



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB5255

Introduced 1/31/2022, by Rep. Keith R. Wheeler

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 10/5-5  
35 ILCS 10/5-45  
35 ILCS 10/5-77

Creates the Business Location Efficiency Incentive Act of 2022. Provides that a company or its representative that negotiates or applies for economic development assistance from the Department of Commerce and Economic Opportunity may apply for increased economic development assistance if the project is located in an area that satisfies the Act's standards for affordable workforce housing or affordable and accessible mass transit. Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that the Department may not enter into any new agreements after June 30, 2032 (currently, June 30, 2022). Makes changes concerning the maximum credit amount under the Act. Provides that the Department of Commerce and Economic Opportunity may award a taxpayer an increased credit amount or other benefits within the agreement if the taxpayer demonstrates that, in addition to the investment at the project location, the taxpayer plans to make a non-project-specific capital investment in the furtherance of community or supply-chain development within the general surrounding area of the project. Effective immediately, except that provisions creating the Business Location Efficiency Incentive Act of 2022 take effect on January 1, 2023.

LRB102 25352 HLH 34631 b

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 1. Short title. This Act may be cited as the  
5 Business Location Efficiency Incentive Act of 2022.

6 Section 5. Definitions. In this Act:

7 "Accessible and affordable mass transit" means access to  
8 transit stops with regular and frequent service within one  
9 mile from the project site and pedestrian access to transit  
10 stops.

11 "Affordable workforce housing" means owner-occupied or  
12 rental housing that costs, based on current census data for  
13 the municipality where the project is located or any  
14 municipality within 3 miles of the municipality where the  
15 project is located, no more than 35% of the median salary at  
16 the project site, exclusive of the highest 10% of the site's  
17 salaries. If the project is located in an unincorporated area,  
18 "affordable workforce housing" means no more than 35% of the  
19 median salary at the project site, excluding the highest 10%  
20 of the site's salaries, based on the median cost of rental or  
21 of owner-occupied housing in the county where the  
22 unincorporated area is located.

23 "Applicant" means a company or its representative that

1 negotiates or applies for economic development assistance from  
2 the Department.

3 "Department" or "DCEO" means the Department of Commerce  
4 and Economic Opportunity.

5 "Economic development assistance" means State tax credits  
6 and tax exemptions given as an incentive to an eligible  
7 company after certification by DCEO under the Economic  
8 Development for a Growing Economy Tax Credit Act (EDGE).

9 "Employee housing or transportation remediation plan"  
10 means a plan to increase affordable housing or transportation  
11 options, or both, for employees earning up to the median  
12 annual salary of the workforce at the project. The plan may  
13 include, but is not limited to, an employer-financed or  
14 assisted housing program that can be supplemented by State or  
15 federal grants, shuttle services between the place of  
16 employment and existing transit stops or other reasonably  
17 accessible places, facilitation of employee carpooling, or  
18 similar services.

19 "Existence of infrastructure" means the existence within  
20 1,500 feet of the proposed site of roads, sewers, sidewalks,  
21 and other utilities and a description of the investments or  
22 improvements, if any, that an applicant expects State or local  
23 government to make to that infrastructure.

24 "Location efficient" means a project that maximizes the  
25 use of existing investments in infrastructure, avoids or  
26 minimizes additional government expenditures for new

1 infrastructure, and has nearby housing affordable to the  
2 permanent workforce of the project or has accessible and  
3 affordable mass transit or its equivalent or some combination  
4 of both.

5 "Location efficiency report" means a report that is  
6 prepared by an applicant for increased State economic  
7 development assistance under Section 10 and follows this Act  
8 and any related Department guidelines, and that describes the  
9 existence of (i) affordable workforce housing or (ii)  
10 accessible and affordable mass transit or its equivalent.

11 Section 10. Economic development assistance awards.

12 (a) An applicant that also wants to be considered for  
13 increased economic development assistance under this Act shall  
14 submit a location efficiency report.

