



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5161

by Rep. Timothy L. Schmitz

#### SYNOPSIS AS INTRODUCED:

20 ILCS 1505/1505-130 new

Amends the Department of Labor Law of the Civil Administrative Code of Illinois. Provides that an Illinois employer may request a written, legally binding private letter ruling from the Department of Labor regarding any law under the jurisdiction of the Department, that private letter rulings are issued by the Department in response to specific employer inquiries concerning the application of a statute or rule to a particular fact situation, and that private letter rulings are binding on the Department only as to the employer who is the subject of the request for ruling. Contains provision regarding: submission of requests; contents of requests; parties entitled to make requests; issuance of private letter rulings; effect of private letter rulings; uses of private letter rulings; and other matters.

LRB095 19627 WGH 45967 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Department of Labor Law of the Civil  
5 Administrative Code of Illinois is amended by adding Section  
6 1505-130 as follows:

7 (20 ILCS 1505/1505-130 new)

8 Sec. 1505-130. Private letter rulings.

9 (a) An Illinois employer may request a written, legally  
10 binding private letter ruling from the Department regarding any  
11 law under the jurisdiction of the Department. Private letter  
12 rulings are issued by the Department in response to specific  
13 employer inquiries concerning the application of a statute or  
14 rule to a particular fact situation. Private letter rulings are  
15 binding on the Department only as to the employer who is the  
16 subject of the request for ruling.

17 (1) A request for a private letter ruling must be made  
18 by, or on behalf of, an identified employer. A request for  
19 a private letter ruling may be made by an employer, or by  
20 an employer's representative under a power of attorney from  
21 that employer. The Department may not issue private letter  
22 rulings to employers' representatives for anonymous or  
23 unidentified employers.

1           (2) Employers must make separate requests for private  
2           letter rulings for different statutes under the  
3           jurisdiction of the Department.

4           (3) Private letter rulings may not be issued on  
5           hypothetical situations.

6           (4) Private letter rulings may not be issued to  
7           business, trade, or industrial associations or to similar  
8           groups concerning the application of labor laws to members  
9           of the groups. Members of such groups may submit  
10           suggestions of general issues that would be appropriately  
11           addressed in information bulletins, or may submit general  
12           questions to be addressed by the Department in a general  
13           information letter.

14           (5) A private letter ruling may not be issued if, at  
15           the time the ruling is requested, the identical issue is  
16           currently being investigated by the Department or is part  
17           of pending litigation.

18           (6) The Department shall respond to all requests for  
19           private letter rulings, within 30 days of receipt of the  
20           request, either by issuance of a private letter ruling or  
21           by a letter explaining that the request will not be  
22           honored.

23           (b) An employer may, in good faith, submit a request for a  
24           private letter ruling on a specific law, and during the  
25           pendency period (the period between when the request is made  
26           and when the private letter ruling is issued) any investigation

1 by the Department that enumerates a specific violation by the  
2 employer may be enforced if and only if:

3 (1) the specific violation was not enumerated by the  
4 employer in its request;

5 (2) the specific violation was enumerated by the  
6 employer, but the enumeration was made in bad faith; or

7 (3) the violation includes back wages or other payment  
8 to the worker; however, no fines or penalties may be issued  
9 by the Department with regard to that specific violation  
10 during that period.

11 (c) The following information must be included in each  
12 request for a private letter ruling:

13 (1) A complete statement of the facts and other  
14 information pertinent to the request. The request must  
15 contain a complete statement of all material facts.

16 (2) An identification of the time period at issue, and  
17 disclosure of whether an audit or litigation is pending  
18 with the Department.

19 (3) The signature of the employer or the employer's  
20 representative.

21 (d) The Department shall delete certain information from  
22 private letter rulings prior to public dissemination.  
23 Deletions shall include the name and address of the employer  
24 and employer's representative, and confidential information as  
25 specified by employer.

26 (e) Private letter rulings shall cease to bind the

1 Department if there is a pertinent change in statutory law,  
2 case law, rules, or material facts.

3 (f) Private letter rulings do not impact the rights of an  
4 employer to appeal a decision of the Department.

5 (g) A private letter ruling may serve as a proof as it  
6 relates to the determination of insurance premiums.