

2015 Regular Session

SENATE BILL NO. 228

BY SENATOR DONAHUE

TAX/TAXATION. Establishes a baseline limit on all claims against state taxes for industrial tax equalization exemptions filed during a fiscal year on a first-come, first-served basis and gives claims above the amount priority in the next fiscal year. (gov sig)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 47:3202(A) and R.S. 47:3203(B)
3 and 3204(A), (B)(1)(a), and (F) and to enact R.S. 47:3204(B)(1)(c) and 3206,
4 relative to industrial tax equalization exemptions; to provide a baseline amount of
5 exemptions that may be claimed in a fiscal year; to provide a termination date for the
6 exemption; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 47:3202(A) and R.S. 47:3203(B) and
9 3204(A), (B)(1)(a), and (F) are hereby amended and reenacted and R.S. 47:3204(B)(1)(c)
10 and 3206 are hereby enacted to read as follows:

11 §3202. Requirements for exemption

12 A. ~~A~~ **Subject to the provisions of R.S. 47:3206, a** contract of exemption
13 from taxation may be entered into by the Board of Commerce and Industry under this
14 Chapter only if each of the following requirements are met by the manufacturing
15 establishment, headquarters, or warehousing and distribution establishments seeking
16 such exemption:

17 * * *

1 §3203. Review of exemption applications and reevaluation of existing contract

2 * * *

3 B. The Board of Commerce and Industry shall review any recommendations
4 for exemptions made by the Department of Economic Development. If the Board of
5 Commerce and Industry concurs in the recommendation of the Department of
6 Economic Development, it shall forward the recommendation to the Department of
7 Revenue with the application, contract, and all supporting documents. The
8 Department of Revenue shall within ten days after receipt of the notice file in writing
9 with the Board of Commerce and Industry any objections it has to granting the
10 exemption **and any limitations contained in R.S. 47:3206 that will apply to the**
11 **exemption if it is granted.** If no objection is made, the Board of Commerce and
12 Industry shall send the recommendation **together with the written notice of**
13 **limitations, if any,** to the governor with a finding that no objection was filed by the
14 Department of Revenue. If any such objection is made, the Board of Commerce and
15 Industry shall hold a contradictory hearing to determine whether such exemption
16 should be granted and the Board of Commerce and Industry shall act as arbitrator at
17 such hearing. The Board of Commerce and Industry shall make its recommendations
18 in writing to the governor for a final determination. Thereafter, the governor shall
19 make the determination to approve the contract as submitted within thirty days of its
20 submission.

21 §3204. Contracts of exemption; renegotiation; violations; lists; priority of
22 exemptions

23 A. ~~The~~ **Subject to the provisions of R.S. 47:3206, the** Board of Commerce
24 and Industry may, after the requirements of R.S. 47:3203 have been satisfied, enter
25 into contracts with manufacturing establishments, headquarters, or warehousing and
26 distribution establishments under which contracts such establishments are granted
27 exemption from taxes imposed by this state as provided in this Section, upon the
28 terms and conditions specified in this Chapter and subject to such other terms and
29 conditions as the board on the recommendation of the Department of Economic

1 Development deems to be in the best interests of the state.

2 B.(1)(a) Except Subject to the provisions of R.S. 47:3206, and except as
3 otherwise provided in this Subsection, each contract of exemption entered into under
4 authority of this Chapter shall be reviewed and reevaluated, and shall be subject to
5 renegotiation, five years from the date of the execution of the contract and may be
6 renewed for an additional five-year period.

7 * * *

8 (c)(i) No contract or renewal shall extend beyond June 30, 2021.

9 (ii) No contract or renewal shall cause the program to operate in
10 violation of R.S. 47:3206.

11 * * *

12 F. ~~When~~ To the extent permitted by R.S. 47:3206, when entering into a
13 contract, the Board of Commerce and Industry shall grant to a manufacturing
14 establishment, headquarters, or warehousing and distribution establishment only such
15 amount of tax exemption or exemptions as is necessary to effect equality in amount
16 between the taxes payable in Louisiana and the taxes which are or would be payable
17 in the state in which such establishment is located or is contemplating locating as
18 determined in this Section.

19 * * *

20 §3206. Limitation; termination

21 A. Notwithstanding any other provision of this Chapter, for each fiscal
22 year beginning Fiscal Year 2015-2016, no more than nine million dollars, the
23 baseline average of the aggregate amount of claims filed for the exemptions
24 provided for in this Chapter during the five fiscal years from Fiscal Year 2008-
25 2009 to Fiscal Year 2013-2014, shall be allowed as an exemption against state
26 taxes of any kind for all such claims for the exemption filed during a fiscal year.
27 Claims for the exemption shall be allowed on a first-come, first-served basis.
28 Any taxpayer whose claim for such exemption is disallowed may claim the
29 exemption in the next fiscal year and his claim shall have priority over other

1 **claims filed after the date and time of his original claim.**

2 **B. The provisions of this Chapter shall terminate June 30, 2021.**

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

	DIGEST	
SB 228 Original	2015 Regular Session	Donahue

Present law provides for an exemption from state taxes for manufacturing establishments, headquarters, or warehousing and distribution establishments to equalize the taxes payable in La. and taxes which would be payable in a competing state in which the business is currently located or is contemplating locating. Provides for requirements, application, and review by the Dept. of Economic Development, the Board of Commerce and Industry, and the Dept. of Revenue.

Proposed law retains present law.

Proposed law establishes a cap of nine million dollars on the total amount of exemptions allowed in a fiscal year beginning with FY 2015-16. The cap is the baseline average of the aggregate amount of claims filed for the exemptions provided for in present law during the five fiscal years from FY 2008-09 to FY 2013-14.

Proposed law provides that claims for the exemption shall be allowed on a first-come, first-served basis. Provides that any taxpayer whose claim for the exemption is disallowed may use the exemption against tax liability in the next fiscal year and his claim shall have priority over other claims filed after the date and time of his original claim.

Proposed law terminates the exemption program June 30, 2021.

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

(Amends R.S. 47:3202(A)(intro para), 3203(B), and 3204(A), (B)(1)(a), and (F); adds R.S. 47:3204(B)(1)(c) and 3206)