March 23rd, 2018

3 proposals for the future of ITEP in Baton Rouge

Summaries and analysis of competing ITEP proposals before the East Baton Rouge Parish Industrial Tax Exemption Committee

by Together Baton Rouge

Committee Meeting Date: Monday, March 26th, 10:30am, Baton Rouge City Hall, 222 St. Louis Street

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Proposal I: "Revised BRAC model": Guaranteed public subsidy for annual capital expenditures

Proposed by School Board Member Michael Gaudet and Metro Council Member Matt Watson

Proposal Summary

This proposal is an amended version of the Baton Rouge Area Chamber (BRAC) model introduced at first EBR ITEP committee meeting, which would set exemption rates by the amount of capital invested.

Under this model, the majority of capital expenditures of EBR Parish's industrial sector would receive annual public subsidies of up to a 100% property tax exemption for 5 years and an 80% exemption for an additional 3 years (the maximum allowable by the state). Investments by existing firms into long-standing establishments would receive exemptions on the same terms offered to new plants or competitively-sited expansions. Exemption tiers range from 50% to 100%, with higher exemption tied to larger investments.

Job creation would not be a requirement to receive the exemption.

Projects already complete and in operation when an exemption is being considered would be eligible to receive an exemption.

(Proposal I)

LOCAL ITEP RULES

- The EBR ITEP Committee will offer abatement above the amount allotted in the matrix to encourage installation of machinery or equipment that provides a positive environmental impact beyond any floor required by federal, state, or local law, rules, or regulations.
  - Environmental improvements will be treated as stand-alone projects in regards to the matrix, unless their inclusion in a project's overall capital expenditure would put the project in a higher tier.
- All new direct or contract jobs created must be permanent and full-time (30 or more hours per week, per state ITEP rules) in order to qualify.
- Equipment cannot depreciate to have no taxable value during the abatement period.
- Equipment on ad valorem tax depreciation schedule of less than eight (8) years will not be considered.
- Investment must follow Louisiana Tax Commission Chapter 25, Section 2501, and include full installation cost and GAAP accounting for determining capitalized investment, including engineering and installation costs.

ITEP – EBR MATRIX

Small Business (50 or fewer FTEs) or New Companies to EBR Project Specs					Abatement	
Cap Investment		Jobs		Environmental	Years 1-5	Years 6-8
$200K to $500K	*OR*	5-9	*OR*	$100K to $300K	50%	40%
$500K+		10+		$300K+	100%	80%

Large Companies Currently in EBR (51+ FTE) Project Specs					Abatement	
Cap Investment		Jobs		Environmental	Years 1-5	Years 6-8
$1M to $9.9M	*OR*	5 to 9	*OR*	$1M to $2.9M	50%	40%
$10M to $29.9M		10 to 24		$3M to $4.9M	75%	60%
$30M to $99.9M		25 to 49		$5M to $10M	100%	60%
$100M+		50+		$10M+	100%	80%

ITEP rules require the creation of a full-time job in order to qualify for the abatement, unless a compelling reason exists to allow for the abatement for the retention of existing jobs to substitute for this requirement. If evidence of such a compelling reason exists, there may be no job requirement.

Proposal II: “Revenue breakeven model”: Exemption percentages to bring net positive revenue to public bodies at 10 years

Proposed by the City-Parish

Proposal Summary

The model establishes limits on the extent to which industrial tax exemptions can negatively impact the budgets of local governments, seeking to create a more predictable and stable revenue environment.

The proposal includes some provisions to limit “ITEP churning,” but regular annual capital investments, while not “favored,” would be eligible. The proposal similarly “favors” investments that create jobs, but does not contain a specific requirement for new job creation.

“Retroactive incentives” would be prohibited, meaning no project already under construction before local support is finalized could receive an exemption.

The exemption percentages would be set not by the amount of capital invested (the BRAC model) nor by the number of jobs created (the TBR model), but based upon the percent that would allow public entities to begin to see net positive revenue by the end of the 10th year after the investment.

Exempt percentages would be capped in two ways. First, a fixed maximum of an 80% exemption would apply both exemption terms.

