EXECUTIVE ORDER NUMBER JBE 2016 – 26

CONDITIONS FOR PARTICIPATION IN THE INDUSTRIAL TAX EXEMPTION PROGRAM

WHEREAS, Article 7, Section 21(F) of the Louisiana Constitution provides that the State Board of Commerce and Industry "with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deems in the best interest of the state";

WHEREAS, Article 7, Section 21(F) also provides that the contracts for the exemption "shall be for an initial term of no more than five calendar years and may be renewed for an additional five years";

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, this has resulted in a 100 percent exemption or abatement from local property taxes for an initial period of five years, plus the opportunity for a five-year renewal, for a total of ten years of full exemption from local property taxes for qualifying manufacturing establishments;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts, unlike those in most states, have allowed ad valorem tax exemptions for maintenance capital, environmental capital upgrades, and new replacements to existing machinery with the result that the same components of a manufacturing plant remain exempt from the local property taxes for years after the expiration of the ten-year period for the contract;

WHEREAS, under past practices the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts have been allowed for Miscellaneous Capital Additions without requiring these projects to file advance notifications, which may more accurately identify projects that will provide for the goals of economic development;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, there have been no job creation or capital investment thresholds required for eligibility for the program;

WHEREAS, further, receipt of other incentives from the State by way of direct funding, rebates, tax credits, industrial bonds, or other similar incentives has not factored into determinations of the Board or Governor for eligibility or extent of the exemption or for the length of the contract for the exemption despite the discretionary provisions granted in Article 7, Section 21(F);

WHEREAS, the Board of Commerce and Industry and previous governors of Louisiana have approved Industrial Tax Exemption contracts that and will result in an average of $1.4 billion in foregone ad valorem tax revenue each year for the next five years for parishes, municipalities, school districts and other political subdivisions of the state directly providing law enforcement, water and sewage, infrastructure, and educational opportunities to Louisiana citizens;

WHEREAS, Louisiana's adjacent states authorize local governments to grant discretionary exemptions based on the attractiveness of a particular project—in contrast with Louisiana where neither the Board of Commerce and Industry or previous administrations have, in the past, exercised discretion in awarding the Industrial Tax Credit Exemption authorized by the Louisiana Constitution;

WHEREAS, as a result, Louisiana has forgone opportunities to negotiate and/or to offer prospects lesser or greater benefits under the Industrial Tax Exemption program based upon the merit of the project being considered; and

WHEREAS, this practice has put Louisiana at a competitive disadvantage with neighboring states which use discretion in granting tax exemptions and thereby forgo less revenue by denying projects that will not create significant employment or sufficient capital investment.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: This order provides the terms and conditions under which the Governor is to determine that contracts for the Industrial Tax Exemption Program are in the best interests of the State of Louisiana in accordance with Article 7, Section 21(F) of the Louisiana Constitution.

SECTION 2: For all pending contractual applications for which no advance notification is required under the Rules of the Board of Commerce and Industry, except for such contracts that provide for new jobs at the completed manufacturing plants or establishments, this order is effective immediately; for all contracts for which advance notification is required under the Rules of the Board of Commerce and Industry, this order is effective for advance notifications filed after the date of the issuance of this order.

SECTION 3: Only contracts accompanied by advance notifications will be considered by the Governor. Applications for miscellaneous capital additions and applications for tax exemptions for maintenance capital, required environmental capital upgrades, and new replacements for existing machinery will not be approved or issued contracts by the Governor.

SECTION 4: The Governor will not approve contracts unless the Board of Commerce and Industry has specifically determined that the establishment meets the constitutional definition of manufacturing. Exemption contracts for new manufacturing plants or establishments are favored by the Governor and exemption contracts for additions to any existing plant or establishment are not favored by the Governor unless they provide for new jobs or present compelling reasons for the retention of existing jobs.

SECTION 5: All contracts providing for the Industrial Tax Exemption shall include Exhibit "A" consisting of a Cooperative Endeavor Agreement between the State of Louisiana, the Louisiana Department of Economic Development, and the Applicant providing for the creation or retention of jobs and provisions for the exercise of the options in the Louisiana Constitution for

the term or percentage of the exemption granted in the contract, and for the reduction or loss of the exemption based upon the applicant's compliance with the contract, provided with respect to the manufacturing project for which the exemption is granted will be approved by the Governor.

SECTION 6:   All Contracts providing for the Industrial Tax exemption shall also include Exhibit "B" consisting of approvals of the relevant governing Parish Council or Police Jury by resolution, Municipal Council by resolution, School Board by resolution and Sheriff by resolution signifying whether each of those authorities is in favor of the project. The Secretary of Economic Development will provide guidance to the local parties to Exhibit "B" as to the suggested alternatives for their consideration including parameters for job creation, payroll, percentages of exemption, and length of contract.

SECTION 7:   Only contracts including Exhibit "A" and Exhibit "B" as described herein will be approved by the Governor. Contracts for the Industrial Tax Exemption that do not meet these conditions will not be approved by the Governor. The Board of Commerce and Industry may address, by rule, any other contractual arrangements that it deems necessary and submit these to the Governor for consideration as amendments to this Executive Order.

SECTION 8:   The Department of Revenue shall, in coordination with the Louisiana Department of Economic Development, implement procedures and shall annually review all contracts subject to this Executive Order to assure compliance with existing law, this Order, and the terms of the Industrial Tax Exemption contract.

SECTION 9:   Article 7 Section 21(F) provides for an initial term for the contract of exemption to be "no more than five years" and that "the contract may be renewed for an additional five years"; and in determining whether to sign the initial contract or to renew an existing contract, the Board of Commerce and Industry and the Governor will consider the information collected and the provisions and conditions presented in Exhibits "A" and "B".

SECTION 10:   The terms for the Governor's approval of the contracts for the Industrial Tax Exemption as provided for in this Executive Order represent the primary cause for the Governor's execution of the contracts and any occurrence which operates to change or suspend the terms of any contract approved by the Board of Commerce and Industry and executed by the Governor after the effective date of this Executive Order shall render the approval of the Governor of the affected contract void and of no force or effect.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24rd day of June, 2016.

_____/s/_____
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

_____/s/_____
SECRETARY OF STATE