



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 160

2 AMENDMENT NO. _____. Amend House Bill 160, AS AMENDED, in
3 Article 5 of the bill, in the introductory clause to Section
4 5-5, by deleting "201," and by deleting "222,"; and

5 in Article 5 of the bill, in the body of Section 5-5, by
6 deleting all of Sec. 201; and

7 in Article 5 of the bill, in the body of Section 5-5, by
8 deleting all of Sec. 222; and

9 in Article 10 of the bill, in the body of Section 10-5, by
10 replacing all of Sec. 5-5 with the following:

11 "(35 ILCS 10/5-5)

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

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

1 "Applicant" means a Taxpayer that is operating a business
2 located or that the Taxpayer plans to locate within the State
3 of Illinois and that is engaged in interstate or intrastate
4 commerce for the purpose of manufacturing, processing,
5 assembling, warehousing, or distributing products, conducting
6 research and development, providing tourism services, or
7 providing services in interstate commerce, office industries,
8 health services, professional services, or agricultural
9 processing, but excluding retail and ~~retail food, health, or~~
10 ~~professional~~ services. "Applicant" does not include a Taxpayer
11 who closes or substantially reduces an operation at one
12 location in the State and relocates substantially the same
13 operation to another location in the State. This does not
14 prohibit a Taxpayer from expanding its operations at another
15 location in the State, provided that existing operations of a
16 similar nature located within the State are not closed or
17 substantially reduced. This also does not prohibit a Taxpayer
18 from moving its operations from one location in the State to
19 another location in the State for the purpose of expanding the
20 operation provided that the Department determines that
21 expansion cannot reasonably be accommodated within the
22 municipality in which the business is located, or in the case
23 of a business located in an incorporated area of the county,
24 within the county in which the business is located, after
25 conferring with the chief elected official of the municipality
26 or county and taking into consideration any evidence offered by

1 the municipality or county regarding the ability to accommodate
2 expansion within the municipality or county.

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

6 "Credit" means the amount agreed to between the Department
7 and Applicant under this Act, but not to exceed the lesser of:
8 (1) the sum of (i) 50% of the Incremental Income Tax
9 attributable to the Applicant's project and (ii) 10% of the
10 training costs of New Employees; or (2) 100% of the Incremental
11 Income Tax attributable to the Applicant's project. However, if
12 the project is located in an underserved area, then the amount
13 of the Credit may not exceed the lesser of: (1) the sum of (i)
14 75% of the Incremental Income Tax attributable to the
15 Applicant's project and (ii) 10% of the training costs of New
16 Employees; or (2) 100% of the Incremental Income Tax
17 attributable to the Applicant's project.

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

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

22 "Full-time Employee" means an individual who is employed
23 for consideration for at least 35 hours each week or who
24 renders any other standard of service generally accepted by
25 industry custom or practice as full-time employment. An
26 individual for whom a W-2 is issued by a Professional Employer

1 Organization (PEO) is a full-time employee if employed in the
2 service of the Applicant for consideration for at least 35
3 hours each week or who renders any other standard of service
4 generally accepted by industry custom or practice as full-time
5 employment to Applicant.

6 "Incremental Income Tax" means the total amount withheld
7 during the taxable year from the compensation of New Employees
8 under Article 7 of the Illinois Income Tax Act arising from
9 employment at a project that is the subject of an Agreement.

10 "New Employee" means:

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

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

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

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

25 (3) a child, grandchild, parent, or spouse, other
26 than a spouse who is legally separated from the

1 individual, of any individual who has a direct or an
2 indirect ownership interest of at least 5% in the
3 profits, capital, or value of the Taxpayer.

4 (c) Notwithstanding paragraph (1) of subsection (b),
5 an employee may be considered a New Employee under the
6 Agreement if the employee performs a job that was
7 previously performed by an employee who was:

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

9 and

10 (2) promoted by the Taxpayer to another job.

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

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

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

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

22 "Noncompliance Date" means, in the case of a Taxpayer that
23 is not complying with the requirements of the Agreement or the
24 provisions of this Act, the day following the last date upon
25 which the Taxpayer was in compliance with the requirements of
26 the Agreement and the provisions of this Act, as determined by

1 the Director, pursuant to Section 5-65.