Second, a project-specific exemption cap would be determined by a publicly available modelling tool, taking into account specific project details (e.g. investment amount, property tax rates, average economic life of the property, etc.). Based on this model, the exemption percent would be set such that public entities would begin to see net positive revenue after a maximum of 10 years. If a project’s specs end up differing from those projected, claw-back provisions would enact automatic adjustments to the rate to restore a net-positive revenue basis for public bodies by year 10.

In special circumstances, the exemption caps described above could be exceeded, for one of four established scenarios: 1) to attract a new manufacturer, 2) to attract an an entirely new facility of an existing manufacturer, 3) to prevent the immanent closure of a facility and 4) to encourage environmentally-positive investments. The environmental provision would allow a bonus of up to 5% above the normal cap, but only on the environmentally-oriented portion of the investment.

(Proposal II)

EAST BATON ROUGE PARISH INDUSTRIAL TAX EXEMPTION COMMITTEE

PROPOSED GUIDELINES FOR EVALUATING INDUSTRIAL TAX EXEMPTION REQUESTS BY EAST BATON ROUGE PARISH TAXING BODIES

The East Baton Rouge Parish Industrial Tax Exemption Program (ITEP) Committee is establishing criteria to guide the evaluation of industrial tax exemption requests in order to create greater clarity and predictability for the business community, local taxing bodies and the community at large around the terms and conditions by which tax abatements will be considered.

PURPOSE

In its consideration of requests for industrial tax exemptions, this Committee seeks to:

1) Strengthen the overall performance of the economy of our community
2) Create new, long-term employment opportunities for parish residents.
3) Attract manufacturing businesses considering locating in East Baton Rouge Parish and at least one other location.
4) Expand the ad valorem tax base of our parish.
5) Encourage capital investments in our community, specifically investments that are competitively-sited and investments that would not likely have taken place without an incentive.

GENERAL GUIDELINES

The Committee endorses the general guidelines established by Governor John Bel Edward's Executive Orders (JBE 16-26 and JBE 16-73) and the new industrial tax exemption rules promulgated by the Board of Commerce and Industry, such that:

- Exemption contracts for new manufacturing plants or establishments are favored, and
- Exemption contracts for additions to any existing plant or establishment are not favored unless they provide for new jobs or present compelling reasons for the retention of existing jobs.

RECOMMENDED STANDARDS

The Committee recommends the following standards for the evaluation of exemption requests:

I: Property eligible for exemption

The amount of property value eligible for an exemption shall be established by the total investment amount applied for, adjusted where appropriate as follows:

- The cost of maintenance capital, environmentally required capital upgrades and new replacements to existing machinery shall be reduced from the total investment amount. (Cf. Louisiana Administrative Code, Chapter 13, Section 517 "Ineligible Property").
- The exemption will be limited to the increase in the assessed valuation in the year in which the improvement is completed as compared to the base year which will be the year prior

to the approval of the application. The percentage of the provided exemption will be calculated on the increased assessed valuation only.

- All new direct or contract jobs created must be permanent and full-time (30 or more hours per week, per state ITEP rules) in order to qualify.
- Investment must follow Louisiana Tax Commission Chapter 25, Section 2501, and include full installation cost and GAAP accounting for determining capitalized investment, including engineering and installation costs.
- Parish taxing bodies will not consider exemptions for projects when the investment has already been made or the project's construction already is underway prior to the passage of a resolution of support by parish taxing bodies. Should a Tax Exemption be granted the applicant will be allowed to include site selection cost and design fees incurred before the granting of the exemption.

II: MATRIX – exemption rate determined by return on investment (ROI)

The exemption percent shall be established a rate of return model, **defined as net revenue to public entities**. The calculation of net revenue will include: the projected property tax receipts, sales tax receipts, the number of jobs created and the associated the payroll amount, sales tax revenue and the construction cost based on items listed as eligible for the exemption. The Industrial Tax Exemption Rate will be established at the rate for which parish taxing bodies receive net revenue by the end of the 10th year.

The rate granted will be set for a flat rate for the initial 5 year period and the applicant will be eligible to apply for the same percentage for an extension period of 3 additional years.

