



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3153

Introduced 2/15/2018, by Sen. Julie A. Morrison

#### SYNOPSIS AS INTRODUCED:

35 ILCS 25/10  
35 ILCS 25/25  
35 ILCS 25/35

Amends the Small Business Job Creation Tax Credit Act. Renews the program for incentive periods beginning on or after July 1, 2018 and ending on or before June 30, 2025. Removes language concerning the Put Illinois to Work Program for the second series of incentive periods. Provides that the term "full-time employee" means an individual who is employed for a basic wage for at least 35 hours each week (currently, employed 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). Provides that a 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 8 weeks after the position becomes vacant (currently, a reasonable time). Effective immediately.

LRB100 17422 HLH 32590 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, 25, and 35 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 either:

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

14 (2) for incentive periods ending on or before June 30,  
15 2016, hired within the incentive period an employee who had  
16 participated as worker-trainee in the Put Illinois to Work  
17 Program during 2010.

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

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

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

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

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

9 "Director" means the Director of the Department.

10 "Full-time employee" means an individual who is employed  
11 for a basic wage for at least 35 hours each week ~~or who renders~~  
12 ~~any other standard of service generally accepted by industry~~  
13 ~~custom or practice as full-time employment~~. An individual for  
14 whom a W-2 is issued by a Professional Employer Organization is  
15 a full-time employee if he or she is employed in the service of  
16 the applicant for a basic wage for at least 35 hours each week  
17 ~~or renders any other standard of service generally accepted by~~  
18 ~~industry custom or practice as full time employment~~. For the  
19 purposes of this Act, such an individual shall be considered a  
20 full-time employee of the applicant.

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

1 "Incentive period" means the period beginning on July 1 and  
2 ending on June 30 of the following year. The first series of  
3 incentive periods ~~period~~ shall begin on July 1, 2010 and ~~the~~  
4 ~~last incentive period shall~~ end on June 30, 2016. The second  
5 series of incentive periods shall begin on July 1, 2018 and end  
6 on June 30, 2025.

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

10 "New employee" means a full-time employee who first became  
11 employed by an applicant with less than 50 full-time employees  
12 within the incentive period whose hire results in a net  
13 increase in the applicant's full-time Illinois employees and  
14 who is receiving a basic wage as compensation.‡

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

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

25 The term "new employee" does not include:

26 (1) a person who was previously employed in Illinois by

1 the applicant or a related member prior to the onset of the  
2 incentive period; or

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

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

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

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

23 (1) An individual, if the individual and the members of  
24 the individual's family (as defined in Section 318 of the  
25 Internal Revenue Code) own directly, indirectly,  
26 beneficially, or constructively, in the aggregate, at

1 least 50% of the value of the outstanding profits, capital,  
2 stock, or other ownership interest in the applicant.

3 (2) A partnership, estate, or trust and any partner or  
4 beneficiary, if the partnership, estate, or trust and its  
5 partners or beneficiaries own directly, indirectly,  
6 beneficially, or constructively, in the aggregate, at  
7 least 50% of the profits, capital, stock, or other  
8 ownership interest in the applicant.

9 (3) A corporation, and any party related to the  
10 corporation in a manner that would require an attribution  
11 of stock from the corporation under the attribution rules  
12 of Section 318 of the Internal Revenue Code, if the  
13 applicant and any other related member own, in the  
14 aggregate, directly, indirectly, beneficially, or  
15 constructively, at least 50% of the value of the  
16 corporation's outstanding stock.

17 (4) A corporation and any party related to that  
18 corporation in a manner that would require an attribution  
19 of stock from the corporation to the party or from the  
20 party to the corporation under the attribution rules of  
21 Section 318 of the Internal Revenue Code, if the  
22 corporation and all such related parties own, in the  
23 aggregate, at least 50% of the profits, capital, stock, or  
24 other ownership interest in the applicant.

