



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2735

by Rep. Curtis J. Tarver II

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.

LRB101 09918 HLH 55020 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 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. 100-863, eff. 8-14-18.)

7 (35 ILCS 25/25)

8 Sec. 25. Tax credit.

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

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

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

23 (B) in the first calendar year ending on or after
24 the date that is 12 months after December 31, 2010, or
25 the date of hire, whichever is later. Under this

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

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

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

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

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

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

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

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

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

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

23 (35 ILCS 25/35)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.