



## 2015 LOUISIANA LEGISLATIVE REPORT

### State Profile

Capitol: **Baton Rouge**

Governor: **Bobby Jindal (R)(Termed Out)**

General Elections: **4 Years (House, Senate, Governor)**

Legislature Convenes: **Annually**

Even Year Sessions: **General Sessions (85 Days)**

Odd Year Sessions: **Fiscal Sessions (60 Days)**

### Senate Makeup

Republicans: **26 (66.67%)**

Democrats: **13 (33.33%)**

Term: **4 Years**

Presiding Officer: **Senate President John Alario (R)**

Majority Leader: **Senator Danny Martiny (R)**

Minority Leader: **Senator Eric Lafleur (D)**

Major Utility Committee: **Commerce Committee**

### House

Republicans: **59 (56%)**

Democrats: **44 (42%)**

Independents: **2 (2%)**

Term: **4 Years**

Presiding Officer: **Speaker Charles "Chuck" Kleckley (R)(Termed Out)**

Majority Leader: **Lance Harris (R)**

Minority Leader: **John Bel Edwards (D)**

Major Utility Committee: **Commerce and Industry**

### Regulatory Body

Regulatory Body: **Louisiana Public Service Commission**

Members: **5 Elected Commissioners**

Election Cycle: **6 Year Alternating Terms**

## **Louisiana Session Backdrop**

The 2015 Louisiana Legislative session concluded on June 11, 2015 and it will no doubt be marked as one of the more memorable in the history of the state. This session came down to the wire with critical bills related to the annual budget being passed with only seconds to spare. Louisiana began the 2015 fiscal session with roughly a \$1.6 billion deficit. Prior to the start of the session, Governor Jindal proposed closing the deficit by the eliminating refundability component of approximately 13 refundable credits, thus, raising tax liability on the majority of business in Louisiana. The Governor's proposal was estimated to generate approximately \$530 million in revenue for the state. The largest of the refundable credits to be converted was the inventory tax credit, which accounted for about \$450 million. The remainder of the Governor's proposed budget utilized spending cuts and fund sweeps to balance the budget. According to Americans for Tax Reform (ATR), the Governor's proposal kept his anti-tax pledge because refundable tax credits are considered a "spending program." Therefore, converting credits to non-refundable maintained tax neutrality. The Governor's proposal garnered very little legislative support, and, from the outset, numerous alternative legislative plans emerged. In response, the Governor made it clear that he would veto any tax increase measure that did not have a corresponding offset or that otherwise did not fit within the confines of the ATR pledge.

With regard to Entergy and the electric utilities in Louisiana, the following bills were of significance:

### **Solar Tax Credit**

(HB 779) - *Passed*

#### 1) The Effects:

##### a) Leased and Purchased Systems:

- i. A \$10M/yr. cap for leased systems and a \$10M/yr. cap for purchased systems for FY2015 and FY2016; \$5M for each in FY2017 for claims filed prior to January 1, 2018.
- ii. Tax credits are granted on a first-come-first serve basis. Excess tax credits claimed about the aforementioned annual caps are treated as applied for on the first day of the subsequent year and all such claims are treated as received at the same time. If the total of the deemed requests on the first day of the subsequent year exceed the annual cap for that subsequent year, the tax credits are approved on a pro rata basis.
- iii. Repeals eligibility for a "solar thermal system" and adds exclusions for the following types of solar energy equipment: air conditioning, ventilation, lighting, pool equipment, gate systems, and other equipment as provide by administrative rule.
- iv. Adds a limitation on the taking of the credit by prohibiting any additional solar energy system tax credits once a solar energy system tax credit, regardless of the amount, has been claimed on equipment fat that residence.
- v. Cost cannot be financed by the solar installer or and installer affiliate.
- vi. Tax credit can only be claimed in the taxable year that the system is completed and placed in service, or if a new construction home, when the home is sold.
- vii. Requires the submission of certain information by a taxpayer when claiming a credit. This includes proof of installation, information on the solar panels, the terms of any financing for the system, a form for use in providing the worn statements by the dealer and installer regarding the system size, and any other documentation that may be required by administrative rule.
- viii. Requires electronic submission of all tax credit claims.

- b) Purchased system:
    - i. Changes the maximum amount of the credit for a system purchased and installed on or after July 1, 2015, and before January 1, 2018, by reducing the maximum credit amount to the lesser of any of the following:
      - 1) \$2.00 multiplied by the size of the system measured in DC watts
      - 2) 50% of the cost of purchase and installation, or
      - 3) \$10,000.
  - c) Leased system:
    - i. Reduces the maximum credit amount for a system purchased and installed on or after July 1, 2015, and before January 1, 2018, from 38% of the first \$25,000 of system costs to 38% of the first \$20,000 of system costs.
    - ii. Outstanding claims for FY2015 are limited to \$19M.
- 2) 2015-16 Fiscal Year Impact to state: \$19 million

