

SB2125



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2125

Introduced 2/15/2019, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/704A

Creates the Job Creation Zone Pilot Program Act. Sets forth the boundaries of the Job Creation Zone. Provides that applicants that pledge to hire at least 5 new employees at a designated location within the job creation zone are eligible for credits against their obligation to pay over withholding taxes under the Illinois Income Tax Act. Sets forth the amount of the credit, which is based on the incremental income tax attributable to new employees hired by the taxpayer during the calendar year. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB101 06920 HLH 51952 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Job
5 Creation Zone Pilot Program Act.

6 Section 5. Definitions. As used in this Act:

7 "Agreement" means an agreement between the taxpayer and the
8 Department for credit awards under this Act.

9 "Department" means the Department of Commerce and Economic
10 Opportunity.

11 "Incremental income tax" means the total amount withheld
12 during the reporting period from the compensation of new
13 employees under Article 7 of the Illinois Income Tax Act
14 arising from employment at a project that is the subject of an
15 agreement.

16 "New employee" means a full-time employee who (i) is first
17 employed by a taxpayer in the project that is the subject of an
18 agreement under this Act, (ii) is hired after the taxpayer
19 enters into the tax credit agreement, (iii) receives
20 compensation from the taxpayer that is at least 125% of the
21 State minimum wage during the entire time he or she is
22 considered a new employee, and (iv) is eligible for
23 employer-sponsored group health insurance benefits and

1 retirement benefits as a condition of his or her employment
2 with the taxpayer. The term "new employee" does not include:

3 (1) an employee of the taxpayer who performs a job that
4 was previously performed by another employee, if that job
5 existed for at least 6 months before hiring the employee;
6 notwithstanding this paragraph, an employee may be
7 considered a new employee if the employee performs a job
8 that was previously performed by an employee who was:

9 (A) treated under the agreement as a new employee;

10 and

11 (B) promoted by the taxpayer to another job;

12 (2) an employee of the taxpayer who was previously
13 employed in Illinois by a related member of the taxpayer
14 and whose employment was shifted to the taxpayer after the
15 taxpayer entered into the agreement under this Act; or

16 (3) a child, grandchild, parent, or spouse, other than
17 a spouse who is legally separated from the individual, of
18 any individual who has a direct or an indirect ownership
19 interest of at least 5% in the profits, capital, or value
20 of the taxpayer.

21 "Project" means employment in one or more of the following
22 fields: manufacturing, technology, research, science,
23 mathematics, engineering, construction, energy, bioprocessing,
24 or agriculture.

25 "Related Member" means a person that, with respect to the
26 taxpayer during any portion of the taxable year, is any one of

1 the following:

2 (1) An individual stockholder, if the stockholder and
3 the members of the stockholder's family (as defined in
4 Section 318 of the Internal Revenue Code) own directly,
5 indirectly, beneficially, or constructively, in the
6 aggregate, at least 50% of the value of the taxpayer's
7 outstanding stock.

8 (2) A partnership, estate, or trust and any partner or
9 beneficiary, if the partnership, estate, or trust, and its
10 partners or beneficiaries own directly, indirectly,
11 beneficially, or constructively, in the aggregate, at
12 least 50% of the profits, capital, stock, or value of the
13 taxpayer.

14 (3) A corporation, and any party related to the
15 corporation in a manner that would require an attribution
16 of stock from the corporation to the party or from the
17 party to the corporation under the attribution rules of
18 Section 318 of the Internal Revenue Code, if the taxpayer
19 owns directly, indirectly, beneficially, or constructively
20 at least 50% of the value of the corporation's outstanding
21 stock.

22 (4) A corporation and any party related to that
23 corporation in a manner that would require an attribution
24 of stock from the corporation to the party or from the
25 party to the corporation under the attribution rules of
26 Section 318 of the Internal Revenue Code, if the

1 corporation and all such related parties own in the
2 aggregate at least 50% of the profits, capital, stock, or
3 value of the taxpayer.

