

**OFFICE OF THE STATE REGISTER INSERTION ORDER** (eff.08/02)  
Claiborne Building 1201 North Third Street Suite 3-220 Post Office Box 94095  
Baton Rouge, LA 70804-9095 (225)342-5015 FAX (225)342-0284

*(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)*

EMERGENCY RULE      NOTICE OF INTENT      RULE      POTPOURRI

**REFER TO INSTRUCTIONS ON REVERSE SIDE**

This is your authority to publish in the (month) March, 20 21 *Louisiana Register* the document indicated above.

**Office of Business Development**

Office/Board/Commission promulgating this document

Anne G. Villa, Undersecretary

(name) (title)  
Name and title of person whose signature will appear in the publication (at the end of the document)

**Department of Economic Development**

Department under which office/board/commission is classified

Stephanie Le Grange

(name) (phone) (fax)  
Name, phone number, and FAX number of person to contact regarding this document

Stephanie.LeGrange@la.gov

E-mail address of contact person

**Enterprise Zone Program**

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

File name

Signature of Agency Head or Designee

Anne G. Villa, Undersecretary

Print Name and Title of Agency Head or Designee

**Important:** If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # \_\_\_\_\_

**ISIS AGENCY:** I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

<u>252</u>	<u>2522</u>	<u>5150</u>		
AGENCY	ORGANIZATION #	OBJECT	SUB-OBJECT	REPORTING CATEGORY

**NON-ISIS AGENCY:** I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Dept. of Economic Development

Agency Name

Taylor Richard

Agency Contact Person for Billing

Taylor.Richard@la.gov

Agency E-Mail Address for Billing

342-9658  
Signature of Agency Head or Designee - Phone #

Lines/Other Charges _____ Typesetting \$ _____ TOTAL \$ _____
---

**POTPOURRI**

**Department of Economic Development  
Office of Business Development**

**Enterprise Zone Program  
(LAC 13:I.Chapter 7)**

The Department of Economic Development intends to incorporate changes to the proposed amendments to the regulations regarding LAC 13: I. Chapter 7, Enterprise Zone Program, published as a Notice of Intent in the September 2020 issue of the *Louisiana Register*.

A public hearing was held pursuant to R.S. 49:953 (A) (2) on November 20, 2020 and interested parties were invited to provide comment. After a thorough review and careful consideration of the received comments, the department proposes to amend the following portions of the proposed rule: 701, 702, 703, 705, 717, 723, 725, 729 and 731. The redline changes are available for viewing on our website at [www.opportunitylouisiana.com](http://www.opportunitylouisiana.com). No fiscal or economic impact will result from the amendments proposed in this notice.

**Title 13  
ECONOMIC DEVELOPMENT  
Part I. Financial Incentive Programs  
Chapter 7. Enterprise Zone Program**

**§701. General**

A. - B           ...

C. Effective date of Act 423 of the 2013 Regular Session

1. The provisions of Act 423 shall apply to advance notification filed on or after June 1, 2013 and prior to April 1, 2016.

D. Effective date of Act 18 of the 2016 First Extraordinary Session.

1. The provisions of Act 18 shall apply to advance notification filed on or after April 1, 2016, except as provided below.

a. A retail business, hotel or restaurant with an assigned NAICS Code of 44,45,721 or 722, which has no more than fifty employees nationwide including affiliates prior to the contract effective date, and which files or enters into an advance notification on or after July 1, 2020, and before December 31, 2021, shall be eligible to receive benefits. However, no such business shall be eligible to earn benefits pursuant to this section after June 30, 2023.

E. Effective date of the 2021 Enterprise Zone Program rule changes.

1. The provisions of the 2021 Enterprise Zone Program rule changes shall apply to advance notifications filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2021, except for the provisions of Section 705 codifying current administrative practice, or unless otherwise stipulated by the Louisiana Legislature, in Section 701 C and D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 37:2368 (August 2011), LR 40:490 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development. LR .

## **§702. Eligibility criteria and available incentives**

### **A. Eligibility**

1. This program is available to a Louisiana business that will:
  - a. Create jobs. Create permanent full-time net new jobs that are at least equal to the lesser of:
    - i. five jobs, created within the first two years of the contract period; or
    - ii. the number of jobs equal to a minimum of 10 percent of the employees employed throughout the United States by the business and its affiliates, a minimum of one, created within the first year of the contract period.
    - iii. for good cause shown, the board may grant an extension of not more than two years to comply with the above job creation requirements.
  - b. Hire from targeted groups.
    - i. A business located in an urban enterprise zone, or a business not located in either an enterprise zone, or economic development zone shall certify that at least 50% of the employees filling net new jobs are from one of the following target groups:
      - (a) Residents. Someone living in any enterprise zone in Louisiana;
      - (b) A person receiving an approved form of public assistance during the six months prior to employment;
      - (c) A person considered to be lacking in basic skills, i.e. performing below a ninth grade proficiency in reading, writing or mathematics.
      - (d) A person considered unemployable by traditional standards.
    - ii. A business located in a rural enterprise zone, an economic development zone, or an enterprise zone in Calcasieu Parish shall certify that at least 50% of the employees filling net new jobs are from one of the target groups identified above in #702 A (1) (b) (i) or;
      - (a) A resident of the same parish as the project site.
2. The following businesses shall not be eligible to participate in the program:
  - a. Businesses with gaming on site;
  - b. Churches;
  - c. Residential developments, including but not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums or town houses.
  - d. Employment agencies, with an assigned NAICS Code of 5613 and advance notifications filed on or after April 1, 2016.
3. The following businesses are subject to certain limitations and restrictions:

a. For a multi-tenant facility to be eligible for the benefits of this Chapter, the business must meet one of the following criteria:

