LRB102 23931 HLH 33131 b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4963

Introduced 1/27/2022, by Rep. Dave Vella

SYNOPSIS AS INTRODUCED:

20 ILCS 686/20
20 ILCS 686/25
20 ILCS 686/30
20 ILCS 686/45
20 ILCS 686/51 new

Amends the Reimagining Electric Vehicles in Illinois Act. Provides that the application approval as a REV project must be by formal application (currently, formal written letter of request or formal application). Provides that each application shall state the minimum number of jobs created or retained at the facility and, for all proposed classifications, commitments to salaries, wages, benefits, investment in training, including commitments to pre-apprenticeship and apprenticeship programs, specific protections for worker health and safety, and hiring plans. Provides that each applicant shall state whether it is party to a bona fide labor peace agreement. Provides that applications shall be considered public records subject to disclosure under the Freedom of Information Act. Provides that applicants that are issued credit certificates must report the number, occupation, wages, and benefits of new employees. Contains a severability provision. Effective immediately.

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A BILL FOR

AN ACT concerning revenue.

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

Section 5. The Reimagining Electric Vehicles in Illinois Act is amended by changing Sections 20, 25, 30, and 45 and by adding Section 51 as follows:

(20 ILCS 686/20)

Sec. 20. REV Illinois Program; project applications.

(a) The Reimagining Electric Vehicles in Illinois (REV Illinois) Program is hereby established and shall be administered by the Department. The Program will provide financial incentives to eligible manufacturers of electric vehicles, electric vehicle component parts, and electric vehicle power supply equipment.

(b) Any taxpayer planning a project to be located in Illinois may request consideration for designation of its project as a REV Illinois Project, ~~by formal written letter of request or~~ by formal application to the Department, in which the applicant states its intent to make at least a specified level of investment and intends to hire a specified number of full-time employees at a designated location in Illinois. The application shall state the minimum number of jobs created or retained at the facility and, for all proposed classifications, commitments to salaries, wages, benefits, investment in training, including commitments to pre-apprenticeship and apprenticeship programs registered with the Department of Labor or a federally recognized State Apprenticeship Agency that complies with the requirements under Parts 29 and 30 of Title 29, Code of Federal Regulations, specific protections for worker health and safety, and hiring plans. In addition, each applicant shall state whether it is party to a bona fide labor peace agreement that covers any facility that will use funding from the subsidy. The existence of or plans to enter into a labor peace agreement shall not be evaluated as part of the application. For purposes of this Section, a labor peace agreement means an agreement with a labor organization representing or seeking to represent the applicant's workforce performing work under the subsidy and that contains, at a minimum, provisions prohibiting the labor organization and its members from engaging in any picketing, work stoppage, boycott, or other economic interference with a subsidized facility's operations. ~~As circumstances require, the Department shall require a formal application from an applicant and a formal letter of request for assistance.~~

(c) In order to qualify for credits under the REV Illinois Program, an Applicant must:

(1) for an electric vehicle manufacturer:

(A) make an investment of at least $1,500,000,000 in capital improvements at the project site;

(B) to be placed in service within the State within a 60-month period after approval of the application; and

(C) create at least 500 new full-time employee jobs; or

(2) for an electric vehicle component parts manufacturer:

(A) make an investment of at least $300,000,000 in capital improvements at the project site;

(B) manufacture one or more parts that are primarily used for electric vehicle manufacturing;

(C) to be placed in service within the State within a 60-month period after approval of the application; and

(D) create at least 150 new full-time employee jobs; or

(3) for an electric vehicle manufacturer, electric vehicle power supply equipment Manufacturer, or electric vehicle component part manufacturer that does not quality under paragraph (2) above:

(A) make an investment of at least $20,000,000 in capital improvements at the project site;

(B) for electric vehicle component part manufacturers, manufacture one or more parts that are primarily used for electric vehicle manufacturing;

(C) to be placed in service within the State within a 48-month period after approval of the application; and

(D) create at least 50 new full-time employee jobs; or

(4) for an electric vehicle manufacturer or electric vehicle component parts manufacturer with existing operations within Illinois that intends to convert or expand, in whole or in part, the existing facility from traditional manufacturing to electric vehicle manufacturing, electric vehicle component parts manufacturing, or electric vehicle power supply equipment manufacturing:

(A) make an investment of at least $100,000,000 in capital improvements at the project site;

(B) to be placed in service within the State within a 60-month period after approval of the application; and

(C) create the lesser of 75 new full-time employee jobs or new full-time employee jobs equivalent to 10% of the Statewide baseline applicable to the taxpayer and any related member at the time of application.

