



NOTICE OF MEETING

**Board of Commerce and Industry
Rules Committee Meeting
Industrial Ad Valorem Tax Exemption Program Rules
Tuesday, June 4, 2024
1:30 p.m. – 4:00 p.m.**

Griffon Room
La Salle Building
617 North Third Street
Baton Rouge, LA 70802

AGENDA

1. Call to order and introduction of new committee member Stuart Moss– Jerry Jones, Chairman
2. Roll Call –Deborah Simmons, Administrative Assistant
3. Approval of minutes from May 3, 2024 committee meeting
4. Review and discussion of possible new ITEP process and corresponding rule revisions, proposed by local industry consulting firms.
 - a. Public comment will be permitted at any point in the meeting prior to any action requiring a vote from the committee
5. Scheduling next meeting of the committee
6. Adjournment no later than 4:00 p.m.

Note:

This official notice of public meeting is posted in accordance with La. R.S. 42:19. Official notice has been posted no less than twenty-four hours prior to the scheduled time of the meeting.

Any person requiring a disability accommodation to participate in this open meeting should contact Deborah Simmons at 225.342.5398 Deborah.Simmons@la.gov to request the necessary accommodation.

Louisiana Industrial Property Tax Exemption Program

A New Process for Consideration

Background- ITEP Legal Authority

- Louisiana Constitution – the primary legal authority
 - ✓ LA Const. 7 §21(F)
- Statutes
 - ✓ No enabling statutes
- Louisiana Administrative Code
 - ✓ The primary legal source for daily administration of the incentive program
 - ✓ Requires APA process to be followed
 - ✓ Multiple versions of the rule are in effect today
 - very confusing and complicated

Louisiana Constitution – ITEP Provision

(F) Notwithstanding any contrary provision of this Section, the State Board of Commerce and Industry or its successor, 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.

The exemption shall be for an initial term of no more than five calendar years, and may be renewed for an additional five years. All property exempted shall be listed on the assessment rolls and submitted to the Louisiana Tax Commission or its successor, but no taxes shall be collected thereon during the period of exemption.

The terms "manufacturing establishment" and "addition" as used herein mean a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

Historical Challenges & Need for New Process

- **Pre JBE Executive Orders**
 - ITEP was more of a right, just like homestead exemption
 - Broad exemption – everything inside the “fence line”
 - Most apps were filed after assets were placed into service
 - Most accurate, less estimates
- **Current ITEP**
 - Incentive
 - Best to secure “upfront approval” before FID
 - Working with very preliminary data
 - Some assets may not be eligible for exemption, i.e. routine capX & required environmental improvements
 - Using old forms and quirky processes
 - Filing Project Completion Reports before projects are complete

Proposing a Totally New Process That Is:

- More Streamlined
- More Intuitive
- Increases Competitiveness
- Increased Flexible
- Very Transparent
- Simplified Compliance
- Based more on facts vs. estimates
- Incorporates Local Input
- Retained Board and Governor's Authority
- Better Alignment with LA Tax Commission Regulations

New Process

1. Company files ITEP Application

- NO Advance Notification
- Applications filed anytime during a calendar year
- Applications include only prospective / future capital investments
- Applications include estimates and a “wish list of potential capital investments during a defined term”
 - No specific equipment listing

2. LED Review

- 5 days to send notice to Local ITEP Committee
- 10 days to send application and company information to LDR for their review
 - LED and other state agency processes occur while Local ITEP Committee reviews

3. Local ITEP Committee (following LED review)

- 10 days to send notice to LED acknowledging receipt and stating if local mtg will be held, including when and where
- Can pass a Resolution in support of or not in support of company’s ITEP application
- No submission or untimely submission is deemed as “No Comment” by BCI and Governor
- Local ITEP committee representative(s) must be physically at the BCI mtg if the Local ITEP committee is not supportive of the company’s participation and must state their case on the record for the Board.

New Process Con't

4. BCI & Governor Review

- Applications will be considered for a certain BCI agenda if filed at least 45 days prior to the date of that scheduled BCI meeting and the LED and Local ITEP Committee have had their period of review elapse

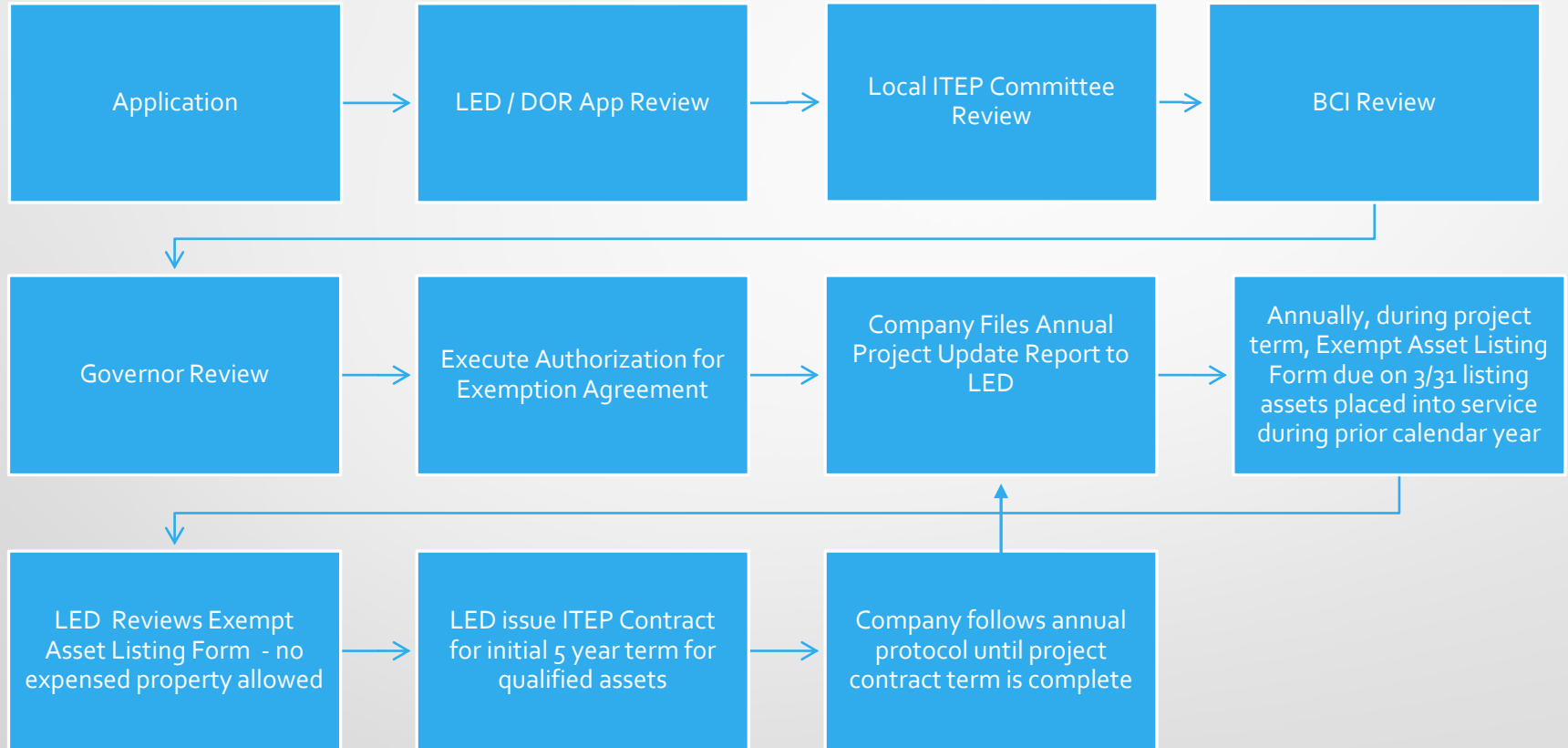
5. Contract #1 = Authorization for Exemption Agreement (AFE)

- Includes general terms and conditions for all future Exemption Contracts
- States the exemption %, exemption period, includes Exhibits A and B as applicable

6. Contract #2 = Exemption Contract

- Company files its exempt Asset acquisitions that were placed in service during the prior calendar year on or before March 31st of each year of the Exemption Period stated in the AFE
 - May receive up to three one-month extension
- Company to include a list of all eligible capital expenditures converted into assets that were placed into service during the prior calendar year – “Annual Exempt Asset Listing Form”
- LED creates executable Exemption Contract, referencing the AFE, and effectively starting a 5 year term with an option to renew for an additional 5 years.
- Exemption contracts do not go back to BCI or Gov, but either may interceed

New ITEP Process Illustration



Confidential – Draft #1

Prospective / Future App filed in 2024

Authorization for Exemption Contract (AFE)

- Exemption %
- Exemption Period (25 – 27)
- General Ts & Cs
- Exhibits A & B

Re-apply for any Cap X Planned beyond 2027

All due 3/31

Exemption Contract 2025

Exemption Effective Date 1/1/25

5 yr term w/ 5yr option to renew

List of Exempt Assets Due 3/31/26

References AFE Ts & Cs

Exemption Contract 2026

Exemption Effective Date 1/1/26

5 yr term w/ 5yr option to renew

List of Exempt Assets Due 3/31/27

References AFE Ts & Cs

Exemption Contract 2027

Exemption Effective Date 1/1/27

5 yr term w/ 5yr option to renew

List of Exempt Assets Due 3/31/28

References AFE Ts & Cs

Totally New Process

- No more Advance Notifications
- No more Project Completion Reports filed for incomplete projects
- No more Affidavits of Final Costs for projects not yet complete
- Upfront / prospective Local approval for all applications – BCI has local insight
- Upfront / prospective BCI & Governor approvals
- Align terminology and definitions with existing LA Tax Commission regulations
- Put actual assets on Exemption contracts

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

Subchapter B. ITEP Rules for projects with advances filed on or after February 21, 2024

§539. Statement of Purpose

~~A.~~ Purpose.

1. Louisiana values its manufacturers and their contributions to its economy.
2. On all projects, Applicant manufacturers are to demonstrate a genuine intent 1) to being a good corporate citizen in the community or communities where manufacturing operations occur 2) to making capital investments at manufacturing Sites in Louisiana. These are the expectations for the program's future, and the Board will continue to operate it in a way that makes Louisiana competitive with other states in attracting new capital investment to the State while giving local governments a voice in their taxation. These rules are to be interpreted in a manner to promote these goals.
3. Article VII, Section 21 (F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry ("Board"), 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 is in the best interest of the state.

Commented [JL1]: Making New CapX and Local Input as key features of ITEP

~~B.~~ Best interest of the state

1. The provisions set forth in this Subchapter establish the criteria that the Governor and the Board will consider for purposes of deciding what is in the best interest of the state.

~~C.~~ Applicability

1. The provisions set forth in this Subchapter shall apply to all new applications for exemption presented to the Louisiana Board of Commerce and Industry following the effective date of the promulgation of these rules. projects with advances filed on or after February 21, 2024.
2. Renewal Applicants may elect to have the ~~The provisions set forth in this Subchapter shall not apply to renewal Contracts, projects with advances filed prior to February 21, 2024, or ITEP projects approved by the board prior to February 21, 2024.~~

Commented [JL2]: Optionality

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§541. Definitions

~~Addition to a Manufacturing Establishment~~

~~1.a. _____ a capital expenditure for property that would meet the following conditions must be satisfied to be deemed an addition to a standard of a new manufacturing establishment:~~

- a) The funds spent were Capital Expenditures that resulted in either the creation of a new and identifiable Asset or an increase in the Cost Basis to an existing Asset.
- b) The new Asset or the increase in the Cost Basis to an existing Asset must be identifiable on the Applicant's Fixed Asset Register.

Commented [JL3]: LA Property Tax Alignment + Accounting/Tax Terminology Alignment = more efficient and more intuitive for common accounting/finance people who do property tax work

Changed definition to align with Generally Accepted Accounted Principle terms "Capital Expenditures", "Placed in Service", "Assets" - all of which related with Louisiana Tax Commission concepts, rules, and regulations - making ITEP more aligned with global accounting and tax terms.

New Capital is what is being sought - not operational "expenses"

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

c) The new Asset was Placed In Service after the date the application for exemption was received by the Department.

d) The Capital Expenditures that increased the Cost Basis of an existing Asset occurred after the date the application for exemption was received by the Department.

e) The new Asset was Placed In Service or the Capital Expenditure that increased the Cost Basis of an existing Asset was spent during an approved Exemption Acquisition Period;

f) The Asset physically resides and is used solely at the Site;

Each individual Asset must satisfy one or more of the following conditions: if the addition were treated as a stand-alone establishment;

i. the Asset is new to the Site; or

the Capital Expenditure caused a b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

e. an installation or physical change made to an existing Asset a manufacturing establishment that increased/increases its value, utility, useful life, or competitiveness; or

ii. the Capital Expenditure resulted in an Asset that improved the environmental impact of the manufacturing activities.

Annual List of Exempt Assets – the report filed each year by the Contractee that includes the list of Assets eligible for the exemption that were placed into service on Contractee’s books during the prior calendar year.

Applicant – the legal entity applying for exemption.

Asset – real or personal property owned by the Applicant or Contractee as stated on its book’s fixed asset listing. The term Asset shall also represent both an individual asset and a group of assets.

Authorization for Exemption Agreement (“AFE”) – the agreement resulting from the consideration and approval of an application for exemption that designates the Exemption Acquisition Period, the Exemption Percentage, and includes the general terms and conditions for which all related subsequent Exemption Contracts must abide.

2. maintenance capital, required environmental capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

Beginning of Construction – the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

Commented [JL4]: Streamlining + Ptax Alignment

Commented [JL5]: Clarity + Streamlining + LA Ptax Alignment

Companies paid property taxes on property, an Asset is property owned by the company.

Commented [JL6]: Streamlining

Obtain upfront / prospective approval to make exempt purchased in the future - acts like a Master Services Agreement / CEA authorizing the company to make exempt purchases

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

Board – the Louisiana—Board of Commerce and Industry.

Capital Expenditure— Funds used to acquire, upgrade, or maintain an Asset. These are amounts spent by an Applicant or Contractee that are recorded on the manufacturing establishment’s balance sheet instead of expensed on the income statement. Capital Expenditure—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

Commented [JL7]: Clarity + Streamlining + Ptax Alignment

Commented [JL8R7]: Capital Expenditures end up as an asset on a balance sheet

Also helps with simplifying how to easily distinguish between and eligible vs ineligible cost.

Change in Location Form— the form submitted by a Contractee notifying the Department of a change in location of an Asset or Group of Assets previously located at the manufacturing Site listed on the Authorization for Exemption Agreement and the applicable Exemption Contract(s).

Commented [JL9]: Memorializing Existing Form

Change in Operation Form— the form submitted by a Contractee notifying the Department and the Board of a change in operation such as a change in name or a change in ownership of the Contractee of the Authorization for Exemption Agreement and the applicable Exemption Contract(s).

Commented [JL10]: Memorializing Existing Form

Committee – Local ITEP Committee

Contractee – the legal entity named in the Authorization for Exemption Agreement with the Department—Louisiana Board of Commerce & Industry and the Governor and the legal entity named in the Exemption Contract with the Department.

Cost Basis— the total amount spent on, accumulated cost for, and or purchase price of an Asset as reflected on the manufacturing establishment’s balance sheet for book purposes, and not tax purposes.

