6)~~ **(7)** "Health care benefits" means the amount of any payment to or on  
4 behalf of an individual in its employ under a plan or system established by an  
5 employer which makes provision for individuals in its employ generally, or for a  
6 class or classes of such individuals, including any amount paid by an employer for  
7 insurance or annuities, or into a fund to provide for any such payment for a basic  
8 health benefits plan or the health insurance coverage, or the value of the health  
9 benefits plan or health insurance coverage offered by the employer to an individual  
10 it employs. The value of health care benefits which are offered in accordance with  
11 Paragraph (2) of this Section shall be deemed as having been paid for purposes of  
12 determining a benefit rate, regardless of whether the employee accepts the plan or  
13 coverage offered, provided that at least fifty percent of the employees holding new  
14 direct jobs accept the health care benefits offered.

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

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#### DIGEST

Present law provides for the Louisiana Quality Jobs Program Act.

Present law provides for definitions.

Proposed law maintains present law and defines the term "facility management contract".

Effective August 1, 2012.

(Amends R.S. 51:2453)