- i. occupy a minimum of 33 percent of the total floor area of the building;
- ii. tenants are businesses new to the state;
- iii. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;
- iv. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location.

b. Retail establishments. No retail business with an NAICS code of 44, 45, or 722 is eligible to participate in the program unless:

- i. an advance notification was filed on or after June 21, 2013 and before July 1, 2015:

(a) retail establishments that are assigned a North American industry classification code beginning with 44 or 45 and have more than 100 employees nationwide including affiliates prior to the contract effective date are not eligible to participate unless:

- (i). the business is a grocery store or pharmacy as defined by LED; and
- (ii). the business is located in an enterprise zone;

(b) however, if a retail establishment filed an advance prior to July 1, 2015, but did not enter into an EZ contract prior to July 1, 2015, it cannot claim EZ incentives until on or after July 1, 2016; or

- ii. for retailers with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such retail business shall be eligible to earn benefits after June 30, 2023.

c. Employment agencies. No business with an NAICS code of 5613 is eligible to participate in the program unless it filed an advance notification prior to April 1, 2016.

d. Hotels. A business with an assigned NAICS Code of 721 shall be ineligible to receive benefits, unless;

- i. an advance notification was filed prior to April 1, 2016; or
- ii. for businesses with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such business shall be eligible to earn benefits after June 30, 2023.

**B. Available incentives.** The following incentives are available for Louisiana businesses meeting program eligibility criteria:

1. Job tax credit. A one-time tax credit for each net new job created, with the benefit amount to be calculated as follows:

- a. For projects for which the advance notification form is filed prior to April 1, 2016 a one-time tax credit of \$2,500 for each net new job; or

- b. For projects for which the advance notification form is filed on or after April 1, 2016 a one-time tax credit of \$1,000 for each net new job, unless the following conditions are met;

- i. the net new employee for which the credit is being claimed was receiving Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Women, Infants

and Children (WIC), Medicaid, unemployment benefits, or any other benefits from a similar public assistance program as determined by the department, during the six-month period prior to employment; or

ii. the net new employee is hired by a participating business located in an enterprise zone;

iii. the amount of the credit for each net new employee meeting these conditions shall be \$3,500 for each net new job; or

c. For a business in the aviation and aerospace industries as defined in the NAICS industries 336411, 336412, 336413 or 33291, a one-time tax credit of \$5,000 for each net new job.

d. In addition to the job tax credits provided for in this section, a one-time tax credit of \$2,500 for each recipient of temporary assistance for needy families (TANF) hired by a business. The TANF recipient must receive compensation which will disqualify them from continued participation in TANF and must be employed for two years to generate the additional tax credit. An employer shall not obtain the jobs tax credit for more than 10 TANF employees in the first year of participation in the program;

e. Limitations to the job tax credit:

i. Position limitations.

(a) For projects with advance notifications filed before April 1, 2016, job tax credits shall only be calculated based upon a position within the state that did not previously exist in the business, and that is filled by a person who is a citizen of the United States and who is domiciled in Louisiana, or who is a citizen of the United States and becomes domiciled in Louisiana within sixty days of employment in such position, performing duties as a regular, full-time employee;

(b) For projects with advance notifications filed on or after April 1, 2016, job tax credits shall only be calculated based upon a position within the state that is in excess of the median statewide number of employees of the business, including affiliates, and meeting the above requirements of B (1) (e) (i) (a).

ii. Credit amount limitations. The total number of credits granted to a business for employees who are citizens of the United States and who become domiciled in Louisiana within sixty days after employment, shall not exceed fifty percent of the total number of job tax credits granted to the business under the contract.

2. Sales and use tax rebate or refundable investment tax credit as follows;

a. Sales and use tax. Rebates of sales and use taxes imposed by the state, and sales and use taxes imposed by its political subdivisions upon approval of the governing authority of the appropriate taxing political subdivision, on all eligible purchases during a specified project period of not more than 30 months:

i. sales and use taxes imposed by a political subdivision which are dedicated to the repayment of bonded indebtedness or dedicated to schools shall not be eligible for rebate;

ii. a business seeking a local sales and use tax rebate must obtain an endorsement resolution specific to the project from each political subdivision levying the taxes to be rebated. The endorsement resolution must clearly state the intention to rebate sales and use taxes as allowable for the project. The endorsement resolution must be adopted prior to board approval of the application, or if the project cost is greater than one hundred million dollars, prior to the project ending date; or

b. Refundable investment tax credit. In lieu of the sales and use tax rebates, a refundable investment tax credit equal to one and one-half percent of the amount of qualified expenditures for assets that are located at the project site and are placed in service during the project period, and are in accordance with the provisions of §731 and §732.

c. Limitations to the rebate of sales and use taxes and the investment tax credit:

i. A business shall not receive any sales and use tax rebate or investment tax credit until it has provided all documentation necessary to illustrate compliance with program requirements, including but not limited to filing an annual certification report and proof of the creation of net new jobs.