15 (b) The Department may give an applicant an increased tax  
16 credit or extension if the applicant's location efficiency  
17 report demonstrates that the applicant is seeking assistance  
18 for a project to be located in an area that satisfies this  
19 Act's standards for affordable workforce housing or affordable  
20 and accessible mass transit. If the Department determines from  
21 the location efficiency report that the applicant is seeking  
22 assistance in an area that is not location efficient, the  
23 Department may award an increase in State economic development  
24 assistance if an applicant (i) submits, and the Department  
25 accepts, an applicant's employee housing and transportation

1 remediation plan or (ii) creates jobs in a labor surplus area,  
2 as defined by the Department of Employment Security at the end  
3 of each calendar year.

4 (c) Applicants locating or expanding at location-efficient  
5 sites, with approved location efficiency plans, or creating  
6 jobs in labor surplus areas may receive (i) up to 10% more than  
7 the maximum allowable tax credits for which they are eligible  
8 under the Economic Development for a Growing Economy Tax  
9 Credit Act, but not to equal or exceed 100% of the applicant's  
10 tax liability or (ii) such other adjustment of those tax  
11 credits, including but not limited to extensions, as the  
12 Department deems appropriate.

13 (d) The Department may provide technical assistance to  
14 employers requesting assistance in developing an appropriate  
15 employee housing or transportation plan.

16 Section 15. Summaries; progress reports.

17 (a) The Department shall include summaries of the initial  
18 employee housing or transportation plans for each assisted  
19 project in the annual compilation and publication of project  
20 progress reports required under subsection (d) of Section 20  
21 of the Corporate Accountability for Tax Expenditures Act.  
22 Companies that fail to do so or that make inadequate progress  
23 shall have their increased tax credit or extension eliminated.  
24 Applicants and submitted data are subject to all disclosure,  
25 reporting, and recapture provisions provided under the

1 Corporate Accountability for Tax Expenditure Act.

2 (b) By June 1, 2023 and by June 1 of each year thereafter  
3 through 2032, the Department shall include, when appropriate,  
4 data on the outcomes or status of approved employee housing or  
5 transportation plans in the project progress reports required  
6 under the Corporate Accountability for Tax Expenditure Act.

7 Section 20. Duration of incentives; report to General  
8 Assembly.

9 (a) Any multi-year incentive awarded under this Act shall  
10 continue for the time period called for in the agreement with  
11 the Department and shall not be altered by the repeal of this  
12 Act.

13 (b) By January 1, 2024, the Department shall submit to the  
14 Speaker of the House of Representatives and the President of  
15 the Senate, for assignment to the appropriate committees, a  
16 report on the incentives awarded under this Act and the  
17 Department's activities, findings, and recommendations with  
18 respect to this Act and its extension, amendment, or repeal.  
19 The report, when acted upon by those committees, shall be  
20 distributed to each member of the General Assembly.

21 Section 25. Repeal. This Act is repealed on December 31,  
22 2032.

23 Section 900. The Economic Development for a Growing

1 Economy Tax Credit Act is amended by changing Sections 5-5,  
2 5-45, and 5-77 as follows:

3 (35 ILCS 10/5-5)

4 Sec. 5-5. Definitions. As used in this Act:

5 "Agreement" means the Agreement between a Taxpayer and the  
6 Department under the provisions of Section 5-50 of this Act.

