HB5433

LRB10119005HLH68464b

101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5433

by Rep. Tony McCombie - Grant Wehrli - Deanne M. Mazzochi - Amy Grant, Lindsay Parkhurst, et al.

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/704A

Creates the Industrial New Jobs Training Act. Provides that community college may enter into an agreement with an employer in which the employer provides certain education and job-training services. Provides that the program shall be funded by: (1) a new jobs credit from withholding to be received or derived from new employment resulting from the project; (2) tuition, student fees, or special charges fixed by the Board to defray program costs in whole or in part; or(3) a guarantee of payments to be received under paragraph (1) or (2). Provides that the community college may issue certificates for funding of the program. Amends the Illinois Income Tax Act to make conforming changes.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning revenue.

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

Section 1. Short title. This Act may be cited as the Industrial New Jobs Training Act.

Section 5. Definitions.

"Board" means the board of trustees of a community college in the State.

"Department" means the Department of Revenue.

"Program services" means, but is not limited to, the following:

(1) new jobs training;

(2) adult basic education and job-related instruction;

(3) career and technical skill-assessment services and testing;

(4) training facilities, equipment, materials, and supplies;

(5) on-the-job training;

(6) administrative expenses;

(7) subcontracted services with institutions governed by the Board, private colleges or universities, or other federal, State, or local agencies; and

(8) costs associated with the issuance of

certificates.

"Project" means a training arrangement that is the subject of an agreement between the community college and an employer to provide program services.

Section 10. Agreement.

(a) A community college may enter into an agreement with an employer to establish a project. If an agreement is entered into, the community college and the employer shall notify the Department as soon as possible. An agreement shall provide for the costs of program services, including deferred costs, which may be paid from one or a combination of the following sources:

(1) a new jobs credit from withholding to be received or derived from new employment resulting from the project;

(2) tuition, student fees, or special charges fixed by the Board to defray program costs in whole or in part; or

(3) a guarantee of payments to be received under paragraph (1) or (2).

(b) Payment of program costs shall not be deferred for a period longer than 10 years from the date of commencement of the project.

(c) Costs of on-the-job training for employees shall not exceed 50% of the annual gross payroll costs for up to one year of the new jobs. For purposes of this subsection, "gross payroll" means the gross wages, salaries, and benefits for the jobs in training in the project.

Section 15. New jobs credit from withholding. If an agreement provides that all or part of program costs are to be met by receipt of new jobs credit from withholding, it shall be done as follows:

(1) The new jobs credit from withholding shall be based upon the wages paid to the employees in the new jobs.

(2) An amount equal to 1.5% of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to Article 7 of the Illinois Income Tax Act. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the Department, and the credit shall be deposited into the Industrial New Jobs Training Fund, a special Fund created in the State treasury. Moneys in the Industrial New Jobs Training Fund shall be allocated to the community college to be used to pay the principal of and interest on certificates issued by the community college to finance or refinance, in whole or in part, the project. When the principal and interest on the certificates have been paid, the employer credits shall cease, and any money received after the certificates have been paid shall be remitted to the State Treasurer to be deposited in the manner provided for payments under Article 7 of the Illinois Income Tax Act.

(3) The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by a community college for the payment of the principal of and interest on the certificate issued by a community college to finance or refinance, in whole or in part, the project.

(4) The employer shall certify to the Department that the credit in withholding is in accordance with an agreement and shall provide other information the Department may require.

(5) A community college shall certify to the Department the amount of new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

(6) An employee participating in a project will receive full credit for the amount withheld as provided in Article 7.

Section 20. Certificates. To provide funds for the present payment of the costs of new jobs training programs, a community college may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates.

Certificates may be sold at public sale or at private sale at par, premium, or discount at the discretion of the Board. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the Board may provide by resolution authorizing the issuance of the certificates. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this Section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded, may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

To further secure the payment of the certificates, the Board shall provide for the assessment of an annual levy of an additional property tax upon all taxable property within the project area. The revenues from the tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the certificates issued as provided in this Section, when the receipt of payment for program costs as provided in the agreement is insufficient.

If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available payments received for program costs as provided in the agreement which are not required for the payment of principal of or interest on certificates due. No reserves may be built up in this fund in anticipation of a projected default.

The Board shall adjust the annual tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

Before certificates are issued, the Board shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within 15 days after the publication of the notice, by action in the circuit court of the county in which the community college is located, appeal the decision of the Board in proposing to issue the certificates. The action of the Board in determining to issue the certificates is final unless the court finds that the Board has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the Board to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after 15 days from the publication of the notice of intention to issue.

