

# SB0020



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB0020

Introduced 1/27/2011, by Sen. John G. Mulroe

#### SYNOPSIS AS INTRODUCED:

35 ILCS 25/10  
35 ILCS 25/25

Amends the Small Business Job Creation Tax Credit Act. Makes it possible for a person who operates an Illinois business having no more than 75 full-time employees (instead of 50) to apply for the Small Business Job Creation Tax Credit. Extends the incentive period from June 30, 2011 to June 30, 2012, if the seasonally adjusted unemployment rate of the State of Illinois for the month of May 2011 is 7.0% or higher, as reported by the Illinois Department of Employment Security. Raises the cap on the credit from \$2,500 to \$3,500 for each new employee hired. Changes the manner in which the net increase in full-time Illinois employees is calculated in the event that the incentive period is extended. Effective immediately.

LRB097 06634 HLH 46720 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Small Business Job Creation Tax Credit Act  
5 is amended by changing Sections 10 and 25 as follows:

6 (35 ILCS 25/10)

7 Sec. 10. Definitions. In this Act:

8 "Applicant" means a person that is operating a business  
9 located within the State of Illinois that is engaged in  
10 interstate or intrastate commerce and either:

11 (1) has no more than 75 ~~50~~ full-time employees, without  
12 regard to the location of employment of such employees at  
13 the beginning of the incentive period; or

14 (2) hired within the incentive period an employee who  
15 had participated as worker-trainee in the Put Illinois to  
16 Work Program during 2010.

17 In the case of any person that is a member of a unitary  
18 business group within the meaning of subdivision (a)(27) of  
19 Section 1501 of the Illinois Income Tax Act, "applicant" refers  
20 to the unitary business group.

21 "Certificate" means the tax credit certificate issued by  
22 the Department under Section 35 of this Act.

23 "Certificate of eligibility" means the certificate issued

1 by the Department under Section 20 of this Act.

2 "Credit" means the amount awarded by the Department to an  
3 applicant by issuance of a certificate under Section 35 of this  
4 Act for each new full-time equivalent employee hired or job  
5 created.

6 "Department" means the Department of Commerce and Economic  
7 Opportunity.

8 "Director" means the Director of the Department.

9 "Full-time employee" means an individual who is employed  
10 for a basic wage for at least 35 hours each week or who renders  
11 any other standard of service generally accepted by industry  
12 custom or practice as full-time employment.

13 "Incentive period" means the period beginning July 1, 2010  
14 and ending on June 30, 2011. However, if the seasonally  
15 adjusted unemployment rate for the State of Illinois for the  
16 month of May 2011 is 7.0% or higher, as reported by the  
17 Illinois Department of Employment Security, then the incentive  
18 period shall be extended until June 30, 2012.

19 "Basic wage" means compensation for employment that is no  
20 less than \$10 per hour or the equivalent salary for a new  
21 employee.

22 "New employee" means a full-time employee:

23 (1) who first became employed by an applicant with less  
24 than 75 ~~50~~ full-time employees within the incentive period  
25 whose hire results in a net increase in the applicant's  
26 full-time Illinois employees and who is receiving a basic

1 wage as compensation; or

2 (2) who participated as a worker-trainee in the Put  
3 Illinois to Work Program during 2010 and who is  
4 subsequently hired during the incentive period by an  
5 applicant and who is receiving a basic wage as  
6 compensation.

7 The term "new employee" does not include:

8 (1) a person who was previously employed in Illinois by  
9 the applicant or a related member prior to the onset of the  
10 incentive period; or

11 (2) any individual who has a direct or indirect  
12 ownership interest of at least 5% in the profits, capital,  
13 or value of the applicant or a related member.

14 "Noncompliance date" means, in the case of an applicant  
15 that is not complying with the requirements of the provisions  
16 of this Act, the day following the last date upon which the  
17 taxpayer was in compliance with the requirements of the  
18 provisions of this Act, as determined by the Director, pursuant  
19 to Section 45 of this Act.

20 "Put Illinois to Work Program" means a worker training and  
21 employment program that was established by the State of  
22 Illinois with funding from the United States Department of  
23 Health and Human Services of Emergency Temporary Assistance to  
24 Needy Families funds authorized by the American Recovery and  
25 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF  
26 funds were in turn used by the State of Illinois to fund the

1 Put Illinois to Work Program.

2 "Related member" means a person that, with respect to the  
3 applicant during any portion of the incentive period, is any  
4 one of the following,

5 (1) An individual, if the individual and the members of  
6 the individual's family (as defined in Section 318 of the  
7 Internal Revenue Code) own directly, indirectly,  
8 beneficially, or constructively, in the aggregate, at  
9 least 50% of the value of the outstanding profits, capital,  
10 stock, or other ownership interest in the applicant.

