LOUISIANA ECONOMIC DEVELOPMENT

John Bel Edwards
Governor

Don Pierson
Secretary

June 10, 2021

RE: Enterprise Zone Program Rules– Summary Report

To Whom It May Concern:

The Department of Economic Development hereby announces its plan to proceed with rule-making by finalizing the Enterprise Zone Program Rules, originally published as a Notice of Intent in the September 2020 *Louisiana Register* on pages 1260-1266, then re-published as a Potpourri in the October, 2020 *Louisiana Register* on page 1487, with a revised public hearing date, and then finally re-published as a Potpourri in the March, 2021 *Louisiana Register* on pages 414-420 with rule revisions.

Two public hearings were held to discuss and receive comments on the proposed rules. The first held on November 20, 2020 was well attended, including representatives from: LIDEA, LABI, Advanatous Consulting and Didier Consultants.

LED appreciates the knowledgeable input from all interested parties. After review of all written comments received and discussions with various stakeholders, LED agreed with many recommendations for refinement and subsequently revised and republished rules. The revised rules were the subject of discussion at the second rules hearing on April 20, 2021. This hearing was again well attended, including representatives from: LIDEA, Didier Consultants and Sumit Credits. Overall the feedback from the second hearing was positive, with all participants expressing their support for the rule changes to be adopted, as written.

For reference purposes, please see attached written comments received from both hearings.

After consideration of all input, LED therefore proposes **to proceed as is with no further changes.** Subject to legislative oversight by either the House or Senate Committees on Commerce, the Department intends to submit for final publication as a Rule in the July 2021 *Louisiana Register.*

As always, we welcome your consideration and I can be reached at ph#342-5406 with any questions.

Sincerely,

Stephanie Le Grange
Staff Attorney

cc: Senate, Committee on Commerce, Consumer Protection, and International Affairs
House of Representatives, Committee on Commerce

Stephanie Le Grange

From: Rhonda Reap-Curiel <rrcuriel@CENCORCONSULTING.COM>
Sent: Tuesday, April 20, 2021 10:26 AM
To: Stephanie Le Grange
Subject: LIDEA Comments regarding Enterprise Zone Rules

Stephanie -

Thank you for meeting with us this morning during the public hearing for the Enterprise Zone Rules.

LIDEA appreciates the department's willingness to review our previously submitted public comments and to address the concerns we posed. As a result of our conversations over the past few months, LIDEA is comfortable with the most recent version of the rules as published in the March 2021 Potpourri.

Please let me know if you need anything additional from LIDEA at this time. We look forward to continue to work with the Department as this process continues.

Rhonda Reap-Curiel CEcD CRB PS RENE
CENCOR Consulting Group LLC
P O Box 12096
Alexandria LA 71315
318.308.9921

Sent from my iPad Pro

Stephanie Le Grange

From: Jesse Broderick <jbroderick@sumitcredits.com>
Sent: Tuesday, April 20, 2021 11:29 AM
To: Stephanie Le Grange
Cc: Robert Wege
Subject: EZ Potpourri March 2021

Thank you for working with us on compromised rules. The meeting today was very good and productive. I just wanted you to know we are in agreement with the revisions as proposed in the March 2021 Potpourri.

Sincerely,

Jesse D. Broderick, CPA, CCIP *(Certified Credits and Incentives Professional)*
Managing Principal
SUMΣIT CREDITS, LLC
330 Veterans Blvd
Denham Springs, LA 70726
Direct: (225) 435-7095
Mobile: (225) 938-8301
jbroderick@sumitcredits.com

November 16, 2020

Stephanie LeGrange
Department of Economic Development
617 North 3rd Street
11th Floor
Baton Rouge LA 71802

RE: Proposed Rule Changes Enterprise Zone

Ms. LeGrange,

On behalf of the members of Louisiana Industrial Development Executives Association (LIDEA), I would like to submit the following comments on the proposed rule changes for the Enterprise Zone Program. While we are mostly comfortable with the changes proposed as a result of recently adopted legislation, upon review of other proposed changes, we have some concerns. They are noted below.