Commented [JL11]: Streamline + Clairity + Ptax Alignment

An asset’s cost basis is what is used when reporting cost to the tax assessor

Department— Louisiana of Economic Development.

Exemption Contract— the contract for exemption authorized by Article 7 Section 21 of the Louisiana Constitution.

Commented [JL12]: Streamlining

Exemption Acquisition Period— the designated period whereby the Contractee may Place in Service new Assets or spend Capital Expenditures that increase the Cost Basis of an existing Asset that shall be eligible for exemption.

Commented [JL13]: Streamlining

Exemption Term— the period of the exemption for an Asset or group of Assets as stated on the Exemption Contract.

Establishment— an economic unit at a single physical location.

Exhibit A— an exhibit to the Authorization for Exemption Agreement that includes the a resolution from the Local ITEP Committee signifying its support, approval or lack thereof, denial of an exemption contract for Applicant’s a specific ITEP application for exemption.

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

Exhibit B – an exhibit to the Authorization for Exemption Agreement that includes the specific performance requirements, and the consequences for failure to meet said requirements, for the Contractee to receive tax exemption benefits beyond the standard 80% exemption.

Fixed Asset Register - a detailed listing of the Assets owned by the company.

Integral—required to make whole the product being produced.

LDR - Louisiana Department of Revenue.

ITEP Application Acknowledgment Form – the form provided by the Department to the Local ITEP Committee notifying the Local ITEP Committee of an ITEP application filing and which shall also solicit feedback from the Local ITEP Committee on its intentions to hold a public meeting regarding the ITEP application.

Local ITEP Committee – a committee established by the JML Executive Order 24-23 to be formed by local government and local economic development representatives to provide local input on ITEP applications.

Local Governmental Entity—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

Maintenance Capital—costs incurred to conserve as nearly as possible the original condition.

Manufacturer—a person or legal entity engaged in Manufacturing business who engages in manufacturing at a Manufacturing Establishment manufacturing establishment.

Manufacturing—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be suitable for use as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Manufacturing Establishment—a legal entity registered with the Louisiana Secretary of State that owns Assets at a Site where manufacturing occurs.

Payroll – the total dollar amount of wages paid to an employee or employees, as documented on the Louisiana Workforce Commission “Employer’s Quarterly Wage and Tax Report (LWC Form ES4).

Site – the contiguous area of the entire manufacturing operation. Public roads, private roads, easements, right of ways, waterways, bridges, or other means of public or private access shall be considered as part of the contiguous area of the entire manufacturing operation. Assets leading to and from the site legal fence line, such as pipelines, rail lines, or other forms of transporting goods to and from the site or between sites that reside on easements or right of ways shall not be included as the contiguous area of the entire manufacturing operation.

Commented [JL14]: Streamlining + Clarity

Commented [JL15]: Streamlining

Commented [JL16]: Streamlining

Commented [JL17]: Clarity

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

~~Place In Service and Placed in Service~~ – the date when an Asset is substantially complete and ready for its intended use as documented in the manufacturing establishment’s accounting system.

Commented [JL18]: Alignment with Ptax + Clarity + Streamlining

~~Obsolescence~~ – the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

~~Qualified Disaster~~ –

~~1.~~ a disaster which results from:

a. an act of terror directed against the United States or any of its allies; or

b. ~~any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;~~

2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal, state, or local government, or agency or instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

~~Rehabilitation~~ – the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

~~Required Environmental Capital Upgrades~~ – upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.

~~Restoration~~ – repairs to bring a building or structure to at least its original form or an improved condition.

~~Secretary~~ – secretary of the Louisiana Department of Economic Development.

Transfer Request Form – the form used by a Contractee to request the continuation of an exemption for an Asset or group of Assets that are relocated from the original Site identified in an Authorization for Exemption Agreement to a new Site in Louisiana.

~~Site~~ – one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

§543. ~~Ineligible Items: Property, Land, Inventories~~

~~—A.—~~ The following ~~property is~~~~items are~~ ineligible for the tax exemption:

~~1. Property owned by:~~

~~a manufacturing—Miscellaneous capital additions, maintenance capital, required environmental capital upgrades and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment that did, to conserve as nearly, and as long as possible, original condition, are not result from a Capitalized Expenditure~~eligible for the tax exemption.

~~1. Amounts spent~~ ~~_____ b. If the establishment or addition is on the routine operations~~taxable rolls and maintenance of the real and personal property taxes have been paid at more than 20%, the Site that are expensed, and establishment or addition is not capitalized.

~~2. Repairs to real and personal property that are expensed.~~

~~3. That portion of the Asset's Cost Basis that was included as part of a prior year's property tax assessment, unless one of the following conditions are met:~~

~~a) the manufacturing establishment paid the taxes under protest, then the Asset, or Cost Basis thereof, may be~~ eligible for the exemption ~~once the protest is complete;~~

~~b) if the manufacturing establishment has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible Assets, then such Assets, or proportional value thereof, may be considered by exemption.~~

~~_____ e. The Board~~~~board~~ shall not consider for tax exemption ~~the original Cost Basis of any Asset that was~~property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated, ~~unless one of the following conditions are met;~~

~~a) The Asset is personal property and is older than ten (10) years or more beyond the average economic life in years. An Asset's average economic life in years shall be determined by using the Louisiana Tax Commission "Suggested Guidelines For Ascertaining Economic Lives of Business and Industrial Personal Property"; or~~

~~b) The Asset is real property and is more than thirty (30) years old or older.~~

Commented [JL19]: Streamlining + Clarity + Ptax Alignment

4. The Board shall not consider for tax exemption an Asset, or any proportional value thereof, that was placed into service in the calendar year preceding the filing of the application, unless one or more of the following conditions are met:

- i) if the Applicant paid the taxes under protest, then the property may be eligible for exemption once the protest and appeals process concludes and concludes in favor of the tax payer;
- ii) if the Applicant has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible Assets, then such Assets, or the proportional value thereof, may be considered by exemption.
- iii) If an Asset was previously fully or partially exempt through a valid Exempt Assets agreement or any other Louisiana Industrial Property Tax Exemption Contract, then only the difference between the original Cost Basis and the total cost of the new Capital Expenditure may be eligible for exemption. For instance, if the initial furnace that received ITEP exemption benefits cost \$100,000 and the new replacement furnace cost \$150,000, then the manufacturing establishment can only pursue an exemption on the \$50,000 of differential costs.

7. ~~2.~~ **Land**

a. ~~r.~~ The land on which a manufacturing establishment is located is not eligible for tax exemption.

8. ~~3.~~ **Inventories.**

- a. inventories of raw materials used in the course of manufacturing;
- b. inventories of work-in-progress or finished products;
- c. any other consumable items.

§546. Used Equipment

Commented [JL20]: Clarity

A. The acquisition cost AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

~~§545. Eligible Items: Buildings and Facilities Used in Manufacturing, Leased Property, Capitalized Materials, Integral Parts of the Manufacturing Operation, Rehabilitation and Restoration of Property, Relocations, Used Equipment.~~

~~A. The following items may be eligible for the tax exemption. Only the difference between the Cost Basis of the newly acquired used equipment and the assessed fair market value of the used equipment may be considered for exemption.~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

~~1. **Buildings and Facilities Used in Manufacturing.** The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §543) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:~~

- ~~a. owners who engage in manufacturing at said facilities; and~~
- ~~b. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:~~
 - ~~i. buildings to house a manufacturing establishment;~~
 - ~~ii. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;~~

~~c. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption shall not result in a reduction of the prior year's assessed value. Only increased value only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.~~

~~2. **Leased Property.** Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.~~

~~3. **Capitalized Materials.** Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted, along with the manufacturing establishment. Some examples of these are:~~

- ~~a. ammonia in a freezing plant;~~
- ~~b. solvent in an extraction plant; and~~
- ~~e. catalyst in a manufacturing process.~~

~~d. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §569.~~

~~4. **Integral Parts of the Manufacturing Operation.** Property that is an integral part of the manufacturing operation is eligible for the tax exemption.~~

- ~~a. The following activities are considered to be integral to the manufacturing process:~~
 - ~~i. quality control/quality assurance;~~
 - ~~ii. packaging;~~
 - ~~iii. transportation of goods on the site during the manufacturing process;~~
 - ~~iv. other on site essential activities as approved by the secretary and the board.~~

~~5. **Rehabilitation and Restoration of Property**~~

~~a. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.~~

~~b. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.~~

~~c. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

~~_____ d. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by sections a or b above, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.~~

~~_____ 6. Relocations~~

~~_____ a. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.~~

~~_____ b. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the parish governing authority, the school board, the sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.~~

~~_____ 7. Used Equipment. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.~~

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR~~

§547. Replacement~~Advance Notification~~

Commented [JL21]: Clarity

A. The cost to replace existing property may be eligible for exemption.

1. The amount eligible for exemption shall be the difference between the original Cost Basis of the property and the Cost Basis for the newly acquired property, except when the total replacement cost exceeds \$50,000,000, under such circumstances, the entire replacement cost is eligible for exemption.

a) a single Asset or multiple Assets may be considered when determining if the \$50,000,000 threshold is met.

b) the \$50,000,000 threshold must be met during the first twenty-four months of the Exemption Acquisition Period, otherwise, the original Cost Basis for all replacement costs shall be deducted when determining the amount eligible for exemption.

~~A. An advance notification of intent to apply for tax exemption shall be filed with the department through the department's online Fastlane portal prior to the beginning of construction or installation of facilities on all projects for tax exemption. An advance notification fee of \$250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.~~

~~B. A separate advance shall be required for each program. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.~~

~~C. An advance notification shall include but not be limited to a project description, NAICS code, project start and end dates.~~

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

§549. Application

A. Applications ~~A. An application for an Authorization for Exemption Agreement shall include future planned capital investments.~~

1. All applications for an Authorization for Exemption Agreement shall be filed ~~tax exemption may be filed with the Department through the Department's online Fastlane portal.~~ subject to the following conditions:

a) The Department shall assign ~~the filing may be either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;~~

2. the deadline for filing the application a unique identification ~~may be extended pursuant to §561;~~

3. an applicant shall file an individual application number ~~for any calendar year in which property becomes operational or usable;~~

b) If the application is approved, then the Department shall use the application's unique identification number for the Authorization for Exemption Agreement unique identification number with the suffix "- AFE", and the Department shall use the same application unique identification number for the applicable Exempt Contracts with the applicable calendar year as the suffix.

2. Applications for an Authorization for Exemption Agreement may be filed at any time during a calendar year.

3. An ~~an application fee of shall be submitted with the application in the amount equal to 0.002 shall be applied to 5 percent of the estimated property tax savings calculated on the total amount of taxes to be exempted. In no case shall an application. The minimum fee shall be smaller than \$500 and the maximum in no case shall a fee shall be exceeded \$15,000.~~ per project.

4. Applicants shall not include any Asset or group of Assets ~~AUTHORITY NOTE: Promulgated in accordance with~~ Placed in Service dates preceding the application submission date stated on the Department's Fastlane system for the Board's consideration on the application.

a) The application shall not be officially received and accepted ~~Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the~~ Department until the appropriate fee is paid.

5. Applications for an Authorization for Exemption Agreement shall include an Exemption Period of thirty-six (36) consecutive months or less, unless 1) the application includes a single planned Capital Investment exceeding \$500,000,000 or 2) the ~~State Board of Commerce and Industry approves a request for an extended Exemption Period prior to the filing of the application, and the Department of Economic Development, LR~~

6. Applicants that have 50 employees or less, nationwide, including all affiliates, may apply for a 100% property tax exemption.

Commented [JL22]: Streamlining

Current process takes 90 days +

Proposed new process can be completed in 45 days

Still allows for local input

Eliminates Advance Notification

Applications are prospective only - act just like Advance Notifications did - only Assets Placed in Service after the filing of the Application are eligible for consideration for exemption.

Commented [JL23]: Maintaining Prospective Feature of Advance Notification (which was removed)

Commented [JL24]: Less Rigorous

Commented [JL25]: Keeping Process Prospective

Commented [JL26]: Flexibility + Help Small Businesses

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

7. Applicants that have 50 employees or more, nationwide, including affiliates, may apply for an 80% property tax exemption.

Commented [JL27]: Streamlined

8. Applicants that have 50 employees or more, nationwide may apply for more than an 80% property tax exemption on the following conditions:

Commented [JL28]: Flexibility + Competitiveness

a) The Applicant must receive a resolution of support from the Local ITEP Committee specifying the exemption percentage above 80%, except when:

i) the parish does have a Local ITEP Committee; or

ii) the parish Local ITEP Committee does not return the Application Acknowledgement Form to the Department as per §549(C).

b) In the absence of a Local ITEP Committee, the Applicant shall negotiate the exemption percentage with the Department, and the Department shall recommend the negotiated exemption percentage to the Board.

i) an Applicant may appeal the Departments recommended exemption percentage to the Board.

c) Failure to comment by a Local ITEP Committee shall result in the Department's recommendation for approval of the requested exemption percentage to the Board. The Department shall note that the Local ITEP Committee provided "No Comment" on the Applicant's request.

d) The Local ITEP Committee Resolution may, but shall not be required to, include one or more of the following performance requirements:

i) a requirement for the company to maintain a certain percentage of Payroll

ii) a requirement for the company to increase Payroll by a specified percentage (which shall be rounded up when the compliance calculations are performed .5 or more shall be rounded up)

iii) a requirement to spend a minimum amount on Capital Expenditures.

e) The specific performance requirements, if any, shall be negotiated between the Applicant and the Local ITEP Committee and then memorialized into an Exhibit B by the Department. Exhibit B shall be attached to the Authorization for Exemption Agreement and all applicable Exemption Contracts.

Commented [JL29]: Flexibility

i) In the absence of a Local ITEP Committee, the performance requirements, if any, may be negotiated and executed solely between the Department and the Applicant.

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

ii) In the absence of a response from an existing Local ITEP Committee, no performance requirements shall be negotiated with the Applicant and the Applicant shall be eligible for the requested exemption percentage without performance requirements.

f) The Local ITEP Committee does not need to provide its reasoning for denying a request for more than an 80% exemption nor shall a representative from the Local ITEP Committee be required to attend the Board meeting when the Applicant is being considered for exemption.

g) The Board and the Governor shall give consideration to the decisions made and Resolutions passed by the Local ITEP Committee, however, both the Board and the Governor shall reserve the right to approve whatever terms each body deems to be in the best interest of the state.