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

5 "Professional Employer Organization" (PEO) means an
6 employee leasing company, as defined in Section 206.1(A)(2) of
7 the Illinois Unemployment Insurance Act.

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

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

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

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

1 Section 318 of the Internal Revenue Code, if the Taxpayer
2 owns directly, indirectly, beneficially, or constructively
3 at least 50% of the value of the corporation's outstanding
4 stock.

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

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

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

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

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

25 (2) 50% or more of the children in the area participate
26 in the federal free lunch program according to reported

1 statistics from the State Board of Education;

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

5 (4) the area has an average unemployment rate, as
6 determined by the Illinois Department of Employment
7 Security, that is more than 120% of the national
8 unemployment average, as determined by the U.S. Department
9 of Labor, for a period of at least 2 consecutive calendar
10 years preceding the date of the application.

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

12 and

13 by replacing all of Article 15 of the bill with the following:

14 "ARTICLE 15. FILM AND THEATER TAX CREDITS

15 Section 15-5. The Film Production Services Tax Credit Act
16 of 2008 is amended by changing Sections 35 and 45 as follows:

17 (35 ILCS 16/35)

18 Sec. 35. Issuance of Tax Credit Certificate.

19 (a) In order to qualify for a tax credit under this Act, an
20 applicant must file an application, on forms prescribed by the
21 Department, providing information necessary to calculate the
22 tax credit, and any additional information as required by the

1 Department. As part of the application, the applicant must
2 commit to supplying the Department with the following
3 information, at a minimum:

4 (1) an identification of each vendor that provides
5 goods or services that were included in the accredited
6 production's Illinois production spending;

7 (2) the amount of Illinois production spending
8 attributable to each vendor; and

9 (3) for each vendor identified under item (1), a
10 statement as to whether the vendor is a minority-owned
11 business or a female-owned business, as defined under
12 Section 2 of the Business Enterprise for Minorities,
13 Females, and Persons with Disabilities Act.

14 (b) Upon satisfactory review of the application, the
15 Department shall issue a Tax Credit Certificate stating the
16 amount of the tax credit to which the applicant is entitled.

17 (Source: P.A. 95-720, eff. 5-27-08.)

18 (35 ILCS 16/45)

19 Sec. 45. Evaluation of tax credit program; reports to the
20 General Assembly.

21 (a) The Department shall evaluate the tax credit program.
22 The evaluation must include an assessment of the effectiveness
23 of the program in creating and retaining new jobs in Illinois
24 and of the revenue impact of the program, and may include a
25 review of the practices and experiences of other states or

1 nations with similar programs. Upon completion of this
2 evaluation, the Department shall determine the overall success
3 of the program, and may make a recommendation to extend,
4 modify, or not extend the program based on this evaluation.

5 (b) At the end of each fiscal quarter, the Department must
6 submit to the General Assembly a report that includes, without
7 limitation, the following information:

8 (1) the economic impact of the tax credit program,
9 including the number of jobs created and retained,
10 including whether the job positions are entry level,
11 management, talent-related, vendor-related, or
12 production-related;

13 (2) the amount of film production spending brought to
14 Illinois, including the amount of spending and type of
15 Illinois vendors hired in connection with an accredited
16 production; and

17 (3) an overall picture of whether the human
18 infrastructure of the motion picture industry in Illinois
19 reflects the geographical, racial and ethnic, gender, and
20 income-level diversity of the State of Illinois.

21 (c) At the end of each fiscal year, the Department must
22 submit to the General Assembly a report that includes, without
23 limitation, the following information:

24 (1) an identification of each vendor that provided
25 goods or services that were included in an accredited
26 production's Illinois production spending and a statement

1 of whether the vendor is a minority-owned business or a
2 female-owned business, as defined under Section 2 of the
3 Business Enterprise for Minorities, Females, and Persons
4 with Disabilities Act;

5 (2) the aggregate amount paid to all ~~each~~ identified
6 vendors ~~vendor~~ by the accredited production;

7 (3) the aggregate amount paid to all identified vendors
8 that are ~~for each identified vendor, a statement as to~~
9 ~~whether the vendor is a~~ minority owned businesses ~~business~~
10 or a female owned businesses ~~business~~, as defined under
11 Section 2 of the Business Enterprise for Minorities,
12 Females, and Persons with Disabilities Act; and

13 (4) a description of any steps taken by the Department
14 to encourage accredited productions to use vendors who are
15 a minority owned business or a female owned business.

