

AN ACT concerning revenue.

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

Section 5. The Illinois Income Tax Act is amended by changing Section 704A as follows:

(35 ILCS 5/704A)

Sec. 704A. Employer's return and payment of tax withheld.

(a) In general, every employer who deducts and withholds or is required to deduct and withhold tax under this Act on or after January 1, 2008 shall make those payments and returns as provided in this Section.

(b) Returns. Every employer shall, in the form and manner required by the Department, make returns with respect to taxes withheld or required to be withheld under this Article 7 for each quarter beginning on or after January 1, 2008, on or before the last day of the first month following the close of that quarter.

(c) Payments. With respect to amounts withheld or required to be withheld on or after January 1, 2008:

(1) Semi-weekly payments. For each calendar year, each employer who withheld or was required to withhold more than \$12,000 during the one-year period ending on June 30 of the immediately preceding calendar year, payment must be made:

(A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday, or Tuesday;

(B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday, or Friday.

Beginning with calendar year 2011, payments made under this paragraph (1) of subsection (c) must be made by electronic funds transfer.

(2) Semi-weekly payments. Any employer who withholds or is required to withhold more than \$12,000 in any quarter of a calendar year is required to make payments on the dates set forth under item (1) of this subsection (c) for each remaining quarter of that calendar year and for the subsequent calendar year.

(3) Monthly payments. Each employer, other than an employer described in items (1) or (2) of this subsection, shall pay to the Department, on or before the 15th day of each month the taxes withheld or required to be withheld during the immediately preceding month.

(4) Payments with returns. Each employer shall pay to the Department, on or before the due date for each return required to be filed under this Section, any tax withheld or required to be withheld during the period for which the

return is due and not previously paid to the Department.

(d) Regulatory authority. The Department may, by rule:

(1) Permit employers, in lieu of the requirements of subsections (b) and (c), to file annual returns due on or before January 31 of the year for taxes withheld or required to be withheld during the previous calendar year and, if the aggregate amounts required to be withheld by the employer under this Article 7 (other than amounts required to be withheld under Section 709.5) do not exceed \$1,000 for the previous calendar year, to pay the taxes required to be shown on each such return no later than the due date for such return.

(2) Provide that any payment required to be made under subsection (c)(1) or (c)(2) is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld.

(3) Designate one or more depositories to which payment of taxes required to be withheld under this Article 7 must be paid by some or all employers.

(4) Increase the threshold dollar amounts at which employers are required to make semi-weekly payments under subsection (c)(1) or (c)(2).

(e) Annual return and payment. Every employer who deducts and withholds or is required to deduct and withhold tax from a

person engaged in domestic service employment, as that term is defined in Section 3510 of the Internal Revenue Code, may comply with the requirements of this Section with respect to such employees by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year. The Department may allow the employer's return to be submitted with the employer's individual income tax return or to be submitted with a return due from the employer under Section 1400.2 of the Unemployment Insurance Act.

(f) Magnetic media and electronic filing. Any W-2 Form that, under the Internal Revenue Code and regulations promulgated thereunder, is required to be submitted to the Internal Revenue Service on magnetic media or electronically must also be submitted to the Department on magnetic media or electronically for Illinois purposes, if required by the Department.

(g) For amounts deducted or withheld after December 31, 2009, a taxpayer who makes an election under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act for a taxable year shall be allowed a credit against payments due under this Section for amounts withheld during the first calendar year beginning after the end of that taxable year equal to the amount of the credit for the incremental income tax attributable to full-time employees of the taxpayer awarded to the taxpayer by the Department of

Commerce and Economic Opportunity under the Economic Development for a Growing Economy Tax Credit Act for the taxable year and credits not previously claimed and allowed to be carried forward under Section 211(4) of this Act as provided in subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act. The credit or credits may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit or credits exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the succeeding calendar years as allowed to be carried forward under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first. Each employer who deducts and withholds or is required to deduct and withhold tax under this Act and who retains income tax withholdings under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act must make a return with respect to such taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depository designated by the Department those withheld taxes not retained by the taxpayer. For purposes of this subsection

(g), the term taxpayer shall include taxpayer and members of the taxpayer's unitary business group as defined under paragraph (27) of subsection (a) of Section 1501 of this Act. This Section is exempt from the provisions of Section 250 of this Act. No credit awarded under the Economic Development for a Growing Economy Tax Credit Act for agreements entered into on or after January 1, 2015 may be credited against payments due under this Section.

