

Office of the Governor
State of Louisiana

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GOVERNOR



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June 14, 2020

VIA HAND DELIVERY

Honorable Clay J. Schexnayder
Speaker of the House
Louisiana House of Representatives
Post Office Box 94062
Baton Rouge, Louisiana 70804-9062

RE: Veto of House Bill 846 of the 2020 Regular Session

Dear Speaker Schexnayder:

Please be advised that I have vetoed House Bill 846 of the 2020 Regular Session.

In its enrolled form, House Bill 846 of the 2020 Regular Session adds a new payroll incentive rebate program to the long list of incentive programs already administered by the Department of Economic Development. Unlike other incentive programs linked to payroll like Quality Jobs, which requires creation of jobs with payroll nearly three times the minimum wage, any retail or food service business in the state employing less than 50 employees would be eligible to receive this rebate if the business creates five new, minimum-wage paying jobs between May 15, 2020 and December 31, 2021. At a time when 80% of Louisianans support increasing the minimum wage, incentivizing the creation of minimum wage jobs at \$7.25 per hour is contrary to the sentiment of the people of Louisiana that our workforce should be able to earn a true living wage.

Furthermore, numerous bills similar to House Bill 846 ran not only in the last session, but are also running in this current special session without thoughtful consideration of what impact such legislation would affect the state's budget. While the fiscal note does not provide the exact amount of a decrease in collections of state general fund due to this program in the upcoming fiscal year, the eligibility requirements of the program create such a large pool of businesses that will be eligible to participate that there is potential that the cost to the state could be substantial. With so much uncertainty surrounding the state's economic stability in the wake of COVID-19, beginning a new program without truly understanding the direct effect on the upcoming fiscal year would not be prudent. I am more than happy, however, to work with the authors of these measures on quality incentive programs once we know the true effects of COVID-19 on the state's economy.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bel Edwards".

John Bel Edwards
Governor

cc: Honorable Patrick Page Cortez
Louisiana Senate President

2020 Regular Session

HOUSE BILL NO. 846

BY REPRESENTATIVE WRIGHT

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AN ACT

To enact R.S. 51:3122, relative to the payroll incentive program; to establish a payroll incentive for certain businesses impacted by certain public health emergencies; to provide for the amount of the incentive; to provide for definitions; to provide for eligibility; to provide for requirements and limitations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:3122 is hereby enacted to read as follows:

§3122. Payroll Incentive Program for COVID-19-Impacted Businesses

A. For purposes of this Section, the following words shall have the following meanings unless the context clearly indicates otherwise:

(1) "Benefit rate" shall mean the rate for new jobs created by a COVID-19-impacted business that pay at least the federal minimum wage. The benefit rate for eligible businesses shall be six percent of the wages for each new job.

(2) "COVID-19-impacted business" means a for-profit corporation, a limited liability company, a partnership, or a sole proprietorship that satisfies all of the following criteria:

(a) The business is registered to do business in the state of Louisiana.

(b) The business is assigned a North American Industry Classification Code of 44, 45, or 72.

(c) The business had a physical and active operation in Louisiana on March 13, 2020.

1 (d) The business is in good standing with the Secretary of State, if
2 applicable.

3 (e) The business filed all applicable Louisiana state tax returns for tax year
4 2018 or 2019, or, for an eligible business formed on or after January 1, 2020, intends
5 to file Louisiana taxes for tax year 2020.

6 (f) The business had no more than fifty full-time equivalent employees as of
7 March 1, 2020.

8 (g) The business is not a subsidiary of a business with more than fifty
9 full-time equivalent employees, is not part of a larger business enterprise with more
10 than fifty full-time equivalent employees, and is not owned by a business with more
11 than fifty full-time equivalent employees.

12 (h) The business filed an initial application with the department to be
13 recognized as a COVID-19 impacted business on or before December 31, 2021, and
14 included a hiring start date. Initial application for a COVID-19-impacted business
15 may include a hiring start date that precedes the initial application filing date, but the
16 hiring start date shall not be before March 13, 2020, nor shall it be after December
17 31, 2021.

18 (3) "Department" means the Department of Economic Development.

19 (4) "New jobs" shall mean employment with a COVID-19-impacted business
20 where each employee satisfies all of the following criteria:

21 (a) The employee is employed by the COVID-19-impacted business at its
22 place of operation in this state.

23 (b) The employee is a Louisiana resident.

24 (c) The employee's hire or rehire date is on or after May 15, 2020.

25 (d) The employee is paid, as a base wage, at least the federal minimum wage
26 excluding tips, bonuses, and commissions.

27 B.(1) There is hereby established a rebate for any eligible COVID-19-
28 impacted business that meets the requirements of this Section. The amount of the
29 rebate shall be based on the benefit rate for each new job. In order to qualify for the
30 rebate, the COVID-19-impacted business shall create a minimum of five new jobs

1 between May 15, 2020, and December 31, 2021, and shall create a minimum new
2 annual payroll from new jobs of at least forty thousand dollars before December 31,
3 2021. In order to determine the number of new jobs eligible for the rebate
4 established pursuant to the provisions of this Section, the applicant's employment
5 baseline shall be the total number of active full-time and part-time employees at the
6 COVID-19-impacted business's place of operation that are Louisiana residents on
7 May 14, 2020.