The Board shall determine if revenues are sufficient to secure the faithful performance of obligations in the agreement.

Section 90. The Illinois Income Tax Act is amended by changing Section 704A as follows:

(35 ILCS 5/704A)

Sec. 704A. Employer's return and payment of tax withheld.

(a) In general, every employer who deducts and withholds or is required to deduct and withhold tax under this Act on or after January 1, 2008 shall make those payments and returns as provided in this Section.

(b) Returns. Every employer shall, in the form and manner required by the Department, make returns with respect to taxes withheld or required to be withheld under this Article 7 for each quarter beginning on or after January 1, 2008, on or before the last day of the first month following the close of that quarter.

(c) Payments. With respect to amounts withheld or required to be withheld on or after January 1, 2008:

(1) Semi-weekly payments. For each calendar year, each employer who withheld or was required to withhold more than $12,000 during the one-year period ending on June 30 of the immediately preceding calendar year, payment must be made:

(A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday, or Tuesday;

(B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday, or Friday.

Beginning with calendar year 2011, payments made under this paragraph (1) of subsection (c) must be made by electronic funds transfer.

(2) Semi-weekly payments. Any employer who withholds or is required to withhold more than $12,000 in any quarter of a calendar year is required to make payments on the dates set forth under item (1) of this subsection (c) for each remaining quarter of that calendar year and for the subsequent calendar year.

(3) Monthly payments. Each employer, other than an employer described in items (1) or (2) of this subsection, shall pay to the Department, on or before the 15th day of each month the taxes withheld or required to be withheld during the immediately preceding month.

(4) Payments with returns. Each employer shall pay to the Department, on or before the due date for each return required to be filed under this Section, any tax withheld or required to be withheld during the period for which the return is due and not previously paid to the Department.

(d) Regulatory authority. The Department may, by rule:

(1) Permit employers, in lieu of the requirements of subsections (b) and (c), to file annual returns due on or before January 31 of the year for taxes withheld or required to be withheld during the previous calendar year and, if the aggregate amounts required to be withheld by the employer under this Article 7 (other than amounts required to be withheld under Section 709.5) do not exceed $1,000 for the previous calendar year, to pay the taxes required to be shown on each such return no later than the due date for such return.

(2) Provide that any payment required to be made under subsection (c)(1) or (c)(2) is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld.

(3) Designate one or more depositories to which payment of taxes required to be withheld under this Article 7 must be paid by some or all employers.

(4) Increase the threshold dollar amounts at which employers are required to make semi-weekly payments under subsection (c)(1) or (c)(2).

(e) Annual return and payment. Every employer who deducts and withholds or is required to deduct and withhold tax from a person engaged in domestic service employment, as that term is defined in Section 3510 of the Internal Revenue Code, may comply with the requirements of this Section with respect to such employees by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year. The Department may allow the employer's return to be submitted with the employer's individual income tax return or to be submitted with a return due from the employer under Section 1400.2 of the Unemployment Insurance Act.

(f) Magnetic media and electronic filing. With respect to taxes withheld in calendar years prior to 2017, any W-2 Form that, under the Internal Revenue Code and regulations promulgated thereunder, is required to be submitted to the Internal Revenue Service on magnetic media or electronically must also be submitted to the Department on magnetic media or electronically for Illinois purposes, if required by the Department.

With respect to taxes withheld in 2017 and subsequent calendar years, the Department may, by rule, require that any return (including any amended return) under this Section and any W-2 Form that is required to be submitted to the Department must be submitted on magnetic media or electronically.

The due date for submitting W-2 Forms shall be as prescribed by the Department by rule.

(g) For amounts deducted or withheld after December 31, 2009, a taxpayer who makes an election under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy

Tax Credit Act for a taxable year shall be allowed a credit against payments due under this Section for amounts withheld during the first calendar year beginning after the end of that taxable year equal to the amount of the credit for the incremental income tax attributable to full-time employees of the taxpayer awarded to the taxpayer by the Department of Commerce and Economic Opportunity under the Economic Development for a Growing Economy Tax Credit Act for the taxable year and credits not previously claimed and allowed to be carried forward under Section 211(4) of this Act as provided in subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act. The credit or credits may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit or credits exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the succeeding calendar years as allowed to be carried forward under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first. Each employer who deducts and withholds or is required to deduct and withhold tax under this Act and who retains income tax withholdings under subsection (f) of

Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act must make a return with respect to such taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depositary designated by the Department those withheld taxes not retained by the taxpayer. For purposes of this subsection (g), the term taxpayer shall include taxpayer and members of the taxpayer's unitary business group as defined under paragraph (27) of subsection (a) of Section 1501 of this Act. This Section is exempt from the provisions of Section 250 of this Act. No credit awarded under the Economic Development for a Growing Economy Tax Credit Act for agreements entered into on or after January 1, 2015 may be credited against payments due under this Section.

