



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0630

Introduced 2/8/2021, by Rep. Steven Reick

SYNOPSIS AS INTRODUCED:

20 ILCS 605/605-1055 new
35 ILCS 5/211
35 ILCS 10/5-45

Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, the Illinois Income Tax Act, and the Economic Development for a Growing Economy Tax Credit Act. Provides that the Department of Commerce and Economic Opportunity, in cooperation with the Department of Revenue, may adopt rules to identify and allow for the extension of credits under the Economic Development for a Growing Economy Tax Credit Act that are set to expire during a tax year during which there is a statewide COVID-19 public health emergency as evidenced by an effective disaster declaration of the Governor covering all counties.

LRB102 10618 HLH 15947 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 Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois
6 is amended by adding Section 605-1055 as follows:

7 (20 ILCS 605/605-1055 new)

8 Sec. 605-1055. Rulemaking authority for EDGE Credit;
9 sunset extensions for expiring credits; disaster declaration.
10 The Department may adopt rules, in consultation with the
11 Department of Revenue, to identify any and all Economic
12 Development for a Growing Economy (EDGE) tax credits that are
13 earned, existing, or unused by a taxpayer in any tax year where
14 there is a statewide Covid-19 public health emergency, as
15 evidenced by an effective disaster declaration of the Governor
16 covering all counties in the State. The rules adopted by the
17 Department shall allow for the extension of credits that are
18 set to expire during a tax year where there is a statewide
19 COVID-19 public health emergency as evidenced by an effective
20 disaster declaration of the Governor covering all counties.

21 Section 10. The Illinois Income Tax Act is amended by
22 changing Section 211 as follows:

1 (35 ILCS 5/211)

2 Sec. 211. Economic Development for a Growing Economy Tax
3 Credit. For tax years beginning on or after January 1, 1999, a
4 Taxpayer who has entered into an Agreement (including a New
5 Construction EDGE Agreement) under the Economic Development
6 for a Growing Economy Tax Credit Act is entitled to a credit
7 against the taxes imposed under subsections (a) and (b) of
8 Section 201 of this Act in an amount to be determined in the
9 Agreement. If the Taxpayer is a partnership or Subchapter S
10 corporation, the credit shall be allowed to the partners or
11 shareholders in accordance with the determination of income
12 and distributive share of income under Sections 702 and 704
13 and subchapter S of the Internal Revenue Code. The Department,
14 in cooperation with the Department of Commerce and Economic
15 Opportunity, shall prescribe rules to enforce and administer
16 the provisions of this Section. This Section is exempt from
17 the provisions of Section 250 of this Act.

18 The credit shall be subject to the conditions set forth in
19 the Agreement and the following limitations:

20 (1) The tax credit shall not exceed the Incremental
21 Income Tax (as defined in Section 5-5 of the Economic
22 Development for a Growing Economy Tax Credit Act) with
23 respect to the project; additionally, the New Construction
24 EDGE Credit shall not exceed the New Construction EDGE
25 Incremental Income Tax (as defined in Section 5-5 of the

1 Economic Development for a Growing Economy Tax Credit
2 Act).

3 (2) The amount of the credit allowed during the tax
4 year plus the sum of all amounts allowed in prior years
5 shall not exceed 100% of the aggregate amount expended by
6 the Taxpayer during all prior tax years on approved costs
7 defined by Agreement.

8 (3) The amount of the credit shall be determined on an
9 annual basis. Except as applied in a carryover year
10 pursuant to Section 211(4) of this Act, the credit may not
11 be applied against any State income tax liability in more
12 than 10 taxable years; provided, however, that (i) an
13 eligible business certified by the Department of Commerce
14 and Economic Opportunity under the Corporate Headquarters
15 Relocation Act may not apply the credit against any of its
16 State income tax liability in more than 15 taxable years
17 and (ii) credits allowed to that eligible business are
18 subject to the conditions and requirements set forth in
19 Sections 5-35 and 5-45 of the Economic Development for a
20 Growing Economy Tax Credit Act and Section 5-51 as
21 applicable to New Construction EDGE Credits.