At no point will the Exemption rate be allowed to exceed 80% or provide a positive ROI model beyond the 10 year period unless the committee votes by a 2/3 vote to increase the rate based on extraordinary or compelling circumstances.

Four scenarios may justify a recommendation for an enhanced exemption percent:

1) To attract a manufacturer not already operating in the parish,
2) To attract an entirely new facility of an existing manufacturer,
3) To prevent the imminent closure of an existing facility,
4) To encourage installation of machinery or equipment that provides a positive environmental impact beyond a minimum standard established by federal or local laws, rules or regulations or through a court order or settlement.

The following standards shall apply when invoking the imminent closure provision:

1) The corporate office of the facility must make a public declaration or issue a signed affidavit indicating that the closure of the facility is an imminent possibility.

2) The exemption under consideration must be large enough relative to the cost of the plant's overall expenses to be a material factor in the facility's closure or remaining in operation.

Part III: SPECIAL ENVIRONMENTAL PROVISION

The EBR ITEP Committee will offer a 5% abatement above the amount allotted in the matrix to encourage installation of machinery or equipment that provides a positive environmental impact beyond any floor required by federal, state, or local law, rules, regulations or legal settlements.

- Environmental improvements will be treated as stand-alone projects in regards to the matrix.

Part IV: Claw-back provision

The Committee shall include in its recommendation on ITEP requests provisions for the claw-back and/or cancellation of ITEP exemptions, which will be recommended for inclusion in "exhibit B" resolutions approved by East Baton Rouge Parish school boards, Metropolitan Council, municipalities and letters of support from the East Baton Rouge Parish Sheriff.

Those provisions shall require that:

a) The company receiving an ITEP report to LED and the local taxing authorities on an annual basis regarding the eligible investment amount, amount of investment made subject to local sales tax, net new jobs created or lost, the total property value at the facility and the net increase in property value at the facility since the exemption was approved.

b) Failure to meet any contractual provisions established in Exhibit A &B resolutions required under JBE 2016-73 shall result in the termination of the exemption or the adjustment of the exemption's rate for future years to maintain the originally-approved return on investment, on terms established in those resolutions.

TRANSMITTING COMMITTEE FINDINGS / RECOMMENDATION

After evaluating a request for an industrial tax exemption, this Committee will apply the criteria outlined above to establish the exemption's recommended percent and other terms, vote on the request and send a report to each parish taxing authority describing the terms recommended by the Committee and the justification for those terms.

The committee is required to report out their recommendation to the local taxing authorities on any application brought before it within 30 days of receiving the information from the applicant on the required ITEP intake form.

Proposal III: "New jobs model": Exemption percentages set by job creation and in-parish hiring

Proposed by Metro Council Member Lamont Cole

Proposal Summary

This proposal draws from the tax exemption guidelines of most Texas counties to establish potential exemption percentages based on the standard of job creation.

Two criteria drive the exemption amount a company would receive: 1) the number of jobs the project creates (with differing standards for small and new businesses, on the one hand, and large existing businesses, on the other); and 2) the percent of parish residents hired to fill those jobs.

Eligibility would begin with a minimum requirement to create 3 jobs (for small or new businesses) or 5 jobs (for larger, existing businesses), with exemption tiers running from 20% to 100%. The highest exemption level would be reserved for companies that create 25 net new jobs (for small or new-businesses) or 100 net new jobs (for large existing-businesses). Half the exemption rate, therefore, would be established by the number of jobs created.

The remainder of the exemption percent would be determined by the proportion of new hires who reside in East Baton Rouge Parish. There would be no restriction or requirement for local hiring, but it would tie 50% of the maximum potential subsidy offered by parish tax-payers to the percent of jobs filled by residents of that parish.

A special "immanent closure provision" would allow exemptions at a higher rate, including on investments that do not create jobs, if a plant is facing a "real, concrete an immanent prospect of closure." Enacting the immanent closure provision would require a two-thirds vote of the ITEP Committee.