Section 701. General

The proposed rules include effective dates for Act 423 of the 2013 Regular Session as well as Act 18 of the 2016 First Extraordinary Session. However, it does not include any proposed effective date for the new rules that go beyond the legislative changes. With the scope and magnitude of the proposed rules extending beyond the legislative changes, a section for this is necessary. This could be done in this section by adding a Section 701.E. or in the specific sections that are not revised as a result of a legislative change.

We would like to suggest something to the effect of the below:

Add Section 701.E. Effective date of the 2020(2021) Enterprise Zone Program rules changes found in Title 13, Part I, Chapter 7 of the Administrative Code.

Add Section 701.E.1. The provisions detailed in the Louisiana Register published on (Month) 20, 2020(2021), are in effect for all Advance Notifications filed after this date, unless otherwise stipulated by the Louisiana Legislature, in Section 701.C and D.

Section 702. Eligibility criteria and available incentives. B.1.b.i.

The proposed language under Section 702.B.1.b.i. does not fully encompass the language from Act 18 of the 2016 First Extraordinary Session. The Act reads: … the net new employee for which the credit is claimed was receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), Medicaid, unemployment benefits, **or any other benefits from a similar public assistance program** …

The bold, underline portion of the Act is missing.

Section 703. Definitions.

Employment Baseline. 1.d.i

This section proposes to expand the period used to determine a company's employment baseline. We can find no legislative mandate for the proposal.

The newly crafted period increases the number of past months to be included and increases the amount of data to collect and analyze. Additionally, the increase in the lookback period has the potential to harm companies whose employment levels fluctuate over time due to economic impacts out of their control, scheduled periods of maintenance where shutdowns are necessary, and when declarations of state emergencies or disasters have occurred.

This portion of the rules was heavily debated during the previous administration, and all parties agreed to 4-months after the debate. We would like to propose this portion be removed and discussion continue so that we may understand the reason behind this change. If this is not possible, we would like to suggest moving to a 6-month time period.

Public Assistance

This portion of Act 18 is being used to recreate the definition of Public Assistance. The intent of this portion of the Act was to create a larger tax credit for companies who hired persons receiving the benefits of the programs listed for 6 months prior to employment, not to create a new definition of public assistance.

We would argue those employees for whom a $1,000 tax credit is being awarded may still fall under the previous definition of public assistance and should still be permitted to count towards an employer's 50% certification requirement (702.A.1.b.i.). This would include those persons receiving job placement assistance from LWC. As a side note, LWC is required, as part of their funding, to track employees they assist with placement and those who are TANF eligible. As you are aware, a tax credit of $2,500 is awarded to employers who hire TANF recipients under certain circumstances.

We would like to state opposition to the change in the definition and request the definition remain as stated under Public Assistance 1.

705. Job Calculation Methodology

A.1.b

The proposed section imposes an entirely new process for determining the program eligibility and compliance. To be eligible for the program, a business must create a minimum of five (5) net new jobs during the first two years of the contract period or the number of jobs equal to 10% of its US employment totals, with a minimum of one (1) within the first year. The existing definition of net new jobs provides the methodology for determining the number of net new jobs. This proposed language is in conflict with that method.

Under the current definition the number of net new jobs filled by full-time employees shall be determined by averaging the monthly totals of full-time employees over a minimum of seven (7) months for the first and last year of the contract period, and over a 12-month period for all other years. It goes on to state for purpose of determining the qualification of the business for the enterprise zone program under 701.E (now reorganized in proposed new Section 702.), net new jobs shall be limited to permanent full-time jobs that are in addition to the number of permanent full-time jobs included in the employment baseline.

Additionally, current policy has permitted those months with "zero" to be removed from the denominator during the first 12-month period.

A.1.a. and 2.

We recognize the need to determine whole numbers when calculating the number of employees and the application of the number of those employees to tax credits issued as a benefit under the program. However, we feel the rounding process should be consistent across both portions of the process and request in both sections, decimals be rounded up to the next whole number.

717. Annual Employee Certification

A.

We would like to propose companies be permitted to request an extension of 60 days instead of 30 days to submit their employee certification report.

A.1.