22 (4) The credit may not exceed the amount of taxes
23 imposed pursuant to subsections (a) and (b) of Section 201
24 of this Act. Any credit that is unused in the year the
25 credit is computed may be carried forward and applied to
26 the tax liability of the 5 taxable years following the

1 excess credit year, except as otherwise provided under
2 paragraph (4.5) of this Section. 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 tax
5 year that are available to offset a liability, the earlier
6 credit shall be applied first.

7 (4.5) The Department of Commerce and Economic
8 Opportunity, in consultation with the Department of
9 Revenue, may adopt rules to extend the sunset of any
10 earned, existing, or unused credit or credits a taxpayer
11 may be in possession of in any tax year where there is a
12 statewide COVID-19 public health emergency, as evidenced
13 by an effective disaster declaration of the Governor
14 covering all counties in the State.

15 (5) No credit shall be allowed with respect to any
16 Agreement for any taxable year ending after the
17 Noncompliance Date. Upon receiving notification by the
18 Department of Commerce and Economic Opportunity of the
19 noncompliance of a Taxpayer with an Agreement, the
20 Department shall notify the Taxpayer that no credit is
21 allowed with respect to that Agreement for any taxable
22 year ending after the Noncompliance Date, as stated in
23 such notification. If any credit has been allowed with
24 respect to an Agreement for a taxable year ending after
25 the Noncompliance Date for that Agreement, any refund paid
26 to the Taxpayer for that taxable year shall, to the extent

1 of that credit allowed, be an erroneous refund within the
2 meaning of Section 912 of this Act.

3 (6) For purposes of this Section, the terms
4 "Agreement", "Incremental Income Tax", "New Construction
5 EDGE Agreement", "New Construction EDGE Credit", "New
6 Construction EDGE Incremental Income Tax", and
7 "Noncompliance Date" have the same meaning as when used in
8 the Economic Development for a Growing Economy Tax Credit
9 Act.

10 (Source: P.A. 101-9, eff. 6-5-19.)

11 Section 15. The Economic Development for a Growing Economy
12 Tax Credit Act is amended by changing Section 5-45 as follows:

13 (35 ILCS 10/5-45)

14 Sec. 5-45. Amount and duration of the credit.

15 (a) The Department shall determine the amount and duration
16 of the credit awarded under this Act. The duration of the
17 credit may not exceed 10 taxable years. The credit may be
18 stated as a percentage of the Incremental Income Tax
19 attributable to the applicant's project and may include a
20 fixed dollar limitation.

21 (b) Notwithstanding subsection (a), and except as the
22 credit may be applied in a carryover year pursuant to Section
23 211(4) of the Illinois Income Tax Act, the credit may be
24 applied against the State income tax liability in more than 10

1 taxable years but not in more than 15 taxable years for an
2 eligible business that (i) qualifies under this Act and the
3 Corporate Headquarters Relocation Act and has in fact
4 undertaken a qualifying project within the time frame
5 specified by the Department of Commerce and Economic
6 Opportunity under that Act, and (ii) applies against its State
7 income tax liability, during the entire 15-year period, no
8 more than 60% of the maximum credit per year that would
9 otherwise be available under this Act.

10 (c) Nothing in this Section shall prevent the Department,
11 in consultation with the Department of Revenue, from adopting
12 rules to extend the sunset of any earned, existing, or unused
13 tax credit or credits a taxpayer may be in possession of,
14 notwithstanding the carry-forward provisions pursuant to
15 paragraph (4) of Section 211 of the Illinois Income Tax Act, in
16 any tax year where there is a statewide COVID-19 public health
17 emergency as evidenced by an effective disaster declaration of
18 the Governor covering all counties in the State.

19 (Source: P.A. 94-793, eff. 5-19-06.)