ii. For purposes of determining the maximum sale and use tax rebate or income tax credit allowed, each net new job shall be counted once.

iii. For projects with advance notifications filed on or after April 1, 2016, the amount of sales and use tax or investment tax credit granted shall not exceed one hundred thousand dollars per net new job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR

### §703. Definitions

*Act 423-* Act 423 of the 2013 Regular Session of the Louisiana Legislature

*Act 18-* Act 18 of the 2016 First Extraordinary Session of the Louisiana Legislature

\* \* \*

#### *Employment Baseline—*

1. the baseline from which net new jobs are determined, to be calculated as follows:

a. for projects with advance notifications filed with business incentives services prior to June 21, 2013, *employment baseline* will be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification.

b. for projects with advance notifications filed with business incentives services on or after June 21, 2013 but prior to April 1, 2016,

i. the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date) at the project site, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months); or

ii. the last annual average number of full time employees certified under an enterprise zone contract for the business that was in effect on the day prior to the contract effective date;

c. for projects with advance notifications filed with business incentives services on or after April 1, 2016 but prior to the effective date of the 2020 rule promulgation,

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months).

d. for projects with advance notifications filed with business incentives services after the effective date of the 2021 rule promulgation,

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the six months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last six months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining four months).

2. the baseline must be maintained in any year for which the business requests job tax credits;

\* \* \*

*Public Assistance—*

1. for projects with advance notifications filed with business incentives services prior to the effective date of the 2021 rule promulgation, public assistance shall be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification, and shall be any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependent upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six-month period prior to their hire date.
2. for projects with advance notifications filed with business incentives services after the effective date of the 2021 rule promulgation, public assistance shall be limited to the following public assistance programs; Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Women, Infants and Children (WIC), Medicaid, unemployment benefits, or any other benefits from a similar public assistance program as determined by the department. Any such assistance must have been received by the individual within a six-month period prior to their hire date.

\* \* \*

*Unemployment benefits* – shall be limited to temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the Louisiana Employment Security Law.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2299 (November 2003), amended LR 37:2369 (August 2011), LR 40:491 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

**§705. Job Calculation Methodology**

A. When determining program eligibility, compliance, computation of job tax credits, sales and use tax rebates or investment tax credits, the department shall employ the following methodology;

**1. Program eligibility and compliance.**

a. When calculating whether 50% of employees are hired from identified target groups, the department does not recognize partial employees, so anything over a whole number is rounded up to the next higher whole number. As an example, if 3 employees are hired, then 50% must be from an identified group. Since 50% of 3 = 1.5, this is rounded up to demonstrate that 2 out of the 3 employees hired must be from a target group. Rounding down to only 1 employee would fall below the required 50% threshold.

b. The number of jobs shall be determined by averaging a minimum of the last seven months in the first twelve-month period, and then by separately averaging the second twelve-month period. The department will not combine periods to perform one average calculation for a twenty-four-month period.

**2. Computation of job tax credits.** When calculating the amount of job tax credits, the department shall not recognize partial job creation, and will exclude the partial job from the tax credit calculation, rounding down to the nearest whole number and only recognizing and awarding tax credits based upon whole numbers. As an example, if an average of 1.5 jobs are created, this is rounded down and LED will award tax credits for the creation of 1 job. Rounding up to 2 jobs would be awarding excess tax credits that have not been earned.

**3. Computation of net new jobs as it relates to the maximum \$100,000 sales and use tax rebate or investment tax credit per net new job.** The department shall use the whole number computed for issuance of job tax credits.

**4. Post Act 18 baseline calculation.** Two baseline numbers shall be determined, as follows;

a. A statewide baseline, equal to the median number of statewide, full-time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date); and

b. A project site baseline, equal to the median number of full-time employees at the project site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development. LR .

**§709. Targeted Employees for a Business in an Urban Enterprise Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

**§711. Targeted Employees for a Business in a Rural Enterprise Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of



Business Development, LR 29:2301 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

### **§713. Targeted Employees for a Business in an Economic Development Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, .

### **§715. Targeted Employees for a Business Not in an Enterprise Zone or Economic Development Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

### **§716. Electronic Submittals**

A. The department shall only allow submission of information electronically using Fastlane or any other electronic data submittal program provided by the department.

B. Electronic documents will be accepted by the department in satisfaction of the requirements of department regulations, notwithstanding any other department regulation to the contrary, including but not limited to an electronic contract document executed in whole or part with electronic signatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR .

### **§717. Annual Employee Certification**

A. An annual employee certification report (ECR) must be filed with the business incentive services by May 31 on all active contracts validating program compliance. An ECR fee of \$250 shall be submitted with the report. Failure to file may result in contract cancellation. One extension of up to 60 days may be granted if requested in writing, if the request is received prior to the due date of the ECR.

1. In the case of early contract terminations, a Company may submit final employee certification reports containing data for varying project time periods as approved in writing by the department.

2. The department may request additional information necessary to verify benefit eligibility. The Company must provide all requested information, or other documentation as approved by the department, within one hundred and eighty days. Failure to do so within the prescribed timeframe shall result in the expiration of the ECR and require re-submission.

