

Regular Session, 2013

SENATE BILL NO. 219

BY SENATOR DONAHUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FISCAL CONTROLS. Prohibits expenditures to refund tax credits, pay rebates, or repurchase or grant transferable tax credits granted through incentive contracts unless budgeted and appropriated. (gov sig)

1 AN ACT

2 To enact Part 2 of Chapter 1 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 47:6091, relative to rebates and tax credits; to require
4 budgeting and/or appropriating certain rebates and refundable tax credits or related
5 transferable tax credits before they are paid or granted; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Intent and Purpose. (1) The legislature hereby finds that state funds
9 expended as a refund of a tax credit over and above an individual's or business' tax liability
10 or to fund the state's repurchase of a transferable tax credit is, in effect, a cash subsidy to the
11 recipient. So are state funds expended as a rebate because the rebate is paid without regard
12 to taxation and a rebate is not considered a tax instrument. And granting or issuing the right
13 to an individual or business of a cash-equivalent in the form of a transferable tax credit over
14 and above such individual's or business' tax liability is also a subsidy.

15 (2) While such government subsidies to favored individuals or businesses have
16 produced economic benefits for the state, the legislature hereby finds that these are
17 expenditures of state funds or grants of state resources and assets which are required by the

1 Constitution of Louisiana to be budgeted and appropriated. This is especially true since these
2 refunds are increasingly going into incentives which are authorized to be granted by contract
3 to only some, but not all businesses. If such state-subsidy refunds and rebates are not
4 controlled through the budgeting and appropriation process, they can easily become out-of-
5 control liabilities for the state.

6 (3) Therefore, the intention of the legislature in enacting this Act is to require such
7 cash and transferable credit subsidies in incentive contracts to be budgeted as required by
8 Article VII, Section 11 of the Constitution of Louisiana and appropriated as required by
9 Article VII, Section 10(D)(1) of the Constitution of Louisiana before they are paid or
10 granted.

11 Section 2. Part 2 of Chapter 1 of Subtitle VII of Title 47 of the Louisiana Revised
12 Statutes of 1950, comprised of R.S. 47:6091, is hereby enacted to read as follows:

13 **§6091. Requirement to budget and appropriate refundable tax credits, rebates,**
14 **and transferable tax credits granted through incentive contracts**

15 **Notwithstanding any other law to the contrary in effect on the initial**
16 **effective date of this Section or any time thereafter, beginning July 1, 2013:**

17 **(1) No state funds shall be expended as a refund of a tax credit or as a**
18 **rebate over and above an individual's or business' tax liability, or to purchase**
19 **a transferable tax credit, if such refunds, rebates, and transferable credits are**
20 **granted through an incentive contract between the state or an agency of the**
21 **state (a) without complying with the budgetary requirements of Article VII,**
22 **Section 11 of the Constitution of Louisiana and (b) unless the funds are**
23 **appropriated for such expenditures as required by Article VII, Section 10(D)(1)**
24 **of the Constitution of Louisiana.**

25 **(2) No right of an individual or business to transfer or sell a tax credit**
26 **over and above such individual's or business' tax liability granted through an**
27 **incentive contract between the state or an agency of the state shall be granted**
28 **or authorized under any provision of law unless an amount is allocated for such**
29 **grants or authorizations in the budget required pursuant to Article VII, Section**

1 **11 of the Constitution of Louisiana.**

2 Section 3. This Act shall become effective upon signature by the governor or, if not
3 signed by the governor, upon expiration of the time for bills to become law without signature
4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
5 vetoed by the governor and subsequently approved by the legislature, this Act shall become
6 effective on the day following such approval.

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

DIGEST

Proposed law, beginning July 1, 2013:

- (1) Prohibits state funds to be expended as a refund of a tax credit or as a rebate over and above an individual's or business' tax liability, or to purchase a transferable tax credit, if such refunds, rebates, and transferable credits are granted through an incentive contract between the state or an agency of the state (a) without complying with the budgetary requirements of Const. Art. VII, Sec. 11 and (b) unless the funds are appropriated for such expenditures as required by Const. Art. VII, Sec. 10(D)(1).
- (2) Prohibits the granting or authorizing the right of an individual or business to transfer or sell a tax credit over and above such individual's or business' tax liability granted through an incentive contract between the state or an agency of the state unless an amount is allocated for such grants or authorizations in the budget required by Const. Art. VII, Sec. 11.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:6091)