

2021 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE IVEY

TAX/AD VALOREM-EXEMPTION: Provides for ad valorem tax exemptions for certain capital investment projects

1 AN ACT

2 To enact Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 47:1721 through 1731, relative
4 to ad valorem tax; to provide for exemptions from ad valorem property taxes for
5 certain capital investment project property; to establish requirements for eligibility;
6 to provide for standard, local, and executive ad valorem tax exemptions; to provide
7 for cooperative endeavor agreements; to provide for exemption applications; to
8 provide for the terms and values of exemptions; to provide for definitions; to provide
9 for local authority approval; to provide for gubernatorial approval; to provide for the
10 consideration, approval, and granting of the exemption; to provide for a statement
11 of purpose; to provide for oversight; to provide for a withdrawal process; to provide
12 for effectiveness; to provide for reporting; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the
15 Louisiana Revised Statutes of 1950, comprised of R.S. 47:1721 through 1731, are hereby
16 enacted to read as follows:

17 CHAPTER 1-A. THE LOUISIANA CAPITAL INVESTMENT
18 PROGRAM FOR DIVERSE ECONOMIC GROWTH AND OPPORTUNITY

19 PART I. GENERAL PROVISIONS

20 §1721. Statement of purpose

21 The Louisiana Capital Investment Program for Diverse Economic Growth
22 and Opportunity, hereinafter referred to in this Chapter as the capital investment

1 program, is hereby established as an economic development tool that local
2 governments and their constituencies may use to attract capital investments from
3 industry sectors they deem compatible and advantageous to the community. The
4 capital investment program exempts certain businesses in qualifying industry sectors
5 from ad valorem property taxes.

6 §1722. Definitions

7 For the purposes of this Chapter the following words have the following
8 meanings:

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

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

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

14 (4) "Parish authority" shall mean the school board, the sheriff, and the parish
15 governing authority.

16 §1723. Oversight

17 In compliance with the Administrative Procedure Act, the department shall
18 adopt and promulgate rules necessary for the effective administration of the
19 Louisiana Capital Investment Program. These rules shall be subject to review by the
20 House Committee on Ways and Means and the Senate Committee on Revenue and
21 Fiscal Affairs in the same manner and to the same extent as the review of the
22 standing committees provided for in R.S. 49:968(B)(1).

23 PART II. PARISH

24 ENROLLMENT

25 §1724. Authorization

26 In accordance with Article VII, Section 21(O) of the Constitution of
27 Louisiana, the department is authorized to create and establish ad valorem tax
28 exemption programs permitting standard, local, and executive tax exemptions.

1 §1725. Notification

2 The department shall notify parish authorities within ten days of the creation
3 or modification of any capital investment exemption program. The notification shall
4 provide program details, enrollment deadlines, resolution requirements, and forms
5 to indicate if the exemption applicable to the program is standard, local, or executive.

6 §1726. Enrollment; exclusion

7 A. A parish shall be enrolled in a capital investment program upon the
8 approval of all parish authorities located within the applicable parish boundaries,
9 evidenced by submitting a resolution of approval to the department.

10 B. A parish shall be excluded from the capital investment program upon
11 disapproval by any parish authority located within the applicable parish boundaries,
12 evidenced by submitting a resolution of disapproval to the department. If no parish
13 authority notifies the department of disapproval within sixty days of the effective
14 date of the program, all parish authorities shall be automatically enrolled in the
15 program.

16 C. Any parish authority that has submitted a resolution of disapproval to the
17 department may later approve participation in the program by submitting a resolution
18 to the department rescinding the previous resolution of disapproval.

19 D. Except as provided in R.S. 47:1727, enrollment in a capital investment
20 program shall be continuous.

21 §1727. Terms of withdrawal

22 A. A parish may withdraw from a capital investment program within five
23 years of enrollment. To withdraw from a program all parish authorities shall submit
24 a resolution to the department stating such. Any resolution to withdraw from a
25 capital investment program shall be effective ninety days following the receipt of the
26 resolution to withdraw by the department.

27 B. Notwithstanding the provisions of Subsection A of this Section, if the
28 legislature passes any law substantively changing a capital investment program, a
29 parish may withdraw from that program and shall evidence the withdrawal by a

1 resolution to the department. Any resolution submitted to the department pursuant
2 to this Subsection shall be submitted no later than sixty days after the effective date
3 of the applicable legislation.

4 PART III. EXEMPTIONS

5 AND PROCEDURES

6 §1728. Capital investment project exemption

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

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

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

14 (3) Board Approval. Within ten days of confirmation of program eligibility
15 the board, with the assistance of the department, shall provide the applicant and local
16 authorities with a copy of the conditional approval.

17 (4) Local Review. In addition to the conditional approval of the exemption
18 as provided in Paragraph (3) of this Subsection, the department shall provide each
19 local authority with an analysis of the project applying for the exemption. Each local
20 authority shall review the application and conditional approval in conjunction with
21 the department's analysis and issue a resolution or letter, in the case of a sheriff,
22 approving or rejecting the exemption within sixty days of receipt of the application
23 and conditional approval. In reviewing the application, a local authority may hold
24 a public meeting for the purpose of receiving public input.

