

2023 Regular Session

SENATE BILL NO. 88

BY SENATOR CATHEY

TAX EXEMPTIONS. Establishes an employer supported maternal healthcare tax credit.
(gov sig)

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AN ACT

To enact R.S. 47:6043, relative to tax credits; to provide for an income and corporate franchise tax credit for certain employers; to provide for definitions; to provide for the amount of the credit; to provide for the maximum amount of credits that can be issued annually; to provide for taxpayer eligibility; to authorize unclaimed portions of a credit to be carried forward; to provide for administration of the tax credit; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6043 is hereby enacted to read as follows:

§6043. Employer supported maternal healthcare tax credit

A. The intent of this Section is to provide an incentive for Louisiana employers to support maternal healthcare by providing paid leave to employees for medical appointments relating to prenatal care and postpartum care.

B. For the purposes of this Section, the following definitions apply:

(1) "Department" shall mean the Louisiana Department of Revenue.

(2) "Employee" shall mean an individual:

(a) Who is a resident of Louisiana.

1 **(b) Who is employed by the employer for more than twenty-five hours**
2 **per week.**

3 **(c) Who has been continuously employed by the employer for at least**
4 **three months.**

5 **(d) Who is not a temporary or seasonal employee.**

6 **(e) Whose wages are subject to withholding under R.S. 47:111 et seq.**

7 **(f) Whose wages are no more than twenty dollars per hour.**

8 **(3) "Employer" shall mean a person or entity who employs three or**
9 **more full-time employees within this state for at least forty-eight calendar weeks**
10 **prior to claiming the credit and includes an individual, corporation,**
11 **partnership, association, sole proprietorship, or nonprofit organization.**

12 **(4)(a) "Medical appointment" shall mean an appointment with either:**

13 **(i) A physician that is licensed by and in good standing with the**
14 **Louisiana State Board of Medical Examiners to practice medicine in this state;**
15 **or**

16 **(ii) A nurse practitioner licensed by and in good standing with the**
17 **Louisiana State Board of Nursing.**

18 **(b) "Medical appointment" shall not include any appointment with an**
19 **organization involved in or associated with abortion clinics.**

20 **C. Administration of the credit. There shall be a credit against Louisiana**
21 **income tax or corporation franchise tax for employers that provide paid leave**
22 **to eligible employees for medical appointments reasonably related to prenatal**
23 **care and postpartum care. In order to qualify for the credit, the employer must**
24 **be a taxpayer who is required to file a Louisiana income tax return.**

25 **(1) The credit shall be equal to the hourly wage paid by an employer to**
26 **an eligible employee during the length of the medical appointment, not to**
27 **exceed three hours per appointment and thirteen medical appointments per**
28 **eligible employee per pregnancy. The paid leave must equal the hourly rate of**
29 **wages paid to the employee in order to qualify for the credit.**

1 (2) The total amount of the credits taken by an employer during any
2 taxable year shall not exceed eight hundred dollars per eligible employee per
3 pregnancy.

4 (3) The total amount of the credits granted by the department pursuant
5 to this Section in any calendar year shall not exceed two million five hundred
6 thousand dollars.

7 (4) The credits provided for in this Section shall be allowed against
8 income tax or corporate franchise tax for the taxable year in which the wages
9 are paid by the employer. The granting of credits under this Section shall be on
10 a first-come, first-served basis as further provided by rules promulgated by the
11 department. Employers shall apply for the credit on forms as prescribed by the
12 department.

13 (5) The credit may be used in addition to any federal tax credit or
14 deduction earned for family and medical leave.

15 D. Application of the credits. (1) The credit shall be allowed against the
16 income or corporation franchise tax due from the employer for the taxable
17 period in which the credit is earned. In the event that the tax credit earned
18 pursuant to this Section exceeds the total tax liability of the taxpayer in the
19 taxable year, the amount of the credit not used to offset the employer's income
20 or franchise tax liability in the taxable year earned may be carried forward as
21 a credit against subsequent income or franchise tax liabilities for a period not
22 to exceed five taxable years.