(h) An employer may claim a credit against payments due under this Section for amounts withheld during the first calendar year ending after the date on which a tax credit certificate was issued under Section 35 of the Small Business Job Creation Tax Credit Act. The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the 5 succeeding calendar years. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one calendar year that are available to offset a liability, the earlier credit shall be applied first. This Section is exempt from the provisions of Section 250 of this Act.

(Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;

96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff. 8-12-11; 97-507, eff. 8-23-11.)

Section 10. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Sections 5-5, 5-15, 5-20, 5-25, 5-50, 5-65, 5-70 and 5-77 and by adding Section 5-57 as follows:

(35 ILCS 10/5-5)

Sec. 5-5. Definitions. As used in this Act:

"Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-50 of this Act.

"Applicant" means a Taxpayer that is operating a business located or that the Taxpayer plans to locate within the State of Illinois and that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting research and development, providing tourism services, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, retail food, health, or professional services. "Applicant" does not include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a Taxpayer from expanding its operations at another location in the State, provided that existing operations of a

similar nature located within the State are not closed or substantially reduced. This also does not prohibit a Taxpayer from moving its operations from one location in the State to another location in the State for the purpose of expanding the operation provided that the Department determines that expansion cannot reasonably be accommodated within the municipality in which the business is located, or in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county.

"Committee" means the Illinois Business Investment Committee created under Section 5-25 of this Act within the Illinois Economic Development Board.

"Credit" means the amount agreed to between the Department and Applicant under this Act, but not to exceed the lesser of:  
(1) the sum of (i) 50% of the Incremental Income Tax attributable to New Employees at the Applicant's project and (ii) 10% of the training costs of New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. However, if the project is located in an underserved area, then the amount of the Credit may not exceed the lesser of: (1) 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 New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. 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 provide the additional evidence required under paragraph (3) of subsection (b) of Section 5-25.

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

"Director" means the Director of Commerce and Economic Opportunity.

"Full-time Employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the Applicant for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment to Applicant.

"Incremental Income Tax" means the total amount withheld during the taxable year from the compensation of New Employees

and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project that is the subject of an Agreement.

"New Employee" means:

(a) A Full-time Employee first employed by a Taxpayer in the project that is the subject of an Agreement and who is hired after the Taxpayer enters into the tax credit Agreement.

(b) The term "New Employee" does not include:

(1) an employee of the Taxpayer who performs a job that was previously performed by another employee, if that job existed for at least 6 months before hiring the employee;

(2) an employee of the Taxpayer who was previously employed in Illinois by a Related Member of the Taxpayer and whose employment was shifted to the Taxpayer after the Taxpayer entered into the tax credit Agreement; or

(3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the Taxpayer.

(c) Notwithstanding paragraph (1) of subsection (b), an employee may be considered a New Employee under the Agreement if the employee performs a job that was

previously performed by an employee who was:

(1) treated under the Agreement as a New Employee;  
and

(2) promoted by the Taxpayer to another job.

(d) Notwithstanding subsection (a), the Department may award Credit to an Applicant with respect to an employee hired prior to the date of the Agreement if:

(1) the Applicant is in receipt of a letter from the Department stating an intent to enter into a credit Agreement;

(2) the letter described in paragraph (1) is issued by the Department not later than 15 days after the effective date of this Act; and

(3) the employee was hired after the date the letter described in paragraph (1) was issued.

"Noncompliance Date" means, in the case of a Taxpayer that is not complying with the requirements of the Agreement or the provisions of this Act, the day following the last date upon which the Taxpayer was in compliance with the requirements of the Agreement and the provisions of this Act, as determined by the Director, pursuant to Section 5-65.

"Pass Through Entity" means an entity that is exempt from the tax under subsection (b) or (c) of Section 205 of the Illinois Income Tax Act.

"Professional Employer Organization" (PEO) means an employee leasing company, as defined in Section 206.1(A)(2) of

the Illinois Unemployment Insurance Act.

"Related Member" means a person that, with respect to the Taxpayer during any portion of the taxable year, is any one of the following:

(1) An individual stockholder, if the stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the Taxpayer's outstanding stock.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the Taxpayer.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the Taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.

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

of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the Taxpayer.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a Related Member under this paragraph, 20% shall be substituted for 5% wherever 5% appears in Section 1563(e) of the Internal Revenue Code.

"Taxpayer" means an individual, corporation, partnership, or other entity that has any Illinois Income Tax liability.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment

Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

(Source: P.A. 94-793, eff. 5-19-06; 95-375, eff. 8-23-07.)

