



Rep. Curtis J. Tarver II

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LRB101 09918 HLH 57115 a

1 AMENDMENT TO HOUSE BILL 2735

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2735 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Small Business Job Creation Tax Credit Act  
5 is amended by changing Sections 10, 25, 30, 35, and 45 as  
6 follows:

7 (35 ILCS 25/10)

8 Sec. 10. Definitions. In this Act:

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

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

15 (2) for incentive periods ending on or before June 30,  
16 2016, hired within the incentive period an employee who had

1 participated as worker-trainee in the Put Illinois to Work  
2 Program during 2010.

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

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

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

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

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

17 "Director" means the Director of the Department.

18 "Full-time employee" means an individual who is employed  
19 for a basic wage for at least 35 hours each week ~~or who renders~~  
20 ~~any other standard of service generally accepted by industry~~  
21 ~~custom or practice as full-time employment.~~ An individual for  
22 whom a W-2 is issued by a Professional Employer Organization is  
23 a full-time employee if he or she is employed in the service of  
24 the applicant for a basic wage for at least 35 hours each week  
25 ~~or renders any other standard of service generally accepted by~~  
26 ~~industry custom or practice as full time employment.~~ For the

1 purposes of this Act, such an individual shall be considered a  
2 full-time employee of the applicant.

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

9 "Incentive period" means the period beginning on July 1 and  
10 ending on June 30 of the following year. The first series of  
11 incentive periods ~~period~~ shall begin on July 1, 2010 and ~~the~~  
12 ~~last incentive period shall~~ end on June 30, 2016. The second  
13 series of incentive periods shall begin on July 1, 2019 and end  
14 on June 30, 2025.

15 "Basic wage" means compensation for employment that is no  
16 less than (i) \$10 per hour for the first set of incentive  
17 periods or (ii) \$15 per hour for the second set of incentive  
18 periods, or the equivalent salary for a new employee.

19 "New employee" means a full-time employee who first became  
20 employed by an applicant with less than 50 full-time employees  
21 within the incentive period whose hire results in a net  
22 increase in the applicant's full-time Illinois employees and  
23 who is receiving a basic wage as compensation. †

24 ~~(1) who first became employed by an applicant with less~~  
25 ~~than 50 full time employees within the incentive period~~  
26 ~~whose hire results in a net increase in the applicant's~~

1 ~~full-time Illinois employees and who is receiving a basic~~  
2 ~~wage as compensation; or~~

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

8 The term "new employee" does not include:

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

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

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

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

1 funds were in turn used by the State of Illinois to fund the  
2 Put Illinois to Work Program.

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

6 (1) An individual, if the individual and the members of  
7 the individual's family (as defined in Section 318 of the  
8 Internal Revenue Code) own directly, indirectly,  
9 beneficially, or constructively, in the aggregate, at  
10 least 50% of the value of the outstanding profits, capital,  
11 stock, or other ownership interest in the applicant.

12 (2) A partnership, estate, or trust and any partner or  
13 beneficiary, if the partnership, estate, or trust and its  
14 partners or beneficiaries own directly, indirectly,  
15 beneficially, or constructively, in the aggregate, at  
16 least 50% of the profits, capital, stock, or other  
17 ownership interest in the applicant.

18 (3) A corporation, and any party related to the  
19 corporation in a manner that would require an attribution  
20 of stock from the corporation under the attribution rules  
21 of Section 318 of the Internal Revenue Code, if the  
22 applicant and any other related member own, in the  
23 aggregate, directly, indirectly, beneficially, or  
24 constructively, at least 50% of the value of the  
25 corporation's outstanding stock.

26 (4) A corporation and any party related to that

1 corporation in a manner that would require an attribution  
2 of stock from the corporation to the party or from the  
3 party to the corporation under the attribution rules of  
4 Section 318 of the Internal Revenue Code, if the  
5 corporation and all such related parties own, in the  
6 aggregate, at least 50% of the profits, capital, stock, or  
7 other ownership interest in the applicant.

8 (5) A person to or from whom there is attribution of  
9 stock ownership in accordance with Section 1563(e) of the  
10 Internal Revenue Code, except that for purposes of  
11 determining whether a person is a related member under this  
12 paragraph, "20%" shall be substituted for "5%" whenever  
13 "5%" appears in Section 1563(e) of the Internal Revenue  
14 Code.

15 "Returning citizen" means an individual who (i) is a  
16 resident of Illinois, (ii) was formerly incarcerated in a  
17 federal, State, or local correctional institution, and (iii) is  
18 a new employee.

19 (Source: P.A. 100-863, eff. 8-14-18.)