### **Public Service Property Valuation**

(HB 473) - *Defeated*

- 1) This bill would have authorized tax recipient bodies the right to judicial appeal of the Louisiana Tax Commission's assessed valuation of certain public service property for purposes of ad valorem property tax.
  - a) Under current law, the LA Tax Commission is charged with determining the valuation of the property of public service companies. The taxpayer has the right to appeal the valuation within 30 days of receipt of notice from the Tax Commission. Once the Tax Commission has rendered its final valuation, the taxpayer has the right to file suit in state district court if it continues to disagree with the valuation rendered.
  - b) LA Constitution Article VII, Section 18(D) and LA R.S. 47:1853 provides that the Tax Commission is the entity that determines the valuation for assessment purposes. A local assessor can appeal the valuation to the Tax Commission, but cannot suit in court. So while an assessor might protest the valuation to the Commission, the overall valuation and the amount allocated to a particular parish would not be subject to a judicial protest. It was these two components of the law that the assessors attempted to change by introducing legislation providing themselves judicial appeal
- 2) The issue stemmed from one parish president's opposition to the value and subsequent tax roll of Entergy's Riverbend Nuclear Station.

### **Suspension of the Sales and Use Tax Exemption for Non-residential Utilities**

(HCR 8) - *Passed*

- 1) This resolution suspends 1% of the 4% tax exemption for business utilities, which includes the sale of steam, water, electric power or energy and natural gas.
  - a) This resolution is effective for one year and did not require the signature of the governor.
- 2) The utilities worked very closely with legislative leadership to defeat more aggressive proposals involving: permanent legislation, abatement of the entire exemption, half of the exemption, etc. The resulting resolution was the only revenue raiser of 2015 to pass the session with a time limitation.
- 3) 2015-16 Fiscal Year Impact on business: \$107.2 million

### **Tax Credits for Ad Valorem Taxes Paid to Local Governments**

(HB 805) - *Passed*

- 1) The law allows for a credit against any Louisiana income or corporation franchise tax for ad valorem taxes paid to political subdivisions on inventory.
  - a) Eligible taxpayers whose ad valorem taxes paid to all political subdivisions in the taxable year was less than ten thousand dollars shall be refunded all of the excess credit.
  - b) Eligible taxpayers whose ad valorem taxes paid to all political subdivisions in the taxable year was ten thousand dollars or more shall be refunded 75% of the excess credit, and the remaining 25% of the credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.
- 2) 2015-16 Fiscal Year Impact to state: \$130 million

### **Unitary or Combined Filing of Tax Returns**

(HB 506,775, 824, SB 269) *Defeated*

- 1) These bills proposed:
  - a) To require certain corporations to file informational returns on a basis as-if they were filing combined income tax returns. The information from these reports would be used the Louisiana Department of Revenue to gauge the impact of requiring corporations to file on a combined basis. Because of the size of several of the Louisiana utilities, they would have been required to file both the informational return and a combined return, should one be later required.
    - i) Other states have attempted this type of information reporting with mixed success. In all cases, taxpayers have resisted this type of reporting because it adds an administrative burden. Texas, for example requires the filing of unitary consolidated returns. The actual annual fiscal impact has fallen far short of the expected projections.

### **Repeal of All Sales and Use Tax Exemptions**

(SB 124) - *Defeated*

- 1) The bill looked to repeal all sales and use tax exemptions other than sales for resale, federally-mandated exemptions, and exemptions necessary for operation of a public facility.
- 2) Utilities would become fully taxable on all fuels (natural gas, coal, oil and nuclear) and sales of electricity, and the manufacturing equipment exemption would be lost.

### **10yr. Tax Exemption**

(SB 125) - *Defeated*

- 1) This bill would have placed a limit of 60% on the abatement of the value of existing and future industrial manufacturing equipment additions, but extends the life of contracts from 5/5 to 7/7 year (original/renewal terms).
  - a) The industrial manufacturing abatement program is used to lower the amount of overall property tax utilities pay on utility operating properties. The tax savings are then considered in the rate making process and result in lower rates charged to the utility customers. This allows utilities to maintain affordable and competitive rates that are attractive to new industry and enjoyed by all customers.
  - b) By extending the life of the contracts and limiting the current year abatement to 60%, the value of the abatement is lower because of the lower depreciated value in the latter years. This produces a lower overall benefit to our customer base.
- 2) Estimated 2015-16 Fiscal Year Impact: \$26 million

### **Fence Line Monitoring**

(HB 590) - *Defeated*

- 1) This bill would require Fourier transform infrared spectroscopy laser monitors that would monitor all four sides of property boundaries on any source that has a federally enforceable operating permit in accordance with 40 CFR Part 70.

### **Clean Power Plan**

(HCR 29) - *Passed*

- 1) The resolution urges and requests the United States Environmental Protection Agency to withdraw the proposed guidelines for reducing carbon dioxide emissions from fossil fuel-fired power plants pursuant to Section 111(d) of the Clean Air Act and that in the event the United States Environmental Protection Agency adopts the proposed guidelines, urge and request the governor and the attorney general to use every means at their disposal, including taking legal action, to prevent the guidelines from being implemented.

### **Expropriation**

(HB 95, HB 200, HB 693, HB 715, HB 769, SB 220) - *Amended-Passed*

- 1) Entergy amended these bills to remove language that would invoke quick-take authority for varying types of municipalities and "special" districts. Entergy maintains a relationship with the Louisiana Landowners' Association wherein we partner to research and amend bills that give special taxing, security, redevelopment, economic development and/or other municipal-related districts any additional or advanced rights with regard to expropriation.