

AN ACT concerning revenue.

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

Section 5. The Small Business Job Creation Tax Credit Act is amended by changing Sections 10 and 25 as follows:

(35 ILCS 25/10)

(Text of Section before amendment by P.A. 97-636)

Sec. 10. Definitions. In this Act:

"Applicant" means a person that is operating a business located within the State of Illinois that is engaged in interstate or intrastate commerce and either:

(1) has no more than 50 full-time employees, without regard to the location of employment of such employees at the beginning of the incentive period; or

(2) hired within the incentive period an employee who had participated as worker-trainee in the Put Illinois to Work Program during 2010.

In the case of any person that is a member of a unitary business group within the meaning of subdivision (a)(27) of Section 1501 of the Illinois Income Tax Act, "applicant" refers to the unitary business group.

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

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

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

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

"Director" means the Director of the Department.

"Full-time employee" means an individual who is employed for a basic wage 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 is a full-time employee if he or she is employed in the service of the applicant for a basic wage for at least 35 hours each week or renders any other standard of service generally accepted by industry custom or practice as full-time employment. For the purposes of this Act, such an individual shall be considered a full-time employee of the applicant.

"Professional Employer Organization" (PEO) shall have the same meaning as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act. As used in this Section, "Professional Employer Organization" does not include a day and temporary labor service agency regulated under the Day and Temporary Labor Services Act.

"Incentive period" means the period beginning July 1, 2010 and ending on June 30, 2011.

"Basic wage" means compensation for employment that is no less than \$10 per hour or the equivalent salary for a new employee.

"New employee" means a full-time employee:

(1) who first became employed by an applicant with less than 50 full-time employees within the incentive period whose hire results in a net increase in the applicant's full-time Illinois employees and who is receiving a basic wage as compensation; or

(2) who participated as a worker-trainee in the Put Illinois to Work Program during 2010 and who is subsequently hired during the incentive period by an applicant and who is receiving a basic wage as compensation.

The term "new employee" does not include:

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

(2) any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital, or value of the applicant or a related member.

"Noncompliance date" means, in the case of an applicant that is not complying with the requirements of the provisions of this Act, the day following the last date upon which the

taxpayer was in compliance with the requirements of the provisions of this Act, as determined by the Director, pursuant to Section 45 of this Act.

"Put Illinois to Work Program" means a worker training and employment program that was established by the State of Illinois with funding from the United States Department of Health and Human Services of Emergency Temporary Assistance to Needy Families funds authorized by the American Recovery and Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF funds were in turn used by the State of Illinois to fund the Put Illinois to Work Program.

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

(1) An individual, if the individual and the members of the individual'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 outstanding profits, capital, stock, or other ownership interest in the applicant.

(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 other ownership interest in the applicant.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, 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 other ownership interest in the applicant.

(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 that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

(Text of Section after amendment by P.A. 97-636)

Sec. 10. Definitions. In this Act:

"Applicant" means a person that is operating a business located within the State of Illinois that is engaged in interstate or intrastate commerce and either:

(1) has no more than 50 full-time employees, without regard to the location of employment of such employees at the beginning of the incentive period; or

(2) hired within the incentive period an employee who had participated as worker-trainee in the Put Illinois to Work Program during 2010.

In the case of any person that is a member of a unitary business group within the meaning of subdivision (a)(27) of Section 1501 of the Illinois Income Tax Act, "applicant" refers to the unitary business group.

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

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

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

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

"Director" means the Director of the Department.

"Full-time employee" means an individual who is employed

for a basic wage 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 is a full-time employee if he or she is employed in the service of the applicant for a basic wage for at least 35 hours each week or renders any other standard of service generally accepted by industry custom or practice as full-time employment. For the purposes of this Act, such an individual shall be considered a full-time employee of the applicant.

"Professional Employer Organization" (PEO) shall have the same meaning as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act. As used in this Section, "Professional Employer Organization" does not include a day and temporary labor service agency regulated under the Day and Temporary Labor Services Act.

"Incentive period" means the period beginning on July 1 and ending on June 30 of the following year. The first incentive period shall begin on July 1, 2010 and the last incentive period shall end on June 30, 2016.

"Basic wage" means compensation for employment that is no less than \$10 per hour or the equivalent salary for a new employee.

"New employee" means a full-time employee:

- (1) who first became employed by an applicant with less than 50 full-time employees within the incentive period

whose hire results in a net increase in the applicant's full-time Illinois employees and who is receiving a basic wage as compensation; or

(2) who participated as a worker-trainee in the Put Illinois to Work Program during 2010 and who is subsequently hired during the incentive period by an applicant and who is receiving a basic wage as compensation.