4 (5) A person to or from whom there is attribution of
5 stock ownership in accordance with Section 1563(e) of the
6 Internal Revenue Code, except, for purposes of determining
7 whether a person is a Related Member under this paragraph,
8 20% shall be substituted for 5% wherever 5% appears in
9 Section 1563(e) of the Internal Revenue Code.

10 Section 10. Zone created. A job creation zone pilot program
11 is hereby created. The job creation zone shall have the
12 following boundaries:

13 Beginning at the intersection of US-51 and State Route
14 9; then East to the Indiana State Line; then South along
15 the border between Illinois and Indiana; then Southwest
16 along Interstate 70 to US-51; then North along US-51 to the
17 Point of Beginning; the job creation zone also includes all
18 of the territory within 15 miles of the North, South, and
19 West borders set forth in this Section.

20 Section 15. Tax credit awards; application.

21 (a) The Department shall make credit awards under this Act
22 to foster job creation within the job creation zone. To be
23 eligible for credits under this Act, the applicant must pledge
24 to hire at least 5 new employees at a designated location

1 within the job creation zone.

2 (b) An applicant may request a credit award by formal
3 written letter of request or by formal application to the
4 Department, in which the applicant states its intent to hire at
5 least 5 new employees at a designated location within the job
6 creation zone. As circumstances require, the Department may
7 require a formal application from an applicant and a formal
8 letter of request for assistance.

9 (c) The Department may not make a credit award for a
10 project at a location that was used by a different employer
11 during the previous year if the applicant will employ the same
12 number of employees or fewer employees (including new
13 employees) at that project location.

14 (d) The Department may make credit awards for withholding
15 reporting periods beginning on or after July 1, 2019.

16 Section 25. Tax credit awards; amount. Any taxpayer that
17 has been issued a certificate of exemption by the Department
18 under this Act may claim a credit against its obligation to pay
19 over withholding under Section 704A of the Illinois Income Tax
20 Act. The amount of the credit may not exceed (i) 50% of the
21 incremental income tax attributable to each new employee during
22 calendar year in which the new employee is hired and for the
23 first 2 calendar years after the new employee is hired and (ii)
24 25% of the incremental income tax attributable to each new
25 employee during the third and fourth calendar years after the

1 new employee is hired.

2 Section 30. Rulemaking. The Department may adopt rules to
3 implement and enforce the provisions of this Act.

4 Section 900. The Illinois Income Tax Act is amended by
5 changing Section 704A as follows:

6 (35 ILCS 5/704A)

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

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

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

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

20 (1) Semi-weekly payments. For each calendar year, each
21 employer who withheld or was required to withhold more than
22 \$12,000 during the one-year period ending on June 30 of the
23 immediately preceding calendar year, payment must be made:

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

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

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

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

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

23 (4) Payments with returns. Each employer shall pay to
24 the Department, on or before the due date for each return
25 required to be filed under this Section, any tax withheld
26 or required to be withheld during the period for which the

1 return is due and not previously paid to the Department.

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

3 (1) Permit employers, in lieu of the requirements of
4 subsections (b) and (c), to file annual returns due on or
5 before January 31 of the year for taxes withheld or
6 required to be withheld during the previous calendar year
7 and, if the aggregate amounts required to be withheld by
8 the employer under this Article 7 (other than amounts
9 required to be withheld under Section 709.5) do not exceed
10 \$1,000 for the previous calendar year, to pay the taxes
11 required to be shown on each such return no later than the
12 due date for such return.

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

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

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

25 (e) Annual return and payment. Every employer who deducts
26 and withholds or is required to deduct and withhold tax from a

1 person engaged in domestic service employment, as that term is
2 defined in Section 3510 of the Internal Revenue Code, may
3 comply with the requirements of this Section with respect to
4 such employees by filing an annual return and paying the taxes
5 required to be deducted and withheld on or before the 15th day
6 of the fourth month following the close of the employer's
7 taxable year. The Department may allow the employer's return to
8 be submitted with the employer's individual income tax return
9 or to be submitted with a return due from the employer under
10 Section 1400.2 of the Unemployment Insurance Act.