23 (2) All entities taxed as corporations for Louisiana income tax purposes
24 shall claim any credit on their corporation income and franchise tax return.

25 (3) Individuals, estates, and trusts shall claim their share of any credit
26 on their income tax return.

27 (4) Entities not taxed as corporations shall claim their share of any credit
28 on the returns of the partners or members as follows:

29 (a) Corporate partners or members shall claim their share of any credit

1 on their corporation income tax returns.

2 (b) Individual partners or members shall claim their share of any credit
3 on their individual income tax returns.

4 (c) Partners or members that are estates or trusts shall claim their share
5 of any credit on their fiduciary income tax returns.

6 E. Any employer claiming the credit shall maintain all records necessary
7 to verify the hourly wage paid to the eligible employee and the amount of paid
8 leave taken by the employee and shall provide the records to the department
9 upon request.

10 F.(1) Any employer claiming the credit shall file a copy of their written
11 paid leave policy and an affidavit with the department that contains the
12 following:

13 (a) Verification that the employer and employee are located in Louisiana.

14 (b) Certification of the employee's active full-time work status at the time
15 the credit is taken.

16 (c) The employer's reasonable determination of the time the employee
17 spent at the medical appointment provided that the employer did not have
18 actual knowledge of fraud on the part of the employee and the employer and
19 employee did not collude to commit fraud.

20 (d) Any other information that the department requires by rule.

21 (2) The affidavit shall be signed by the employer or an officer or
22 manager of the employer under penalty of perjury.

23 (3) The employer shall notify the department of any changes that may
24 affect eligibility under this Section.

25 G. Credits granted to a employer, but later disallowed, may be recovered
26 by the secretary of the department through any collection remedy authorized
27 by R.S. 47:1561.

28 H. (1) The department shall promulgate rules and regulations necessary
29 for the purpose of administering the tax credit pursuant to this Section in

1 accordance with the provisions of the Administrative Procedure Act. The rules
 2 shall include provisions regarding verification of the employer's eligibility for
 3 the credit.

4 (2) The department shall commence the promulgation of rules no later
 5 than September 30, 2023.

6 Section 2. The provisions of this Act shall be applicable to taxable years on or after
 7 January 1, 2024.

8 Section 3. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Curry Lann.

DIGEST

SB 88 Engrossed

2023 Regular Session

Cathey

Proposed law establishes an employer supported maternal healthcare tax credit against Louisiana income tax or corporation franchise tax for employers that provide paid leave to eligible employees for medical appointments reasonably related to prenatal care and postpartum care. The amount of the credit is equal to the hourly wage paid by an employer to an eligible employee during the length of the medical appointment, not to exceed three hours per appointment and thirteen medical appointments per eligible employee per pregnancy.

Proposed law defines "employee" as an individual:

- (1) Who is a resident of Louisiana.
- (2) Who is employed by the employer for more than 25 hours per week.
- (3) Who has been continuously employed by the employer for at least three months.
- (4) Who is not a temporary or seasonal employee.
- (5) Whose wages are subject to withholding under present law.
- (6) Whose wages are no more than \$20 per hour.

Proposed law defines "employer" as a person or entity who employs three or more full-time employees within this state for at least 48 calendar weeks prior to claiming the credit and includes an individual, corporation, partnership, association, or nonprofit organization.

Proposed law defines "medical appointment" as an appointment with either a physician that

is licensed by and in good standing with the La. State Board of Medical Examiners or a nurse practitioner licensed by and in good standing with the La. State Board of Nursing. "Medical appointment" does not include any appointment with an organization involved in or associated with abortion clinics.

Proposed law provides that the total amount of the credits taken by an employer during any taxable year shall not exceed \$800 per eligible employee per pregnancy.

Proposed law provides the total amount of the credits granted by the department in any calendar year shall not exceed \$2,500,000.

Proposed law provides for the administration and application of the credits.

Proposed law authorizes the department to promulgate rules as are necessary to administer the tax credit. Requires the department to commence the promulgation of rules no later than September 30, 2023.

Applicable for taxable years beginning on or after January 1, 2024.

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

(Adds R.S. 47:6043)