(h) An employer may claim a credit against payments due under this Section for amounts withheld during the first calendar year ending after the date on which a tax credit certificate was issued under Section 35 of the Small Business Job Creation Tax Credit Act. The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the 5 succeeding calendar years. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one calendar year that are available to offset a liability, the earlier credit shall be applied first. This Section is exempt from the provisions of Section 250 of this Act.

(i) Each employer with 50 or fewer full-time equivalent employees during the reporting period may claim a credit against the payments due under this Section for each qualified employee in an amount equal to the maximum credit allowable. The credit may be taken against payments due for reporting periods that begin on or after January 1, 2020, and end on or before December 31, 2027. An employer may not claim a credit for an employee who has worked fewer than 90 consecutive days immediately preceding the reporting period; however, such credits may accrue during that 90-day period and be claimed against payments under this Section for future reporting periods after the employee has worked for the employer at least 90 consecutive days. In no event may the credit exceed the employer's liability for the reporting period. Each employer who deducts and withholds or is required to deduct and withhold tax under this Act and who retains income tax withholdings under this subsection must make a return with respect to such taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depositary designated by the Department those withheld taxes not retained by the employer.

For each reporting period, the employer may not claim a credit or credits for more employees than the number of employees making less than the minimum or reduced wage for the current calendar year during the last reporting period of the preceding calendar year. Notwithstanding any other provision of this subsection, an employer shall not be eligible for credits for a reporting period unless the average wage paid by the employer per employee for all employees making less than $55,000 during the reporting period is greater than the average wage paid by the employer per employee for all employees making less than $55,000 during the same reporting period of the prior calendar year.

For purposes of this subsection (i):

"Compensation paid in Illinois" has the meaning ascribed to that term under Section 304(a)(2)(B) of this Act.

"Employer" and "employee" have the meaning ascribed to those terms in the Minimum Wage Law, except that "employee" also includes employees who work for an employer with fewer than 4 employees. Employers that operate more than one establishment pursuant to a franchise agreement or that constitute members of a unitary business group shall aggregate their employees for purposes of determining eligibility for the credit.

"Full-time equivalent employees" means the ratio of the number of paid hours during the reporting period and the number of working hours in that period.

"Maximum credit" means the percentage listed below of the difference between the amount of compensation paid in Illinois to employees who are paid not more than the required minimum wage reduced by the amount of compensation paid in Illinois to employees who were paid less than the current required minimum wage during the reporting period prior to each increase in the required minimum wage on January 1. If an employer pays an employee more than the required minimum wage and that employee previously earned less than the required minimum wage, the employer may include the portion that does not exceed the required minimum wage as compensation paid in Illinois to employees who are paid not more than the required minimum wage.

(1) 25% for reporting periods beginning on or after January 1, 2020 and ending on or before December 31, 2020;

(2) 21% for reporting periods beginning on or after January 1, 2021 and ending on or before December 31, 2021;

(3) 17% for reporting periods beginning on or after January 1, 2022 and ending on or before December 31, 2022;

(4) 13% for reporting periods beginning on or after January 1, 2023 and ending on or before December 31, 2023;

(5) 9% for reporting periods beginning on or after January 1, 2024 and ending on or before December 31, 2024;

(6) 5% for reporting periods beginning on or after January 1, 2025 and ending on or before December 31, 2025.

The amount computed under this subsection may continue to be claimed for reporting periods beginning on or after January

1, 2026 and:

(A) ending on or before December 31, 2026 for employers with more than 5 employees; or

(B) ending on or before December 31, 2027 for employers with no more than 5 employees.

"Qualified employee" means an employee who is paid not more than the required minimum wage and has an average wage paid per hour by the employer during the reporting period equal to or greater than his or her average wage paid per hour by the employer during each reporting period for the immediately preceding 12 months. A new qualified employee is deemed to have earned the required minimum wage in the preceding reporting period.

"Reporting period" means the quarter for which a return is required to be filed under subsection (b) of this Section.

<u>(j) This Article 7 is subject to the provisions of the Industrial New Jobs Training Act.</u>

(Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17; 100-863, eff. 8-14-18; 101-1, eff. 2-19-19.)