The proposed change now suggests the Annual Employee Certification Report submission dates will vary from contract to contract. Currently, all reports are due on May 31. The proposed language appears to create a new deadline, based on the either the contract effective date or the Governor's signature, whichever is later. We feel this shift in the timeline may create compliance concerns for those companies who have become accustom to filing their initial report within 6 months of the contract date and then filing on May 31 for the remainder of the period. We can find no legislative requirement for this change and request the proposed language revert to current practice.

A.3. and 4.

The newly proposed language imposes deadlines and penalties on the company for failure to provide additional information related to the benefit request; however, there is not timeline provided for the Department to make such request. While we are not stating this portion of the proposed rules would be abused, we have no guarantee a request for additional information would not be provided in a timely manner and the potential exists to delay the receipt of the benefit by a company. We request this portion of the proposed rules, which is not legislatively mandated, be removed and further discussions be held prior to its implementation to ensure the Department receives the information it needs, while the company can receive it's benefit in the time period earned.

The penalty, as proposed, is up to 100 percent of the available credits. This is extremely punitive for companies. The similar penalty structure at the Louisiana Department of Revenue (LDR) is based on statute and is capped at 25% of a company's tax liability. Since EZ is an incentive program, no benefits are received until the filing is made, and therefore, the penalty is inherent for non-filing. We would prefer some sort of flat fine or a lower monthly percentage with a cap. In addition, there is an option for a penalty waiver to be applied for and granted at LDR, and we think this is a good idea to incorporate because it would allow for LED to make a determination based on unforeseen or unavoidable circumstances where the company is not at fault.

A.4.a.

We feel "or declaration of emergency by the Governor" or similar language should be included here to cover period of a health crisis such as the one we have been facing during 2020. The current language does not appear to cover a health crisis nor pandemic. It should also be noted this exception may extend beyond the 30-day extension granted upon written request under 717.A.

E.

This portion of the proposed rules contains typographical mistakes:

While ~~Company's~~ ***Companies*** may elect to terminate contacts ... Therefore, ~~Company's~~ ***Companies*** that elect early contract ...

Furthermore, the sentence: "Therefore, companies 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" appears to discourage additional investment at the project site.

Companies with large site plans have the potential to invest in multiple unrelated projects during the same five-year period or during an overlapping timeframe. The former practice was established to encourage additional capital investment by companies, regardless of existing contracts.

We request a review of this language to make certain new projects, especially those unrelated to those covered in the existing contract, are not discouraged and companies would not be penalized for terminating an existing agreement once all obligations have been met while considering additional investment at the same site.

721. Advance Notification

B.

We question why the timeframe is being shortened from one-year to 90 days. There has been no legislative change to adjust this time period. We are requesting a delay in the implementation of this portion until meetings can be held to determine if the change is warranted due to abuse or other reasoning.

D.

We would like to propose counter language to have this section work similarly to the additional capital investment period advance/application section found under the Quality Jobs Rules. Additionally, we would like to propose companies be permitted to request an extension of 60 days instead of 30 days to submit their employee certification report, while keeping the 5 percent penalty after the extension period.

723. Application

A.1

We would like to include language which permits companies who are actively communicating with LED to resolve any outstanding issues with their application be permitted to extend beyond the 30-day requirement and not be subject to the consequences of late filing.

D.

We can find no legislative reason for the proposed language which seems to permit the delay of presenting an application to the Board, but in no instance shall the presentation occur more than 6 months after the filing of the application. The terms "no instance" creates concern during a time where businesses have been forced to close for a period of several months due to the pandemic and others have faced closure due to natural disasters. While these may be rare occurrences, we would not want the Board nor the Department to be confined by language which would not permit adjustments to time due to these types of occurrences.

Additionally, we are concerned about a potential conflict with the proposed language under this section and Section 725. The application cannot be presented until all objections from the Secretaries of Economic Development and Revenue are cleared. The timeframe to do so may extend beyond the proposed 6-month deadline for presentation to the board as suggested under this section.

