



Sen. Thomas Cullerton

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1 AMENDMENT TO HOUSE BILL 3271

2 AMENDMENT NO. _____. Amend House Bill 3271, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (35 ILCS 10/5-15)

8 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
9 forth in this Act, a Taxpayer is entitled to a Credit against
10 or, as described in subsection (g) of this Section, a payment
11 towards taxes imposed pursuant to subsections (a) and (b) of
12 Section 201 of the Illinois Income Tax Act that may be imposed
13 on the Taxpayer for a taxable year beginning on or after
14 January 1, 1999, if the Taxpayer is awarded a Credit by the
15 Department under this Act for that taxable year.

16 (a) The Department shall make Credit awards under this Act

1 to foster job creation and retention in Illinois.

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

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

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

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

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

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

1 television infrastructure design or manufacturing, or
2 wireless telecommunication or computing terminal device
3 design or manufacturing for use on public networks and (ii)
4 meets the following criteria:

5 (A) the Taxpayer (i) had an Illinois net loss or an
6 Illinois net loss deduction under Section 207 of the
7 Illinois Income Tax Act for the taxable year in which
8 the Credit is awarded, (ii) employed a minimum of 1,000
9 full-time employees in this State during the taxable
10 year in which the Credit is awarded, (iii) has an
11 Agreement under this Act on December 14, 2009 (the
12 effective date of Public Act 96-834), and (iv) is in
13 compliance with all provisions of that Agreement;

14 (B) the Taxpayer (i) had an Illinois net loss or an
15 Illinois net loss deduction under Section 207 of the
16 Illinois Income Tax Act for the taxable year in which
17 the Credit is awarded, (ii) employed a minimum of 1,000
18 full-time employees in this State during the taxable
19 year in which the Credit is awarded, and (iii) has
20 applied for an Agreement within 365 days after December
21 14, 2009 (the effective date of Public Act 96-834);

22 (C) the Taxpayer (i) had an Illinois net operating
23 loss carryforward under Section 207 of the Illinois
24 Income Tax Act in a taxable year ending during calendar
25 year 2008, (ii) has applied for an Agreement within 150
26 days after the effective date of this amendatory Act of

1 the 96th General Assembly, (iii) creates at least 400
2 new jobs in Illinois, (iv) retains at least 2,000 jobs
3 in Illinois that would have been at risk of relocation
4 out of Illinois over a 10-year period, and (v) makes a
5 capital investment of at least \$75,000,000;

6 (D) the Taxpayer (i) had an Illinois net operating
7 loss carryforward under Section 207 of the Illinois
8 Income Tax Act in a taxable year ending during calendar
9 year 2009, (ii) has applied for an Agreement within 150
10 days after the effective date of this amendatory Act of
11 the 96th General Assembly, (iii) creates at least 150
12 new jobs, (iv) retains at least 1,000 jobs in Illinois
13 that would have been at risk of relocation out of
14 Illinois over a 10-year period, and (v) makes a capital
15 investment of at least \$57,000,000; or

16 (E) the Taxpayer (i) employed at least 2,500
17 full-time employees in the State during the year in
18 which the Credit is awarded, (ii) commits to make at
19 least \$500,000,000 in combined capital improvements
20 and project costs under the Agreement, (iii) applies
21 for an Agreement between January 1, 2011 and June 30,
22 2011, (iv) executes an Agreement for the Credit during
23 calendar year 2011, and (v) was incorporated no more
24 than 5 years before the filing of an application for an
25 Agreement.

26 (1.5) The election under this subsection (f) may also

1 be made by a Taxpayer for any Credit awarded pursuant to an
2 agreement that was executed between January 1, 2011 and
3 June 30, 2011, if the Taxpayer (i) is primarily engaged in
4 the manufacture of inner tubes or tires, or both, from
5 natural and synthetic rubber, (ii) employs a minimum of
6 2,400 full-time employees in Illinois at the time of
7 application, (iii) creates at least 350 full-time jobs and
8 retains at least 250 full-time jobs in Illinois that would
9 have been at risk of being created or retained outside of
10 Illinois, and (iv) makes a capital investment of at least
11 \$200,000,000 at the project location.