(d) For any applicant creating the full-time employee jobs noted in subsection (c), those jobs must have a total compensation equal to or greater than 120% of the average wage paid to full-time employees in the county where the project is located, as determined by the U.S. Bureau of Labor Statistics.

(e) For any applicant, within 24 months after being placed in service, it must certify to the Department that it is carbon neutral or has attained certification under one of more of the following green building standards:

(1) BREEAM for New Construction or BREEAM In-Use;

(2) ENERGY STAR;

(3) Envision;

(4) ISO 50001 - energy management;

(5) LEED for Building Design and Construction or LEED for Building Operations and Maintenance;

(6) Green Globes for New Construction or Green Globes for Existing Buildings; or

(7) UL 3223.

(f) Each applicant must outline its hiring plan and commitment to recruit and hire full-time employee positions at the project site along with targeted recruitment, training, and hiring plans for displaced energy workers and equity eligible persons. The hiring plan may include a partnership with an institution of higher education to provide internships, including, but not limited to, internships supported by the Clean Jobs Workforce Network Program, or full-time permanent employment for students at the project site. Additionally, the applicant shall ~~may~~ create or utilize participants from apprenticeship programs registered with the Department of Labor or a federally recognized State Apprenticeship Agency and that complies with the requirements under Parts 29 and 30 of Title 29 ~~programs that are approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training~~. The Applicant may apply for apprenticeship education expense credits in accordance with the provisions set forth in 14 Ill. Admin. Code 522. Each applicant is required to report annually, on or before April 15, on the diversity of its workforce in accordance with Section 50 of this Act. For existing facilities of applicants under paragraph (3) of subsection (b) above, if the taxpayer expects a reduction in force due to its transition to manufacturing electric vehicle, electric vehicle component parts, or electric vehicle power supply equipment, the plan submitted under this Section must outline the taxpayer's plan to assist with retraining its workforce aligned with the taxpayer's adoption of new technologies and anticipated efforts to retrain employees through employment opportunities within the taxpayer's workforce.

(g) Each applicant must demonstrate a contractual or other relationship with a recycling facility, or demonstrate its own recycling capabilities, at the time of application and report annually a continuing contractual or other relationship with a recycling facility and the percentage of batteries used in electric vehicles recycled throughout the term of the agreement.

(h) A taxpayer may not enter into more than one agreement under this Act with respect to a single address or location for the same period of time. Also, a taxpayer may not enter into an agreement under this Act with respect to a single address or location for the same period of time for which the taxpayer currently holds an active agreement under the Economic Development for a Growing Economy Tax Credit Act. This provision does not preclude the applicant from entering into an additional agreement after the expiration or voluntary termination of an earlier agreement under this Act or under the Economic Development for a Growing Economy Tax Credit Act to the extent that the taxpayer's application otherwise satisfies the terms and conditions of this Act and is approved by the Department. An applicant with an existing agreement under the Economic Development for a Growing Economy Tax Credit Act may submit an application for an agreement under this Act after it terminates any existing agreement under the Economic Development for a Growing Economy Tax Credit Act with respect to the same address or location.

(i) Applications for incentives under the Program shall be considered public records subject to disclosure under the Freedom of Information Act. The records, including all financial information related to proposed jobs at the facility, shall be made publicly available on the Department's website.

(Source: P.A. 102-669, eff. 11-16-21.)

(20 ILCS 686/25)

Sec. 25. Review of application. The Department shall evaluate the extent to ~~determine~~ which projects will benefit the State. In making its recommendation that an applicant's application for credit should or should not be accepted, which shall occur within a reasonable time frame as determined by the nature of the application, the Department shall determine that all the following conditions exist:

(1) the applicant commits ~~intends~~ to make the required investment in the State and intends to hire the required number of full-time employees at competitive wages and benefits relative to their sector, occupation, and region;

(2) the applicant's project is economically sound, will benefit the people of the State by increasing opportunities for high-quality employment (including for displaced workers and individuals facing barriers to employment), and will strengthen the economy of the State;

(3) awarding the credit will result in an overall positive fiscal impact to the State, as certified by the Department using the best available data; and

(4) the credit is not prohibited under this Act.

(Source: P.A. 102-669, eff. 11-16-21.)

(20 ILCS 686/30)

Sec. 30. Tax credit awards.

(a) Subject to the conditions set forth in this Act, a taxpayer is entitled to a credit against the tax imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for a taxable year beginning on or after January 1, 2025 if the taxpayer is awarded a credit by the Department in accordance with an agreement under this Act. The Department has authority to award credits under this Act on and after January 1, 2022.