16 (Source: P.A. 95-720, eff. 5-27-08.)

17 Section 15-10. The Live Theater Production Tax Credit Act
18 is amended by changing Sections 10-40 and 10-50 as follows:

19 (35 ILCS 17/10-40)

20 Sec. 10-40. Issuance of Tax Credit Award Certificate.

21 (a) In order to qualify for a tax credit award under this
22 Act, an applicant must file an application for each accredited
23 theater production at each of the applicant's qualified
24 production facilities, on forms prescribed by the Department,

1 providing information necessary to calculate the tax credit
2 award and any additional information as reasonably required by
3 the Department. As part of the application, the applicant must
4 commit to supplying the Department with the following
5 information, at a minimum:

6 (1) an identification of each vendor that provides
7 goods or services that were included in the accredited
8 production's Illinois production spending;

9 (2) the amount of Illinois production spending
10 attributable to each vendor; and

11 (3) for each vendor identified under item (1), a
12 statement as to whether the vendor is a minority-owned
13 business or a female-owned business, as defined under
14 Section 2 of the Business Enterprise for Minorities,
15 Females, and Persons with Disabilities Act.

16 (b) Upon satisfactory review of the application, the
17 Department shall issue a tax credit award certificate stating
18 the amount of the tax credit award to which the applicant is
19 entitled for that tax year and shall contemporaneously notify
20 the applicant and Illinois Department of Revenue in accordance
21 with Section 222 of the Illinois Income Tax Act.

22 (Source: P.A. 97-636, eff. 6-1-12.)

23 (35 ILCS 17/10-50)

24 Sec. 10-50. Live theater tax credit award program
25 evaluation and reports.

1 (a) The Department's live theater tax credit award
2 evaluation must include:

3 (i) an assessment of the effectiveness of the program
4 in creating and retaining new jobs in Illinois;

5 (ii) an assessment of the revenue impact of the
6 program;

7 (iii) in the discretion of the Department, a review of
8 the practices and experiences of other states or nations
9 with similar programs; and

10 (iv) an assessment of the overall success of the
11 program. The Department may make a recommendation to
12 extend, modify, or not extend the program based on the
13 evaluation.

14 (b) At the end of each fiscal quarter, the Department shall
15 submit to the General Assembly a report that includes, without
16 limitation:

17 (i) an assessment of the economic impact of the
18 program, including the number of jobs created and retained,
19 and whether the job positions are entry level, management,
20 vendor, or production related;

21 (ii) the amount of accredited theater production
22 spending brought to Illinois, including the amount of
23 spending and type of Illinois vendors hired in connection
24 with an accredited theater production; and

25 (iii) a determination of whether those receiving
26 qualifying Illinois labor expenditure salaries or wages

1 reflect the geographical, racial and ethnic, gender, and
2 income level diversity of the State of Illinois.

3 (c) At the end of each fiscal year, the Department shall
4 submit to the General Assembly a report that includes, without
5 limitation:

6 (i) the identification of each vendor that provided
7 goods or services that were included in an accredited
8 theater production's Illinois production spending and a
9 statement of whether the vendor is a minority-owned
10 business or a female-owned business, as defined under
11 Section 2 of the Business Enterprise for Minorities,
12 Females, and Persons with Disabilities Act;

13 (ii) a statement of (A) the aggregate amount paid to
14 all each identified vendors vendor by the accredited
15 theater production and (B) the aggregate amount paid to all
16 identified vendors that are minority-owned businesses or
17 female-owned businesses, as defined under Section 2 of the
18 Business Enterprise for Minorities, Females, and Persons
19 with Disabilities Act ~~and whether the vendor is a minority~~
20 ~~or female owned business as defined in Section 2 of the~~
21 ~~Business Enterprise for Minorities, Females, and Persons~~
22 ~~with Disabilities Act; and~~

23 (iii) a description of the steps taken by the
24 Department to encourage accredited theater productions to
25 use vendors who are minority or female owned businesses.

26 (Source: P.A. 97-636, eff. 6-1-12.)".