(35 ILCS 10/5-15)

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

(a) The Department shall make Credit awards under this Act to foster job creation and retention in Illinois.

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

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

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

(e) Nothing herein shall prohibit a Tax Credit Award to an

Applicant that uses a PEO if all other award criteria are satisfied.

(f) 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 for any taxable year ending on or after December 31, 2009, for Taxpayers that entered into Agreements prior to January 1, 2015 and otherwise meet the criteria set forth in this subsection (f), the Taxpayer may elect to claim the Credit against its obligation to pay over withholding under Section 704A of the Illinois Income Tax Act.

(1) The election under this subsection (f) may be made only by a Taxpayer that (i) is primarily engaged in one of the following business activities: water purification and treatment, motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, motor vehicle body manufacturing, cable television infrastructure design or manufacturing, or wireless telecommunication or computing terminal device design or manufacturing for use on public networks and (ii) meets the following criteria:

(A) the Taxpayer (i) had an Illinois net loss or an Illinois net loss deduction under Section 207 of the Illinois Income Tax Act for the taxable year in which

the Credit is awarded, (ii) employed a minimum of 1,000 full-time employees in this State during the taxable year in which the Credit is awarded, (iii) has an Agreement under this Act on December 14, 2009 (the effective date of Public Act 96-834), and (iv) is in compliance with all provisions of that Agreement;

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

(C) the Taxpayer (i) had an Illinois net operating loss carryforward under Section 207 of the Illinois Income Tax Act in a taxable year ending during calendar year 2008, (ii) has applied for an Agreement within 150 days after the effective date of this amendatory Act of the 96th General Assembly, (iii) creates at least 400 new jobs in Illinois, (iv) retains at least 2,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and (v) makes a capital investment of at least \$75,000,000;

(D) the Taxpayer (i) had an Illinois net operating loss carryforward under Section 207 of the Illinois



Income Tax Act in a taxable year ending during calendar year 2009, (ii) has applied for an Agreement within 150 days after the effective date of this amendatory Act of the 96th General Assembly, (iii) creates at least 150 new jobs, (iv) retains at least 1,000 jobs in Illinois that would have been at risk of relocation out of Illinois over a 10-year period, and (v) makes a capital investment of at least \$57,000,000; or

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

(1.5) The election under this subsection (f) may also be made by a Taxpayer for any Credit awarded pursuant to an agreement that was executed between January 1, 2011 and June 30, 2011, if the Taxpayer (i) is primarily engaged in the manufacture of inner tubes or tires, or both, from natural and synthetic rubber, (ii) employs a minimum of 2,400 full-time employees in Illinois at the time of application, (iii) creates at least 350 full-time jobs and

retains at least 250 full-time jobs in Illinois that would have been at risk of being created or retained outside of Illinois, and (iv) makes a capital investment of at least \$200,000,000 at the project location.

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

(1.7) Notwithstanding any other provision of law, the election under this subsection (f) may also be made by a Taxpayer for any Credit awarded pursuant to an agreement that was executed or applied for on or after July 1, 2011 and on or before March 31, 2012, if the Taxpayer is primarily engaged in the manufacture of original and aftermarket filtration parts and products for automobiles, motor vehicles, light duty motor vehicles, light trucks and

utility vehicles, and heavy duty trucks, (ii) employs a minimum of 1,000 full-time employees in Illinois at the time of application, (iii) creates at least 250 full-time jobs in Illinois, (iv) relocates its corporate headquarters to Illinois from another state, and (v) makes a capital investment of at least \$4,000,000 at the project location.

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

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

(4) If a Taxpayer who meets the requirements of subparagraph (A) of paragraph (1) of this subsection (f) elects to claim the Credit against its withholdings as provided in this subsection (f), then, on and after the date of the election, the terms of the Agreement between the Taxpayer and the Department may not be further amended during the term of the Agreement.

(g) A pass-through entity that has been awarded a credit under this Act, its shareholders, or its partners may treat some or all of the credit awarded pursuant to this Act as a tax payment for purposes of the Illinois Income Tax Act. The term

"tax payment" means a payment as described in Article 6 or Article 8 of the Illinois Income Tax Act or a composite payment made by a pass-through entity on behalf of any of its shareholders or partners to satisfy such shareholders' or partners' taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act. In no event shall the amount of the award credited pursuant to this Act exceed the Illinois income tax liability of the pass-through entity or its shareholders or partners for the taxable year.