11 (2) A partnership, estate, or trust and any partner or  
12 beneficiary, if the partnership, estate, or trust and its  
13 partners or beneficiaries own directly, indirectly,  
14 beneficially, or constructively, in the aggregate, at  
15 least 50% of the profits, capital, stock, or other  
16 ownership interest in the applicant.

17 (3) A corporation, and any party related to the  
18 corporation in a manner that would require an attribution  
19 of stock from the corporation under the attribution rules  
20 of Section 318 of the Internal Revenue Code, if the  
21 applicant and any other related member own, in the  
22 aggregate, directly, indirectly, beneficially, or  
23 constructively, at least 50% of the value of the  
24 corporation's outstanding stock.

25 (4) A corporation and any party related to that  
26 corporation in a manner that would require an attribution

1 of stock from the corporation to the party or from the  
2 party to the corporation under the attribution rules of  
3 Section 318 of the Internal Revenue Code, if the  
4 corporation and all such related parties own, in the  
5 aggregate, at least 50% of the profits, capital, stock, or  
6 other ownership interest in the applicant.

7 (5) A person to or from whom there is attribution of  
8 stock ownership in accordance with Section 1563(e) of the  
9 Internal Revenue Code, except that for purposes of  
10 determining whether a person is a related member under this  
11 paragraph, "20%" shall be substituted for "5%" whenever  
12 "5%" appears in Section 1563(e) of the Internal Revenue  
13 Code.

14 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

15 (35 ILCS 25/25)

16 Sec. 25. Tax credit.

17 (a) Subject to the conditions set forth in this Act, an  
18 applicant is entitled to a credit against payment of taxes  
19 withheld under Section 704A of the Illinois Income Tax Act:

20 (1) for new employees who participated as  
21 worker-trainees in the Put Illinois to Work Program during  
22 2010:

23 (A) in the first calendar year ending on or after  
24 the date that is 6 months after December 31, 2010, or  
25 the date of hire, whichever is later. Under this

1           subparagraph, the applicant is entitled to one-half of  
2           the credit allowable for each new employee who is  
3           employed for at least 6 months after the date of hire;  
4           and

5           (B) in the first calendar year ending on or after  
6           the date that is 12 months after December 31, 2010, or  
7           the date of hire, whichever is later. Under this  
8           subparagraph, the applicant is entitled to one-half of  
9           the credit allowable for each new employee who is  
10          employed for at least 12 months after the date of hire;

11          (2) for all other new employees, in the first calendar  
12          year ending on or after the date that is 12 months after  
13          the date of hire of a new employee. The credit shall be  
14          allowed as a credit to an applicant for each full-time  
15          employee hired during the incentive period that results in  
16          a net increase in full-time Illinois employees, where the  
17          net increase in the employer's full-time Illinois  
18          employees is maintained for at least 12 months.

19          (b) The Department shall make credit awards under this Act  
20          to further job creation.

21          (c) The credit shall be claimed for the first calendar year  
22          ending on or after the date on which the certificate is issued  
23          by the Department.

24          (d) The credit shall not exceed \$3,500 ~~\$2,500~~ per new  
25          employee hired.

26          (e) The net increase in full-time Illinois employees,

1 measured on an annual full-time equivalent basis, shall be the  
2 total number of full-time Illinois employees of the applicant  
3 on June 30, 2011, minus the number of full-time Illinois  
4 employees employed by the employer on July 1, 2010. However, if  
5 the incentive period is extended until June 30, 2012, then the  
6 net increase in full-time Illinois employees, measured on an  
7 annual full-time equivalent basis, shall be the maximum total  
8 number of full-time Illinois employees employed by the  
9 applicant for at least 12 consecutive months during any portion  
10 of the period running from July 1, 2010 to July 1, 2012, minus  
11 the number of full-time Illinois employees employed by the  
12 employer on July 1, 2010. For purposes of these calculations  
13 ~~the calculation~~, an employer that begins doing business in this  
14 State during the incentive period, as determined by the  
15 Director, shall be treated as having zero Illinois employees on  
16 July 1, 2010.

17 (f) The net increase in the number of full-time Illinois  
18 employees of the applicant under subsection (e) must be  
19 sustained continuously for at least 12 months, starting with  
20 the date of hire of a new employee during the incentive period.  
21 Eligibility for the credit does not depend on the continuous  
22 employment of any particular individual. For purposes of this  
23 subsection (f), if a new employee ceases to be employed before  
24 the completion of the 12-month period for any reason, the net  
25 increase in the number of full-time Illinois employees shall be  
26 treated as continuous if a different new employee is hired as a



1 replacement within a reasonable time for the same position.

2 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.