

SB3950



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3950

Introduced 11/4/2010, 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 between 51 and 75 full-time employees to apply for the Small Business Job Creation Tax Credit. (Previously, only persons operating an Illinois business having 50 or fewer employees were eligible to apply for that 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.

LRB096 23329 JDS 42686 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 has no more than 75 ~~50~~
11 full-time employees, without regard to the location of
12 employment of such employees at the beginning of the incentive
13 period. In the case of any person that is a member of a unitary
14 business group within the meaning of subdivision (a)(27) of
15 Section 1501 of the Illinois Income Tax Act, "applicant" refers
16 to the unitary business group.

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

19 "Certificate of eligibility" means the certificate issued
20 by the Department under Section 20 of this Act.

21 "Credit" means the amount awarded by the Department to an
22 applicant by issuance of a certificate under Section 35 of this
23 Act for each new full-time equivalent employee hired or job

1 created.

2 "Department" means the Department of Commerce and Economic
3 Opportunity.

4 "Director" means the Director of the Department.

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

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

15 "Basic wage" means compensation for employment that is no
16 less than \$13.75 per hour or the equivalent salary for a new
17 employee.

18 "New employee" means a full-time employee first employed by
19 an applicant within the incentive period whose hire results in
20 a net increase in the applicant's full-time Illinois employees
21 and who is receiving a basic wage as compensation. The term
22 "new employee" does not include:

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

26 (2) any individual who has a direct or indirect

1 ownership interest of at least 5% in the profits, capital,
2 or value of the applicant or a related member.

3 "Noncompliance date" means, in the case of an applicant
4 that is not complying with the requirements of the provisions
5 of this Act, the day following the last date upon which the
6 taxpayer was in compliance with the requirements of the
7 provisions of this Act, as determined by the Director, pursuant
8 to Section 45 of this Act.

9 "Related member" means a person that, with respect to the
10 applicant during any portion of the incentive period, is any
11 one of the following,

12 (1) An individual, if the individual and the members of
13 the individual's family (as defined in Section 318 of the
14 Internal Revenue Code) own directly, indirectly,
15 beneficially, or constructively, in the aggregate, at
16 least 50% of the value of the outstanding profits, capital,
17 stock, or other ownership interest in the applicant.

18 (2) A partnership, estate, or trust and any partner or
19 beneficiary, if the partnership, estate, or trust and its
20 partners or beneficiaries own directly, indirectly,
21 beneficially, or constructively, in the aggregate, at
22 least 50% of the profits, capital, stock, or other
23 ownership interest in the applicant.

24 (3) A corporation, and any party related to the
25 corporation in a manner that would require an attribution
26 of stock from the corporation under the attribution rules

1 of Section 318 of the Internal Revenue Code, if the
2 applicant and any other related member own, in the
3 aggregate, directly, indirectly, beneficially, or
4 constructively, at least 50% of the value of the
5 corporation's outstanding stock.

6 (4) A corporation and any party related to that
7 corporation in a manner that would require an attribution
8 of stock from the corporation to the party or from the
9 party to the corporation under the attribution rules of
10 Section 318 of the Internal Revenue Code, if the
11 corporation and all such related parties own, in the
12 aggregate, at least 50% of the profits, capital, stock, or
13 other ownership interest in the applicant.

14 (5) A person to or from whom there is attribution of
15 stock ownership in accordance with Section 1563(e) of the
16 Internal Revenue Code, except that for purposes of
17 determining whether a person is a related member under this
18 paragraph, "20%" shall be substituted for "5%" whenever
19 "5%" appears in Section 1563(e) of the Internal Revenue
20 Code.

21 (Source: P.A. 96-888, eff. 4-13-10.)

22 (35 ILCS 25/25)

23 Sec. 25. Tax credit.

24 (a) Subject to the conditions set forth in this Act, an
25 applicant is entitled to a credit against payment of taxes

1 withheld under Section 704A of the Illinois Income Tax Act for
2 calendar years ending on or after the date that is 12 months
3 after the date of hire of a new employee. The credit shall be
4 allowed as a credit to an applicant for each full-time employee
5 hired during the incentive period that results in a net
6 increase in full-time Illinois employees, where the net
7 increase in the employer's full-time Illinois employees is
8 maintained for at least 12 months.

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

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

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

16 (e) The net increase in full-time Illinois employees,
17 measured on an annual full-time equivalent basis, shall be the
18 total number of full-time Illinois employees of the applicant
19 on June 30, 2011, minus the number of full-time Illinois
20 employees employed by the employer on July 1, 2010. However, if
21 the incentive period is extended until June 30, 2012, then the
22 net increase in full-time Illinois employees, measured on an
23 annual full-time equivalent basis, shall be the maximum total
24 number of full-time Illinois employees employed by the
25 applicant for at least 12 consecutive months during any portion
26 of the period running from July 1, 2010 to July 1, 2012, minus

1 the number of full-time Illinois employees employed by the
2 employer on July 1, 2010. For purposes of these calculations
3 ~~the calculation~~, an employer that begins doing business in this
4 State during the incentive period, as determined by the
5 Director, shall be treated as having zero Illinois employees on
6 July 1, 2010.

7 (f) The net increase in the number of full-time Illinois
8 employees of the applicant must be sustained continuously for
9 at least 12 months, starting with the date of hire of a new
10 employee during the incentive period. Eligibility for the
11 credit does not depend on the continuous employment of any
12 particular individual. For purposes of this subsection (f), if
13 a new employee ceases to be employed before the completion of
14 the 12-month period for any reason, the net increase in the
15 number of full-time Illinois employees shall be treated as
16 continuous if a different new employee is hired as a
17 replacement within a reasonable time for the same position.

18 (Source: P.A. 96-888, eff. 4-13-10.)

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