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

(35 ILCS 10/5-20)

Sec. 5-20. Application for a project to create and retain new jobs.

(a) Any Taxpayer proposing a project located or planned to be located in Illinois may request consideration for designation of its 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 or retain a specified number of full-time employees at a designated location in Illinois. As circumstances require, the Department may require a formal application from an Applicant and a formal letter of request for assistance.

(b) In order to qualify for Credits under this Act, an Applicant's project must:

(1) if the Applicant has more than 100 employees, involve an investment of at least \$2,500,000 ~~\$5,000,000~~ in capital improvements to be placed in service ~~and to employ at least 25 New Employees~~ within the State as a direct result of the project; if the Applicant has 100 or fewer employees, then there is no capital investment requirement; and

(1.5) if the Applicant has more than 100 employees, employ a number of new employees in the State equal to the lesser of (A) 10% of the number of full-time employees employed by the applicant world-wide on the date the application is filed with the Department or (B) 50 New Employees; and, if the Applicant has 100 or fewer employees, employ a number of new employees in the State equal to the lesser of (A) 5% of the number of full-time employees employed by the applicant world-wide on the date the application is filed with the Department or (B) 50 New Employees;

(2) (blank); ~~involve an investment of at least an amount (to be expressly specified by the Department and the Committee) in capital improvements to be placed in service and will employ at least an amount (to be expressly specified by the Department and the Committee) of New Employees within the State, provided that the Department~~

~~and the Committee have determined that the project will provide a substantial economic benefit to the State; or~~

~~(3) (blank). if the applicant has 100 or fewer employees, involve an investment of at least \$1,000,000 in capital improvements to be placed in service and to employ at least 5 New Employees within the State as a direct result of the project.~~

(c) After receipt of an application, the Department may enter into an Agreement with the Applicant if the application is accepted in accordance with Section 5-25.

(Source: P.A. 93-882, eff. 1-1-05.)

(35 ILCS 10/5-25)

Sec. 5-25. Review of Application.

(a) In addition to those duties granted under the Illinois Economic Development Board Act, the Illinois Economic Development Board shall form a Business Investment Committee for the purpose of making recommendations for applications. At the request of the Board, the Director of Commerce and Economic Opportunity or his or her designee, the Director of the Governor's Office of Management and Budget or his or her designee, the Director of Revenue or his or her designee, the Director of Employment Security or his or her designee, and an elected official of the affected locality, such as the chair of the county board or the mayor, may serve as members of the Committee to assist with its analysis and deliberations.

(b) At the Department's request, the Committee shall convene, make inquiries, and conduct studies in the manner and by the methods as it deems desirable, review information with respect to Applicants, and make recommendations for projects to 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 Committee shall determine that all the following conditions exist:

(1) The Applicant's project intends, as required by subsection (b) of Section 5-20 to make the required investment in the State and intends to hire the required number of New Employees in Illinois as a result of that project.

(2) The Applicant's project is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.

(3) That, if not for the Credit, the project would not occur in Illinois, which may be demonstrated by evidence that receipt of the Credit is essential to the Applicant's decision to create new jobs in the State, such as the magnitude of the cost differential between Illinois and a competing State; in addition, if the Applicant is seeking an increase in the maximum amount of the Credit for retained employees, the Applicant must provide any means

~~including, but not limited to,~~ evidence the Applicant has multi-state location options and could reasonably and efficiently locate outside of the State, or demonstrate ~~demonstration~~ that at least one other state is being considered for the project, ~~or evidence the receipt of the Credit is a major factor in the Applicant's decision and that without the Credit, the Applicant likely would not create new jobs in Illinois,~~ or ~~demonstration that receiving the Credit is essential to the Applicant's decision to create or retain new jobs in the State.~~

(4) A cost differential is identified, using best available data, in the projected costs for the Applicant's project compared to the costs in the competing state, including the impact of the competing state's incentive programs. The competing state's incentive programs shall include state, local, private, and federal funds available.

(5) The political subdivisions affected by the project have committed local incentives with respect to the project, considering local ability to assist.

(6) Awarding the Credit will result in an overall positive fiscal impact to the State, as certified by the Committee using the best available data.

(7) The Credit is not prohibited by Section 5-35 of this Act.

(Source: P.A. 94-793, eff. 5-19-06.)



(35 ILCS 10/5-50)

Sec. 5-50. Contents of Agreements with Applicants. The Department shall enter into an Agreement with an Applicant that is awarded a Credit under this Act. The Agreement must 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 and the first taxable year for which the Credit may be claimed.