7 "Applicant" means a Taxpayer that is operating a business  
8 located or that the Taxpayer plans to locate within the State  
9 of Illinois and that is engaged in interstate or intrastate  
10 commerce for the purpose of manufacturing, processing,  
11 assembling, warehousing, or distributing products, conducting  
12 research and development, providing tourism services, or  
13 providing services in interstate commerce, office industries,  
14 or agricultural processing, but excluding retail, retail food,  
15 health, or professional services. "Applicant" does not include  
16 a Taxpayer who closes or substantially reduces an operation at  
17 one location in the State and relocates substantially the same  
18 operation to another location in the State. This does not  
19 prohibit a Taxpayer from expanding its operations at another  
20 location in the State, provided that existing operations of a  
21 similar nature located within the State are not closed or  
22 substantially reduced. This also does not prohibit a Taxpayer  
23 from moving its operations from one location in the State to  
24 another location in the State for the purpose of expanding the  
25 operation provided that the Department determines that

1 expansion cannot reasonably be accommodated within the  
2 municipality in which the business is located, or in the case  
3 of a business located in an incorporated area of the county,  
4 within the county in which the business is located, after  
5 conferring with the chief elected official of the municipality  
6 or county and taking into consideration any evidence offered  
7 by the municipality or county regarding the ability to  
8 accommodate expansion within the municipality or county.

9 "Credit" means the amount agreed to between the Department  
10 and Applicant under this Act, but not to exceed the lesser of:  
11 (1) the sum of (i) 50% of the Incremental Income Tax  
12 attributable to New Employees at the Applicant's project and  
13 (ii) 10% of the training costs of New Employees; or (2) 100% of  
14 the Incremental Income Tax attributable to New Employees at  
15 the Applicant's project. However, if the project is located in  
16 an underserved area, then the amount of the Credit may not  
17 exceed the lesser of: (1) the sum of (i) 75% of the Incremental  
18 Income Tax attributable to New Employees at the Applicant's  
19 project and (ii) 10% of the training costs of New Employees; or  
20 (2) 100% of the Incremental Income Tax attributable to New  
21 Employees at the Applicant's project. If an Applicant agrees  
22 to hire the required number of New Employees, then the maximum  
23 amount of the Credit for that Applicant may be increased by an  
24 amount not to exceed 50% ~~25%~~ of the Incremental Income Tax  
25 attributable to retained employees at the Applicant's project;  
26 however, if the project is located in an underserved area,



1 then the amount of the Credit for that Applicant may be  
2 increased by an amount not to exceed 75% of the Incremental  
3 Income Tax attributable to retained employees at the  
4 Applicant's project. In ~~provided that, in~~ order to receive the  
5 increase for retained employees, the Applicant must provide  
6 the additional evidence required under paragraph (3) of  
7 subsection (b) of Section 5-25.

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

10 "Director" means the Director of Commerce and Economic  
11 Opportunity.

12 "Full-time Employee" means an individual who is employed  
13 for consideration for at least 35 hours each week or who  
14 renders any other standard of service generally accepted by  
15 industry custom or practice as full-time employment. An  
16 individual for whom a W-2 is issued by a Professional Employer  
17 Organization (PEO) is a full-time employee if employed in the  
18 service of the Applicant for consideration for at least 35  
19 hours each week or who renders any other standard of service  
20 generally accepted by industry custom or practice as full-time  
21 employment to Applicant.

22 "Incremental Income Tax" means the total amount withheld  
23 during the taxable year from the compensation of New Employees  
24 and, if applicable, retained employees under Article 7 of the  
25 Illinois Income Tax Act arising from employment at a project  
26 that is the subject of an Agreement.

1 "New Construction EDGE Agreement" means the Agreement  
2 between a Taxpayer and the Department under the provisions of  
3 Section 5-51 of this Act.

4 "New Construction EDGE Credit" means an amount agreed to  
5 between the Department and the Applicant under this Act as  
6 part of a New Construction EDGE Agreement that does not exceed  
7 50% of the Incremental Income Tax attributable to New  
8 Construction EDGE Employees at the Applicant's project;  
9 however, if the New Construction EDGE Project is located in an  
10 underserved area, then the amount of the New Construction EDGE  
11 Credit may not exceed 75% of the Incremental Income Tax  
12 attributable to New Construction EDGE Employees at the  
13 Applicant's New Construction EDGE Project.