725. Recommendations of the Secretaries of Economic Development and Revenue.C.1.a.i.

The first portion of this section states clearly an extension may be granted for applicants who demonstrate active negotiation to resolve objections. We do not feel companies who are actively working to resolve an issue should be penalized by having their application cancelled by the department. We feel companies acting in good faith to resolve concerns should be afforded every opportunity to do so. Additionally, we cannot find any legislative mandate to make this change at this time.

729. Enterprise Zone Program Contract A.1. and 2.

The opening paragraph states the business must execute its portion of the contract and return it to Business Incentive Services within 60 days. Number one (1) under this paragraph restates the requirement and includes language permitting the Board to rescind the approval of the application if not received, which is current policy. Number two (2) goes further and implies the business has the right to send it back within 90 days and if not received, the approval shall be deemed rescinded automatically. There is conflicting language presented and this proposal is being made without a legislative requirement to do so.

Additionally, there is currently no policy in place to indicate the documents sent via Adobe Sign are being received by the business and not caught by specific filters set up to protect the business's email system. Additionally, the ability to carbon copy someone other than the specified signer is not in use, which may aid in providing notice to the business.

We believe this portion needs to be revised to remove the conflict and to provide for assurances the business has been properly notified and received documents for signature.

731. Project Completion A.2 and 3.

We can find no legislative reason for the proposed rules under this section. We do recognize the need for a time limit for the filing of the project completion report since it is tied to the receipt of benefits under the program. We respectfully request reconsideration of the 30-day extension and provide for a 60-day extension upon written request. Additionally, there is no proposed extension available for the affidavit of final cost. If both forms are on the same timeline, the same extension should be available.

The penalty for late filing of the project completion report, as proposed, is up to 100 percent of the available investment income tax credit or sales & use tax rebate. This is extremely punitive for companies. The similar penalty structure at the Louisiana Department of Revenue (LDR) is based on statute and is capped at 25% of a company's tax liability. Since EZ is an incentive program, no benefits are received until the filing is made, and therefore, the penalty is inherent for non-filing. We would prefer some sort of flat fine or a lower monthly percentage with a cap. In addition, there is an option for a penalty waiver to be applied for and granted at LDR, and we think this is a good idea to incorporate because it would allow for LED to make a determination based on unforeseen or unavoidable circumstances where the company is not at fault.

Thank you for the opportunity to submit these comments and for your consideration. Please feel free to contact me for additional information or explanation of our submission.

Respectfully submitted by

Rhonda Reap-Curiel
2020 LIDEA Legislative Chair

Questions for EZ New Rules Hearing
November 11, 2020

1. What advance notification date will these rules apply to once promulgated? Will it be from the date of promulgation or another date?

2. Page 5 – (702)(B)(2)(c)(iii) - Methodology or expansion of how the net new jobs will relate to the project investment benefit calculation. Will the net new jobs submitted on the ECR and approved by LED be utilized for the determination of the $100,000 cap per net new job for LDR review? If so, what if a company has additional net new jobs created after the initial 30-month investment benefit period? Will LDR then issue additional investment benefit dollars (assuming the company was capped out on the benefits based on the jobs, but still had additional investment benefit dollars that were reported on the claim filed with LDR) based on these net new jobs created on the additional ECR's filed and approved after the initial 30-month period?

3. Page 14 – (721)(D) – Projects exceeding 30 months. Please explain as (717) (E) states that a company that elects to early terminate a EZ contract shall be restricted from applying for a new contract at the same project site until the end of the five year period. How would this be administered for projects exceeding 30 months?

4. Page 16 – (731)(A)(1) – Please explain this item. Any outstanding or final employee certification reports shall be submitted to LED prior to, or along with, a project completion report submission. If the project completion report is submitted within six months after the project ending date or the governor's signature on the contract, whichever is later, then the final employee certification reports will not be filed until the end of the 5 year contract period (assuming the company does not terminate the EZ contract). Will the project completion report be executed at the end the 30 month period or the end of the 5 year contract period?

B. child protective services including assessment, evaluation, social work intervention, shelter care, counseling and referrals for child abuse/neglect reports;

C. family services (social work intervention subsequent to validation of a report of child abuse/neglect, counseling to high risk groups);

D. foster care/residential care services (foster, residential care, and treatment on a 24-hour basis).

Definitions for the proposed services are set forth in the intended use report.