20 (35 ILCS 25/25)

21 Sec. 25. Tax credit.

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

25 (1) for new employees who participated as

1 worker-trainees in the Put Illinois to Work Program during  
2 2010, for incentive periods ending on or before June 30,  
3 2016:

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

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

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

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

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

4 (d) The credit shall not exceed \$2,500 per new employee  
5 hired, except that, for the second set of incentive periods, if  
6 the new employee is a returning citizen, then the credit for  
7 that employee may not exceed \$3,500.

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

18 (f) The net increase in the number of full-time Illinois  
19 employees of the applicant under subsection (e) must be  
20 sustained continuously for at least 12 months, starting with  
21 the date of hire of a new employee during the incentive period.  
22 Eligibility for the credit does not depend on the continuous  
23 employment of any particular individual. For purposes of this  
24 subsection (f), if a new employee ceases to be employed before  
25 the completion of the 12-month period for any reason, the net  
26 increase in the number of full-time Illinois employees shall be



1 treated as continuous if a different new employee is hired as a  
2 replacement ~~within a reasonable time~~ for the same position  
3 within 8 weeks after the position becomes vacant.

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

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

12 (35 ILCS 25/30)

13 Sec. 30. Maximum amount of credits allowed. The Department  
14 shall limit the monetary amount of credits awarded under this  
15 Act to no more than (i) \$50,000,000 for new employees other  
16 than returning citizens and (ii) \$5,000,000 for returning  
17 citizens. If a new employee is a returning citizen, but the  
18 \$5,000,000 limit under this Section has been reached, then the  
19 applicant may request a credit for that employee under the  
20 \$50,000,000 limit; however, the credit awarded for that new  
21 employee may not exceed \$2,500. If applications for a greater  
22 amount are received, credits shall be allowed on a  
23 first-come-first-served basis, based on the date on which each  
24 properly completed application for a certificate of  
25 eligibility is received by the Department. If more than one

1 certificate of eligibility is received on the same day, the  
2 credits will be awarded based on the time of submission for  
3 that particular day.

4 (Source: P.A. 96-888, eff. 4-13-10.)

5 (35 ILCS 25/35)

6 Sec. 35. Application for award of tax credit; tax credit  
7 certificate.

8 (a) On or after the conclusion of the 12-month period (or  
9 6-month period, for purposes of subparagraph (A) of item (1) of  
10 subsection (a) of Section 25) after a new employee has been  
11 hired, an applicant shall file with the Department an  
12 application for award of a credit. The application shall  
13 include the following:

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

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

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

1           (4) The net increase in the number of full-time  
2 Illinois employees of the applicant (including the new  
3 employees listed in the request) between the beginning of  
4 the incentive period and the dates on which the new  
5 employees listed in the request were hired. This  
6 requirement does not apply for tax credits the applicant is  
7 seeking because the new employee had participated as a  
8 worker-trainee in the Put Illinois to Work Program.

9           (5) An agreement that the Director is authorized to  
10 verify with the appropriate State agencies the information  
11 contained in the request before issuing a certificate to  
12 the applicant.

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

15           (b) Although an application may be filed at any time after  
16 the conclusion of the 12-month period (or 6-month period, for  
17 purposes of subparagraph (A) of item (1) of subsection (a) of  
18 Section 25) after a new employee was hired, an application  
19 filed more than 90 days after the earliest date on which it  
20 could have been filed shall not be awarded any credit if, prior  
21 to the date it is filed, the Department has received  
22 applications under this Section for credits totaling more than  
23 \$50,000,000.

24           (c) The Department shall issue a certificate to each  
25 applicant awarded a credit under this Act. The certificate  
26 shall include the following:

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

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

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

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

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

8 (35 ILCS 25/45)

9 Sec. 45. Noncompliance with Act; recapture.

10 (a) If the Director determines that an applicant who has  
11 received a credit under this Act is not complying with the  
12 requirements of the provisions of this Act, the Director shall  
13 provide notice to the applicant of the alleged noncompliance,  
14 and allow the taxpayer a hearing under the provisions of the  
15 Illinois Administrative Procedure Act. If, after such notice  
16 and any hearing, the Director determines that a noncompliance  
17 exists, the Director shall issue to the Department of Revenue  
18 notice to that effect, stating the noncompliance date.

19 (b) For tax credits awarded during the second set of  
20 incentive periods, if an employee for whom a tax credit was  
21 awarded under this Act is terminated by the taxpayer within one  
22 year after the credit is awarded, then the Department shall  
23 recapture the amount of the credit awarded for that employee.  
24 This subsection (b) does not apply if the person is terminated  
25 for cause or if the person voluntarily resigns.

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

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