

# SB3498



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3498

Introduced 2/14/2020, by Sen. Ram Villivalam

### SYNOPSIS AS INTRODUCED:

35 ILCS 25/5  
35 ILCS 25/10  
35 ILCS 25/25  
35 ILCS 25/30  
35 ILCS 25/35

Amends the Small Business Job Creation Tax Credit Act. Creates a second set of incentive periods beginning on July 1, 2020 and ending on June 30, 2026. Provides that the credit shall not exceed \$5,000 per employee hired. Provides that the maximum amount of credits allowed is \$75,000,000. Effective immediately.

LRB101 20658 HLH 70317 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 5, 10, 25, 30, and 35 as  
6 follows:

7 (35 ILCS 25/5)

8 Sec. 5. Findings and purpose. Small businesses provide for  
9 roughly half of the private workforce in Illinois. In the wake  
10 of one of the worst economic crises in Illinois history, it is  
11 necessary to assist and encourage small businesses in the  
12 hiring of new employees. ~~The General Assembly finds that the~~  
13 ~~Illinois economy is mired in one of the worst economic~~  
14 ~~recessions it has ever suffered. Small businesses in particular~~  
15 ~~have been hit hard by the economy, resulting in levels of high~~  
16 ~~unemployment throughout the State. In order to reverse the~~  
17 ~~trend of high unemployment and to help spur the economy to~~  
18 ~~recovery, it is necessary to assist and encourage small~~  
19 ~~businesses in the hiring of new employees.~~

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

21 (35 ILCS 25/10)

22 Sec. 10. Definitions. In this Act:

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

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

7 (2) for the first set of incentive periods, hired  
8 within the incentive period an employee who had  
9 participated as worker-trainee in the Put Illinois to Work  
10 Program during 2010.

11 In the case of any person that is a member of a unitary  
12 business group within the meaning of subdivision (a)(27) of  
13 Section 1501 of the Illinois Income Tax Act, "applicant" refers  
14 to the unitary business group.

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

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

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

23 "Department" means the Department of Commerce and Economic  
24 Opportunity.

25 "Director" means the Director of the Department.

26 "Full-time employee" means an individual who is employed

1 for a basic wage for at least 35 hours each week or who renders  
2 any other standard of service generally accepted by industry  
3 custom or practice as full-time employment. An individual for  
4 whom a W-2 is issued by a Professional Employer Organization is  
5 a full-time employee if he or she is employed in the service of  
6 the applicant for a basic wage for at least 35 hours each week  
7 or renders any other standard of service generally accepted by  
8 industry custom or practice as full-time employment. For the  
9 purposes of this Act, such an individual shall be considered a  
10 full-time employee of the applicant.

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

17 "Incentive period" means the period beginning on July 1 and  
18 ending on June 30 of the following year. The first set of  
19 incentive periods ~~period~~ shall begin on July 1, 2010 and ~~the~~  
20 ~~last incentive period shall~~ end on June 30, 2016. The second  
21 set of incentive periods shall begin on July 1, 2020 and end on  
22 June 30, 2026.

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

26 "New employee" means a full-time employee:

1           (1) who first became employed by an applicant with less  
2           than 50 full-time employees within the incentive period  
3           whose hire results in a net increase in the applicant's  
4           full-time Illinois employees and who is receiving a basic  
5           wage as compensation; or

6           (2) for the first set of incentive periods, who  
7           participated as a worker-trainee in the Put Illinois to  
8           Work Program during 2010 and who is subsequently hired  
9           during the incentive period by an applicant and who is  
10          receiving a basic wage as compensation.

11          The term "new employee" does not include:

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

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

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

24          "Put Illinois to Work Program" means a worker training and  
25          employment program that was established by the State of  
26          Illinois with funding from the United States Department of

1 Health and Human Services of Emergency Temporary Assistance for  
2 Needy Families funds authorized by the American Recovery and  
3 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF  
4 funds were in turn used by the State of Illinois to fund the  
5 Put Illinois to Work Program.

6 "Related member" means a person that, with respect to the  
7 applicant during any portion of the incentive period, is any  
8 one of the following,

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

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

21 (3) A corporation, and any party related to the  
22 corporation in a manner that would require an attribution  
23 of stock from the corporation under the attribution rules  
24 of Section 318 of the Internal Revenue Code, if the  
25 applicant and any other related member own, in the  
26 aggregate, directly, indirectly, beneficially, or

1           constructively, at least 50% of the value of the  
2           corporation's outstanding stock.

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

11          (5) A person to or from whom there is attribution of  
12          stock ownership in accordance with Section 1563(e) of the  
13          Internal Revenue Code, except that for purposes of  
14          determining whether a person is a related member under this  
15          paragraph, "20%" shall be substituted for "5%" whenever  
16          "5%" appears in Section 1563(e) of the Internal Revenue  
17          Code.

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

19           (35 ILCS 25/25)

20           Sec. 25. Tax credit.

21           (a) Subject to the conditions set forth in this Act, for  
22           the first set of incentive periods, an applicant is entitled to  
23           a credit against payment of taxes withheld under Section 704A  
24           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:

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

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

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

24 (a-5) Subject to the conditions set forth in this Act, for  
25 the second set of incentive periods, an applicant is entitled  
26 to a credit against payment of taxes withheld under Section



1 704A of the Illinois Income Tax Act in the first calendar year  
2 ending on or after the date that is 12 months after the date of  
3 hire of a new employee. The credit shall be allowed as a credit  
4 to an applicant for each full-time employee hired during the  
5 incentive period that results in a net increase in full-time  
6 Illinois employees, where the net increase in the employer's  
7 full-time Illinois employees is maintained for at least 12  
8 months.

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

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

14 (d) The credit shall not exceed \$5,000 ~~\$2,500~~ per new  
15 employee hired.

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

26 (f) The net increase in the number of full-time Illinois

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

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

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

19 (35 ILCS 25/30)

20 Sec. 30. Maximum amount of credits allowed. The Department  
21 shall limit the monetary amount of credits awarded under this  
22 Act to no more than \$75,000,000 ~~\$50,000,000~~. If applications  
23 for a greater amount are received, credits shall be allowed on  
24 a first-come-first-served basis, based on the date on which  
25 each properly completed application for a certificate of

1 eligibility is received by the Department. If more than one  
2 certificate of eligibility is received on the same day, the  
3 credits will be awarded based on the time of submission for  
4 that particular day.

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

6 (35 ILCS 25/35)

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

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

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

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

25 (3) The number of new employees hired by the applicant

1 during the incentive period.

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

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

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

16 (b) Although an application may be filed at any time after  
17 the conclusion of the 12-month period (or 6-month period, for  
18 purposes of subparagraph (A) of item (1) of subsection (a) of  
19 Section 25) after a new employee was hired, an application  
20 filed more than 90 days after the earliest date on which it  
21 could have been filed shall not be awarded any credit if, prior  
22 to the date it is filed, the Department has received  
23 applications under this Section for credits totaling more than  
24 \$75,000,000 ~~\$50,000,000~~.

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

1 shall include the following:

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

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

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

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

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

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.