Persons eligible for SSBG funded services include:

A. persons WRI, who are in need of adoption services, child protection, family services, and foster care/residential services;

B. individuals WRI who are recipients of Title IV-E adoption assistance;

C. recipients of supplemental security income (SSI) and recipients of Temporary Assistance for Needy Families (TANF) and those persons whose needs were taken into account in determining the needs of TANF recipients;

D. low-income persons (income eligible) whose gross monthly income is not more than 125 percent of the poverty level. A family of four with gross monthly income of not more than $2729 would qualify as income eligible for services;

E. persons receiving title XIX (Medicaid) benefits and certain Medicaid applicants identified in the proposed plan as eligible groups.

The post expenditure report for the SSBG program for SFY 2020 is included in the SSBG intended use report for SFY 2020-2021. Free copies are available by telephone request to (225) 342-5918 or by writing to the Administrator, Child Welfare Section, P.O. Box 3318, Baton Rouge, LA 70821.

The report is available for public review online at: http://www.dss.state.la.us/index.cfm?md=pagebuilder&tmp=home&pid=131, then select the 2020-2021 SSBG link. Inquiries and comments on the plan may be submitted in writing to the DCFS, Attention Administrator, P.O. Box 3318, Baton Rouge, LA 70821. The deadline for receipt of written comments is Thursday, May 6, 2021 at 4 p.m.

All interested persons will have the opportunity to provide comments and/or recommendations on the plan, orally or in writing, at a public hearing scheduled for Thursday, May 6, 2021 at 9:00 a.m. Due to COVID-19, interested persons may join via ZOOM: Join from PC, Mac, Linux, iOS or Android: https://stateofladcfs.zoom.us/j/87345027254?pwd=TkpHUFhTODVwajRTVHYwSjUwWUxXdz09 , or telephone by dialing USA (713) 353-0212, conference code: 882585. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

2103#027

~~POTPOURRI~~ RULE

Department of Economic Development
Office of Business Development

Public Hearing—Enterprise Zone Program
(LAC 13:I.Chapter 7)

The Department of Economic Development hereby ~~intends to incorporate changes to the proposed~~ amend~~ments~~ ~~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. 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 50 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)~~ July 20, 2021, except for the provisions of §705 codifying current administrative practice, or unless otherwise stipulated by the Louisiana Legislature, in §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 47:

§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 percent 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 percent 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 60 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 Subclause 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 60 days after employment, shall not exceed 50 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 47:

§703. Definitions

*Act 423*A—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 12 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 4 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 12 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 2 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 47:

§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 percent 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 percent must be from an identified group. Since 50 percent 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 percent threshold.

b. The number of jobs shall be determined by averaging a minimum of the last seven months in the first 12-month period, and then by separately averaging the second 12-month period. The department will not combine periods to perform one average calculation for a 24-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 12 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 47:

§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 47:

§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 47:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§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 47:

§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. Employee certification report filings shall report company employees working at the project site for a 12-month period, and shall be due within 6 months of the anniversary of the contract effective date, or the Governor's signature on the contract, whichever is later.

2. 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. 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. 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.2. …

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, companies 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 47:

§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 90 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 47:

§723. Application

A. ...

1. 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 47:

§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 six 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.

c. 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 47:

§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 202~~0~~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 47:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 47:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 47:

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 Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to 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

2103#048

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division

Notice of Public Hearing and Request for Comments to Initiate Triennial Review of Louisiana Water Quality Standards

In accordance with Section 303(c)(1) of the federal Clean Water Act, the Louisiana Department of Environmental Quality hereby gives notice of its intent to initiate a review of Louisiana's Water Quality Standards (WQS), which can be found in LAC 33:IX.Chapter 11. This review is being conducted to evaluate the need to update or revise the WQS in order to remain consistent with state and federal law. The review will also ensure that Louisiana's WQS continue to reflect the best available science and support sound water quality management policies to improve and protect the water resources of the state. This is a preliminary step in the review and potential rulemaking process. Official

Potpourri

POTPOURRI

Department of Economic Development
Office of the Secretary

Angel Investor Tax Credit Program
(LAC 13:I.Chapter 33)