12 (1.6) The election under this subsection (f) may also
13 be made by a Taxpayer for any Credit awarded pursuant to an
14 agreement that was executed within 150 days after the
15 effective date of this amendatory Act of the 97th General
16 Assembly, if the Taxpayer (i) is primarily engaged in the
17 operation of a discount department store, (ii) maintains
18 its corporate headquarters in Illinois, (iii) employs a
19 minimum of 4,250 full-time employees at its corporate
20 headquarters in Illinois at the time of application, (iv)
21 retains at least 4,250 full-time jobs in Illinois that
22 would have been at risk of being relocated outside of
23 Illinois, (v) had a minimum of \$40,000,000,000 in total
24 revenue in 2010, and (vi) makes a capital investment of at
25 least \$300,000,000 at the project location.

26 (1.7) Notwithstanding any other provision of law, the

1 election under this subsection (f) may also be made by a
2 Taxpayer for any Credit awarded pursuant to an agreement
3 that was executed or applied for on or after July 1, 2011
4 and on or before March 31, 2012, if the Taxpayer is
5 primarily engaged in the manufacture of original and
6 aftermarket filtration parts and products for automobiles,
7 motor vehicles, light duty motor vehicles, light trucks and
8 utility vehicles, and heavy duty trucks, (ii) employs a
9 minimum of 1,000 full-time employees in Illinois at the
10 time of application, (iii) creates at least 250 full-time
11 jobs in Illinois, (iv) relocates its corporate
12 headquarters to Illinois from another state, and (v) makes
13 a capital investment of at least \$4,000,000 at the project
14 location.

15 (1.8) The election under this subsection (f) may also
16 be made if:

17 (i) the agreement awarding the Credit was executed
18 on or after the effective date of this amendatory Act
19 of the 98th General Assembly but not later than 150
20 days after the effective date of this amendatory Act of
21 the 98th General Assembly;

22 (ii) the taxpayer is primarily engaged in retail
23 and business-to-business office products distribution,
24 sales, and service;

25 (iii) the taxpayer maintains its corporate
26 headquarters in Illinois;

1 (iv) the taxpayer employs a minimum of 2,050
2 full-time employees at its corporate headquarters and
3 non-retail corporate locations in Illinois at the time
4 of application;

5 (v) the taxpayer retains at least 2,050 full-time
6 jobs in Illinois that would have been at risk of being
7 relocated outside of Illinois as a result of a business
8 combination with a third party;

9 (vi) the taxpayer creates at least 200 full-time
10 jobs in Illinois as a result of a business combination
11 with a third party;

12 (vii) the taxpayer's total aggregate revenue, when
13 combined with that third party, was at least
14 \$17,500,000,000 in 2012; and

15 (viii) the taxpayer makes a capital investment of
16 at least \$150,000,000 at the project location.

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

22 (3) The election shall be made in the form and manner
23 required by the Illinois Department of Revenue and, once
24 made, shall be irrevocable.

25 (4) If a Taxpayer who meets the requirements of
26 subparagraph (A) of paragraph (1) of this subsection (f)

1 elects to claim the Credit against its withholdings as
2 provided in this subsection (f), then, on and after the
3 date of the election, the terms of the Agreement between
4 the Taxpayer and the Department may not be further amended
5 during the term of the Agreement.

6 (g) A pass-through entity that has been awarded a credit
7 under this Act, its shareholders, or its partners may treat
8 some or all of the credit awarded pursuant to this Act as a tax
9 payment for purposes of the Illinois Income Tax Act. The term
10 "tax payment" means a payment as described in Article 6 or
11 Article 8 of the Illinois Income Tax Act or a composite payment
12 made by a pass-through entity on behalf of any of its
13 shareholders or partners to satisfy such shareholders' or
14 partners' taxes imposed pursuant to subsections (a) and (b) of
15 Section 201 of the Illinois Income Tax Act. In no event shall
16 the amount of the award credited pursuant to this Act exceed
17 the Illinois income tax liability of the pass-through entity or
18 its shareholders or partners for the taxable year.

19 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
20 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
21 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

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