14 "New Construction EDGE Employee" means a laborer or worker  
15 who is employed by an Illinois contractor or subcontractor in  
16 the actual construction work on the site of a New Construction  
17 EDGE Project, pursuant to a New Construction EDGE Agreement.

18 "New Construction EDGE Incremental Income Tax" means the  
19 total amount withheld during the taxable year from the  
20 compensation of New Construction EDGE Employees.

21 "New Construction EDGE Project" means the building of a  
22 Taxpayer's structure or building, or making improvements of  
23 any kind to real property. "New Construction EDGE Project"  
24 does not include the routine operation, routine repair, or  
25 routine maintenance of existing structures, buildings, or real  
26 property.

1 "New Employee" means:

2 (a) A Full-time Employee first employed by a Taxpayer  
3 in the project that is the subject of an Agreement and who  
4 is hired after the Taxpayer enters into the tax credit  
5 Agreement.

6 (b) The term "New Employee" does not include:

7 (1) an employee of the Taxpayer who performs a job  
8 that was previously performed by another employee, if  
9 that job existed for at least 6 months before hiring  
10 the employee;

11 (2) an employee of the Taxpayer who was previously  
12 employed in Illinois by a Related Member of the  
13 Taxpayer and whose employment was shifted to the  
14 Taxpayer after the Taxpayer entered into the tax  
15 credit Agreement; or

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

21 (c) Notwithstanding paragraph (1) of subsection (b),  
22 an employee may be considered a New Employee under the  
23 Agreement if the employee performs a job that was  
24 previously performed by an employee who was:

25 (1) treated under the Agreement as a New Employee;

26 and

1 (2) promoted by the Taxpayer to another job.

2 (d) Notwithstanding subsection (a), the Department may  
3 award Credit to an Applicant with respect to an employee  
4 hired prior to the date of the Agreement if:

5 (1) the Applicant is in receipt of a letter from  
6 the Department stating an intent to enter into a  
7 credit Agreement;

8 (2) the letter described in paragraph (1) is  
9 issued by the Department not later than 15 days after  
10 the effective date of this Act; and

11 (3) the employee was hired after the date the  
12 letter described in paragraph (1) was issued.

13 "Noncompliance Date" means, in the case of a Taxpayer that  
14 is not complying with the requirements of the Agreement or the  
15 provisions of this Act, the day following the last date upon  
16 which the Taxpayer was in compliance with the requirements of  
17 the Agreement and the provisions of this Act, as determined by  
18 the Director, pursuant to Section 5-65.

19 "Pass Through Entity" means an entity that is exempt from  
20 the tax under subsection (b) or (c) of Section 205 of the  
21 Illinois Income Tax Act.

22 "Professional Employer Organization" (PEO) means an  
23 employee leasing company, as defined in Section 206.1(A)(2) of  
24 the Illinois Unemployment Insurance Act.

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 "Taxpayer" means an individual, corporation, partnership,  
11 or other entity that has any Illinois Income Tax liability.

12 "Underserved area" means a geographic area that meets one  
13 or more of the following conditions:

14 (1) the area has a poverty rate of at least 20%  
15 according to the latest federal decennial census;

16 (2) 75% or more of the children in the area  
17 participate in the federal free lunch program according to  
18 reported statistics from the State Board of Education;

19 (3) at least 20% of the households in the area receive  
20 assistance under the Supplemental Nutrition Assistance  
21 Program (SNAP); or

22 (4) the area has an average unemployment rate, as  
23 determined by the Illinois Department of Employment  
24 Security, that is more than 120% of the national  
25 unemployment average, as determined by the U.S. Department  
26 of Labor, for a period of at least 2 consecutive calendar

1           years preceding the date of the application.

2           (Source: P.A. 101-9, eff. 6-5-19; 102-330, eff. 1-1-22.)

3           (35 ILCS 10/5-45)

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

5           (a) The Department shall determine the amount and duration  
6 of the credit awarded under this Act. The duration of the  
7 credit may not exceed 10 taxable years. The credit may be  
8 stated as a percentage of the Incremental Income Tax  
9 attributable to the applicant's project and may include a  
10 fixed dollar limitation.