B. If the employee certification report substantiates that the business has not created the permanent full-time net new jobs required for program eligibility, the board shall cancel the contract and the business shall refund all credits and rebates received. If not timely paid in compliance with the contract, the department

will notify Department of Revenue of the contract violation, and the business will be subject to the provisions of §737.

C.- D ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

### §721. Advance Notification

A. An advance notification form, and a \$250 fee, shall be filed with business incentive services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by one project number. Internet filing of the advance notification may be made at the department website.

B. An advance notification shall include but not be limited to a project description, estimated number of jobs, payroll, costs, project start and end dates. The project start date shall not exceed 12 months after the advance filing date and in no instance shall the project period exceed 30 months. Dates may be amended by the applicant if the written request is made prior to the estimated project ending date. An advance notification expires ~~one year~~ ninety days after the estimated project ending date shown on the advance notification, unless an application is timely filed, or a written date revision request is received by business incentive services prior to the expiration date; but in no instance shall exceed 45 months after the advance filing date.

C. ...

D. A business proposing a project exceeding 30 months must separate the project into phases with no phase having a project period greater than 30 months. The business must comply with program eligibility requirements, and file a separate advance notification, application, project completion report, and affidavit of final cost, with the required fees, for each phase of the project. The business must elect either the sales and use tax rebate or the investment tax credit for all phases of the project. Businesses electing the investment tax credit are not subject to the 50 percent limitation of §731.B for phases subsequent to the initial phase, and may elect to file one investment tax credit claim for all consecutive project periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

### §723. Application

A. ...

A1. Applications must include sufficient information to verify program compliance. LED reserves the right to request additional information, which shall be provided to LED within 60 days. In the event an applicant does not provide the requested additional information to LED within this time frame, LED shall present the application to the board as a late filing.

B.- C. ...

D. An application must be submitted to business incentive services at least 45 days prior to the board meeting where it is intended to be presented for approval. Applications may be deferred to a later board

meeting date at the request of the applicant, but shall not exceed presentation at a board meeting occurring more than 6 months after the filing of the application, except as otherwise approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR .

#### **§725. Recommendations of the Secretaries of Economic Development and Revenue**

A. ...

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action. If LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with LDR, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every 6 months, of ongoing, bilateral communications between the applicant or its representative and LDR, even if such communication begins after the objection was issued, or other written verification as approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:495 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR

#### **§729. Enterprise Zone Program Contract**

A. Upon approval of the application, the board shall enter into a contract with the business for the benefits allowed by this Chapter. The business must execute its portion of the contract and return it to Business Incentive Services as follows:

1. For projects with contract effective dates prior to the effective date of the 2021 rule promulgation, if the contract is not returned within 60 days, the board may rescind the approval of the application.

2. For projects with contract effective dates after the effective date of the 2021 rule promulgation, if the contract is not returned within 90 days, the board's approval shall be deemed rescinded.

3. When the contract has been fully executed, a copy will be sent to the business, the Department of Revenue, and if applicable, sent to the political subdivision.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

### **§731. Project Completion**

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with business incentive services, on the prescribed form, a project completion report and an affidavit of final cost. A project completion report fee of \$250 and an affidavit of final cost fee of \$250 shall be submitted with these forms or any amendments to these forms.

1. Any outstanding or final employee certification reports shall be submitted to LED prior to, or along with, a project completion report submission.
2. The department may grant an extension of thirty days for the filing of a project completion report, provided the written request for extension is received prior to the filing deadline.

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

### **§741. Multi-Tenant Facility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 40:497 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR.

### **§751. Effective date of Act 423 of the 2013 Regular Session**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 423 of the 2013 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:498 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR.

#### **Public Comments**

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, April 19, 2021 at Department of Economic Development, 617 North 3<sup>rd</sup> Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802 or via email to [Stephanie.LeGrange@la.gov](mailto:Stephanie.LeGrange@la.gov).

#### **Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Tuesday, April 20, 2021 in the Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary, LED

## POTPOURRI

### Department of Economic Development Office of Business Development

#### Enterprise Zone Program (LAC 13:I.Chapter 7)

The Department of Economic Development intends to incorporate changes to the proposed amendments to the regulations regarding LAC 13: I. Chapter 7, Enterprise Zone Program, published as a Notice of Intent in the September 2020 issue of the *Louisiana Register*.

A public hearing was held pursuant to R.S. 49:953 (A) (2) on November 20, 2020 and interested parties were invited to provide comment. After a thorough review and careful consideration of the received comments, the department proposes to amend the following portions of the proposed rule: 701, 702, 703, 705, 717, 723, 725, 729 and 731. The redline changes are available for viewing on our website at [www.opportunitylouisiana.com](http://www.opportunitylouisiana.com). No fiscal or economic impact will result from the amendments proposed in this notice.

#### Title 13 ECONOMIC DEVELOPMENT Part I. Financial Incentive Programs Chapter 7. Enterprise Zone Program

##### §701. General

A. - B           ...

C. Effective date of Act 423 of the 2013 Regular Session

1. The provisions of Act 423 shall apply to advance notification filed on or after June 1, 2013 and prior to April 1, 2016.