9. Applicants that have 50 employees or more, nationwide, including affiliates, and who have plans to spend \$1 billion dollars or more over a span of three (3) or more consecutive years, may apply for an 93% property tax exemption on the following conditions:

a) The Applicant must receive a resolution of support from the Local ITEP Committee specifying the exemption percentage above 80% unless:

i) the parish does have a Local ITEP Committee; or

ii) the parish Local ITEP Committee does not comment.

b) In the absence of a Local ITEP Committee, the Applicant shall negotiate the exemption percentage with the Department, and the Department shall recommend the negotiated exemption percentage to the Board.

i) an Applicant may appeal the Departments recommended exemption percentage to the Board.

c) Failure to comment by a Local ITEP Committee shall result in the Department's recommendation for approval of the requested exemption percentage to the Board. The Department shall note that the Local ITEP Committee provided "No Comment" on the Applicant's request.

d) The Local ITEP Committee Resolution may, but shall not be required to, include one or more of the following performance requirements:

i) a requirement for the company to maintain a certain percentage of Payroll

Commented [JL30]: Full Transparency Throughout the Approval Process

Commented [JL31]: Flexibility

Commented [JL32]: Flexibility + Competitiveness

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

ii) a requirement for the company to increase Payroll by a specified percentage (which shall be rounded up when the compliance calculations are performed .5 or more shall be rounded up)

iii) a requirement to spend a minimum amount on Capital Expenditures.

e) The specific performance requirements, if any, shall be negotiated between the Applicant and the Local ITEP Committee and then memorialized into an Exhibit B by the Department. Exhibit B shall be attached to the Authorization for Exemption Agreement and all applicable Exemption Contracts.

i) In the absence of a Local ITEP Committee, the performance requirements, if any, may be negotiated and executed solely between the Department and the Applicant.

ii) In the absence of a response from an existing Local ITEP Committee, no performance requirements shall be negotiated with the Applicant and the Applicant shall be eligible for the requested exemption percentage without performance requirements.

f) The Local ITEP Committee does not need to provide its reasoning for denying a request for more a 93% exemption nor shall a representative from the Local ITEP Committee be required to attend the Board meeting when the Applicant is being considered for exemption.

g) The Board and the Governor shall give consideration to the decisions made and Resolutions passed by the Local ITEP Committee, however, both the Board and the Governor shall reserve the right to approve whatever terms each body deems to be in the best interest of the state.

Commented [JL33]: Flexibility

B. Manufacturing Sites that reside in more than one parish shall file an application for Authorization for Exemption with the Board for each parish in which the Site is located.

1. Approved applications shall be parish specific, and each approved application shall result in an independent Authorization for Exemption Agreement.

C. The Department and the Local ITEP Committee shall adhere to the following process:

1. The Department shall send a copy of the application to the Local ITEP Committee within five (5) business days of receipt of a completed application via its online portal Fastlane.

Commented [JL34]: Streamlining + Transparency + Simplified +Local Input + More Competitive with other states

a) The Department shall copy the Applicant on the transmittal to the Local ITEP Committee.

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

2. The Local ITEP Committee shall have ten (10) consecutive days from the date of the transmittal of the application to the Local ITEP Committee to return a completed ITEP Application Acknowledgment Form to the Department.
- a) The Local ITEP Committee shall state on the ITEP Application Acknowledgement Form if it intends to hold a public meeting to consider the application for exemption, and if so, it shall state the date, time, and place of said public meetings on the form.
- b) All Local ITEP Committee resolutions shall state if the committee is in favor of or not in favor of the application and shall also include the reasons for its position.
- i. Local ITEP Committee resolutions to be considered by the Board and the Governor are due to the Department no later than thirty (30) consecutive days from receipt of notice from the Department.
- ii. Local ITEP Committee resolutions to be considered by the Governor are due to the Department no later than thirty (30) consecutive days from receipt of notice from the Department.
- iii. Decisions that are reflected in Resolutions passed by the Local ITEP Committee are not dispositive and do not bind the Governor or the Board. Said decisions and Resolutions are intended to provide local input into the Board and Governor's consideration as to what may be in the best interest of the State.
- iv. Local ITEP Committee Resolutions that are not in support of the pending application, shall include the reasons for the Local ITEP Committee's decision and one or more of the Local ITEP Committee voting members shall attend the Board meeting and present its position to the Board. Failure to attend the Board meeting shall nullify the Resolution.

The Department shall~~§551. Consultation with the LDR~~

~~—A.—~~ The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) **within ten (10) business days of receipt of a completed application via its online portal Fastlane.**~~for review.~~ LDR may require additional information from the **Applicant**~~applicant.~~ The **Department**~~department~~ must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the **Board**~~board~~ for action.

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

§553.— Department Presentation to the Board

- ~~A.~~ After its review and determination of eligibility, the ~~Department~~department will prepare the application information in a format suitable for presentation to the ~~Board~~board.
- ~~B.~~ ~~The board must approve the application prior to a contract being issued.~~
- ~~C.~~ Applicant or its representatives will be notified of the ~~Board~~board meeting date ~~during~~at which their application will be considered. The ~~Applicant~~applicant should have someone present who is able to answer any questions the ~~Board~~board may have regarding the information contained in the application, otherwise the application may be deferred or denied.

3. The Board must approve the application prior to an Authorization for Exemption Agreement being issued.

D.

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.~~
~~HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR~~

§555.— Board Consideration of Application

1. A. Eligibility of the ~~Applicant~~applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the ~~Board~~board based upon the facts and circumstances existing at the time the application is considered by the ~~Board~~board.

~~1.~~ Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the ~~Board~~board.

b) -2. The ~~Board~~board will receive all public ~~comments~~comment given at the ~~Board~~board meeting, or any written comments filed with ~~Department~~LED prior to the ~~Board~~board meeting date.

2. B. The property exempted may be increased or decreased based upon review of the application, ~~project completion report or affidavit of final cost.~~

3. The Department shall provide approved Applicant's an Authorization for Exemption Agreement~~C.—An application filed prior to execute within three (3) business days following the Board meeting.~~

4. Applicants shall have ninety (90) days to execute the Authorization for Exemption Agreement.

E. The Governor's review process.

1. Once the AFE has been executed by the Applicant and the Board, the AFE, and, if applicable, the Local ITEP Committee determination reflected in the form~~completion of a resolution, included as Exhibit "A" to the AFE, and if applicable, Exhibit B, shall be submitted to the Governor for review and consideration.~~

Commented [JL35]: Streamlined

Gov is provided time to act, then contracts are deemed approved, currently companies are being left in limbo

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

2. The Governor must execute the Authorization for Exemption Agreement for the exemption to be in effect.

a) Applications approved by the Board, resulting in an Authorization for Exemption Agreement (s) signed by the Applicant that is awaiting the Governor's signature shall be reported to the tax Assessor on the form LAT5A as "pending exemption" by the Applicant until such time as the Governor notifies Applicant of his decision to deny the exemption.

i) The Governor shall have ninety (90) days upon receipt of a signed Authorization for Exemption Agreement from the Applicant to request additional information or to deny the exemption. If the Governor does not exercise his authority during this time frame, then the Authorization for Exemption Agreement shall be deemed approved by the Governor.

3. The Governor ~~construction~~ may approve or deny the AFE, and an AFE shall not be considered effective or binding upon the state until signed by the Governor.

4. The terms for the Governor's ~~by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the~~ contracts for ITEP, as provided for in Executive Order JML 24-23, represent the primary cause for the Governor's approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract may render the approval of the Governor null and void.~~project completion report and affidavit of final cost.~~

F. Any new Asset, group of Assets, or Capital Expenditure that resulted in an increase to the Cost Basis of an existing Asset (collectively hereafter referred to a items) shall be subject to property tax unless the item is included on the applicable Annual List of Exempt Assets and attached to a fully executed Exemption Contract of an fully executed Authorization for Exemption Agreement as of August 31st following the January 1st in which the items are first subject to tax assessment.

1. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

Commented [JL36]: Property Tax Alignment

Company must have its Assets covered by an exemption no later than August 31st following the first January 1st assessment date.

To be covered by an exemption, the company must have an Authorization for Exemption Agreement - give it permission to make tax exempt property acquisitions - then put the tax exempt property on a Exempt List as an Addendum to an Exempt contract that is fully executed by August 31st

Parishes are typically finalizing tax rolls between September and October of each year, hence the 8/31 date

§557. Local ITEP Committee – Establishment, Consideration of Application, Meetings, and Determination

A. Establishment.

1. The following local officials or employees shall be voting members and collectively comprise an ad hoc Local ITEP Committee (“the Committee”):
 - a. the parish president or the president of the police jury;
 - b. the president of the school ~~Board~~ or the superintendent of the school ~~Board~~, as elected by resolution of the school ~~Board~~; and
 - c. the sheriff or his designee; and, if applicable,
 - d. the mayor, if the project is located in a municipality;
2. Additional, ex-officio non-voting members may include:
 - a. the assessor;
 - b. the parish’s highest-ranking economic development staff;
 - c. members of the local economic development organization; or
 - i. if no local economic development organization exists, a representative from the regional economic development organization.

~~B. Consideration of ITEP applications~~

- ~~1. The summary agenda and the summary tables on all applications on the agenda for the regular meetings of the board shall be posted on LED’s website at least one week prior to the meeting, but no later than 24 hours from when the board packet is provided to the board when feasible.~~
 - ~~a. the Committee is encouraged, but not required, to send comments to the board prior to the assigned meeting date for consideration of an application.~~
- ~~2. Upon the board’s approval of an ITEP application, LED shall transmit notice documents regarding the approved application, which may include but not be limited to:~~
 - ~~a. a copy of the ITEP application;~~
 - ~~b. a notice of board approval;~~
- ~~3. Notice documents shall be transmitted to the Local ITEP Committee as follows:~~
 - ~~a. directly to the individual voting members with email addresses on file with LED, or if applicable and preferred, to one centralized Local ITEP Committee email address on file with LED; and~~
 - ~~b. shall be made available to ex-officio non-voting members and the public via a posting on the department’s website;~~
 - ~~c. such notice shall be transmitted or posted by the department within three business days of the approval.~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

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~~C. Meetings~~

- ~~1. Upon receipt of notice, a 15-day notice period begins.~~
- ~~2. The Committee is not required to hold a meeting, however, any such meeting held to consider an ITEP application shall be considered public business and conducted by officials in accordance with Open Meetings laws.~~
- ~~3. Within the 15-day notice period, the Committee may notice a public meeting to be held at a location customarily used by the parish council or police jury for public meetings for purposes of considering the ITEP application.~~
- ~~4. If the Committee places the application on the agenda for a public meeting, the Committee will have an additional 30 days (for a total of 45 days from the start of the notice period) to conduct a public meeting.~~

~~D. Determination~~

- ~~1. The Committee shall submit to the department a resolution stating the approval or rejection of industrial ad-valorem tax exemption applications within its jurisdiction.~~
- ~~2. Any resolution shall be submitted to the department no later than 45 days from the start of the notice period.~~
- ~~3. If the Committee does not take action or provide a resolution as required herein, then the application will be deemed approved by such entity.~~

~~E. Decisions by the Committee are not dispositive and do not bind the Governor or the Board.~~

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

§559. The Authorization for Exemption Agreement ~~Contract~~

A. Upon ~~Board~~ board approval ~~of an application and subsequent receipt of the Department's~~ Local ITEP Committee's determination, LED shall draft an Authorization for Exemption Agreement ("AFE") ~~a contract~~ setting forth the general terms and conditions for which all subsequent Exemption Contracts must abide, which may include, but shall not be limited to the following terms and conditions:

1. Stating Applicants right to make Capital Investments eligible for exemption;

2. Stating the approved ~~1. an initial term of no more than five calendar years;~~
~~2. a term of renewal for an additional time period of up to five years; and~~
~~3. an ad valorem exemption percentage; of 80%.~~

3. Stating the effective date and ending date of the Exemption Acquisition Period; and

4—B. The general terms and conditions for applicable Exemption Contracts.

B. The Department ~~contract~~ shall submit the AFE ~~be submitted~~ to the Applicant ~~business~~ electronically via the Department's ~~LED's~~ electronic document signing system, or other method as may otherwise be approved by all parties.

C. Any proposed changes or amendments to an Authorization for Exemption Agreement that includes an Exhibit A from a Local ITEP Committee, must be first submitted and approved by the Department, and then submitted to the Local ITEP Committee for its consideration. The Local ITEP Committee shall have thirty (30) days to respond. Failure to timely respond shall be noted as "No Comment" for the Board's consideration.

1. A fee of \$500 shall be due for any proposed changes or amendments to an Authorization for Exemption Agreement.

~~—C. The business must execute its portion of the contract within 90 days. If the contract is not executed and submitted to the department within 90 days, the board's approval shall be deemed rescinded.~~

~~—D. Once the contract has been executed by the business and the board, the contract, including any Local ITEP Committee determination reflected in the form of a resolution, included as Exhibit "A" to the contract, and shall be submitted to the Governor for review and consideration.~~

~~—E. The Governor may approve or deny the contract, and a contract shall not be considered effective or binding upon the state until signed by the Governor.~~

~~—F. The terms for the Governor's approval of the contracts for ITEP, as provided for in Executive Order JML 24-23, represent the primary cause for the Governor's approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the Governor null and void.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

Commented [JL37]: Streamlining + Competitiveness + Alignment with Ptax Regulations

Companies "apply" for the AFE

The AFE authorizes companies to go out and make capital investments approved for exemption during a specified term - not to exceed 36 months without special BCI approval

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

§561. Exemption Contracts Extension of Time

- A. A fully executed Authorization for Exemption Agreement must exist before the Department can execute an Exemption Contract with a Manufacturing Establishment.
- B. The Exemption Contract unique identification number prefix shall be the same number as the Authorization for Exemption unique identification number and the suffix for the Exemption Contract shall be the calendar year of the Exemption Period.
- C. The Exemption Contract designates the term of the exemption.
- D. The Exemption Contract includes the Asset or group of Assets exempted.
- E. The Exemption Contract shall reference the terms and conditions of the fully executed Authorization for Exemption Agreement.
- F. The Exemption Contract shall not include an exemption term exceeding five (5) years, and shall include an option to renew for an additional five (5) year term.
- G. The Department shall attach the Annual List of Exempt Assets as an addendum to an Exemption Contract.
- H. The Authorization for Exemption Agreement Contractee and the Department shall both sign the Exemption Contract.
- I. The Board, and the Governor, may elect to receive, review, and execute Exemption Contracts.

§563. Annual List of Exempt Assets

- A. Contractees of a Authorization for Exemption Agreement shall file an Annual List of Exempt Assets with the Department on or before March 31st during the Exemption Period stated on the Authorization for Exemption Agreement.
 - 1. Late filings of the Annual List of Exempt Assets shall be presented to the Board for consideration for penalties.
 - a) Penalties could include the loss of a year of exemption for each calendar year or portion thereof, that the filing is late.
 - 2. The Department may grant up to three (3) one (1) month extension of time to file the Annual List of Exempt Assets.
 - 3. The fee to amend an Annual List of Exempt Assets is \$500.

Commented [JL38]: Streamlined + Competitive + Fact Based + Better aligned with Ptax regs + Intuitive

This is the "ITEP Contract" as contemplated in the Constitution.

Once a company has a fully executed AFE, they then make all purchased during a calendar year

January 1st is the constitutionally designed universal assessment date

All property tax filings are due to tax assessors on 3/31 and can be extended to 4/30

Company reports the same exempt property to LED and Tax Assessor around the same time, using very similar data and records

No estimates for this agreement, as it includes Assets Placed in Service for the prior year.

Very clean process

Commented [JL39]: Streamlined + Transparent + Factual + Intuitive + Competitive

The list replaces the Affidavit of Final Cost and the "Breakdown of Purchases". This list ties to the company's fixed asset register and is auditable and ties to the depreciation calculated on the federal income tax return. These are the Assets and costs of said assets for the company. Very clean, transparent, simple, competitive and aligned with property tax regulations.

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

B. The Annual List of Exempt Assets shall include all Assets eligible for exemption that were Placed In Service during the Exemption Period ending December 31st of the prior calendar year. It shall also include the list of Assets whose Cost Basis were increased due to eligible Capital Expenditures. Assets whose Cost Basis were increased due to eligible Capital Expenditures must include the original Asset Cost Basis, the new Asset Cost Basis, and the difference between original Asset Cost Basis and the new Asset Cost Basis as the amount eligible for exemption.

