



Sen. Louis S. Viverito

**Filed: 10/28/2009**

09600HB1526sam001

LRB096 05060 HLH 30541 a

1 AMENDMENT TO HOUSE BILL 1526

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1526 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 704A as follows:

6 (35 ILCS 5/704A)

7 Sec. 704A. Employer's return and payment of tax withheld.

8 (a) In general, every employer who deducts and withholds or  
9 is required to deduct and withhold tax under this Act on or  
10 after January 1, 2008 shall make those payments and returns as  
11 provided in this Section.

12 (b) Returns. Every employer shall, in the form and manner  
13 required by the Department, make returns with respect to taxes  
14 withheld or required to be withheld under this Article 7 for  
15 each quarter beginning on or after January 1, 2008, on or  
16 before the last day of the first month following the close of

1 that quarter.

2 (c) Payments. With respect to amounts withheld or required  
3 to be withheld on or after January 1, 2008:

4 (1) Semi-weekly payments. For each calendar year, each  
5 employer who withheld or was required to withhold more than  
6 \$12,000 during the one-year period ending on June 30 of the  
7 immediately preceding calendar year, payment must be made:

8 (A) on or before each Friday of the calendar year,  
9 for taxes withheld or required to be withheld on the  
10 immediately preceding Saturday, Sunday, Monday, or  
11 Tuesday;

12 (B) on or before each Wednesday of the calendar  
13 year, for taxes withheld or required to be withheld on  
14 the immediately preceding Wednesday, Thursday, or  
15 Friday.

16 (2) Semi-weekly payments. Any employer who withholds  
17 or is required to withhold more than \$12,000 in any quarter  
18 of a calendar year is required to make payments on the  
19 dates set forth under item (1) of this subsection (c) for  
20 each remaining quarter of that calendar year and for the  
21 subsequent calendar year.

22 (3) Monthly payments. Each employer, other than an  
23 employer described in items (1) or (2) of this subsection,  
24 shall pay to the Department, on or before the 15th day of  
25 each month the taxes withheld or required to be withheld  
26 during the immediately preceding month.

1           (4) Payments with returns. Each employer shall pay to  
2           the Department, on or before the due date for each return  
3           required to be filed under this Section, any tax withheld  
4           or required to be withheld during the period for which the  
5           return is due and not previously paid to the Department.

6           (d) Regulatory authority. The Department may, by rule:

7           (1) If the aggregate amounts required to be withheld  
8           under this Article 7 do not exceed \$1,000 for the calendar  
9           year, permit employers, in lieu of the requirements of  
10          subsections (b) and (c), to file annual returns due on or  
11          before January 31 of the following year for taxes withheld  
12          or required to be withheld during that calendar year and to  
13          pay the taxes required to be shown on each such return no  
14          later than the due date for such return.

15          (2) Provide that any payment required to be made under  
16          subsection (c)(1) or (c)(2) is deemed to be timely to the  
17          extent paid by electronic funds transfer on or before the  
18          due date for deposit of federal income taxes withheld from,  
19          or federal employment taxes due with respect to, the wages  
20          from which the Illinois taxes were withheld.

21          (3) Designate one or more depositories to which payment  
22          of taxes required to be withheld under this Article 7 must  
23          be paid by some or all employers.

24          (4) Increase the threshold dollar amounts at which  
25          employers are required to make semi-weekly payments under  
26          subsection (c)(1) or (c)(2).

1           (e) Annual return and payment. Every employer who deducts  
2 and withholds or is required to deduct and withhold tax from a  
3 person engaged in domestic service employment, as that term is  
4 defined in Section 3510 of the Internal Revenue Code, may  
5 comply with the requirements of this Section with respect to  
6 such employees by filing an annual return and paying the taxes  
7 required to be deducted and withheld on or before the 15th day  
8 of the fourth month following the close of the employer's  
9 taxable year. The Department may allow the employer's return to  
10 be submitted with the employer's individual income tax return  
11 or to be submitted with a return due from the employer under  
12 Section 1400.2 of the Unemployment Insurance Act.

13           (f) Magnetic media and electronic filing. Any W-2 Form  
14 that, under the Internal Revenue Code and regulations  
15 promulgated thereunder, is required to be submitted to the  
16 Internal Revenue Service on magnetic media or electronically  
17 must also be submitted to the Department on magnetic media or  
18 electronically for Illinois purposes, if required by the  
19 Department.

20           (g) For amounts deducted or withheld after December 31,  
21 2009, a taxpayer who makes an election under Section 5-15(f) of  
22 the Economic Development for a Growing Economy Act for a  
23 taxable year shall be allowed a credit against payments due  
24 under this Section for amounts withheld during the first  
25 calendar year beginning after the end of that taxable year  
26 equal to the amount of the credit awarded to the taxpayer by

1 the Department of Commerce and Economic Opportunity under the  
2 Economic Development for a Growing Economy Act for the taxable  
3 year. The credit may not reduce the taxpayer's obligation for  
4 any payment due under this Section to less than zero. If the  
5 amount of the credit exceeds the total payments due under this  
6 Section with respect to amounts withheld during the calendar  
7 year, the excess may be carried forward and applied against the  
8 taxpayer's liability under this Section in the 5 succeeding  
9 calendar years. The credit shall be applied to the earliest  
10 year for which there is a tax liability. If there are credits  
11 from more than one taxable year that are available to offset a  
12 liability, the earlier credit shall be applied first. This  
13 Section is exempt from the provisions of Section 250 of this  
14 Act.