(b) REV Illinois Credits. A taxpayer may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, not to exceed the sum of (i) 75% of the incremental income tax attributable to new employees at the applicant's project and (ii) 10% of the training costs of the new employees. If the project is located in an underserved area or an energy transition area, then the amount of the credit may not exceed the sum of (i) 100% of the incremental income tax attributable to new employees at the applicant's project; and (ii) 10% of the training costs of the new employees. The percentage of training costs includable in the calculation may be increased by an additional 15% for training costs associated with new employees that are recent (2 years or less) graduates, certificate holders, or credential recipients from an institution of higher education in Illinois, or, if the training is provided by an institution of higher education in Illinois, the Clean Jobs Workforce Network Program, or an apprenticeship and training program located in Illinois and approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training. An applicant is also eligible for a training credit that shall not exceed 10% of the training costs of retained employees for the purpose of upskilling to meet the operational needs of the applicant or the REV Illinois Project. The percentage of training costs includable in the calculation shall not exceed a total of 25%. If an applicant agrees to hire the required number of new employees, then the maximum amount of the credit for that applicant may be increased by an amount not to exceed 25% of the incremental income tax attributable to retained employees at the applicant's project; provided that, in order to receive the increase for retained employees, the applicant must, if applicable, meet or exceed the statewide baseline. If the Project is in an underserved area or an energy transition area, the maximum amount of the credit attributable to retained employees for the applicant may be increased to an amount not to exceed 50% of the incremental income tax attributable to retained employees at the applicant's project; provided that, in order to receive the increase for retained employees, the applicant must meet or exceed the statewide baseline. REV Illinois Credits awarded may include credit earned for incremental income tax withheld and training costs incurred by the taxpayer beginning on or after January 1, 2022. Credits so earned and certified by the Department may be applied against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act for taxable years beginning on or after January 1, 2025.

(c) REV Construction Jobs Credit. For construction wages associated with a project that qualified for a REV Illinois Credit under subsection (b), the taxpayer may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 50% of the incremental income tax attributable to construction wages paid in connection with construction of the project facilities, as a jobs credit for workers hired to construct the project.

The REV Construction Jobs Credit may not exceed 75% of the amount of the incremental income tax attributable to construction wages paid in connection with construction of the project facilities if the project is in an underserved area or an energy transition area.

(d) The Department shall certify to the Department of Revenue: (1) the identity of Taxpayers that are eligible for the REV Illinois Credit and REV Construction Jobs Credit; (2) the amount of the REV Illinois Credits and REV Construction Jobs Credits awarded in each calendar year; and (3) the amount of the REV Illinois Credit and REV Construction Jobs Credit claimed in each calendar year. REV Illinois Credits awarded may include credit earned for Incremental Income Tax withheld and Training Costs incurred by the Taxpayer beginning on or after January 1, 2022. Credits so earned and certified by the Department may be applied against the tax imposed by Section

201(a) and (b) of the Illinois Income Tax Act for taxable years beginning on or after January 1, 2025.

(e) Applicants seeking certification for a tax credits related to the construction of the project facilities in the State shall require the contractor to enter into a project labor agreement that conforms with the Project Labor Agreements Act.

(f) Any applicant issued a certificate for a tax credit or tax exemption under this Act must annually report to the Department the total project tax benefits received <u>and the number, occupation, wages, and benefits of new employees</u>. Reports are due no later than May 31 of each year and shall cover the previous calendar year. <u>Reports shall be considered public records subject to disclosure under the Freedom of Information Act, including all financial information related to proposed jobs at the facility. The records shall be made publicly available on the Department's website.</u> The first report is for the 2022 calendar year and is due no later than May 31, 2023.

(g) Nothing in this Act shall prohibit an award of credit to an applicant that uses a PEO if all other award criteria are satisfied.

(h) With respect to any portion of a REV Illinois Credit that is based on the incremental income tax attributable to new employees or retained employees, in lieu of the Credit allowed under this Act against the taxes imposed pursuant to

subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, a taxpayer that otherwise meets the criteria set forth in this Section, the taxpayer may elect to claim the credit, on or after January 1, 2025, against its obligation to pay over withholding under Section 704A of the Illinois Income Tax Act. The election shall be made in the manner prescribed by the Department of Revenue and once made shall be irrevocable.
(Source: P.A. 102-669, eff. 11-16-21.)

(20 ILCS 686/45)

Sec. 45. Contents of agreements with applicants.