C. The Department shall review the filing to ensure the Placed In Service date for the Asset or group of Assets is correct, the Cost Basis differentials are accurately calculated, and to ensure the entity has an active Authorization for Exemption Agreement.

A. The department may grant an extension of up to six months for the filing of an application, a project completion report, or an affidavit of final cost, provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted by the secretary for good cause. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden of establishing good cause.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§563.— Effective Date of Contract; Project Completion Report

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with the department on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §551.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§565.— Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of \$250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by the department, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §561.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§567. Renewal of ~~Tax~~ Exemption Contract

A. Application for renewal of the exemption must be filed with the ~~Department~~department through the ~~Department's~~department's online Fastlane portal not more than ~~twelve (12)~~six months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the ~~Board~~board for an additional period of no more than five years and provide for an ad valorem exemption ~~equal to the percentage of the original contract~~of 80 percent.

Commented [JL40]: Simplified Compliance

B. ~~A renewal Applicant may request to have its renewal contract terms and conditions updated to align with Eligibility of the rules and regulations existing at the time of renewal. But eligibility of the Applicant~~applicant and the property for renewal of the exemption ~~shall~~will be reviewed by the ~~Board~~board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.

~~C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.~~

D. The term of the renewal contract shall be reduced by one year for each calendar ~~year~~month, or portion thereof, that the renewal application is filed late. The ~~Board~~board may impose any other penalty for late renewal submission that it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§569. ~~Violation of Rules or Documents; Inspection~~

~~A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the department may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.~~

~~B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.~~

~~C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§571. Reporting Requirements for Changes in ~~Ownership~~Operations

~~A. A. The Department shall~~department is to be notified ~~within six (6) months~~immediately of any change ~~which affects the tax exemption contract. This includes, but is not limited to, any changes in the ownership or operational name of an entity~~a firm holding a tax exemption contract ~~for the purpose of obtaining a contract amendment.~~

CONSULTING FIRMS - EXHIBIT 2 - JML PROPOSED CHANGES (TRACK CHANGES)

B. ~~A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in name.~~

~~location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to timely report any material changechanges constitutes a breach of contract and, with approval by the Board, mayboard, shall result in restrictions and possibly the restriction or termination of the exemption contract.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§572. Relocations and Transfers

A. A Contractee may move personal property within a parish from one Site to another and continue the original exemption term providing Contractee timely files a Transfer Request Form form with the Department within 90 days after December 31st of the Exemption Period in which the relocation occurred.

1. A fee of \$250 shall be filed with a request for a Change in Location.
2. Failure to timely submit the Transfer Request Form request form could result in penalties being assessed by the Board. All Change in Location requests must be approved by the Board.

B. Personal property moved from one parish within the state to another shall be eligible for the unexpired consecutive years, if any, of the Exemption Contract granted at the original location.

1. The Contractee shall complete a Transfer Request Form and submit via the Fastlane Portal within six (6) months from the date of transfer.
2. LED shall have five (5) business days to send notification to the Local ITEP Committee.
3. The Local ITEP Committee shall have twenty (20) business days to hold a public meeting and determine if it supports or does not support the Contractee's interest to continue the exemption in the new parish for the remaining term of the exemption. If the Local ITEP Committee does not timely respond, then LED shall notify the Board that there was "No Comment" from the Local ITEP Committee.
3. Failure to timely submit the Transfer Request Form could result in penalties being assessed by the Board.
4. All Transfer Request Form requests must be approved by the Board.

C. If a Contractee relocates its entire operations, or portion thereof, from one parish in the state to another location in a different parish within the state, then the company shall seek approval of the Local ITEP Committee in which the manufacturing establishment will be located.

Commented [JL41]: More intuitive + simpler

1. The manufacturing establishment shall make its request to continue the remaining term of its exemption prior to beginning operations at the new site.
2. The Local ITEP Committee shall have thirty days to provide input to the Board as to whether it supports or does not support the continued exemption.
3. The Board and the Governor shall determine if the Contractee shall enjoy the remaining term of the exemption.

§573. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event an Applicant~~applicant~~ should sell, merge, or transfer ~~otherwise dispose of property covered by a majority interest in~~~~contract of exemption~~, the Manufacturing Establishment, the new owner~~purchase~~ of the said plant or property shall~~may~~, within six (6)~~three~~ months of the date of such act of sale, transfer, or merger, notify the Board of the said event and request to transfer the contract(s) to the new entity and to change the name of the Contractee ~~apply to the board for a transfer of the applicable contract(s).~~ A fee of \$250 shall be filed with a request to transfer and change the name of the contract. The Board~~board~~ shall consider all such notifications~~applications~~ for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting Applicant~~applicant~~. Failure to request or apply for a transfer within the stipulated time period may result in penalties such as a reduction in the remaining term~~shall constitute a violation~~ of the contract(s).-

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

Commented [JL42]: Simpler

§574. Cessation of Operations

- A. The Department shall be notified in writing no later than six (6) months following the cessation of operations of the manufacturing facility.
- B. The Department shall send a copy of the notification to the Local ITEP Committee. The Local ITEP Committee shall have twenty (20) business days to hold a public meeting and determine if it supports or does not support the Contractee's interest to continue the exemption in the new parish for the remaining term of the exemption. If the Local ITEP Committee does not timely respond, then LED shall notify the Board that there was "No Comment" from the Local ITEP Committee.
- C. The Board shall decide to either terminate the active Exemption Contract(s) or to allow the property tax exemption to be in effect for an additional one (1) year term. The Contractee shall appear before the Board annually to provide an update as to the status of operations.
- D. The Board must approve all annual continuations of affected Exemption Contracts.
- E. The Board may further restrict or cancel the Exemption Contract(s) due to the cessation of the manufacturing operation.

Commented [JL43]: Codified existing policy + added flexibility

§575. **Change in Name**

A. In the event a Contractee should rename the Manufacturing Establishment covered by a contract of exemption, the new owner of the said plant or property shall, within six (6) months of the date of the name change, notify the Department of the name change. A copy of the new entity name, as evidenced from a printout from the Secretary of State website, and a fee of \$250 shall be filed with a request to change the contract. No such renaming shall in any way impair or amend any of the provisions of the contract other than to change the name of the Contractee. Failure to request or apply for a transfer within the stipulated time period may result in penalties such as reduction of the remaining exemption term.

§575. Violation of Rules or Documents; Inspection

A. The Board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the Department, with reasonable cause may perform a full investigation on behalf of the Board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the Applicant and complainants. Results of the investigation will be presented to the Board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the Applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the Board may conduct a hearing to reconsider the contract of exemption, after giving the Applicant not less than 60 days' notice.

C. If the Board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the Board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§576. Reporting to the Parish Assessor

A. The ~~Applicant~~^{applicant} shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor and ~~up to 80 percent of the~~ exempted taxes shall not be collected thereon during the period of exemption.

C. All property for which an Authorization for Exemption has been approved by the Board, and awaiting a final determination by the Governor shall be reported to the Parish Assessor as "Pending Exemption" on the LAT5A.

1. Property identified as "Pending Exemption" that fails to receive final approval from the Governor by August 31st shall be subject to taxation for that year.

i) the Applicant must follow the proper guidelines as outlined by the Louisiana Tax Commission to have taxes paid under protest and prevail or have a change order approved and the paid taxes refunded to have such property reconsidered and eligible for exemption.

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through the Department's ~~department's~~ online Fastlane portal.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§580. Compliance Reporting

A. LED shall conclude the review of timely filed Louisiana Industrial Property Tax Exemption Compliance reports in the calendar year in which the reports are due. Failure to complete the review of a timely compliance report by the Department by December 31st of the calendar year in which the report was due, shall result in the approval of the Contractee's compliance report filings without penalty by the Board regardless of the Company's performance results.

1. Compliance reports filed late that demonstrate a failure of the company to satisfy its performance requirements may be penalized by the Board

Commented [JL44]: Issue is developing here as JBE ITEP Compliance Reports have been timely filed, but have yet to be reviewed dating back to 2022. Assessors are not sure what to do - especially if the company is non-compliant, but it just isnt "official" yet.

Current process lets locals have input to Board on what to do, so it is possible that in mid to late 2024, a company is told that its exemption for 2022 is not valid and additional taxes must be paid with penalty and interest - Something needs to be done to remedy the situation. This is a first draft concept.

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- B. For the initial project year, the due date shall be as described in Exhibit B. However, the report shall not be considered delinquent until the 181st day following the date of the Governor's signature on the Exemption Contract.
1. For all subsequent calendar years, the due date shall be the last day of the fourth month following the end of each calendar year (April 30). One extension of 60 days is available if requested before the end of the last day of the fourth month following the end of the calendar year.
 2. A fee of \$250 shall be submitted with each project year's Annual Compliance Reporting submittal. A fee shall not be required for resubmittal of the same project year's Annual Certification of Compliance.
- C. All jobs and payroll meeting the definitional requirements in Exhibit B shall be counted towards the Exhibit B jobs and payroll commitments regardless of the company going beyond its job commitments. Additionally, any retained payroll commitment can be met by including payroll from jobs created above and beyond the minimum job retention commitment.
- D. Delinquent submittals of the Annual Compliance Report shall not be presented to the Board or local governing authorities unless the compliance reporting is more than three calendar months delinquent with no bi-lateral communication between the Department and the company during those three calendar months.
- E. When a company fails to meet the jobs or payroll commitments in a project year as per Exhibit B, the Department shall follow the guidelines for notification to the local governing authorities as specified in the Exhibit B.
1. The local governing authorities may issue their recommendations and comments to the board.
 2. The board may decide to penalize the company for a project year shortfall, but in no instance shall the penalty be greater than the tax exemption amount for the project year shortfall.

Subchapter B. ITEP Rules for projects with advances filed on or after February 21, 2024
§539. Statement of Purpose

A. Purpose.

1. Louisiana values its manufacturers and their contributions to its economy.
2. On all projects, Applicant manufacturers are to demonstrate a genuine intent 1) to being a good corporate citizen in the community or communities where manufacturing operations occur 2) to making capital investments at manufacturing Sites in Louisiana. These are the expectations for the program’s future, and the Board will continue to operate it in a way that makes Louisiana competitive with other states in attracting new capital investment to the State while giving local governments a voice in their taxation. These rules are to be interpreted in a manner to promote these goals.
3. Article VII, Section 21 (F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry (“Board”), 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 is in the best interest of the state.

Commented [JL1]: Making New CapX and Local Input as key features of ITEP

B. Best interest of the state

1. The provisions set forth in this Subchapter establish the criteria that the Governor and the Board will consider for purposes of deciding what is in the best interest of the state.

C. Applicability

- 1 The provisions set forth in this Subchapter shall apply to all new applications for exemption presented to the Louisiana Board of Commerce and Industry following the effective date of the promulgation of these rules.
- 2 Renewal Applicants may elect to have the provisions set forth in this Subchapter apply to renewal Contracts.

Commented [JL2]: Optionality

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§541. Definitions

Addition to a Manufacturing Establishment – the following conditions must be satisfied to be deemed an addition to a manufacturing establishment:

Commented [JL3]: LA Property Tax Alignment + Accounting/Tax Terminology Alignment = more efficient and more intuitive for common accounting/finance people who do property tax work

Changed definition to align with Generally Accepted Accounted Principle terms “Capital Expenditures”, “Placed in Service”, “Assets” - all of which related with Louisiana Tax Commission concepts, rules, and regulations - making ITEP more aligned with global accounting and tax terms.

New Capital is what is being sought - not operational “expenses”

- a) The funds spent were Capital Expenditures that resulted in either the creation of a new and identifiable Asset or an increase in the Cost Basis to an existing Asset.
- b) The new Asset or the increase in the Cost Basis to an existing Asset must be identifiable on the Applicant’s Fixed Asset Register.
- c) The new Asset was Placed In Service after the date the application for exemption was received by the Department.
- d) The Capital Expenditures that increased the Cost Basis of an existing Asset occurred after the date the application for exemption was received by the Department.
- e) The new Asset was Placed In Service or the Capital Expenditure that increased the Cost Basis of an existing Asset was spent during an approved Exemption Acquisition Period;
- f) The Asset physically resides and is used solely at the Site;
- g) Each individual Asset must satisfy one or more of the following conditions:
 - i. the Asset is new to the Site; or
 - ii. the Capital Expenditure caused a physical change to an existing Asset that increased its value, utility, useful life, or competitiveness; or
 - iii. the Capital Expenditure resulted in an Asset that improved the environmental impact of the manufacturing activities.

Annual List of Exempt Assets – the report filed each year by the Contractee that includes the list of Assets eligible for the exemption that were placed into service on Contractee’s books during the prior calendar year.

Commented [JL4]: Streamlining + Ptax Alignment

Applicant – the legal entity applying for exemption.

Asset – real or personal property owned by the Applicant or Contractee as stated on its book’s fixed asset listing. The term Asset shall also represent both an individual asset and a group of assets.

Commented [JL5]: Clarity + Streamlining + LA Ptax Alignment
Companies paid property taxes on property, an Asset is property owned by the company.

Authorization for Exemption Agreement (“AFE”) – the agreement resulting from the consideration and approval of an application for exemption that designates the Exemption Acquisition Period, the Exemption Percentage, and includes the general terms and conditions for which all related subsequent Exemption Contracts must abide.

Commented [JL6]: Streamlining
Obtain upfront / prospective approval to make exempt purchased in the future - acts like a Master Services Agreement / CEA authorizing the company to make exempt purchases

Board – the Louisiana Board of Commerce and Industry.

Capital Expenditure – Funds used to acquire, upgrade, or maintain an Asset. These are amounts spent by an Applicant or Contractee that are recorded on the manufacturing establishment’s balance sheet instead of expensed on the income statement.

Commented [JL7]: Clarity + Streamlining + Ptax Alignment

Commented [JL8R7]: Capital Expenditures end up as an asset on a balance sheet

Also helps with simplifying how to easily distinguish between and eligible vs ineligible cost.

Commented [JL9]: Memorializing Existing Form

Change in Location Form – the form submitted by a Contractee notifying the Department of a change in location of an Asset or Group of Assets previously located at the manufacturing Site listed on the Authorization for Exemption Agreement and the applicable Exemption Contract(s).

Commented [JL10]: Memorializing Existing Form

Change in Operation Form – the form submitted by a Contractee notifying the Department and the Board of a change in operation such as a change in name or a change in ownership of the Contractee of the Authorization for Exemption Agreement and the applicable Exemption Contract(s).

Committee – Local ITEP Committee

Contractee – the legal entity named in the Authorization for Exemption Agreement with the Louisiana Board of Commerce & Industry and the Governor and the legal entity named in the Exemption Contract with the Department.

Cost Basis – the total amount spent on, accumulated cost for, and or purchase price of an Asset as reflected on the manufacturing establishment’s balance sheet for book purposes, and not tax purposes.

Commented [JL11]: Streamline + Clarity + Ptax Alignment

An asset’s cost basis is what is used when reporting cost to the tax assessor

Department—Louisiana Economic Development.

Exemption Contract – the contract for exemption authorized by Article 7 Section 21 of the Louisiana Constitution.

Commented [JL12]: Streamlining

Exemption Acquisition Period – the designated period whereby the Contractee may Place in Service new Assets or spend Capital Expenditures that increase the Cost Basis of an existing Asset that shall be eligible for exemption.