25 (5) Final approval. Each local authority shall provide the department with
26 a copy of its resolution or letter approving or rejecting the exemption.

27 C. Local exemption. (1) Eligibility. No applicant shall be eligible for the
28 local exemption until the applicant has received final approval by the department for
29 a standard exemption. Each parish shall establish additional eligibility requirements

1 for the local exemption in accordance with Article VII, Section 21(F) of the
2 Constitution of Louisiana. The application for the local exemption shall be an
3 addendum to the standard exemption application. The local exemption addendum
4 shall be on forms designed and prescribed by the department and shall include all
5 additional parish requirements, the proposed exemption term, and the proposed
6 exemption amount.

7 (2) Review. The department shall forward a copy of the local exemption
8 application within three days of receipt to each impacted local authority that levies
9 a millage and in whose jurisdiction the project will be located. The department shall
10 provide each local authority with an analysis of the project applying for the local
11 exemption. Each local authority shall review the application in conjunction with the
12 department's analysis and issue a resolution or letter, in the case of a sheriff,
13 approving or rejecting the exemption within sixty days of receipt of the application
14 from the department. In reviewing the local application, a local authority may hold
15 a public meeting for the purpose of receiving public input.

16 (3) Cooperative endeavor agreement. Upon the local authority's approval of
17 the local exemption, the local authority and the applicant, with the assistance of the
18 department, shall enter into a cooperative endeavor agreement evidencing the
19 exemption. The cooperative endeavor agreement shall provide for an ad valorem tax
20 exemption of up to one hundred percent of the property tax and for a term of not
21 more than fifteen years.

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

25 D. Executive exemption. (1) Eligibility and Application. The governor
26 shall be permitted to provide an executive exemption for capital investment projects
27 in accordance with Article VII, Section 21(O) of the Constitution of Louisiana.

28 (2) Invitation and offer. The governor may offer any entity an executive
29 exemption from ad valorem property taxes. The exemption may be for up to one

1 hundred percent of the property taxes for a specific term decided at the governor's
2 discretion. The executive exemption shall be evidenced by a gubernatorial executive
3 order providing the terms and conditions of the exemption. The board shall require
4 local approval prior to the governor granting the executive exemption. No later than
5 thirty-five days prior to the issuance of any gubernatorial executive order providing
6 an exemption, the governor shall provide all applicable local authorities a draft of the
7 executive order. Local authorities shall have a thirty-day period, beginning the day
8 the draft executive order is received, to reject the proposed exemption. A rejection
9 by any local authority shall be evidenced by resolution or if the rejection is from the
10 sheriff, by letter. If a local authority does not provide notice of rejection within the
11 thirty-day notice period, the exemption will be deemed approved by the local
12 authority.

13 §1729. Reporting

14 Within thirty days after the submittal of an application for an exemption
15 pursuant to this Chapter, the department shall produce a cost-benefit analysis for the
16 project that identifies the projected state and local fiscal impact of the project. The
17 analysis shall include information related to employment, state and local revenues,
18 state and local infrastructure requirements, and the effect of using state and local
19 public services. The employment-related analysis shall include information on the
20 project construction employment, project permanent employment, and project
21 indirect employment. All non-coincidental and non-proprietary data used in the
22 analysis shall be made available to the public by the department upon written
23 request.

24 PART IV. INDUSTRY

25 PROGRAMS AND PROCEDURES

26 §1730. Industry programs and procedures

27 For the purposes of the Capital Investment Program established in this
28 Chapter, the following industry programs comprise the capital investment program:

1 A. Technology. The technology sector shall include but is not limited to data
 2 centers and laboratories.

3 B. Telecommunication. The telecommunication sector shall include but is
 4 not limited to entities providing or assisting in providing rural broadband services.

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

7 D. Logistic, warehouse, and distribution. The logistic, warehouse, and
 8 distribution sector shall include but is not limited to entities participating in
 9 warehouse storage and distribution.

10 §1731. Recordkeeping

11 The department shall maintain an interactive map on its website identifying
 12 available exemptions by parish, industry sector, and program.

13 Section 2. This Act shall take effect and become operative if and when the proposed
 14 enactment of Article VII, Section 21(O) of the Constitution of Louisiana contained in the
 15 Act which originated as House Bill No. 370 of this 2021 Regular Session of the Legislature
 16 is adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 464 Reengrossed

2021 Regular Session

Ivey

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

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

Proposed law establishes a capital investment program to exempt certain businesses in qualifying industry sectors from ad valorem property taxes.

Proposed law requires the Department of Economic Development (Dept.), to adopt and promulgate rules to administer the program in compliance with proposed law.

Proposed law establishes a notification process that requires the Dept. to notify parish authorities within 10 days of the creation or modification of a capital investment program.

Proposed law further provides that the notification shall include program details, deadlines, language for resolutions, and specific forms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective if and when the proposed amendment of Article VII, Section 21(O) of the Constitution of La. contained in the Act which originated as House Bill No. 370 of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 47:1721-1731)

Summary of Amendments Adopted by House

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

1. Remove industrial manufacturers from industries eligible for the capital investment project ad valorem tax exemption program.
2. Make technical changes.