Under this proposal, after-the-fact incentives would be prohibited, fast-depreciating property would be ineligible and caps on the exemption percent would be established to assure net positive revenue by the end of the life of the exemption (5 or 8 years).

(Proposal III)

Proposed ITEP Matrix for EBR Taxing Bodies			
SMALL BUSINESS OR NEW COMPANY *(50 or fewer employees)*			
Net new full-time jobs created		Exemption rate	
		Years 1-5	Years 6-8
		up to	
3 to 10 jobs	Level 2:	40%	20%
11 to 25 jobs	Level 3:	60%	40%
more than 25 jobs	Level 4:	100%	80%
Subject to ROI breakeven and local hire provisions.			
LARGE BUSINESS *(51 or more employees)*			
Net new full-time jobs created		Exemption rate	
		Years 1-5	Years 6-8
		up to	
5 to 20 jobs	Level 1:	20%	-
21 to 50 jobs	Level 2:	40%	20%
51 to 100 jobs	Level 3:	60%	40%
more than 100 jobs	Level 4:	100%	80%
Subject to ROI breakeven and local hire provisions.			

PROVISIONS AND ELIGIBILITY

I. Immanent closure provision

A plant facing immanent closure can be eligible for an exemption on the standard of retaining jobs, instead of creating new jobs. This provision is intended for businesses facing a real, concrete and imminent prospect of closure. It is not intended to create an avenue to justify subsidies to jobless capital investments for businesses facing ordinary market dynamics.

The following standards shall apply when invoking the imminent closure provision:

1) The corporate office of the plant must make a public declaration or signed affidavit indicating that the closure of the plant is an imminent possibility being considered by the business entity.
2) The abatement under consideration must be large enough relative to the cost of the plant's overall expenses to achieve material factor status.
3) Applications submitted under the imminent closure provision require 2/3rds vote of taxing bodies.

II. Local hire provision

Half of the maximum exemption rate expressed in the matrix is guaranteed for any eligible company meeting the job-creation requirements. The other half of the exemption rate shall be determined by the proportion of new hires who reside in East Baton Rouge Parish. For example, a small business that creates 30 new jobs, all of whom are or become residents of East Baton Rouge, would be eligible for the maximum 100% exemption rate. If 50% of the new hires are residents of East Baton Rouge Parish, the company would be eligible for a 75% exemption rate (50% for meeting the job creation targets, 25% for having half the new hires meet the local hire provision).

This provision places no limitations on a company's ability to hire whomever it chooses. It recognizes that tax exemptions are a subsidy paid for by the property taxpayers of a specific locality, East Baton Rouge Parish, and ties the size of that subsidy to the benefits received by that locality.

III. Return-on-investment breakeven provision

The exemption percentages outlined in the matrix are subject to a return-on-investment provision requiring that the exemption percent not exceed the rate at which positive net property tax revenue is generated by the end of years 5 and 8.

(ROI guidelines: Sales tax receipts may be included in a return on investment analysis for new businesses not yet operating in the parish. For expansions increasing output by at least 25% of existing output, sales tax receipts may be factored in the ROI at a rate proportional to the size of the expansion. For existing businesses making internal investments that are not expanding output, sales tax receipts may <u>not</u> be included in a return on investment analysis to determine the parish revenue break-even point.)

IV. After-the-fact exemptions prohibited

Property eligible for an exemption shall include only investments made subsequent to the passage of a resolution of support by parish taxing bodies. The investment amount on any project on which work has begun prior to the approval of a resolution by parish taxing bodies shall be ineligible for inclusion in the property value on which any exemption offer shall apply.

V. Restriction on short-life property

Only property on a depreciation schedule of 15 or more years is eligible for inclusion in the property value on which any exemption offer shall apply. Property on a depreciation schedule of less than 15 years is ineligible for an exemption.

VI. Amount eligible for exemption limited to net increase in property value

The amount eligible for an exemption is limited to the net increase in property value for the applicant's entire facility against a baseline determined by the prior year's property tax value.

VII. Accountability measures

ITEP resolutions shall include an automatic cancellation Proposition if conditions are not met (or a rate adjustment Proposition if conditions are partially but not fully met).