Commented [JL13]: Streamlining

Exemption Term – the period of the exemption for an Asset or group of Assets as stated on the Exemption Contract.

Exhibit A— an exhibit to the Authorization for Exemption Agreement that includes the resolution from the Local ITEP Committee signifying its support, or lack thereof, for Applicant’s application for exemption.

Exhibit B – an exhibit to the Authorization for Exemption Agreement that includes the specific performance requirements, and the consequences for failure to meet said requirements, for the Contractee to receive tax exemption benefits beyond the standard 80% exemption.

Fixed Asset Register - a detailed listing of the Assets owned by the company.

Commented [JL14]: Streamlining + Clarity

LDR - Louisiana Department of Revenue.

ITEP Application Acknowledgment Form – the form provided by the Department to the Local ITEP Committee notifying the Local ITEP Committee of an ITEP application filing and which shall also solicit feedback from the Local ITEP Committee on its intentions to hold a public meeting regarding the ITEP application.

Commented [JL15]: Streamlining

Local ITEP Committee – a committee established by the JML Executive Order 24-23 to be formed by local government and local economic development representatives to provide local input on ITEP applications.

Manufacturer—a person or legal entity engaged in Manufacturing at a Manufacturing Establishment.

Manufacturing—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be suitable for use as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Manufacturing Establishment—a legal entity registered with the Louisiana Secretary of State that owns Assets at a Site where manufacturing occurs.

Payroll – the total dollar amount of wages paid to an employee or employees, as documented on the Louisiana Workforce Commission “Employer’s Quarterly Wage and Tax Report (LWC Form ES4).

Commented [JL16]: Streamlining

Site – the contiguous area of the entire manufacturing operation. Public roads, private roads, easements, right of ways, waterways, bridges, or other means of public or private access shall be considered as part of the contiguous area of the entire manufacturing operation. Assets leading to and from the site legal fence line, such as pipelines, rail lines, or other forms of transporting goods to and from the site or between sites that reside on easements or right of ways shall not be included as the contiguous area of the entire manufacturing operation.

Commented [JL17]: Clarity

Place In Service and Placed in Service – the date when an Asset is substantially complete and ready for its intended use as documented in the manufacturing establishment’s accounting system.

Commented [JL18]: Alignment with Ptax + Clarity + Streamlining

Qualified Disaster -

1. a disaster which results from:
 - a. an act of terror directed against the United States or any of its allies; or

- b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;
- 2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
- 3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal, state, or local government, or agency or instrumentality thereof; or
- 4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

Secretary—secretary of the Louisiana Economic Development.

Transfer Request Form – the form used by a Contractee to request the continuation of an exemption for an Asset or group of Assets that are relocated from the original Site identified in an Authorization for Exemption Agreement to a new Site in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§543. Ineligible Property

- A.** The following property is ineligible for the tax exemption:
 - 1. Property owned by a manufacturing establishment that did not result from a Capitalized Expenditure.
 - 2. Amounts spent on the routine operations and maintenance of the real and personal property at the Site that are expensed, and not capitalized.
 - 3. Repairs to real and personal property that are expensed.
 - 4. That portion of the Asset’s Cost Basis that was included as part of a prior year’s property tax assessment, unless one of the following conditions are met:
 - a) the manufacturing establishment paid the taxes under protest, then the Asset, or Cost Basis thereof, may be eligible for exemption once the protest is complete;

Commented [JL19]: Streamlining + Clarity + Ptax Alignment

- b) if the manufacturing establishment has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible Assets, then such Assets, or proportional value thereof, may be considered by exemption.
5. The Board shall not consider for tax exemption the original Cost Basis of any Asset that was previously subject to an ad valorem tax exemption that has expired or otherwise been terminated, unless one of the following conditions are met:
- a) The Asset is personal property and is older than ten (10) years or more beyond the average economic life in years. An Asset's average economic life in years shall be determined by using the Louisiana Tax Commission "Suggested Guidelines For Ascertaining Economic Lives of Business and Industrial Personal Property"; or
 - b) The Asset is real property and is more than thirty (30) years old or older.
6. The Board shall not consider for tax exemption an Asset, or any proportional value thereof, that was placed into service in the calendar year preceding the filing of the application, unless one or more of the following conditions are met:
- i) if the Applicant paid the taxes under protest, then the property may be eligible for exemption once the protest and appeals process concludes and concludes in favor of the tax payer;
 - ii) if the Applicant has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible Assets, then such Assets, or the proportional value thereof, may be considered by exemption.
 - iii) If an Asset was previously fully or partially exempt through a valid Exempt Assets agreement or any other Louisiana Industrial Property Tax Exemption Contract, then only the difference between the original Cost Basis and the total cost of the new Capital Expenditure may be eligible for exemption. For instance, if the initial furnace that received ITEP exemption benefits cost \$100,000 and the new replacement furnace cost \$150,000, then the manufacturing establishment can only pursue an exemption on the \$50,000 of differential costs.
7. Land
- a. The land on which a manufacturing establishment is located is not eligible for tax exemption.
8. Inventories
- a. inventories of raw materials used in the course of manufacturing;

- b. inventories of work-in-progress or finished products;
- c. any other consumable items.

§546. Used Equipment

Commented [JL20]: Clarity

A. The acquisition cost of used property may be eligible for tax exemption. Only the difference between the Cost Basis of the newly acquired used equipment and the assessed fair market value of the used equipment may be considered for exemption. The exemption shall not result in a reduction of the prior year's assessed value. Only increased value may be exempted.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§547. Replacement

Commented [JL21]: Clarity

- A. The cost to replace existing property may be eligible for exemption.
- 1. The amount eligible for exemption shall be the difference between the original Cost Basis of the property and the Cost Basis for the newly acquired property, except when the total replacement cost exceeds \$50,000,000, under such circumstances, the entire replacement cost is eligible for exemption.
 - a) a single Asset or multiple Assets may be considered when determining if the \$50,000,000 threshold is met.
 - b) the \$50,000,000 threshold must be met during the first twenty-four months of the Exemption Acquisition Period, otherwise, the original Cost Basis for all replacement costs shall be deducted when determining the amount eligible for exemption.

§549. Application

Commented [JL22]: Streamlining

- A. Applications for an Authorization for Exemption Agreement shall include future planned capital investments.
- 1. All applications for an Authorization for Exemption Agreement shall be filed with the Department through the Department's online Fastlane portal.
 - a) The Department shall assign the application a unique identification application number.
 - b) If the application is approved, then the Department shall use the application's unique identification number for the Authorization for Exemption Agreement unique identification number with the suffix "- AFE", and the Department shall use the same

Current process takes 90 days +
Proposed new process can be completed in 45 days
Still allows for local input
Eliminates Advance Notification
Applications are prospective only - act just like Advance Notifications did - only Assets Placed in Service after the filing of the Application are eligible for consideration for exemption.

Commented [JL23]: Maintaining Prospective Feature of Advance Notification (which was removed)

application unique identification number for the applicable Exempt Contracts with the applicable calendar year as the suffix.

2. Applications for an Authorization for Exemption Agreement may be filed at any time during a calendar year.

Commented [JL24]: Less Rigorous

3. An application fee of 0.002 shall be applied to the estimated property tax savings calculated on the application. The minimum fee shall be \$500 and the maximum fee shall be \$15,000.

4. Applicants shall not include any Asset or group of Assets with Placed in Service dates preceding the application submission date stated on the Department's Fastlane system for the Board's consideration on the application.

Commented [JL25]: Keeping Process Prospective

a) The application shall not be officially received and accepted by the Department until the appropriate fee is paid.

5. Applications for an Authorization for Exemption Agreement shall include an Exemption Period of thirty-six (36) consecutive months or less, unless 1) the application includes a single planned Capital Investment exceeding \$500,000,000 or 2) the Board of Commerce and Industry approves a request for an extended Exemption Period prior to the filing of the application.

6. Applicants that have 50 employees or less, nationwide, including all affiliates, may apply for a 100% property tax exemption.

Commented [JL26]: Flexibility + Help Small Businesses

7. Applicants that have 50 employees or more, nationwide, including affiliates, may apply for an 80% property tax exemption.

Commented [JL27]: Streamlined

8. Applicants that have 50 employees or more, nationwide may apply for more than an 80% property tax exemption on the following conditions:

Commented [JL28]: Flexibility + Competitiveness

a) The Applicant must receive a resolution of support from the Local ITEP Committee specifying the exemption percentage above 80%, except when:

- i) the parish does have a Local ITEP Committee; or
- ii) the parish Local ITEP Committee does not return the Application Acknowledgement Form to the Department as per §549(C).

b) In the absence of a Local ITEP Committee, the Applicant shall negotiate the exemption percentage with the Department, and the Department shall recommend the negotiated exemption percentage to the Board.

i) an Applicant may appeal the Departments recommended exemption percentage to the Board.

- c) Failure to comment by a Local ITEP Committee shall result in the Department’s recommendation for approval of the requested exemption percentage to the Board. The Department shall note that the Local ITEP Committee provided “No Comment” on the Applicant’s request.
 - d) The Local ITEP Committee Resolution may, but shall not be required to, include one or more of the following performance requirements:
 - i) a requirement for the company to maintain a certain percentage of Payroll
 - ii) a requirement for the company to increase Payroll by a specified percentage (which shall be rounded up when the compliance calculations are performed .5 or more shall be rounded up)
 - iii) a requirement to spend a minimum amount on Capital Expenditures.
 - e) The specific performance requirements, if any, shall be negotiated between the Applicant and the Local ITEP Committee and then memorialized into an Exhibit B by the Department. Exhibit B shall be attached to the Authorization for Exemption Agreement and all applicable Exemption Contracts.
 - i) In the absence of a Local ITEP Committee, the performance requirements, if any, may be negotiated and executed solely between the Department and the Applicant.
 - ii) In the absence of a response from an existing Local ITEP Committee, no performance requirements shall be negotiated with the Applicant and the Applicant shall be eligible for the requested exemption percentage without performance requirements.
 - f) The Local ITEP Committee does not need to provide its reasoning for denying a request for more than an 80% exemption nor shall a representative from the Local ITEP Committee be required to attend the Board meeting when the Applicant is being considered for exemption.
 - g) The Board and the Governor shall give consideration to the decisions made and Resolutions passed by the Local ITEP Committee, however, both the Board and the Governor shall reserve the right to approve whatever terms each body deems to be in the best interest of the state.
9. Applicants that have 50 employees or more, nationwide, including affiliates, and who have plans to spend \$1 billion dollars or more over a span of three (3) or more consecutive years, may apply for an 93% property tax exemption on the following conditions:
- a) The Applicant must receive a resolution of support from the Local ITEP Committee specifying the exemption percentage above 80% unless:

Commented [JL29]: Flexibility

Commented [JL30]: Full Transparency Throughout the Approval Process

Commented [JL31]: Flexibility

Commented [JL32]: Flexibility + Competitiveness

- i) the parish does have a Local ITEP Committee; or
 - ii) the parish Local ITEP Committee does not comment.
- b) In the absence of a Local ITEP Committee, the Applicant shall negotiate the exemption percentage with the Department, and the Department shall recommend the negotiated exemption percentage to the Board.
- i) an Applicant may appeal the Departments recommended exemption percentage to the Board.
- c) Failure to comment by a Local ITEP Committee shall result in the Department's recommendation for approval of the requested exemption percentage to the Board. The Department shall note that the Local ITEP Committee provided "No Comment" on the Applicant's request.
- d) The Local ITEP Committee Resolution may, but shall not be required to, include one or more of the following performance requirements:
- i) a requirement for the company to maintain a certain percentage of Payroll
 - ii) a requirement for the company to increase Payroll by a specified percentage (which shall be rounded up when the compliance calculations are performed .5 or more shall be rounded up)
 - iii) a requirement to spend a minimum amount on Capital Expenditures.
- e) The specific performance requirements, if any, shall be negotiated between the Applicant and the Local ITEP Committee and then memorialized into an Exhibit B by the Department. Exhibit B shall be attached to the Authorization for Exemption Agreement and all applicable Exemption Contracts.
- i) In the absence of a Local ITEP Committee, the performance requirements, if any, may be negotiated and executed solely between the Department and the Applicant.
 - ii) In the absence of a response from an existing Local ITEP Committee, no performance requirements shall be negotiated with the Applicant and the Applicant shall be eligible for the requested exemption percentage without performance requirements.
- f) The Local ITEP Committee does not need to provide its reasoning for denying a request for more a 93% exemption nor shall a representative from the Local ITEP Committee be required to attend the Board meeting when the Applicant is being considered for exemption.

g) The Board and the Governor shall give consideration to the decisions made and Resolutions passed by the Local ITEP Committee, however, both the Board and the Governor shall reserve the right to approve whatever terms each body deems to be in the best interest of the state.

Commented [JL33]: Flexibility

B. Manufacturing Sites that reside in more than one parish shall file an application for Authorization for Exemption with the Board for each parish in which the Site is located.

1. Approved applications shall be parish specific, and each approved application shall result in an independent Authorization for Exemption Agreement.

C. The Department and the Local ITEP Committee shall adhere to the following process:

Commented [JL34]: Streamlining + Transparency + Simplified +Local Input + More Competitive with other states

1. The Department shall send a copy of the application to the Local ITEP Committee within five (5) business days of receipt of a completed application via its online portal Fastlane.

a) The Department shall copy the Applicant on the transmittal to the Local ITEP Committee.

2. The Local ITEP Committee shall have ten (10) consecutive days from the date of the transmittal of the application to the Local ITEP Committee to return a completed ITEP Application Acknowledgment Form to the Department.

a) The Local ITEP Committee shall state on the ITEP Application Acknowledgement Form if it intends to hold a public meeting to consider the application for exemption, and if so, it shall state the date, time, and place of said public meetings on the form.

b) All Local ITEP Committee resolutions shall state if the committee is in favor of or not in favor of the application and shall also include the reasons for its position.

i. Local ITEP Committee resolutions to be considered by the Board and the Governor are due to the Department no later than thirty (30) consecutive days from receipt of notice from the Department.

ii. Local ITEP Committee resolutions to be considered by the Governor are due to the Department no later than thirty (30) consecutive days from receipt of notice from the Department.

iii. Decisions that are reflected in Resolutions passed by the Local ITEP Committee are not dispositive and do not bind the Governor or the Board. Said decisions and Resolutions are intended to provide local input into the Board and Governor's consideration as to what may be in the best interest of the State.

- iv. Local ITEP Committee Resolutions that are not in support of the pending application, shall include the reasons for the Local ITEP Committee's decision and one or more of the Local ITEP Committee voting members shall attend the Board meeting and present its position to the Board. Failure to attend the Board meeting shall nullify the Resolution.
3. The Department shall provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) within ten (10) business days of receipt of a completed application via its online portal Fastlane. LDR may require additional information from the Applicant. The Department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the Board for action.
4. After its review and determination of eligibility, the Department will prepare the application information in a format suitable for presentation to the Board.
5. Applicant or its representatives will be notified of the Board meeting date during which their application will be considered. The Applicant should have someone present who is able to answer any questions the Board may have regarding the information contained in the application, otherwise the application may be deferred or denied.
6. The Board must approve the application prior to an Authorization for Exemption Agreement being issued.