(a) The Department shall enter into an agreement with an applicant that is awarded a credit under this Act. The agreement shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the location and amount of the investment and jobs created or retained.

(2) The duration of the credit, the first taxable year for which the credit may be awarded, and the first taxable year in which the credit may be used by the taxpayer.

(3) The credit amount that will be allowed for each taxable year.

(4) For a project qualified under paragraphs (1), (2), or (4) of subsection (c) of Section 20, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 15. For

project qualified under paragraph (3) of subsection (c) of Section 20, a requirement that the taxpayer shall maintain operations at the project location a minimum number of years not to exceed 10.

(5) A specific method for determining the number of new employees and if applicable, retained employees, employed during a taxable year.

(6) A requirement that the taxpayer shall annually report to the Department the number, occupation, wages, and benefits of new employees, the incremental income tax withheld in connection with the new employees, and any other information the Department deems necessary and appropriate to perform its duties under this Act.

(7) A requirement that the Director is authorized to verify with the appropriate State agencies the amounts reported under paragraph (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the Director not more than 30 days after the taxpayer makes or receives a proposal that would transfer the taxpayer's State tax liability obligations to a successor taxpayer.

(9) A detailed description of the number of new employees to be hired, and the occupation and payroll of full-time jobs to be created or retained because of the

project.

(10) The minimum investment the taxpayer will make in capital improvements, the time period for placing the property in service, and the designated location in Illinois for the investment.

(11) A requirement that the taxpayer shall provide written notification to the Director and the Director's designee not more than 30 days after the taxpayer determines that the minimum job creation or retention, employment payroll, or investment no longer is or will be achieved or maintained as set forth in the terms and conditions of the agreement. Additionally, the notification should outline to the Department the number of layoffs, date of the layoffs, and detail taxpayer's efforts to provide career and training counseling for the impacted workers with industry-related certifications and trainings.

(12) A provision that, if the total number of new employees <u>or their wages and benefits</u> falls below a specified level, the allowance of credit shall be suspended until the number of new employees equals or exceeds the agreement amount.

(13) If applicable, a provision that specifies the statewide baseline at the time of application for retained employees. Additionally, the agreement must have a provision addressing if the total number retained

employees falls below the statewide baseline, the allowance of the credit shall be suspended until the number of retained employees equals or exceeds the agreement amount.

(14) A detailed description of the items for which the costs incurred by the Taxpayer will be included in the limitation on the Credit provided in Section 40.

(15) A provision stating that if the taxpayer fails to meet either the investment or job creation and retention requirements specified in the agreement during the entire 5-year period beginning on the first day of the first taxable year in which the agreement is executed and ending on the last day of the fifth taxable year after the agreement is executed, then the agreement is automatically terminated on the last day of the fifth taxable year after the agreement is executed, and the taxpayer is not entitled to the award of any credits for any of that 5-year period.

(16) A provision stating that if the taxpayer ceases principal operations with the intent to permanently shut down the project in the State during the term of the Agreement, then the entire credit amount awarded to the taxpayer prior to the date the taxpayer ceases principal operations shall be returned to the Department and shall be reallocated to the local workforce investment area in which the project was located.

(17) A provision stating that the Taxpayer must provide the reports outlined in Sections 50 and 55 on or before April 15 each year.

(18) A provision requiring the taxpayer to report annually its contractual obligations or otherwise with a recycling facility for its operations.

(19) Any other performance conditions or contract provisions the Department determines are necessary or appropriate.

(20) Each taxpayer under paragraph (1) of subsection (c) of Section 20 above shall maintain labor neutrality toward any union organizing campaign for any employees of the taxpayer assigned to work on the premises of the REV Illinois Project Site. This paragraph shall not apply to an electric vehicle manufacturer, electric vehicle component part manufacturer, electric vehicle power supply manufacturer or any joint venture including an electric vehicle manufacturer, electric vehicle component part manufacturer, and electric vehicle power supply manufacturer, who is subject to collective bargaining agreement entered into prior to the taxpayer filing an application pursuant to this Act.

(b) The Department shall post on its website the terms of each agreement entered into under this Act. Such information shall be posted within 10 days after entering into the agreement and must include the following:

(1) the name of the taxpayer;

(2) the location of the project;

(3) the estimated value of the credit;

(4) the number of new employee jobs, along with their wages and benefits, and, if applicable, number of retained employee jobs at the project; and

(5) whether or not the project is in an underserved area or energy transition area.

(Source: P.A. 102-669, eff. 11-16-21.)

(20 ILCS 686/51 new)

Sec. 51. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

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