25 (5) A person to or from whom there is attribution of  
26 stock ownership in accordance with Section 1563(e) of the

1 Internal Revenue Code, except that for purposes of  
2 determining whether a person is a related member under this  
3 paragraph, "20%" shall be substituted for "5%" whenever  
4 "5%" appears in Section 1563(e) of the Internal Revenue  
5 Code.

6 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;  
7 97-636, eff. 6-1-12; 97-1052, eff. 8-23-12; revised 9-26-17.)

8 (35 ILCS 25/25)

9 Sec. 25. Tax credit.

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

13 (1) for new employees who participated as  
14 worker-trainees in the Put Illinois to Work Program during  
15 2010, for incentive periods ending on or before June 30,  
16 2016:

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

24 (B) in the first calendar year ending on or after  
25 the date that is 12 months after December 31, 2010, or

1           the date of hire, whichever is later. Under this  
2           subparagraph, the applicant is entitled to one-half of  
3           the credit allowable for each new employee who is  
4           employed for at least 12 months after the date of hire;

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

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

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

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

20          (e) The net increase in full-time Illinois employees,  
21          measured on an annual full-time equivalent basis, shall be the  
22          total number of full-time Illinois employees of the applicant  
23          on the final day of the incentive period, minus the number of  
24          full-time Illinois employees employed by the employer on the  
25          first day of that same incentive period. For purposes of the  
26          calculation, an employer that begins doing business in this



1 State during the incentive period, as determined by the  
2 Director, shall be treated as having zero Illinois employees on  
3 the first day of the incentive period.

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

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

22 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;  
23 97-636, eff. 6-1-12; 97-1052, eff. 8-23-12.)

24 (35 ILCS 25/35)

25 Sec. 35. Application for award of tax credit; tax credit

1 certificate.

2 (a) On or after the conclusion of the 12-month period (or  
3 6-month period, for purposes of subparagraph (A) of item (1) of  
4 subsection (a) of Section 25) after a new employee has been  
5 hired, an applicant shall file with the Department an  
6 application for award of a credit. The application shall  
7 include the following:

8 (1) The names, Social Security numbers, job  
9 descriptions, salary or wage rates, and dates of hire of  
10 the new employees with respect to whom the credit is being  
11 requested, ~~and an indication of whether each new employee~~  
12 ~~listed participated as a worker trainee in the Put Illinois~~  
13 ~~to Work Program.~~

14 (2) A certification that each new employee listed has  
15 been retained on the job for one year (or 6 months, for  
16 purposes of subparagraph (A) of item (1) of subsection (a)  
17 of Section 25) from the date of hire.

18 (3) The number of new employees hired by the applicant  
19 during the incentive period.

20 (4) The net increase in the number of full-time  
21 Illinois employees of the applicant (including the new  
22 employees listed in the request) between the beginning of  
23 the incentive period and the dates on which the new  
24 employees listed in the request were hired. This  
25 requirement does not apply for tax credits the applicant is  
26 seeking because the new employee had participated as a

1 worker-trainee in the Put Illinois to Work Program.

2 (5) An agreement that the Director is authorized to  
3 verify with the appropriate State agencies the information  
4 contained in the request before issuing a certificate to  
5 the applicant.

6 (6) Any other information the Department determines to  
7 be appropriate.

8 (b) Although an application may be filed at any time after  
9 the conclusion of the 12-month period (or 6-month period, for  
10 purposes of subparagraph (A) of item (1) of subsection (a) of  
11 Section 25) after a new employee was hired, an application  
12 filed more than 90 days after the earliest date on which it  
13 could have been filed shall not be awarded any credit if, prior  
14 to the date it is filed, the Department has received  
15 applications under this Section for credits totaling more than  
16 \$50,000,000.

17 (c) The Department shall issue a certificate to each  
18 applicant awarded a credit under this Act. The certificate  
19 shall include the following:

20 (1) The name and taxpayer identification number of the  
21 applicant.

22 (2) The date on which the certificate is issued.

23 (3) The credit amount that will be allowed.

24 (4) Any other information the Department determines to  
25 be appropriate.

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

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