D. Board Consideration of Application

1. Eligibility of the Applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the Board based upon the facts and circumstances existing at the time the application is considered by the Board.
 - a) Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the Board.
 - b) The Board will receive all public comments given at the Board meeting, or any written comments filed with Department prior to the Board meeting date.
2. The property exempted may be increased or decreased based upon review of the application.
3. The Department shall provide approved Applicant's an Authorization for Exemption Agreement to execute within three (3) business days following the Board meeting.
4. Applicants shall have ninety (90) days to execute the Authorization for Exemption Agreement.

E. The Governor’s review process.

1. Once the AFE has been executed by the Applicant and the Board, the AFE, and, if applicable, the Local ITEP Committee determination reflected in the form of a resolution, included as Exhibit “A” to the AFE, and if applicable, Exhibit B, shall be submitted to the Governor for review and consideration.
2. The Governor must execute the Authorization for Exemption Agreement for the exemption to be in effect.
 - a) Applications approved by the Board, resulting in an Authorization for Exemption Agreement (s) signed by the Applicant that is awaiting the Governor’s signature shall be reported to the tax Assessor on the form LAT5A as “pending exemption” by the Applicant until such time as the Governor notifies Applicant of his decision to deny the exemption.
 - i) The Governor shall have ninety (90) days upon receipt of a signed Authorization for Exemption Agreement from the Applicant to request additional information or to deny the exemption. If the Governor does not exercise his authority during this time frame, then the Authorization for Exemption Agreement shall be deemed approved by the Governor.
3. The Governor may approve or deny the AFE, and an AFE shall not be considered effective or binding upon the state until signed by the Governor.
4. The terms for the Governor’s approval of the contracts for ITEP, as provided for in Executive Order JML 24-23, represent the primary cause for the Governor’s approval of an ITEP contract. Any occurrence that operates to change, suspend, or breach the terms of the contract may render the approval of the Governor null and void.

F. Any new Asset, group of Assets, or Capital Expenditure that resulted in an increase to the Cost Basis of an existing Asset (collectively hereafter referred to a items) shall be subject to property tax unless the item is included on the applicable Annual List of Exempt Assets and attached to a fully executed Exemption Contract of an fully executed Authorization for Exemption Agreement as of August 31st following the January 1st in which the items are first subject to tax assessment.

Commented [JL35]: Streamlined

Gov is provided time to act, then contracts are deemed approved, currently companies are being left in limbo

Commented [JL36]: Property Tax Alignment

Company must have its Assets covered by an exemption no later than August 31st following the first January 1st assessment date.

To be covered by an exemption, the company must have an Authorization for Exemption Agreement - give it permission to make tax exempt property acquisitions - then put the tax exempt property on a Exempt List as an Addendum to an Exempt contract that is fully executed by August 31st

Parishes are typically finalizing tax rolls between September and October of each year, hence the 8/31 date

§557. Local ITEP Committee – Establishment, Consideration of Application, Meetings, and Determination

A. Establishment.

1. The following local officials or employees shall be voting members and collectively comprise an ad hoc Local ITEP Committee (“the Committee”):
 - a. the parish president or the president of the police jury;
 - b. the president of the school Board or the superintendent of the school Board, as elected by resolution of the school Board; and
 - c. the sheriff or his designee; and, if applicable,
 - d. the mayor, if the project is located in a municipality;
2. Additional, ex-officio non-voting members may include:
 - a. the assessor;
 - b. the parish’s highest-ranking economic development staff;
 - c. members of the local economic development organization; or
 - i. if no local economic development organization exists, a representative from the regional economic development organization.

§559. The Authorization for Exemption Agreement

- A. Upon Board approval, the Department shall draft an Authorization for Exemption Agreement (“AFE”) setting forth the general terms and conditions for which all subsequent Exemption Contracts must abide, which may include, but shall not be limited to the following terms and conditions:
1. Stating Applicants right to make Capital Investments eligible for exemption;
 2. Stating the approved ad valorem exemption percentage;
 3. Stating the effective date and ending date of the Exemption Acquisition Period; and
 4. The general terms and conditions for applicable Exemption Contracts.
- B. The Department shall submit the AFE to the Applicant electronically via the Department’s electronic document signing system, or other method as may otherwise be approved by all parties.

Commented [JL37]: Streamlining + Competitiveness + Alignment with Ptax Regulations

Companies “apply” for the AFE

The AFE authorizes companies to go out and make capital investments approved for exemption during a specified term - not to exceed 36 months without special BCI approval

- C. Any proposed changes or amendments to an Authorization for Exemption Agreement that includes an Exhibit A from a Local ITEP Committee, must be first submitted and approved by the Department, and then submitted to the Local ITEP Committee for its consideration. The Local ITEP Committee shall have thirty (30) days to respond. Failure to timely respond shall be noted as “No Comment” for the Board’s consideration.
 - 1. A fee of \$500 shall be due for any proposed changes or amendments to an Authorization for Exemption Agreement.

§561. Exemption Contracts

- A. A fully executed Authorization for Exemption Agreement must exist before the Department can execute an Exemption Contract with a Manufacturing Establishment.
- B. The Exemption Contract unique identification number prefix shall be the same number as the Authorization for Exemption unique identification number and the suffix for the Exemption Contract shall be the calendar year of the Exemption Period.
- C. The Exemption Contract designates the term of the exemption.
- D. The Exemption Contract includes the Asset or group of Assets exempted.
- E. The Exemption Contract shall reference the terms and conditions of the fully executed Authorization for Exemption Agreement.
- F. The Exemption Contract shall not include an exemption term exceeding five (5) years, and shall include an option to renew for an additional five (5) year term.
- G. The Department shall attach the Annual List of Exempt Assets as an addendum to an Exemption Contract.
- H. The Authorization for Exemption Agreement Contractee and the Department shall both sign the Exemption Contract.
- I. The Board, and the Governor, may elect to receive, review, and execute Exemption Contracts.

§563. Annual List of Exempt Assets

- A. Contractees of a Authorization for Exemption Agreement shall file an Annual List of Exempt Assets with the Department on or before March 31st during the Exemption Period stated on the Authorization for Exemption Agreement.
 - 1. Late filings of the Annual List of Exempt Assets shall be presented to the Board for consideration for penalties.

Commented [JL38]: Streamlined + Competitive + Fact Based + Better aligned with Ptax regs + Intuitive

This is the “ITEP Contract” as contemplated in the Constitution.

Once a company has a fully executed AFE, they then make all purchased during a calendar year

January 1st is the constitutionally designed universal assessment date

All property tax filings are due to tax assessors on 3/31 and can be extended to 4/30

Company reports the same exempt property to LED and Tax Assessor around the same time, using very similar data and records

No estimates for this agreement, as it includes Assets Placed in Service for the prior year.

Very clean process

Commented [JL39]: Streamlined + Transparent + Factual + Intuitive + Competitive

The list replaces the Affidavit of Final Cost and the “Breakdown of Purchases”. This list ties to the company’s fixed asset register and is auditable and ties to the depreciation calculated on the federal income tax return. These are the Assets and costs of said assets for the company. Very clean, transparent, simple, competitive and aligned with property tax regulations.

- a) Penalties could include the loss of a year of exemption for each calendar year or portion thereof, that the filing is late.
- 2. The Department may grant up to three (3) one (1) month extension of time to file the Annual List of Exempt Assets.
- 3. The fee to amend an Annual List of Exempt Assets is \$500.
- B. The Annual List of Exempt Assets shall include all Assets eligible for exemption that were Placed In Service during the Exemption Period ending December 31st of the prior calendar year. It shall also include the list of Assets whose Cost Basis were increased due to eligible Capital Expenditures. Assets whose Cost Basis were increased due to eligible Capital Expenditures must include the original Asset Cost Basis, the new Asset Cost Basis, and the difference between original Asset Cost Basis and the new Asset Cost Basis as the amount eligible for exemption.
- C. The Department shall review the filing to ensure the Placed In Service date for the Asset or group of Assets is correct, the Cost Basis differentials are accurately calculated, and to ensure the entity has an active Authorization for Exemption Agreement.

§567. Renewal of Exemption Contract

- A. Application for renewal of the exemption must be filed with the Department through the Department's online Fastlane portal not more than twelve (12) months before, and not later than, the expiration of the initial contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the Board for an additional period of no more than five years and provide for an ad valorem exemption equal to the percentage of the original contract.
- B. A renewal Applicant may request to have its renewal contract terms and conditions updated to align with the rules and regulations existing at the time of renewal. But eligibility of the Applicant and the property for renewal of the exemption shall be reviewed by the Board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.
- C. The term of the renewal contract shall be reduced by one year for each calendar year, or portion thereof, that the renewal application is filed late. The Board may impose any other penalty for late renewal submission that it deems appropriate.

Commented [JL40]: Simplified Compliance

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§571. Reporting Requirements for Changes in Ownership

- A. The Department shall be notified within six (6) months of any change in the ownership or operational name of an entity holding a tax exemption contract for the purpose of obtaining a contract amendment.
- B. A fee of \$250 shall be filed with a request for a contract amendment, including but not limited to, a change of ownership or change in name.
- C. Failure to timely report a material change constitutes a breach of contract and, with approval by the Board, may result in restrictions and possibly the termination of the exemption contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§572. Relocations and Transfers

- A. A Contractee may move personal property within a parish from one Site to another and continue the original exemption term providing Contractee timely files a Transfer Request Form form with the Department within 90 days after December 31st of the Exemption Period in which the relocation occurred.
 - 1. A fee of \$250 shall be filed with a request for a Change in Location.
 - 2. Failure to timely submit the Transfer Request Form request form could result in penalties being assessed by the Board. All Change in Location requests must be approved by the Board.
- B. Personal property moved from one parish within the state to another shall be eligible for the unexpired consecutive years, if any, of the Exemption Contract granted at the original location.
 - 1. The Contractee shall complete a Transfer Request Form and submit via the Fastlane Portal within six (6) months from the date of transfer.
 - 2. LED shall have five (5) business days to send notification to the Local ITEP Committee.
 - 3. The Local ITEP Committee shall have twenty (20) business days to hold a public meeting and determine if it supports or does not support the Contractee’s interest to continue the exemption in the new parish for the remaining term of the exemption. If the Local ITEP Committee does not timely respond, then LED shall notify the Board that there was “No Comment” from the Local ITEP Committee.

Commented [JL41]: More intuitive + simpler

3. Failure to timely submit the Transfer Request Form could result in penalties being assessed by the Board.
 4. All Transfer Request Form requests must be approved by the Board.
- C. If a Contractee relocates its entire operations, or portion thereof, from one parish in the state to another location in a different parish within the state, then the company shall seek approval of the Local ITEP Committee in which the manufacturing establishment will be located.
1. The manufacturing establishment shall make its request to continue the remaining term of its exemption prior to beginning operations at the new site.
 2. The Local ITEP Committee shall have thirty days to provide input to the Board as to whether it supports or does not support the continued exemption.
 3. The Board and the Governor shall determine if the Contractee shall enjoy the remaining term of the exemption.

§573. Sale or Transfer of Exempted Manufacturing Establishment

Commented [JL42]: Simpler

- A. In the event an Applicant should sell, merge, or transfer a majority interest in the Manufacturing Establishment, the new owner of the said plant or property shall, within six (6) months of the date of such act of sale, transfer, or merger, notify the Board of the said event and request to transfer the contract(s) to the new entity and to change the name of the Contractee of the applicable contract(s). A fee of \$250 shall be filed with a request to transfer and change the name of the contract. The Board shall consider all such notifications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting Applicant. Failure to request or apply for a transfer within the stipulated time period may result in penalties such as a reduction in the remaining term of the contract(s).

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§574. Cessation of Operations

Commented [JL43]: Codified existing policy + added flexibility

- A. The Department shall be notified in writing no later than six (6) months following the cessation of operations of the manufacturing facility.
- B. The Department shall send a copy of the notification to the Local ITEP Committee. The Local ITEP Committee shall have twenty (20) business days to hold a public meeting and determine if it supports or does not support the Contractee's interest to continue the exemption in the new parish for the remaining term of the exemption. If the Local ITEP

Committee does not timely respond, then LED shall notify the Board that there was “No Comment” from the Local ITEP Committee.

- C. The Board shall decide to either terminate the active Exemption Contract(s) or to allow the property tax exemption to be in effect for an additional one (1) year term. The Contractee shall appear before the Board annually to provide an update as to the status of operations.
- D. The Board must approve all annual continuations of affected Exemption Contracts.
- E. The Board may further restrict or cancel the Exemption Contract(s) due to the cessation of the manufacturing operation.

§575. Change in Name

- A. In the event a Contractee should rename the Manufacturing Establishment covered by a contract of exemption, the new owner of the said plant or property shall, within six (6) months of the date of the name change, notify the Department of the name change. A copy of the new entity name, as evidenced from a printout from the Secretary of State website, and a fee of \$250 shall be filed with a request to change the contract. No such renaming shall in any way impair or amend any of the provisions of the contract other than to change the name of the Contractee. Failure to request or apply for a transfer within the stipulated time period may result in penalties such as reduction of the remaining exemption term.

§575. Violation of Rules or Documents; Inspection

- A. The Board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the Department, with reasonable cause may perform a full investigation on behalf of the Board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the Applicant and complainants. Results of the investigation will be presented to the Board.
- B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the Applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the Board may conduct a hearing to reconsider the contract of exemption, after giving the Applicant not less than 60 days’ notice.
- C. If the Board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the Board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§576. Reporting to the Parish Assessor

- A. The Applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.
- B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor and the exempted taxes shall not be collected thereon during the period of exemption.
- C. All property for which an Authorization for Exemption has been approved by the Board, and awaiting a final determination by the Governor shall be reported to the Parish Assessor as "Pending Exemption" on the LAT5A.
 - 1. Property identified as "Pending Exemption" that fails to receive final approval from the Governor by August 31st shall be subject to taxation for that year.
 - i) the Applicant must follow the proper guidelines as outlined by the Louisiana Tax Commission to have taxes paid under protest and prevail or have a change order approved and the paid taxes refunded to have such property reconsidered and eligible for exemption.
- C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through the Department's online Fastlane portal.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and the Department of Economic Development, LR

§580. Compliance Reporting

- A. LED shall conclude the review of timely filed Louisiana Industrial Property Tax Exemption Compliance reports in the calendar year in which the reports are due. Failure to complete the review of a timely compliance report by the Department by December 31st of the calendar year in which the report was due, shall result in the approval of the Contractee's compliance report filings without penalty by the Board regardless of the Company's performance results.
 - 1. Compliance reports filed late that demonstrate a failure of the company to satisfy its performance requirements may be penalized by the Board

Commented [JL44]: Issue is developing here as JBE ITEP Compliance Reports have been timely filed, but have yet to be reviewed dating back to 2022. Assessors are not sure what to do - especially if the company is non-compliant, but it just isnt "official" yet.

Current process lets locals have input to Board on what to do, so it is possible that in mid to late 2024, a company is told that its exemption for 2022 is not valid and additional taxes must be paid with penalty and interest - Something needs to be done to remedy the situation. This is a first draft concept.