D. Effective date of Act 18 of the 2016 First Extraordinary Session.

1. The provisions of Act 18 shall apply to advance notification filed on or after April 1, 2016, except as provided below.

a. A retail business, hotel or restaurant with an assigned NAICS Code of 44,45,721 or 722, which has no more than fifty employees nationwide including affiliates prior to the contract effective date, and which files or enters into an advance notification on or after July 1, 2020, and before December 31, 2021, shall be eligible to receive benefits. However, no such business shall be eligible to earn benefits pursuant to this section after June 30, 2023.

E. Effective date of the 2021 Enterprise Zone Program rule changes.

1. The provisions of the 2021 Enterprise Zone Program rule changes shall apply to advance notifications filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2021, except for the provisions of Section 705 codifying current administrative practice, or unless otherwise stipulated by the Louisiana Legislature, in Section 701.C and D.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1786(5).

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 37:2368 (August 2011), LR 40:490 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR .

## **§702. Eligibility criteria and available incentives**

### **A. Eligibility**

1. This program is available to a Louisiana business that will:

a. Create jobs. Create permanent full-time net new jobs that are at least equal to the lesser of:

i. five jobs, created within the first two years of the contract period; or

ii. the number of jobs equal to a minimum of 10 percent of the employees employed throughout the United States by the business and its affiliates, a minimum of one, created within the first year of the contract period.

iii. for good cause shown, the board may grant an extension of not more than two years to comply with the above job creation requirements.

b. Hire from targeted groups.

i. A business located in an urban enterprise zone, or a business not located in either an enterprise zone, or economic development zone shall certify that at least 50% of the employees filling net new jobs are from one of the following target groups:

(a) Residents. Someone living in any enterprise zone in Louisiana;

(b) A person receiving an approved form of public assistance during the six months prior to employment;

(c) A person considered to be lacking in basic skills, i.e. performing below a ninth grade proficiency in reading, writing or mathematics.

(d) A person considered unemployable by traditional standards.

ii. A business located in a rural enterprise zone, an economic development zone, or an enterprise zone in Calcasieu Parish shall certify that at least 50% of the employees filling net new jobs are from one of the target groups identified above in #702 A (1) (b) (i) or;

(a) A resident of the same parish as the project site.

2. The following businesses shall not be eligible to participate in the program:

a. Businesses with gaming on site;

b. Churches;

c. Residential developments, including but not limited to the construction, selling, or leasing of single-family or multi-family dwellings, apartment buildings, condominiums or town houses.

d. Employment agencies, with an assigned NAICS Code of 5613 and advance notifications filed on or after April 1, 2016.

3. The following businesses are subject to certain limitations and restrictions:

a. For a multi-tenant facility to be eligible for the benefits of this Chapter, the business must meet one of the following criteria:

- i. occupy a minimum of 33 percent of the total floor area of the building;
- ii. tenants are businesses new to the state;
- iii. tenants are Louisiana businesses increasing their number of locations within the state by placing a new location within this facility;
- iv. tenants are relocating within Louisiana and will generate the minimum of new job credits over and above the total jobs at their previous location.

b. Retail establishments. No retail business with an NAICS code of 44, 45, or 722 is eligible to participate in the program unless:

- i. an advance notification was filed on or after June 21, 2013 and before July 1, 2015:

(a) retail establishments that are assigned a North American industry classification code beginning with 44 or 45 and have more than 100 employees nationwide including affiliates prior to the contract effective date are not eligible to participate unless:

- (i). the business is a grocery store or pharmacy as defined by LED; and
- (ii). the business is located in an enterprise zone;

(b) however, if a retail establishment filed an advance prior to July 1, 2015, but did not enter into an EZ contract prior to July 1, 2015, it cannot claim EZ incentives until on or after July 1, 2016;  
**or**

ii. for retailers with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such retail business shall be eligible to earn benefits after June 30, 2023.

c. Employment agencies. No business with an NAICS code of 5613 is eligible to participate in the program unless it filed an advance notification prior to April 1, 2016.

d. Hotels. A business with an assigned NAICS Code of 721 shall be ineligible to receive benefits, unless;

- i. an advance notification was filed prior to April 1, 2016; or
- ii. for businesses with no more than 50 employees nationwide including affiliates, an advance notification was filed on or after July 1, 2020 and before December 31, 2021. However, no such business shall be eligible to earn benefits after June 30, 2023.

B. Available incentives. The following incentives are available for Louisiana businesses meeting program eligibility criteria:

1. Job tax credit. A one-time tax credit for each net new job created, with the benefit amount to be calculated as follows:

a. For projects for which the advance notification form is filed prior to April 1, 2016 a one-time tax credit of \$2,500 for each net new job; or

b. For projects for which the advance notification form is filed on or after April 1, 2016 a one-time tax credit of \$1,000 for each net new job, unless the following conditions are met;

i. the net new employee for which the credit is being claimed was receiving Supplemental Nutrition Assistance Program (SNAP), **Temporary Assistance for Needy Families (TANF)**, Women, Infants

and Children (WIC), Medicaid, ~~or~~ unemployment benefits, **or any other benefits from a similar public assistance program as determined by the department**, during the six-month period prior to employment; or

ii. the net new employee is hired by a participating business located in an enterprise zone;

iii. the amount of the credit for each net new employee meeting these conditions shall be \$3,500 for each net new job; or

c. For a business in the aviation and aerospace industries as defined in the NAICS industries 336411, 336412, 336413 or 33291, a one-time tax credit of \$5,000 for each net new job.

d. In addition to the job tax credits provided for in this section, a one-time tax credit of \$2,500 for each recipient of temporary assistance for needy families (TANF) hired by a business. The TANF recipient must receive compensation which will disqualify them from continued participation in TANF and must be employed for two years to generate the additional tax credit. An employer shall not obtain the jobs tax credit for more than 10 TANF employees in the first year of participation in the program;

e. Limitations to the job tax credit:

i. Position limitations.