15 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08.)

16 Section 10. The Economic Development for a Growing Economy  
17 Tax Credit Act is amended by changing Section 5-15 as follows:

18 (35 ILCS 10/5-15)

19 Sec. 5-15. Tax Credit Awards. Subject to the conditions set  
20 forth in this Act, a Taxpayer is entitled to a Credit against  
21 taxes imposed pursuant to subsections (a) and (b) of Section  
22 201 of the Illinois Income Tax Act that may be imposed on the  
23 Taxpayer for a taxable year beginning on or after January 1,  
24 1999, if the Taxpayer is awarded a Credit by the Department

1 under this Act for that taxable year.

2 (a) The Department shall make Credit awards under this Act  
3 to foster job creation and retention in Illinois.

4 (b) A person that proposes a project to create new jobs in  
5 Illinois must enter into an Agreement with the Department for  
6 the Credit under this Act.

7 (c) The Credit shall be claimed for the taxable years  
8 specified in the Agreement.

9 (d) The Credit shall not exceed the Incremental Income Tax  
10 attributable to the project that is the subject of the  
11 Agreement.

12 (e) Nothing herein shall prohibit a Tax Credit Award to an  
13 Applicant that uses a PEO if all other award criteria are  
14 satisfied.

15 (f) In lieu of the Credit allowed under this Act against  
16 the taxes imposed pursuant to subsections (a) and (b) of  
17 Section 201 of the Illinois Income Tax Act for any taxable year  
18 ending on or after December 31, 2009, the Taxpayer may elect to  
19 claim the Credit against its obligation to pay over withholding  
20 under Section 704A of the Illinois Income Tax Act.

21 (1) The election under this subsection (f) may be made  
22 only by a Taxpayer that (i) is engaged in one of the  
23 following business activities: motor vehicle metal  
24 stamping, automobile manufacturing, automobile and light  
25 duty motor vehicle manufacturing, motor vehicle  
26 manufacturing, light truck and utility vehicle

1 manufacturing, heavy duty truck manufacturing, or motor  
2 vehicle body manufacturing and (ii) meets the following  
3 criteria:

4 (a) the Taxpayer (i) had an Illinois net loss or an  
5 Illinois net loss deduction under Section 207 of the  
6 Illinois Income Tax Act for the taxable year in which  
7 the Credit is awarded, (ii) employed a minimum of 1,000  
8 full-time employees in this State during the taxable  
9 year in which the Credit is awarded, (iii) has an  
10 Agreement under this Act on the effective date of this  
11 amendatory Act of the 96th General Assembly, and (iv)  
12 is in compliance with all provisions of that Agreement;

13 (b) the Taxpayer (i) has an Illinois net operating  
14 loss carryforward under Section 207 of the Illinois  
15 Income Tax Act in a taxable year ending during calendar  
16 year 2008, (ii) has applied for an Agreement within 150  
17 days after the effective date of this amendatory Act of  
18 the 96th General Assembly, (iii) creates at least 800  
19 new jobs in Illinois, (iv) retains at least 2,000 jobs  
20 in Illinois that would have been at risk of relocation  
21 out of Illinois over a 10-year period, and (v) makes a  
22 capital investment of at least \$50,000,000; or

23 (c) the Taxpayer (i) had an Illinois net loss or an  
24 Illinois net loss deduction under Section 207 of the  
25 Illinois Income Tax Act for the taxable year in which  
26 the Credit is awarded, (ii) employed a minimum of 1,000

1           full-time employees in this State during the taxable  
2           year in which the Credit is awarded, and (iii) has  
3           applied for an Agreement within 180 days after the  
4           effective date of this amendatory Act of the 96th  
5           General Assembly.

6           (2) An election under this subsection shall allow the  
7           credit to be taken against payments otherwise due under  
8           Section 704A of the Illinois Income Tax Act during the  
9           first calendar year beginning after the end of the taxable  
10           year in which the credit is awarded under this Act.

11           (3) The election shall be made in the form and manner  
12           required by the Illinois Department of Revenue and, once  
13           made, shall be irrevocable.

14           (4) A Taxpayer electing to claim a credit under  
15           subparagraph (b) of item (1) of this subsection (f) may not  
16           enter into an agreement with any State agency to receive  
17           any other form of financial assistance or incentive from  
18           the State, including, but not limited to, grants and loans,  
19           during the term of the Agreement entered into under this  
20           Act. Nothing in this item (4) prohibits a Taxpayer from  
21           receiving financial assistance from a unit of local  
22           government, including tax increment financing moneys.

23           (Source: P.A. 95-375, eff. 8-23-07.)

24           Section 99. Effective date. This Act takes effect upon  
25           becoming law."