8 (2)(a) Initial rebate amounts shall be based on new jobs and annual payroll
9 created between May 15, 2020 and December 31, 2021.

10 (b) A business shall be eligible for a rebate for each year that it maintains or
11 exceeds the minimum required new jobs and annual payroll as provided in Paragraph
12 (1) of this Subsection.

13 (3)(a) Payroll eligible for this rebate is limited to \$500,000 per COVID-19
14 impacted business per calendar year.

15 (b) No COVID-19 impacted business shall receive a rebate pursuant to this
16 Section for more than three years.

17 (c) No rebates shall be paid under this program for new jobs or payroll
18 created after December 31, 2022.

19 C.(1)(a) The rebates authorized in this Section shall be paid annually after
20 the business's has filed its application for annual rebate with the department, and the
21 department has determined that the business is eligible for the rebate for that year.

22 (b) Businesses may file their annual rebate application at the end of the
23 business's fiscal year or the date that the hiring and payroll thresholds provided in
24 Subsection B are met, whichever is earlier.

25 (2) The application shall contain a sworn statement by a duly authorized
26 officer of the business concerning with respect to the business's fiscal year:

27 (a) That the business remained a qualified COVID-19 impacted business
28 under the provisions of this Section.

29 (b) The total number of and the gross payroll of the new jobs created.

1 (c) That the new jobs were not jobs retained following the acquisition of all
2 or part of an in-state business by the business.

3 (d) That the employees holding the new jobs were paid at least the applicable
4 federal minimum wage and were Louisiana residents.

5 (3) The department may request such additional information from the
6 business as may be necessary to determine whether the application is correct and
7 whether the business is eligible for the annual rebate for that year, or may request
8 that the business revise its application.

9 (4) Upon approval of the application for an annual rebate, the department
10 shall send a certification letter to the Department of Revenue for payment of the
11 rebate. The letter shall provide the name of the business and the amount of the
12 rebate. The Department of Revenue shall verify the tax return filing information
13 required by Paragraph (2) of Subsection A and may require the business to submit
14 any additional information as may be necessary to effect the payment of the rebate.
15 Payment shall be made from the current collections of the taxes imposed by Title 47
16 of the Louisiana Revised Statutes of 1950, as amended.

17 D. Recovery of rebates

18 (1) If a business receives a rebate pursuant to this Section and it is
19 subsequently determined that the business did not qualify for such rebate, the future
20 rebates issued to the business shall be reduced by the amount of such rebate monies
21 previously received by the business.

22 (2) If there are no future rebates from which to deduct the amount owed back
23 to the state, the tax liability of the business for the taxable period in which the
24 determination was made shall be increased by the amount of such rebate monies
25 previously received by the business.

26 (3) The secretary of the Department of Revenue may recover any rebates
27 previously granted to a business that are later disallowed as authorized by R.S.
28 47:1561.2.

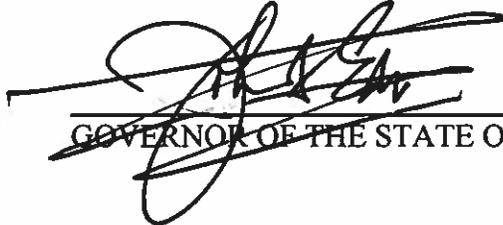
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E. A business shall not receive any other nondiscretionary statutory incentive administered by the department for any payroll expenditures for which the business has received a rebate pursuant to this Section.

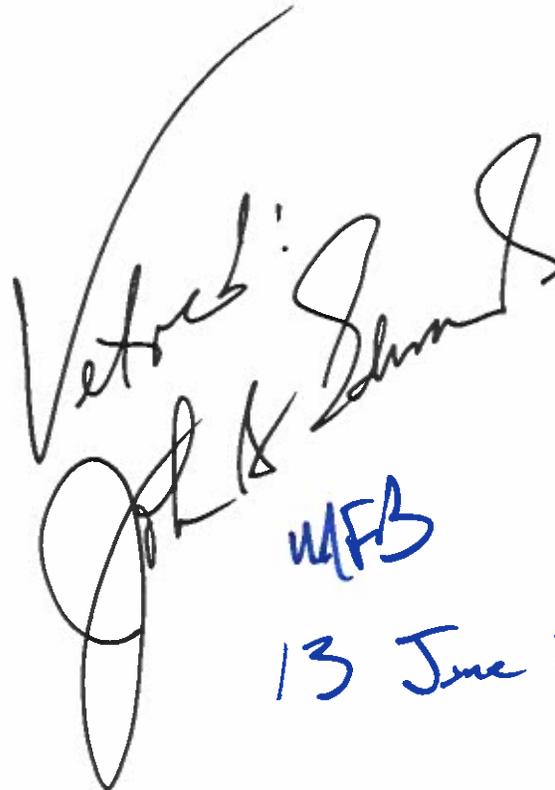
F. The department, in consultation with the Department of Revenue, may adopt and promulgate rules and regulations that are necessary to carry out the intent and purposes of this Section.


SPEAKER OF THE HOUSE OF REPRESENTATIVES


PRESIDENT OF THE SENATE


GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____


MFB
13 June 2000