



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**SB1864**

Introduced 2/26/2021, by Sen. Jason A. Barickman

#### SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-10

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that, upon the issuance of a disaster proclamation by the Governor covering the location of Taxpayer that is party to an Agreement, the Department of Commerce and Economic Opportunity may modify or restructure the Agreement in a manner that includes, but is not limited to, the temporary modification of the job creation or retention requirements of the Agreement to provide that the Taxpayer will not be considered to be out of compliance with the Agreement so long as the Taxpayer maintains at least 85% of the job creation and retention requirements of the Agreement or a lesser percentage that the Department determines is warranted by the Taxpayer's particular circumstances. Effective immediately.

LRB102 12492 HLH 17829 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 Economic Development for a Growing Economy  
5 Tax Credit Act is amended by changing Section 5-10 as follows:

6 (35 ILCS 10/5-10)

7 Sec. 5-10. Powers of the Department. The Department, in  
8 addition to those powers granted under the Civil  
9 Administrative Code of Illinois, is granted and shall have all  
10 the powers necessary or convenient to carry out and effectuate  
11 the purposes and provisions of this Act, including, but not  
12 limited to, power and authority to:

13 (a) Promulgate procedures, rules, or regulations deemed  
14 necessary and appropriate for the administration of the  
15 programs; establish forms for applications, notifications,  
16 contracts, or any other agreements; and accept applications at  
17 any time during the year.

18 (b) Provide and assist Taxpayers pursuant to the  
19 provisions of this Act, and cooperate with Taxpayers that are  
20 parties to Agreements to promote, foster, and support economic  
21 development, capital investment, and job creation or retention  
22 within the State.

23 (c) Enter into agreements and memoranda of understanding

1 for participation of and engage in cooperation with agencies  
2 of the federal government, local units of government,  
3 universities, research foundations or institutions, regional  
4 economic development corporations, or other organizations for  
5 the purposes of this Act.

6 (d) Gather information and conduct inquiries, in the  
7 manner and by the methods as it deems desirable, including  
8 without limitation, gathering information with respect to  
9 Applicants for the purpose of making any designations or  
10 certifications necessary or desirable or to gather information  
11 to assist the Committee with any recommendation or guidance in  
12 the furtherance of the purposes of this Act.

13 (e) Establish, negotiate and effectuate any term,  
14 agreement or other document with any person, necessary or  
15 appropriate to accomplish the purposes of this Act; and to  
16 consent, subject to the provisions of any Agreement with  
17 another party, to the modification or restructuring of any  
18 Agreement to which the Department is a party.

19 Upon the issuance of a disaster proclamation by the  
20 Governor under Section 7 of the Illinois Emergency Management  
21 Agency Act covering the location of Taxpayer that is party to  
22 an Agreement, the Department shall have the authority to  
23 modify or restructure that Agreement in a manner that  
24 includes, but is not limited to, the temporary modification of  
25 the job creation or retention requirements of the Agreement to  
26 provide that the Taxpayer will not be considered to be out of

1 compliance with the Agreement so long as the Taxpayer  
2 maintains at least 85% of the job creation and retention  
3 requirements of the Agreement or a lesser percentage that the  
4 Department determines is warranted by the Taxpayer's  
5 particular circumstances. In the case of such a disaster  
6 proclamation, the Taxpayer shall not be out of compliance with  
7 a job creation or retention requirement because some or all of  
8 its employees are required or allowed to work remotely, so  
9 long as the base of operations for such employees remains the  
10 location of the Taxpayer that is the subject of the Agreement.  
11 The temporary modification of the job creation or retention  
12 requirements or other provisions of the Agreement shall be  
13 effective from the date of the disaster proclamation and any  
14 subsequent disaster proclamations issued during the 12 months  
15 after the expiration of the final disaster proclamation.  
16 During the modification period, the Department will award the  
17 credit for the actual number of jobs created or retained in the  
18 modification period. The Department will not find a Taxpayer  
19 out of compliance with an Agreement on the basis of a failure  
20 to maintain the job creation or retention requirements of an  
21 Agreement so long as the 85% level of job creation or retention  
22 is maintained during the modification period. This amendatory  
23 Act of the 102nd General Assembly is declaratory of existing  
24 law.

25 (f) Fix, determine, charge, and collect any premiums,  
26 fees, charges, costs, and expenses from Applicants, including,

1 without limitation, any application fees, commitment fees,  
2 program fees, financing charges, or publication fees as deemed  
3 appropriate to pay expenses necessary or incident to the  
4 administration, staffing, or operation in connection with the  
5 Department's or Committee's activities under this Act, or for  
6 preparation, implementation, and enforcement of the terms of  
7 the Agreement, or for consultation, advisory and legal fees,  
8 and other costs; however, all fees and expenses incident  
9 thereto shall be the responsibility of the Applicant.

10 (g) Provide for sufficient personnel to permit  
11 administration, staffing, operation, and related support  
12 required to adequately discharge its duties and  
13 responsibilities described in this Act from funds made  
14 available through charges to Applicants or from funds as may  
15 be appropriated by the General Assembly for the administration  
16 of this Act.

17 (h) Require Applicants, upon written request, to issue any  
18 necessary authorization to the appropriate federal, state, or  
19 local authority for the release of information concerning a  
20 project being considered under the provisions of this Act,  
21 with the information requested to include, but not be limited  
22 to, financial reports, returns, or records relating to the  
23 Taxpayers' or its project.

24 (i) Require that a Taxpayer shall at all times keep proper  
25 books of record and account in accordance with generally  
26 accepted accounting principles consistently applied, with the

1 books, records, or papers related to the Agreement in the  
2 custody or control of the Taxpayer open for reasonable  
3 Department inspection and audits, and including, without  
4 limitation, the making of copies of the books, records, or  
5 papers, and the inspection or appraisal of any of the Taxpayer  
6 or project assets.

7 (j) Take whatever actions are necessary or appropriate to  
8 protect the State's interest in the event of bankruptcy,  
9 default, foreclosure, or noncompliance with the terms and  
10 conditions of financial assistance or participation required  
11 under this Act, including the power to sell, dispose, lease,  
12 or rent, upon terms and conditions determined by the Director  
13 to be appropriate, real or personal property that the  
14 Department may receive as a result of these actions.

15 (Source: P.A. 91-476, eff. 8-11-99.)

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