In light of recent events, the public hearing to receive comments and testimony on the proposed revisions to the Angel Investor Tax Credit Program rules, published as a Notice of Intent in the September 2020 Louisiana Register, pages 1274- 1276, have been postponed to allow interested stakeholders throughout the state and the Department of Economic Development to concentrate on the 2020 Second Extraordinary Legislative Session. The hearing will now be held at 11 am on Friday, November 20, 2020 in the LaBelle Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802. The deadline for all comments and testimony has been extended to 12 noon that same day. If you have any further questions or need further information, please contact Robin Porter at (225) 342-3060 or Robin.Porter@la.gov.

Anne G. Villa
Undersecretary

2010#038

POTPOURRI

Department of Economic Development
Office of Business Development

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

In light of recent events, the public hearing to receive comments and testimony on the proposed revisions to the Enterprise Zone Program rules, published as a Notice of Intent in the September 2020 Louisiana Register, pages 1260-1266, have been postponed to allow interested stakeholders throughout the state and the Department of Economic Development to concentrate on the 2020 Second Extraordinary Legislative Session. The hearing will now be held at 10 am on Friday, November 20, 2020 in the LaBelle Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802. The deadline for all comments and testimony has been extended to 12 noon that same day. If you have any further questions or need further information, please contact Stephanie Le Grange at (225) 342-5406 or Stephanie.LeGrange@la.gov.

Anne G. Villa
Undersecretary

2010#039

POTPOURRI

Department of Economic Development
Office of Business Development

Quality Jobs Program (LAC 13:I.Chapter 11)

In light of recent events, the public hearing to receive comments and testimony on the proposed revisions to the Quality Jobs Program rules, published as a Notice of Intent in the September 2020 Louisiana Register, pages 1266-1274, have been postponed to allow interested stakeholders throughout the state and the Department of Economic Development to concentrate on the 2020 Second Extraordinary Legislative Session. The hearing will now be held at 9 am on Friday, November 20, 2020 in the LaBelle Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802. The deadline for all comments and testimony has been extended to 12 noon that same day. If you have any further questions or need further information, please contact Stephanie Le Grange at (225) 342-5406 or Stephanie.LeGrange@la.gov.

Anne G. Villa
Undersecretary

2010#040

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

672290; or via telephone by dialing (713)353-0212 and entering conference code 848054. To find local AT&T numbers visit https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=7133530212&accessCode=848054. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Supplemental Nutrition Assistance Program (SNAP)—Electronic Benefits Issuance System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

As a result of the rule change, the Department of Children and Family Service (DCFS) anticipates spending $75,260 (50% SGF and 50% Federal) in FY 21 to make programming changes to its computer systems. Additionally, DCFS will incur $852 (50% SGF and 50% Federal) in the expenses associated with the publication of this proposed rule change.

The proposed rule change makes technical updates by changing the name of the Food Stamp program to the Supplemental Nutrition Assistance Program (SNAP). This rule also provides that SNAP benefits will be made available to SNAP recipients within the first 23 days of each month, instead of the first 14 days.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

During the first month of implementation, SNAP recipients may be delayed in receiving their monthly benefits for up to 9 days. After the first month, benefits will be made available to recipients on a regularly set date between the 1st and 23rd of the month.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not expected to have an effect on competition and employment.

Shavana Howard	Christopher A. Keaton
Assistant Secretary	Legislative Fiscal Officer
2009#045	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development

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

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, hereby proposes to amend the Rules for the Enterprise Zone Program (R.S. 51:1787, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by portions of Act 18 of the 2016 First Extraordinary Session and Act 28 of the 2020 First Extraordinary Session of the Louisiana Legislature.

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 50 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.

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 46:

§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 percent 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), Women, Infants and Children (WIC), Medicaid or unemployment benefits, 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 60 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 60 days after employment, shall not exceed 50 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 46:

§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-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 twelve 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 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 2020 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 2020 rule promulgation, public assistance shall be limited to the following public assistance programs; Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), Medicaid and unemployment benefits. 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 46:

§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.

b. The number of jobs shall be determined by averaging 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 decimal numbers, but instead will round down to the nearest whole number and only recognize and award tax credits based upon whole numbers.