- B. For the initial project year, the due date shall be as described in Exhibit B. However, the report shall not be considered delinquent until the 181st day following the date of the Governor's signature on the Exemption Contract.
 - 1. For all subsequent calendar years, the due date shall be the last day of the fourth month following the end of each calendar year (April 30). One extension of 60 days is available if requested before the end of the last day of the fourth month following the end of the calendar year.
 - 2. A fee of \$250 shall be submitted with each project year's Annual Compliance Reporting submittal. A fee shall not be required for resubmittal of the same project year's Annual Certification of Compliance.
- C. All jobs and payroll meeting the definitional requirements in Exhibit B shall be counted towards the Exhibit B jobs and payroll commitments regardless of the company going beyond its job commitments. Additionally, any retained payroll commitment can be met by including payroll from jobs created above and beyond the minimum job retention commitment.
- D. Delinquent submittals of the Annual Compliance Report shall not be presented to the Board or local governing authorities unless the compliance reporting is more than three calendar months delinquent with no bi-lateral communication between the Department and the company during those three calendar months.
- E. When a company fails to meet the jobs or payroll commitments in a project year as per Exhibit B, the Department shall follow the guidelines for notification to the local governing authorities as specified in the Exhibit B.
 - 1. The local governing authorities may issue their recommendations and comments to the board.
 - 2. The board may decide to penalize the company for a project year shortfall, but in no instance shall the penalty be greater than the tax exemption amount for the project year shortfall.

DECLARATION OF EMERGENCY

Department of Economic Development
Office of Business Development

Industrial Ad Valorem Tax Exemption Program

(LAC 13:I. Chapter 5)

This emergency rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:962 (A)(1)(a) which provide for emergency procedures to establish rules, and R.S. 51:921 and R.S. 36:104 which allows the Department of Economic Development ("Department") to promulgate rules and regulations to protect the welfare and prosperity of the citizens of the state.

The Department and the Board of Commerce and Industry have an immediate need to amend the rules of the Industrial Tax Exemption Program (LA Const. Art. VII, Section 21) to implement programmatic changes in alignment with Executive Order JML 24-23. A delay in imposition would hinder effective administration of this program and delay access to the program by qualified applicants, resulting in an adverse financial impact on local governing authorities, the state, the Department, Louisiana businesses and taxpayers.

This Emergency Rule shall be effective April 24, 2024, and shall remain in effect for a period of 180 days unless renewed by the Department or until adoption of final rules, whichever occurs first.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 5. Industrial Ad Valorem Tax Exemption Program

Subchapter A. ITEP Rules for projects with advances filed prior to February 21, 2024

[The Louisiana Register may add a note here to clarify that existing program rules #501-#537 are unchanged.]

§501. Statement of Purpose

~~A. New Rules~~

~~1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the industrial property tax exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention investment in Louisiana. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for projects considering participating in the industrial tax exemption program.~~

~~2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.~~

B. Applicability of rules in effect prior to June 24, 2016. ~~Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules.~~ Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 ~~under rules in effect prior to June 24, 2016~~ are to be treated fairly under the rules that were in place at the time of the contracts and prior to the ~~new~~current rules. Louisiana honors its commitments and the rules governing existing contracts and applications not

subject to the new rules are to be interpreted in order to promote fairness and commitment. ~~Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 and 2018 rules changes.~~

C. Going Forward

~~1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.~~

~~2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.~~

~~3. For those applications with an advance notification form filed after June 24, 2016, but before July 1, 2018, the applicant has the option of choosing whether to proceed under the rules effective June 20, 2017, or the rules effectuated in 2018. Applications with an advance notification form filed after June 24, 2016, but before October 21, 2016, shall be subject to the rules effectuated on June 20, 2017, except that the industrial property tax exemption granted may be up to 100 percent for an initial contract term of no more than 5 years and may be renewed for no more than an additional 5 year contract term at up to a 100 percent exemption based upon performance of the applicant's obligations as delineated in exhibit A.~~

~~2. Contracts with an advance notification form filed after June 24, 2016, but before February 21, 2024, shall remain subject to the commitments and obligations as outlined in the exhibit A through the original five-year contract term, except as provided for within §507.A.7., §517.B., and §501.C.3.~~

~~3. For Advance Notifications filed after June 24, 2016, and before February 21, 2024, for which no ITEP Application has been approved by the Board, the company may elect to file an ITEP Application subject to either Subchapter A or Subchapter B rules.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:1417 (August 2018).

§502. Definitions

Addition to a Manufacturing Establishment—

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is ~~directly~~-related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

~~2. maintenance capital, required environmental capital improvements, upgrades, and replacement parts, except those modifications or replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;~~

~~3. expenses associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment. However, for replacements costs, only the capitalized cost over and above the replaced assets' current depreciated assessed value is eligible.~~

*Beginning of Construction—*the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

*Board—*Board of Commerce and Industry.

*Capital Expenditure—*the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

*Department—*Louisiana Department of Economic Development.

*Establishment—*an economic unit at a single physical location.

Commented [GU1]: Left rule effectiveness for 2017 and 2018, as there are contracts subject to these provisions.

Exhibit A—a fully executed agreement between the department and the applicant specifying the terms and conditions of the granting of the exemption contract.

~~*Integral*—required to make whole the product being produced.~~

~~*Front-End Application* – an application submitted before such time as more than 50% of the project’s time-frame as stated on the Advance Notification has elapsed.~~

ITEP Ready—a parish that has provided for continuous local governmental entity approval or rejection for all industrial ad valorem tax exemption applications within the parish.

Job—positions of employment that are:

1. new (not previously existing in the state) or retained;
2. permanent (without specific term);
3. full-time (working 30 or more hours per week);
4. employed directly, by an affiliate or through contract labor;
5. based at the manufacturing establishment;
6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and
7. any other terms of employment as negotiated in the exhibit A, including a requirement that in order to qualify for a job, a basic health benefits plan is or has been offered in conjunction with the position of employment.

Local Governmental Entity—the parish governing authority, school board, sheriff, and any municipality in which the manufacturing establishment is or will be located.

~~*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition.~~

Manufacturer—a person or business who engages in manufacturing at a manufacturing establishment.

Manufacturing—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be suitable for use as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Mega-Project—a manufacturing establishment that provides ~~at least~~ at least one of the following:

1. 500 jobs, employed directly, only, and otherwise meeting the definition of jobs, which shall generate a minimum of \$20,000,000 in net new payroll within three years of the beginning of operations; ~~and/or~~
2. a minimum of ~~\$100~~\$500,000,000 in capital expenditures.

Obsolescence—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

~~*Phase Application* – an application submitted for assets placed in service for the prior exemption year only and for no more than 12 months.~~

Qualified Disaster—

1. a disaster which results from:
 - a. an act of terror directed against the United States or any of its allies; or
 - b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;
2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal, state, or local government, or agency or instrumentality thereof; or

4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

~~Rehabilitation—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.~~

~~Required Environmental Capital Upgrades—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty. Environmental upgrades demonstrated to be in excess of state and federal governmental agency requirements shall not be considered required environmental capital upgrades.~~

~~Restoration—repairs to bring a building or structure to at least its original form or an improved condition.~~

~~Secretary—secretary of the Louisiana Department of Economic Development.~~

~~Site—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment, including easements and right of ways. Public roads shall not impact the determination whether a Site is contiguous for ITEP purposes.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 43:1132 (June 2017), amended LR 44:1418 (August 2018), amended by House Concurrent Resolution No. 4 of the 2020 Regular Legislative Session, LR 46:856 (June 2020).

§503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the department on the prescribed form prior to the beginning of construction or installation of facilities on all projects for tax exemption ~~except as provided in §505.A and~~

~~B. of these rules.~~ An advance notification fee of \$250 shall be submitted with the form.

~~C.~~ The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification.

~~D.~~ The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the ~~estimated project ending date~~ date of expiration as provided in this section.

~~B.~~ All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

~~C.~~

§504. Application

A. An application for tax exemption may be filed with the department on the prescribed form, ~~subject to the following conditions:~~

~~B.1.~~ ~~the filing~~ The filing may be either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first; the deadline for filing the application may be extended pursuant to §515.

~~C.2.~~ ~~the deadline for filing the~~ Front-end application may be extended pursuant to §523; filing procedures.

~~1.~~ ~~3.~~ an applicant filing an File application prior to on prescribed form following the submittal of the Advance Notification and no later than the beginning of operations or end of construction point at which 50% of the project period as stated on the Advance Notification has elapsed.

~~2.~~ 2. Applicant shall file an annual status report with the department on the prescribed form by December 31, until the project completion report and affidavit of final cost are filed. ~~If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract;~~

a. ~~4.~~ 4. ~~—An extension shall be granted pursuant to §515, if requested by the applicant by the due date.~~

b. ~~If the applicant fails to timely file an annual status report with the department, the board may, after notice to the applicant, penalize the applicant;~~

~~3.~~ 3. ~~An applicant shall file a phase application for any yearly exemption period of no more than 12 months in which property becomes operational or usable or assets are placed in service. This phase application is due 90 days following the end of that exemption year.~~

a. ~~The deadline for filing the phase application may be extended pursuant to §515.~~

b. ~~The phase application will result in a separate contract with independent reporting requirements from the front-end contract.~~

~~4.~~ 4. ~~If all property becomes operational or usable or all assets are placed in service in one exemption period, then no phase application is required, and the company may proceed after construction completion or commencement of operations with the submittal of the project completion report and affidavit of final cost as specified later in this chapter.~~

D. ~~Post project completion application filing procedures.~~

~~1.~~ 1. ~~Applicant may file application on prescribed form no later than 90 days after the beginning of operations or end of construction, whichever occurs first. The deadline for filing the application may be extended pursuant to §515.~~

~~2.~~ 2. ~~An applicant filing an application after the beginning of operations or end of construction of the project (post completion application) is not required to file an annual status report with the department.~~

~~3.~~ 3. ~~An applicant shall file a phase application for any yearly exemption period of no more than 12 months in which property becomes operational or usable or assets are placed in service. This phase application is due 90 days following the end of that exemption year.~~

a. ~~The deadline for filing the phase application may be extended pursuant to §515.~~

b. ~~The phase application will result in a separate contract with independent reporting requirements.~~

~~4.~~ 4. ~~An applicant with assets going into service in one exemption period shall not need to file more than one application following project completion or commencement of operations.~~

~~E.~~ E. ~~An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$500 and in no case shall a fee exceed \$15,000 per project. For Front-End contracts which have paid \$15,000 in application fees, a nominal fee of \$500 will be charged for each additional phase application filed after the maximum of \$15,000 fees have been met;~~

~~5.~~ G. ~~If the application is submitted after the filing deadline, the term of exemption available under an initial contract may be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the remaining term of the original five-year contract. The board may impose any other penalty for late filing that it deems appropriate.~~

§505. Application Review

~~A.~~ A. ~~The department reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect, or the correct fee is not submitted. The document may be resubmitted with the correct information and fee-, if the fee is greater upon resubmittal.~~

~~6.~~ 6. ~~If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.~~

Commented [GU2]: A company can file a front-end application with or without phases and back-end application with or without phases.

~~D.~~ B. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

~~E.~~ In order C. Applications which provide for a new manufacturing establishment or which provide for an addition to receive a manufacturing establishment with the board's creation of new jobs or a compelling reason for the retention of existing jobs may be favored by the board.

1. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following non-exclusive situations may be considered:

- a. to prevent relocation to another state or country;
- b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;
- c. to employ best practice or innovative, state of the art technology for the establishment's industry which shall be deemed to extend the life of the manufacturing establishment;
- d. to increase maximum capacity or efficiency;
- e. to provide the state a competitive advantage as determined by the secretary or by the board; or
- f. upon the sharing of financial information as to the profit/loss of the facility accompanied by evidence that the exemption will prolong the life of, and employment at, the manufacturing establishment.

B. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the board.

C. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost.

D. An front-end application may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, penalize the applicant.

§506. Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials

A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities located within the manufacturing site. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities; and
2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:
 - a. buildings to house a manufacturing establishment;
 - b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;
3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized materials which are a part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

1. ammonia in a freezing plant;
2. solvent in an extraction plant; and
3. catalyst in a manufacturing process.
4. spare parts capitalized along with the original purchase of eligible property.

D. Property added that is replacing existing property is eligible only for the amount in excess of the original cost of replaced property.

1. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

2. A deduction for the original cost of property shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

E. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

F. Companies that have exemption contracts and cease operations must provide written notice within 90-days of notice from LED stating why operations have ceased and state if the company requests to pursue an application(s) for exemption or if the company requests the continuation of an existing exemption contract. All such requests shall be brought to the Louisiana Board of Commerce and Industry for consideration. The Louisiana Board of Commerce and Industry shall determine what is in the best interest of the state based upon the facts provided by the company and on a case-by-case basis.

G. Companies that filed advance notifications and began construction on a manufacturing establishment, but failed to complete construction and go into operations, must provide written notice to LED by the application due date stating why the project did not go into operations and state if the company requests to pursue an application(s) for exemption or if the company requests the continuation of an existing exemption contract(s). All such requests shall be brought to the Louisiana Board of Commerce and Industry for consideration. The Louisiana Board of Commerce and Industry shall determine what is in the best interest of the state based upon the facts provided by the company and on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

§507. Exhibit A.

A. The board may consider applications with advance notifications filed after June 24, 2016, ~~shall and before February 21, 2024, that are subject to the 2017 or 2018 ITEP rules and include an exhibit A containing that contains~~ the following terms and conditions:

1. either the number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;
2. that the initial exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the initial exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;
3. that the applicant can apply for a renewal exemption contract, the consideration of which will be based upon the applicant's ~~performance~~ manufacturing activity during the initial term of the contract and that the renewal exemption contract shall be for a term of no more than five years and may provide for an ad valorem exemption of 80 percent, except that the renewal exemption contract for mega projects shall be for a term of no more than five years and may provide for an ad valorem exemption of up to 93 percent;
4. that the department, on behalf of the board, will notify the local governmental entities and the assessor when jobs and/or payroll requirements are not met in accordance with the default provisions in exhibit A and this subchapter;

i. the department shall not notify the local governmental entities and the assessor for delinquent submittals, unless there has been no bi-lateral communication between the company and the department within 90 days of the due date

ii. the department shall not notify the local governing entities and the assessor when jobs and/or payroll have been met above the default threshold provided for in Exhibit A, i.e. 80% or 90%.

5. a provision addressing the penalty for failure to create the requisite number of jobs and/or payroll at the manufacturing establishment, including but not limited to, payment of stipulated sums to the taxing authorities, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

6. a statement of return on investment (ROI) as determined by the secretary.

F.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following non-exclusive situations may be considered:

a. to prevent relocation to another state or country;

b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;

c. to employ best practice or innovative, state of the art technology for the establishment's industry which shall be deemed to extend the life of the manufacturing establishment;

d. to increase maximum capacity or efficiency;

e. to provide the state a competitive advantage as determined by the secretary or by the board; or

f. upon the sharing of financial information as to the profit/loss of the facility accompanied by evidence that the exemption will prolong the life of, and employment at, the manufacturing establishment.

G. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the board. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

H. 7. Exhibit A may be amended with Local LED and Board approval to revise the jobs and payroll commitments for calendar years falling within the original contract period or the renewal contract period, if applicable. Such amendments may be made retroactively for no more than one prior project year and prospectively through the term of the exhibit A. For Exhibit A to be amended, the company shall submit a special request to LED and Board.

B. For applications filed after February 21, 2024, and subject to §501.C.3., Exhibit A is defined as in Subchapter B of this chapter.