The term "new employee" does not include:

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

(2) any individual who has a direct or indirect ownership interest of at least 5% in the profits, capital, or value of the applicant or a related member.

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

"Put Illinois to Work Program" means a worker training and employment program that was established by the State of Illinois with funding from the United States Department of Health and Human Services of Emergency Temporary Assistance to Needy Families funds authorized by the American Recovery and

Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF funds were in turn used by the State of Illinois to fund the Put Illinois to Work Program.

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

(1) An individual, if the individual and the members of the individual'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 outstanding profits, capital, stock, or other ownership interest in the applicant.

(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 other ownership interest in the applicant.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, 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 other ownership interest in the applicant.

(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 that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11; 97-636, eff. 6-1-12.)

(35 ILCS 25/25)

(Text of Section before amendment by P.A. 97-636)

Sec. 25. Tax credit.

(a) Subject to the conditions set forth in this Act, an applicant is entitled to a credit against payment of taxes withheld under Section 704A of the Illinois Income Tax Act:

(1) for new employees who participated as worker-trainees in the Put Illinois to Work Program during

2010:

(A) in the first calendar year ending on or after the date that is 6 months after December 31, 2010, or the date of hire, whichever is later. Under this subparagraph, the applicant is entitled to one-half of the credit allowable for each new employee who is employed for at least 6 months after the date of hire; and

(B) in the first calendar year ending on or after the date that is 12 months after December 31, 2010, or the date of hire, whichever is later. Under this subparagraph, the applicant is entitled to one-half of the credit allowable for each new employee who is employed for at least 12 months after the date of hire;

(2) for all other new employees, in the first calendar year ending on or after the date that is 12 months after the date of hire of a new employee. The credit shall be allowed as a credit to an applicant for each full-time employee hired during the incentive period that results in a net increase in full-time Illinois employees, where the net increase in the employer's full-time Illinois employees is maintained for at least 12 months.

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

(c) The credit shall be claimed for the first calendar year ending on or after the date on which the certificate is issued

by the Department.

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

(e) The net increase in full-time Illinois employees, measured on an annual full-time equivalent basis, shall be the total number of full-time Illinois employees of the applicant on June 30, 2011, minus the number of full-time Illinois employees employed by the employer on July 1, 2010. For purposes of the calculation, an employer that begins doing business in this State during the incentive period, as determined by the Director, shall be treated as having zero Illinois employees on July 1, 2010.

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

(g) The Department shall promulgate rules to enable an applicant for which a PEO has been contracted to issue W-2s and make payment of taxes withheld under Section 704A of the

Illinois Income Tax Act for new employees to retain the benefit of tax credits to which the applicant is otherwise entitled under this Act.

(Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

(Text of Section after amendment by P.A. 97-636)

Sec. 25. Tax credit.

(a) Subject to the conditions set forth in this Act, an applicant is entitled to a credit against payment of taxes withheld under Section 704A of the Illinois Income Tax Act:

(1) for new employees who participated as worker-trainees in the Put Illinois to Work Program during 2010:

(A) in the first calendar year ending on or after the date that is 6 months after December 31, 2010, or the date of hire, whichever is later. Under this subparagraph, the applicant is entitled to one-half of the credit allowable for each new employee who is employed for at least 6 months after the date of hire; and

(B) in the first calendar year ending on or after the date that is 12 months after December 31, 2010, or the date of hire, whichever is later. Under this subparagraph, the applicant is entitled to one-half of the credit allowable for each new employee who is employed for at least 12 months after the date of hire;

(2) for all other new employees, in the first calendar year ending on or after the date that is 12 months after the date of hire of a new employee. The credit shall be allowed as a credit to an applicant for each full-time employee hired during the incentive period that results in a net increase in full-time Illinois employees, where the net increase in the employer's full-time Illinois employees is maintained for at least 12 months.

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

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

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

(e) The net increase in full-time Illinois employees, measured on an annual full-time equivalent basis, shall be the total number of full-time Illinois employees of the applicant on the final day of the incentive period, minus the number of full-time Illinois employees employed by the employer on the first day of that same incentive period. For purposes of the calculation, an employer that begins doing business in this State during the incentive period, as determined by the Director, shall be treated as having zero Illinois employees on the first day of the incentive period.

(f) The net increase in the number of full-time Illinois

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

(g) The Department shall promulgate rules to enable an applicant for which a PEO has been contracted to issue W-2s and make payment of taxes withheld under Section 704A of the Illinois Income Tax Act for new employees to retain the benefit of tax credits to which the applicant is otherwise entitled under this Act.

(Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11; 97-636, eff. 6-1-12.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Public Act 097-1052

HB5111 Enrolled

LRB097 16508 HLH 61676 b

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