(a) For projects with advance notifications filed before April 1, 2016, job tax credits shall only be calculated based upon a position within the state that did not previously exist in the business, and that is filled by a person who is a citizen of the United States and who is domiciled in Louisiana, or who is a citizen of the United States and becomes domiciled in Louisiana within sixty days of employment in such position, performing duties as a regular, full-time employee;

(b) For projects with advance notifications filed on or after April 1, 2016, job tax credits shall only be calculated based upon a position within the state that is in excess of the median statewide number of employees of the business, including affiliates, and meeting the above requirements of B (1) (e) (i) (a).

ii. Credit amount limitations. The total number of credits granted to a business for employees who are citizens of the United States and who become domiciled in Louisiana within sixty days after employment, shall not exceed fifty percent of the total number of job tax credits granted to the business under the contract.

2. Sales and use tax rebate or refundable investment tax credit as follows;

a. Sales and use tax. Rebates of sales and use taxes imposed by the state, and sales and use taxes imposed by its political subdivisions upon approval of the governing authority of the appropriate taxing political subdivision, on all eligible purchases during a specified project period of not more than 30 months:

i. sales and use taxes imposed by a political subdivision which are dedicated to the repayment of bonded indebtedness or dedicated to schools shall not be eligible for rebate;

ii. a business seeking a local sales and use tax rebate must obtain an endorsement resolution specific to the project from each political subdivision levying the taxes to be rebated. The endorsement resolution must clearly state the intention to rebate sales and use taxes as allowable for the project. The endorsement resolution must be adopted prior to board approval of the application, or if the project cost is greater than one hundred million dollars, prior to the project ending date; or

b. Refundable investment tax credit. In lieu of the sales and use tax rebates, a refundable investment tax credit equal to one and one-half percent of the amount of qualified expenditures for assets that are located at the project site and are placed in service during the project period, and are in accordance with the provisions of §731 and §732.

c. Limitations to the rebate of sales and use taxes and the investment tax credit:



i. A business shall not receive any sales and use tax rebate or investment tax credit until it has provided all documentation necessary to illustrate compliance with program requirements, including but not limited to filing an annual certification report and proof of the creation of net new jobs.

ii. For purposes of determining the maximum sale and use tax rebate or income tax credit allowed, each net new job shall be counted once.

iii. For projects with advance notifications filed on or after April 1, 2016, the amount of sales and use tax or investment tax credit granted shall not exceed one hundred thousand dollars per net new job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR

### §703. Definitions

*Act 423-* Act 423 of the 2013 Regular Session of the Louisiana Legislature

*Act 18-* Act 18 of the 2016 First Extraordinary Session of the Louisiana Legislature

\* \* \*

#### *Employment Baseline—*

1. the baseline from which net new jobs are determined, to be calculated as follows:

a. for projects with advance notifications filed with business incentives services prior to June 21, 2013, *employment baseline* will be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification.

b. for projects with advance notifications filed with business incentives services on or after June 21, 2013 but prior to April 1, 2016,

i. the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date) at the project site, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months); or

ii. the last annual average number of full time employees certified under an enterprise zone contract for the business that was in effect on the day prior to the contract effective date;

c. for projects with advance notifications filed with business incentives services on or after April 1, 2016 but prior to the effective date of the 2020 rule promulgation,

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months).

d. for projects with advance notifications filed with business incentives services after the effective date of the 2020-1 rule promulgation,

i. equal to the median number of full time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the ~~twelve~~ six months prior to the contract effective date) statewide, during the payroll periods including the twelfth day of the month, in the last ~~twelve~~ six months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining ~~ten~~ four months).

2. the baseline must be maintained in any year for which the business requests job tax credits;

\* \* \*

#### *Public Assistance—*

1. for projects with advance notifications filed with business incentives services prior to the effective date of the 2021~~0~~ rule promulgation, public assistance shall be determined in accordance with prior policy and practice in place at the time of the filing of the advance notification, and shall be any program of assistance financed in whole or in part by a federal, state, or any local government agency, eligibility for which is dependent upon the employment status or income level of the individual. Any such assistance must have been received by the individual within a six-month period prior to their hire date.
2. for projects with advance notifications filed with business incentives services after the effective date of the 2021~~0~~ rule promulgation, public assistance shall be limited to the following public assistance programs; Supplemental Nutrition Assistance Program (SNAP), ~~Temporary Assistance for Needy Families (TANF)~~, Women, Infants and Children (WIC), Medicaid, ~~or~~ unemployment benefits, ~~or any other benefits from a similar public assistance program as determined by the department.~~ Any such assistance must have been received by the individual within a six-month period prior to their hire date.