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

(4) A requirement that the Taxpayer shall maintain operations at the project location that shall be stated as a minimum number of years not to exceed 10.

(5) A specific method for determining the number of New Employees employed during a taxable year.

(6) A requirement that the Taxpayer shall annually report to the Department the number of New Employees, the Incremental Income Tax withheld in connection with the New Employees, and any other information the Director needs to perform the Director's 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 the full-time jobs to be created or retained as a result of the project.

(10) The minimum investment the business enterprise 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 Committee not more than 30 days after the Taxpayer determines that the minimum job creation or retention, employment payroll, or investment no longer is being or will be achieved or maintained as set forth in the terms and conditions of the Agreement.

(12) A provision that, if the total number of New Employees 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) 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 5-30.

(13.5) A provision that, if the Taxpayer never meets 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.

(13.7) A provision specifying that, if the Taxpayer ceases principal operations with the intent to shut down the project in the State permanently 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.

(14) Any other performance conditions or contract provisions as the Department determines are appropriate.

The Department shall post on its website the terms of each Agreement entered into under this Act on or after the effective date of this amendatory Act of the 97th General Assembly. Such

information shall be posted within 10 days after entering into the Agreement and must include the following:

- (1) the name of the recipient business;
- (2) the location of the project;
- (3) the estimated value of the credit;
- (4) the number of new jobs and, if applicable, retained jobs pledged as a result of the project; and
- (5) whether or not the project is located in an underserved area.

(Source: P.A. 97-2, eff. 5-6-11; 97-749, eff. 7-6-12.)

(35 ILCS 10/5-57 new)

Sec. 5-57. Supplier diversity goals; reports. Each taxpayer claiming a credit under this Act shall, no later than April 15 of each taxable year for which the taxpayer claims a credit under this Act, submit to the Department of Commerce and Economic Opportunity an annual report containing the information described in subsections (b), (c), (d), and (e) of Section 5-117 of the Public Utilities Act. Those reports shall be submitted in the form and manner required by the Department of Commerce and Economic Opportunity.

(35 ILCS 10/5-65)

Sec. 5-65. Noncompliance; notice; assessment. If the Director determines that a Taxpayer who has received a Credit under this Act is not complying with the requirements of the

Agreement or all of the provisions of this Act, the Director shall provide notice to the Taxpayer of the alleged noncompliance, and allow the Taxpayer a hearing under the provisions of the Illinois Administrative Procedure Act. If, after such notice and any hearing, the Director determines that a noncompliance exists, the Director shall issue to the Department of Revenue notice to that effect, stating the Noncompliance Date. If, during the term of an Agreement, the Taxpayer ceases operations at a project location that is the subject of that Agreement with the intent to terminate operations in the State, the Department and the Department of Revenue shall recapture from the Taxpayer the entire Credit amount awarded under that Agreement prior to the date the taxpayer ceases operations. The Department shall, subject to appropriation, reallocate the recaptured amounts to the local workforce investment area in which the project was located for the purposes of workforce development, expanded opportunities for unemployed persons, and expanded opportunities for women and minorities in the workforce.

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

(35 ILCS 10/5-70)

Sec. 5-70. Annual report. On or before July 1 each year, the Committee shall submit a report to the Department on the tax credit program under this Act to the Governor and the General Assembly. The report shall include information on the

number of Agreements that were entered into under this Act during the preceding calendar year, a description of the project that is the subject of each Agreement, an update on the status of projects under Agreements entered into before the preceding calendar year, and the sum of the Credits awarded under this Act. A copy of the report shall be delivered to the Governor and to each member of the General Assembly.

The report must include, for each Agreement:

(1) the original estimates of the value of the Credit and the number of new jobs to be created and, if applicable, the number of retained jobs;

(2) any relevant modifications to existing Agreements;

(3) a statement of the progress made by each Taxpayer in meeting the terms of the original Agreement;

(4) a statement of wages paid to New Employees and, if applicable, retained employees in the State;

(5) any information reported under Section 5-57 of this Act; and

(6) a copy of the original Agreement.

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

(35 ILCS 10/5-77)

Sec. 5-77. Sunset of new Agreements. The Department shall not enter into any new Agreements under the provisions of Section 5-50 of this Act after June 30, 2022 ~~April 30, 2017~~.

(Source: P.A. 99-925, eff. 1-20-17.)

Public Act 100-0511

HB0162 Enrolled

LRB100 02290 HLH 12295 b

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