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

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

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

26 (g) For amounts deducted or withheld after December 31,

1 2009, a taxpayer who makes an election under subsection (f) of
2 Section 5-15 of the Economic Development for a Growing Economy
3 Tax Credit Act for a taxable year shall be allowed a credit
4 against payments due under this Section for amounts withheld
5 during the first calendar year beginning after the end of that
6 taxable year equal to the amount of the credit for the
7 incremental income tax attributable to full-time employees of
8 the taxpayer awarded to the taxpayer by the Department of
9 Commerce and Economic Opportunity under the Economic
10 Development for a Growing Economy Tax Credit Act for the
11 taxable year and credits not previously claimed and allowed to
12 be carried forward under Section 211(4) of this Act as provided
13 in subsection (f) of Section 5-15 of the Economic Development
14 for a Growing Economy Tax Credit Act. The credit or credits may
15 not reduce the taxpayer's obligation for any payment due under
16 this Section to less than zero. If the amount of the credit or
17 credits exceeds the total payments due under this Section with
18 respect to amounts withheld during the calendar year, the
19 excess may be carried forward and applied against the
20 taxpayer's liability under this Section in the succeeding
21 calendar years as allowed to be carried forward under paragraph
22 (4) of Section 211 of this Act. The credit or credits shall be
23 applied to the earliest year for which there is a tax
24 liability. If there are credits from more than one taxable year
25 that are available to offset a liability, the earlier credit
26 shall be applied first. Each employer who deducts and withholds

1 or is required to deduct and withhold tax under this Act and
2 who retains income tax withholdings under subsection (f) of
3 Section 5-15 of the Economic Development for a Growing Economy
4 Tax Credit Act must make a return with respect to such taxes
5 and retained amounts in the form and manner that the
6 Department, by rule, requires and pay to the Department or to a
7 depository designated by the Department those withheld taxes
8 not retained by the taxpayer. For purposes of this subsection
9 (g), the term taxpayer shall include taxpayer and members of
10 the taxpayer's unitary business group as defined under
11 paragraph (27) of subsection (a) of Section 1501 of this Act.
12 This Section is exempt from the provisions of Section 250 of
13 this Act. No credit awarded under the Economic Development for
14 a Growing Economy Tax Credit Act for agreements entered into on
15 or after January 1, 2015 may be credited against payments due
16 under this Section.

17 (h) An employer may claim a credit against payments due
18 under this Section for amounts withheld during the first
19 calendar year ending after the date on which a tax credit
20 certificate was issued under Section 35 of the Small Business
21 Job Creation Tax Credit Act. The credit shall be equal to the
22 amount shown on the certificate, but may not reduce the
23 taxpayer's obligation for any payment due under this Section to
24 less than zero. If the amount of the credit exceeds the total
25 payments due under this Section with respect to amounts
26 withheld during the calendar year, the excess may be carried

1 forward and applied against the taxpayer's liability under this
2 Section in the 5 succeeding calendar years. The credit shall be
3 applied to the earliest year for which there is a tax
4 liability. If there are credits from more than one calendar
5 year that are available to offset a liability, the earlier
6 credit shall be applied first. This Section is exempt from the
7 provisions of Section 250 of this Act.

8 (i) An employer may claim a credit against payments due
9 under this Section for amounts withheld during the first
10 calendar year ending after the date on which a certificate of
11 exemption was issued under the Job Creation Zone Pilot Program
12 Act. The credit shall be equal to the amount shown on the
13 certificate, but may not reduce the taxpayer's obligation for
14 any payment due under this Section to less than zero. If the
15 amount of the credit exceeds the total payments due under this
16 Section with respect to amounts withheld during the calendar
17 year, the excess may be carried forward and applied against the
18 taxpayer's liability under this Section in the 5 succeeding
19 calendar years. The credit shall be applied to the earliest
20 year for which there is a tax liability. If there are credits
21 from more than one calendar year that are available to offset a
22 liability, the earlier credit shall be applied first. This
23 Section is exempt from the provisions of Section 250 of this
24 Act.

25 (Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17;
26 100-863, eff. 8-14-18.)

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.