\* \* \*

*Unemployment benefits* – shall be limited to temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the Louisiana Employment Security Law.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2299 (November 2003), amended LR 37:2369 (August 2011), LR 40:491 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

#### **§705. Job Calculation Methodology**

A. When determining program eligibility, compliance, computation of job tax credits, sales and use tax rebates or investment tax credits, the department shall employ the following methodology;

**1. Program eligibility and compliance.**

a. When calculating whether 50% of employees are hired from identified target groups, the department does not recognize partial ~~number of~~ employees, so anything over a whole number is rounded up to the next higher whole number. ~~As an example, if 3 employees are hired, then 50% must be from an identified group. Since 50% of 3 = 1.5, this is rounded up to demonstrate that 2 out of the 3 employees hired must be from a target group. Rounding down to only 1 employee would fall below the required 50% threshold.~~

b. The number of jobs shall be determined ~~by averaging a minimum of the last seven months in the first twelve-month period, and then by separately averaging the second twelve-month period. The department will not combine periods to perform one average calculation for a twenty-four-month period.~~

**2. Computation of job tax credits.** When calculating the amount of job tax credits, the department shall not recognize ~~partial job creation, and will exclude the partial job from the tax credit calculation, decimal numbers, but instead will~~ rounding down to the nearest whole number and only recognizing and awarding tax credits based upon whole numbers. ~~As an example, if an average of 1.5 jobs are created, this is rounded down and LED will award tax credits for the creation of 1 job. Rounding up to 2 jobs would be awarding excess tax credits that have not been earned.~~

**3. Computation of net new jobs as it relates to the maximum \$100,000 sales and use tax rebate or investment tax credit per net new job.** The department shall use the whole number computed for issuance of job tax credits.

**4. Post Act 18 baseline calculation.** Two baseline numbers shall be determined, as follows;

a. A statewide baseline, equal to the median number of statewide, full-time employees of the business (including employees of affiliates, and employees of unrelated affiliates who have also been employed by the business within the twelve months prior to the contract effective date); and

b. A project site baseline, equal to the median number of full-time employees at the project site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR .

**§709. Targeted Employees for a Business in an Urban Enterprise Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce, Finance Division, LR 17:253 (March 1991), amended by the Department of Economic Development, Office of Commerce and Industry, LR 22:447 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2300 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

**§711. Targeted Employees for a Business in a Rural Enterprise Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 8:230 (May 1982), amended LR 9:544 (August 1983), amended by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, LR 11:95 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:254 (March 1991), amended by the Department of Economic Development,

Office of Commerce and Industry, LR 22:448 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), LR 37:2372 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

### **§713. Targeted Employees for a Business in an Economic Development Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, .

### **§715. Targeted Employees for a Business Not in an Enterprise Zone or Economic Development Zone**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR .

### **§716. Electronic Submittals**

A. The department shall only allow submission of information electronically using Fastlane or any other electronic data submittal program provided by the department.

B. Electronic documents will be accepted by the department in satisfaction of the requirements of department regulations, notwithstanding any other department regulation to the contrary, including but not limited to an electronic contract document executed in whole or part with electronic signatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR .

### **§717. Annual Employee Certification**

A. An annual employee certification report (ECR) must be filed with the business incentive services by **May 31** on all active contracts validating program compliance. An ECR fee of \$250 shall be submitted with the report. Failure to file may result in contract cancellation. One **30-day** extension of up to **60 days** may be granted if requested in writing, if the request is received prior to the due date of the ECR.

~~1. Employee certification report filings shall report Company employees working at the project site for a twelve-month period, and shall be due within six months of the anniversary of the contract effective date, or the Governor's signature on the contract, whichever is later.~~

~~2.1.~~ In the case of early contract terminations, a Company may submit final employee certification reports containing data for varying project time periods as approved in writing by the department.

~~3.2.~~ The department may request additional information necessary to verify benefit eligibility. The Company must provide all requested information, or other documentation as approved by the department,

within one hundred and eighty days. Failure to do so within the prescribed timeframe shall result in the expiration of the ECR and require re-submission.

~~4.3. If the employee certification report is submitted after the filing deadline, the amount of the job tax credit shall be reduced by 5 percent for each month or portion of a month late, up to a maximum reduction of 100 percent after 20 months.~~

~~— a. Except as otherwise approved by the secretary for good cause shown. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden to establish good cause.~~

B. If the employee certification report substantiates that the business has not created the permanent full-time net new jobs required for program eligibility, the board shall cancel the contract and the business shall refund all credits and rebates received. If not timely paid in compliance with the contract, the department will notify Department of Revenue of the contract violation, and the business will be subject to the provisions of §737.

C.- D            ...

~~E. While Company's may elect to terminate contracts prior to their scheduled expiration date, early terminations may not be conducted in such a manner as to abuse the purpose and intent of the program to be limited to a period of five years. Therefore Company's that elect early contract termination shall be restricted from applying for a new contract at the same project site until the end of the five year period, as outlined in the contract.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

## §721. Advance Notification

A. An advance notification form, and a \$250 fee, shall be filed with business incentive services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by one project number. Internet filing of the advance notification may be made at the department website.