§508. Local Input Period

A. Upon the board's approval of an application, the department, on behalf of the board, shall, within three business days, transmit a copy of the approval and Exhibit A by mail or electronic mail to each local governmental authority and the assessor in the parish in which the manufacturing establishment is or will be located.

B. The department shall post notice of the board's approval of an application on the department's website within three business days of approval, upon which date shall begin a notice period of 30 days for the parish governing authority (speaking on behalf of the parish and all parish bodies who are located outside the boundary of any affected municipality who receive a millage), the school board, any applicable municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage) and the sheriff to initiate action to approve or reject the board's action as provided hereinafter.

~~1. 1.~~ Within the 30-day notice period, the parish governing authority, the school board, or any affected municipality may identify the application on the agenda of a public meeting:

~~a. Shall provide a notice and the sheriff may issue a letter approving or denying the application, and notice of these actions shall be given to the department within three business days. A local governmental entity that places the application on the agenda for a and contacts identified on the ITEP Application via email of a public meeting at which the ITEP Application will be evaluated no later than 24 hours preceding the public meeting will have. All municipalities providing this notice will receive an additional 30 days (for a total of 60 days from the start of the notice day period) to conduct evaluate the ITEP Application, for a total evaluation period of no more than 60 days.~~

~~b. May act on the ITEP Application by approving or rejecting the board approved application at a public meeting issuing a resolution, according to the regulations for that municipality.~~

~~c. If action is taken to approve or reject the board approved application at a public meeting, the municipality shall provide notice of such action to the department and contacts identified on the ITEP Application within three business days of such action, and provide the accompanying resolution, if applicable. If no resolution is available, the municipality shall provide the meeting minutes recording the vote as soon as it becomes available.~~

~~d. The Sheriff may issue a letter either approving or rejecting the board approved application, and notice of the issuance shall be given to the department within three business days.~~

~~a-e.~~ If a local governmental entity does not take action or provide notice as required herein, then the application will be deemed approved by each such entity.

~~f. 2-a.~~ If a local governmental entity denies the board approved application:

~~i. the local governmental entity shall provide a reason for the denial to the department and the contacts included on ITEP application.~~

~~ii. The applicant may appeal to the board or the Governor of Louisiana with a letter to the department or an email to ITEP@la.gov;~~

~~iii. the board or Governor may override the local denial in the best interest of the State.~~

~~iv. In each case, the contract for exemption shall be sent to the Governor for his decision whether to execute the contract.~~

§509. ITEP Ready Parish

A. A parish shall be ITEP Ready if each local governmental entity in the parish approves the designation by a majority vote at a public meeting, agreeing to either approve or reject all industrial ad valorem tax exemption applications and projects within their jurisdictions, including, in the case of continuous approval, all terms and conditions provided in any proposed industrial ad valorem tax exemption agreement. The parish governing authority, the school board, and each municipality authorized to receive a millage in the parish shall individually evidence its vote for or against the parish becoming ITEP ready by resolution. The sheriff shall evidence his vote for or against the parish becoming ITEP ready by letter. The 30-day notice period in which local governmental entities are authorized to hold a public hearing for the purpose of approving or rejecting an industrial ad valorem tax exemption application shall not apply to ITEP ready parishes. The governing authority of a parish that is ITEP ready shall submit to the department a resolution on behalf of the parish and all local governmental entities in the parish stating the continuous approval or continuous rejection of industrial ad valorem tax exemption applications within its jurisdiction. No further action evidencing local governmental entity approval or rejection shall be required.

B. Any local governmental entity within an ITEP ready parish may change its intent to be ITEP ready for the next calendar year. This change shall be evidenced by a resolution or letter presented to the Board of Commerce and Industry no later than December 31 of any year and shall be in effect for one calendar year beginning January 1 of the following calendar year. A parish shall remain ITEP Ready unless a change is made in accordance with this Subparagraph.

~~3. Within 60 days of the promulgation of these rules, the local governmental entities for each parish (in consultation with the parish assessor and, upon request, with guidance from the department), shall make best efforts to develop reasonable guidelines for application approval and/or denial and if so desired, penalty guidelines for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 43:1133 (June 2017), LR 44:1419 (August 2018), amended by House Concurrent Resolution No. 4 of the 2020 Regular Legislative Session, LR 46:856 (June 2020).

§505

§510. Miscellaneous Capital Additions

A. The renewal of miscellaneous capital addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

~~B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.~~

~~C. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.~~

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

§507. ~~Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials~~

~~A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §§517 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:~~

~~1. owners who engage in manufacturing at said facilities; and~~

~~2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:~~

~~a. buildings to house a manufacturing establishment;~~

~~b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;~~

~~3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.~~

~~B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.~~

~~C. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:~~

~~1. ammonia in a freezing plant;~~

~~2. solvent in an extraction plant; and~~

~~3. catalyst in a manufacturing process.~~

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §531.

AUTHORITY NOTE: — Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: — Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

§509. — Integral Parts of the Manufacturing Operation

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption.

B. The following activities are considered to be integral to the manufacturing process:

1. quality control/quality assurance;
2. packaging;
3. transportation of goods on the site during the manufacturing process;
4. other on-site essential activities as approved by the secretary and the board.

AUTHORITY NOTE: — Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: — Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

§511. — Rehabilitation and Restoration of Property

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

AUTHORITY NOTE: — Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: — Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1135 (June 2017), LR 44:1421 (August 2018).

§513.

§511. Relocations

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the parish governing authority, the school board, the sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site from the board.

AUTHORITY NOTE: — Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: — Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the

Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

§515. — Used Equipment 512. Property Taxes Paid on ITEP Eligible Assets

~~A. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.~~

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:886 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).~~

§517. — Ineligible Property

~~A. Maintenance capital, required environmental capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.~~

~~B.A. If the establishment or addition is on the taxable rolls and property taxes have not been paid been paid at a rate higher than one minus the approved abatement percentage, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree agrees in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.~~

~~C.B. If an assessor initiates a change order to remove ITEP eligible property approved by the Board from the taxable rolls, and a refund of taxes paid is issued by the collector, then those taxes will be deemed to have not been paid for ITEP purposes.~~

~~C. A penalty requested by the local governing authorities and granted by the Board because of a project year shortfall shall not be considered payment of tax.~~

~~D. The board shall not consider for tax exemption any property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated.~~

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).~~

§519513. Land

A. The land on which a manufacturing establishment is located is not eligible for tax exemption.

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).~~

§524514. Inventories

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;
2. inventories of work-in-progress or finished products;
3. any other consumable items.

~~AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).~~

§523515. Extension of Time

A. The department may grant an extension of up to six months for the filing of an application (§~~503-B~~504), annual project status report for front-end applications (§504.C.2), a project completion report (§~~525~~516), or an affidavit of final cost (§~~527~~517), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause. Good cause may include but not be limited to events beyond the reasonable control of the parties, such as an act of God, an act of war, an act of terrorism, a cyberattack, or a natural disaster due to earthquake, landslide, fire, flood, tornado, tropical storm or hurricane. The business shall have the burden of establishing good cause.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

§525516. Effective Date of Contract; Project Completion Report

~~A. A.~~ For each ITEP Contract, the owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with the department on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of \$250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §23515.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first, regardless of the date the Governor signs the contract. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year, regardless of the date the Governor signs the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015), LR 43:1136 (June 2017), LR 44:1422 (August 2018).

§527517. Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing ~~complete cost of the exempted project~~ the list of real and personal property associated with the project and the related costs of each. The property listed on the affidavit of final costs shall represent the exempt property. A fee of \$250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by the department, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §~~523~~515.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

§529

§518. Annual Certification of Compliance & Review (additional section)

A. For Contracts with Exhibit A as defined in this subchapter, the company shall submit an Annual Certification of Compliance.

1. For the initial project year, the due date shall be as described in Exhibit A. However, the report shall not be considered delinquent until the 181st day following the date of the Governor's signature on the ITEP Contract.

2. For all subsequent project years, the due date shall be the last day of the fourth month following the end of each project year. One extension of 60 days is available if requested before the end of the last day of the fourth month following the end of the project year.

3. A fee of \$250 shall be submitted with each project year's Annual Certification of Compliance submittal. A fee shall not be required for resubmittal of the same project year's Annual Certification of Compliance.

B. All jobs and payroll meeting the definitional requirements in Exhibit A shall be counted towards the Exhibit A jobs and payroll commitments regardless of the company going beyond its job commitments. Additionally, the retained payroll commitment can be met by including payroll from jobs created above and beyond the minimum job retention commitment.

C. Delinquent submittals of the Annual Certification of Compliance shall not be presented to the Board or local governing authorities unless the compliance reporting is more than three calendar months delinquent with no bi-lateral communication between LED and the company during those three calendar months.

D. When a company fails to meet the jobs or payroll obligations in a project year as per Exhibit A, as described in this subchapter, LED shall follow the guidelines for notification to the local governing authorities as specified in the Exhibit A.

1. The local governing authorities may issue their recommendations and comments to the board.

2. The board may decide to penalize the company for a project year shortfall, but in no instance, shall the penalty be greater than the tax exemption amount for the project year shortfall.

E. An ITEP applicant who has had their ITEP Contract terminated, cancelled, or reduced term, may appeal to the board or the Governor of Louisiana for a reversal of this decision.

F. All Annual Certification of Compliance Reports not reviewed by LED within 6 months of submission to the department shall be deemed approved and compliant for the respective years filing.

§519. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with the department on the prescribed form not more than ~~six~~twelve months before, and not later than, the expiration of the initial contract. A thirty day extension shall be granted if the request is made prior to the termination of the existing contract. A fee of \$250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an ad valorem exemption of up to 80 percent.

B. At the time of contract renewal for which the original contract was subject to the 2017 or 2018 ITEP rules, LED shall revise exhibit A to eliminate all jobs and payroll commitments. The intent is for all renewal contracts with an advance notification filed after June 24, 2016, but before February 21, 2024, to eliminate any jobs and payroll requirements in the renewal period.

1. Companies with renewal contracts subject to the 2017 or 2018 ITEP rules that have been approved by the Board and/or signed by the Governor in 2024 may request a contract revision to have the exhibit A amended to eliminate the jobs and payroll requirement.

C. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered.

C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.

D. The term of the renewal contract ~~shall~~may be reduced by one year for each calendar ~~year~~month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

1. Companies whose ITE renewal application due date changes due to a penalty enforced by BCI shall have a minimum of 90 days from the date of such BCI decision to file its renewal application and not be considered as a late filing.

E. The renewal contract shall be effective 12/31 of the year in which the initial five-year term is completed, regardless of the date the Governor executes the renewal contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

§534520. Violation of Rules or Documents; Inspection

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, the department may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

§533521. Reporting Requirements for Changes in Operations to Tax Exemption Contract

A. The department is to be notified ~~immediately~~ of any change which directly affects the tax exemption contract. This includes, but is not limited to, any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership not resulting from a sale or transaction, change in name, transfer to an affiliated entity, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

AUTHORITY NOTE: ~~Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.~~
HISTORICAL NOTE: ~~Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).~~

§535. Sale or Transfer of Exempted Manufacturing Establishment

AB. In the event an applicant should sell or otherwise dispose of proposed project or property covered by a contract of exemption, the ~~purchase~~new owner of the ~~said plant~~proposed project or property at the manufacturing site may, within threeas soon as possible and not later than twelve (12) months of the date of such ~~act of sale~~transaction or transfer, apply to the board for a transfer of the contract. A fee of \$250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

§~~537~~522. Reporting to the Parish Assessor

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor, ~~and up to 80 percent of the taxes shall be collected thereon during the period of exemption at the abated rate and taxable rate as stipulated in the ITEP Contract.~~

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through the department's online Fastlane portal.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1138 (June 2017), LR 44:1424 (August 2018).

§523. Deadline Notifications (new section)

A. For all required reporting, the department shall notify the applicant of the requisite due date at least 30 days prior to its passing.

B. If no notification is provided, the company shall not be penalized when submitting required reports past their due date.

A-C. This section covers all reporting and compliance requirements of the applicant's following promulgation of these rules.

Work Papers for Major Changes that were made to the Emergency Rules:

We re-ordered the sections to line up chronologically in the rules, i.e. Advance, Application, Local Input, Exhibit A, etc....

- 1) Section 501.C.3.
 - a. Advances filed that haven't been to the Board can choose between Subchapter A or B rules
- 2) Section 502
 - a. Defined the definition of "Addition to a Manufacturing Establishment" – streamlined the definition and removed integral.
 - b. Added a Definition for Front-End application and Phased applications
 - c. Clarified the definition of a contiguous site.
 - d. Removed the definitions for Rehabilitation, Required Environmental Capital Upgrades, and Restoration
- 3) Section 503
 - a. Cleaned it up and removed B. This is the statement that all financial incentives must be included on the same Advance. This is no longer relevant in the new Fastlane set up, plus the timing of the other incentive programs doesn't always align with the timing of the ITEP program.
- 4) Section 504
 - a. Application requirements and definitions were streamlined to align with current policy.
 - b. The process for filing phased applications was outlined according to current policy.
 - c. We also adjusted the application fee for large multi-phased projects.
- 5) Section 505
 - a. most of the changes are just movements from one section of the rules to the appropriate section so that everything aligns chronologically.
- 6) Section 506
 - a. This portion was moved as well; however, we did try to clarify "Eligible Property"
 - b. Spare parts that are capitalized along with the original purchase of the machinery and equipment are listed as eligible. This is because some pieces of equipment are required to have an inline spare available at all times in the event of equipment failure, etc...this is different from replacement parts.
- 7) Section 507
 - a. Exhibit A compliance – no automatic submission of non-compliance to the local governing authorities for delinquent submittals or non-compliance that is still within the parameters of the company's default provisions in their exhibit A. Must show bilateral communication.

- b. Added provisions that allow for Exhibit A amendments/changes if approved by the Board via a special request
- 8) Section 508
 - a. Portions of this section were moved to allow for chronological order
 - b. Provides for mutual notification between the applicant, local taxing bodies, and LED so that all parties receive communication and notification of public meetings, etc...
- 9) Section 509
 - a. Removed references to an integral part of the manufacturing operation
- 10) Section 511
 - a. Streamlined approval of Relocations
- 11) Section 515 (Now Section 512)
 - a. Removed provisions for used equipment and ineligible property.
 - b. Added a section for provisions for which property taxes were paid, but a change order was issued, and taxes refunded, shall not be deemed as having taxes "paid".
- 12) Section 523 (Now Section 515)
 - a. Provided examples and clarity for extensions of time for "Good Cause".
- 13) Section 525 (Now Section 516)
 - a. Clarified the section of the rules that discusses the effective date of the contract as it relates to the date of the Governor's signature.
- 14) Section 518
 - a. Added section for Annual Certification of Compliance and Review. The only reference to the due dates and how to file were included in exhibit A, but the rules did not address the Annual Certification of Compliance.
 - b. Addresses concerns of which jobs and payroll can be considered new or retained and gives direction on how the Board may penalize for non-compliance.
- 15) Section 519
 - a. Allows renewals to elect new subchapter B rules if they wish
 - b. Allows for penalties by the Board if they wish
- 16) Section 533 and 535 (Now Section 522)
 - a. Cleaned up and Combined Reporting Requirements for Tax Exemption Contract changes to just one section instead of separating into two.
- 17) Section 523 (New Section)
 - a. Added a Deadline Notifications section to allow for the Secretary's wishes for clear communication between LED and the Companies regarding deadlines.