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 12 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 46:

§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 46:

§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 46:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 46:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 46:

§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 46:

§717. Annual Employee Certification

A. An annual employee certification report (ECR) must be filed with the business incentive services 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 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. 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. 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. 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.2. …

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 46:

§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 46:

§723. Application

A. …

1. Applications must include sufficient information to verify program compliance. LED reserves the right to request missing information, which shall be provided to LED within 30 days. Applications with missing or inadequate information after this time frame shall be considered late filings.

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 exceed presentation at a board meeting occurring more than 6 months after the filing of the application.

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 46:

§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.

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.

c. 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 46:

§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.

1. For projects with contract effective dates prior to the effective date of the 2020 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 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 46:

§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 30 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 46:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 46:

§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), repealed by the Department of Economic Development, Office of Business Development, LR 46:

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, October 26, 2020 at Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.Legrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 3 p.m. on Tuesday, October 27, 2020 in the LaBelle Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Enterprise Zone Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Economic Development (LED) as a result of the proposed rules establishing guidelines for the Enterprise Zone Program. The program encourages job creation in rural enterprise zones, urban enterprise zones, or economic development zones by offering job tax credits, or sales and use tax rebates or refundable investment tax credits to qualifying businesses. The proposed amendments align the rules with the current statutory provisions and administrative practices as required by Act 18 of 2016 IES and Act 28 of 2020 IES. Administration of the program will be carried out utilizing existing staff and resources at LED.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be increased revenues (decreased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to Act 18 of 2016 IES, which implemented restrictions to the program. Based upon LED historical data, the increases in revenue are as follows: 1) increased revenue (decreased costs) of $2 M by FY 22 and beyond due to changing the job tax credit, from $2,500 to $3,500, per net new job for employees receiving public assistance 6 months prior to employment or those projects located in enterprise zones, and decreasing the job credit to $1,000 for all others; 2) increased revenue (decreased costs) of as much as $20.5 M for FY 22 and beyond from limiting the sales rebate and investment tax credits to $100,000 per net new job; and 3) increased revenue (decreased costs) of $2 M for FY 22 and beyond from the elimination of employment services and living accommodations from program eligibility. The actual cost of the Enterprise Zone program in FY 15 was $46.9 M, including job credits and sales tax rebate/investment credits.

There will be decreased revenues (increased costs) to the State General Fund (Direct) to the extent that entities take advantage of the tax credits pursuant to Act 28 of 2020 IES, which extends the program as a whole by allowing advance notification filings up to July 1, 2026. Current program costs range near $25 M annually for credit and rebate realizations. Allowing the program to stop accepting participation as of July 1, 2021 would result in a gradual phase-down of annual revenue costs over roughly a five-year period. The extension of the current program will prevent this from occurring. The annual dollar distribution of this phase-down, based upon LED's assessment of the historical lag time between entry into the program and benefit claims, will result in the cumulative annual revenue loss relative to the baseline: $0 in FY 21; $5M in FY 22; $15 M in FY 23; $22.5 M in FY 24; and $25 M in FY 25.

Act 28 of 2020 IES further expanded the program to allow businesses classified as retail, restaurants, and hotels, that have no more than 50 employees nationwide including affiliates, into the program with advance notification filings from July 1, 2020 to December 31, 2021. Eligibility to earn benefits terminates after June 30, 2023. The extent of qualifying participation in the program is speculative, however, based upon historical claims, much of this program cost is likely to be the investment tax credit component, and the state's exposure is estimated to be: $0 in FY 21; $150,000 in FY 22; $300,000 in FY 23; $225,000 in FY 24; $75,000 in FY 25.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The income of new businesses participating in the program may decrease in comparison to existing approved businesses due to the heightened eligibility criteria and decreased benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
2009#027

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development

Quality Jobs Program
(LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, hereby proposes to amend the rules for the Quality Jobs Program (R.S. 51:2451, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by portions of Act 386 of the 2017 Regular Session and Act 29 of the 2020 First Extraordinary Session of the Louisiana Legislature.