B. An advance notification shall include but not be limited to a project description, estimated number of jobs, payroll, costs, project start and end dates. The project start date shall not exceed 12 months after the advance filing date and in no instance shall the project period exceed 30 months. Dates may be amended by the applicant if the written request is made prior to the estimated project ending date. An advance notification expires ~~one year~~ ninety days after the estimated project ending date shown on the advance notification, unless an application is timely filed, or a written date revision request is received by business incentive services prior to the expiration date; but in no instance shall exceed 45 months after the advance filing date.

C. ...

D. A business proposing a project exceeding 30 months must separate the project into phases with no phase having a project period greater than 30 months. The business must comply with program eligibility requirements, and file a separate advance notification, application, project completion report, and affidavit of final cost, with the required fees, for each phase of the project. The business must elect either the sales and use tax rebate or the investment tax credit for all phases of the project. Businesses electing the

investment tax credit are not subject to the 50 percent limitation of §731.B for phases subsequent to the initial phase, and may elect to file one investment tax credit claim for all consecutive project periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR .

### §723. Application

A. ...

A1. Applications must include sufficient information to verify program compliance. LED reserves the right to request missing additional information, which shall be provided to LED within ~~30~~ 60 days. ~~Applications with missing or inadequate information after this time frame shall be considered late filings. In the event an applicant does not provide the requested additional information to LED within this time frame, LED shall present the application to the board as a late filing.~~

B.- C. ...

D. An application must be submitted to business incentive services at least 45 days prior to the board meeting where it is intended to be presented for approval. Applications may be deferred to a later board meeting date at the request of the applicant, but ~~in no instance~~ shall not exceed presentation at a board meeting occurring more than 6 months after the filing of the application, ~~except as otherwise approved by LED.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR .

### §725. Recommendations of the Secretaries of Economic Development and Revenue

A. ...

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action. If LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with LDR, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every 6 months, of ongoing, bilateral communications between the applicant or its representative and LDR, even if such communication begins after the objection was issued, or other written verification as approved by LED.

~~C. If LDR issues an objection to an application, the applicant has six months to clear the objection or the application shall be cancelled by the department. The six month period shall begin on the date LED sends written notification to the company of the objection received from LDR.~~

~~1. Except that the department may, in its sole discretion, grant an extension in the following circumstances;~~

~~\_\_\_\_\_ a. Active negotiation. An extension may be granted to applicants which demonstrate active negotiation to LED by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LDR as applicable, even if such communication begins after the objection was issued, or other written verification as approved by LED.~~

~~\_\_\_\_\_ i. the extension shall not exceed six months, and an application with an active, unresolved objection shall be cancelled by the department one year after sending written notification to the company of the objection.~~

~~\_\_\_\_\_ b. Litigation. The department may grant an extension to applicants which demonstrate active litigation with LDR, including but not limited to submission of a written complaint or petition, as approved by LED.~~

~~\_\_\_\_\_ i. the extension shall be valid during the pendency of the action, but shall not exceed five years.~~

~~\_\_\_\_\_ e. As otherwise approved by the secretary for good cause shown.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:495 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR

#### **§729. Enterprise Zone Program Contract**

A. Upon approval of the application, the board shall enter into a contract with the business for the benefits allowed by this Chapter. The business must execute its portion of the contract and return it to Business Incentive Services ~~within 60 days.~~ as follows:

1. For projects with contract effective dates prior to the effective date of the 2020~~1~~ rule promulgation, if the contract is not returned within 60 days, the board may rescind the approval of the application.

2. For projects with contract effective dates after the effective date of the 2020~~1~~ rule promulgation, if the contract is not returned within 90 days, the board's approval shall be deemed rescinded.

3. When the contract has been fully executed, a copy will be sent to the business, the Department of Revenue, and if applicable, sent to the political subdivision.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

#### **§731. Project Completion**

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with business incentive services, on the prescribed form, a project completion report and an affidavit of final cost. A project completion report fee of \$250 and an affidavit of final cost fee of \$250 shall be submitted with these forms or any amendments to these forms.

1. Any outstanding or final employee certification reports shall be submitted to LED prior to, or along with, a project completion report submission.

2. The department may grant an extension of thirty days for the filing of a project completion report, provided the written request for extension is received prior to the filing deadline.

~~3. If the project completion report is submitted after the filing deadline, the amount of the investment tax credit, or sales and use tax rebate shall be reduced by 5 percent for each month or portion of a month late, up to a maximum reduction of 100 percent after 20 months.~~

B. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR.

#### **§741. Multi-Tenant Facility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2304 (November 2003), amended LR 40:497 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR.

#### **§751. Effective date of Act 423 of the 2013 Regular Session**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 423 of the 2013 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 40:498 (March 2014), amended by the Department of Economic Development, Office of Business Development, LR.

#### **Family Impact Statement**

~~The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.~~

#### **Poverty Statement**

~~The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.~~

#### **Provider Impact Statement**

~~The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.~~

#### **Small Business Analysis**

~~The modifications to the Enterprise Zone Program could cause a direct economic impact on some small retail, restaurants and hotels that have no more than 50 employees who are newly eligible for the program, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.~~

#### **Public Comments**

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, April 19, 2021 at Department of Economic Development, 617 North 3<sup>rd</sup> Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802 or via email to [Stephanie.LeGrange@la.gov](mailto:Stephanie.LeGrange@la.gov).



**Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Tuesday, April 20, 2021 in the LaBelle-Griffon Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary, LED