11           (b) Notwithstanding subsection (a), and except as the  
12 credit may be applied in a carryover year pursuant to Section  
13 211(4) of the Illinois Income Tax Act, the credit may be  
14 applied against the State income tax liability in more than 10  
15 taxable years but not in more than 15 taxable years for an  
16 eligible business that (i) qualifies under this Act and the  
17 Corporate Headquarters Relocation Act and has in fact  
18 undertaken a qualifying project within the time frame  
19 specified by the Department of Commerce and Economic  
20 Opportunity under that Act, and (ii) applies against its State  
21 income tax liability, during the entire 15-year period, no  
22 more than 60% of the maximum credit per year that would  
23 otherwise be available under this Act.

24           (c) Nothing in this Section shall prevent the Department,  
25 in consultation with the Department of Revenue, from adopting

1 rules to extend the sunset of any earned, existing, and unused  
2 tax credit or credits a taxpayer may be in possession of, as  
3 provided for in Section 605-1070 ~~605-1055~~ of the Department of  
4 Commerce and Economic Opportunity Law of the Civil  
5 Administrative Code of Illinois, notwithstanding the  
6 carry-forward provisions pursuant to paragraph (4) of Section  
7 211 of the Illinois Income Tax Act.

8 (d) Notwithstanding subsection (a) or (b), a recipient of  
9 a credit may request a certificate of transferability of  
10 credit from the Department for the amount of credit not  
11 previously claimed. A transferability certificate so issued  
12 may be transferred or sold by the recipient to another  
13 Illinois taxpayer. Transferors and sellers shall submit to the  
14 Department of Revenue a notification of any transfer or sale  
15 of tax credits within 30 days after the transfer or sale of  
16 those tax credits. The notification, which shall be in the  
17 form prescribed by the Department, shall include the  
18 transferor's tax credit balance prior to transfer, the credit  
19 certificate number, the identifying number of the EDGE  
20 agreement, the transferor's remaining tax credit balance after  
21 transfer, all tax identification numbers for both transferor  
22 and transferee, the date of transfer, the amount transferred,  
23 a copy of the credit certificate, and any other information  
24 required by the Department of Revenue. The transfer or sale of  
25 the credit does not extend the time in which credit can be  
26 used. The carry forward period for a credit that is



1 transferred or sold begins on the date on which the credit was  
2 originally granted by the Department. To the extent the  
3 transferor did not have rights to claim or use the credit at  
4 the time of the transfer or sale, the Department of Revenue  
5 shall either disallow the credit claimed by the transferee or  
6 recapture the credit from the transferee through any  
7 collection method authorized by statute. In such case, the  
8 transferee's recourse is against the transferor.

9 (e) The Department may award a Taxpayer an increased  
10 credit amount or other benefits within the Agreement if the  
11 Taxpayer demonstrates that, in addition to the investment at  
12 the project location, the Taxpayer plans to make a  
13 non-project-specific capital investment in the furtherance of  
14 community or supply-chain development within the general  
15 surrounding area of the project. In determining the type of  
16 eligible investment allowed under this Section (e), the  
17 Department shall consider the proximity of the non-project  
18 specific investment to the development, the amount and purpose  
19 of the non-project specific investment, and the overall  
20 economic development benefit for the surrounding area.  
21 Non-project specific investments may include, but are not  
22 limited to, partnerships with educational systems, including  
23 school, community college, or university, workforce  
24 development programs, infrastructure and technological  
25 infrastructure investments that serve a greater area than the  
26 project, affordable housing and real estate development,

1 health care services, and other purposes as deemed appropriate  
2 by the Department. Non-project-specific investments may also  
3 include contracts that utilize existing business and economic  
4 development projects or support new businesses and economic  
5 development projects in the surrounding area.

6 (Source: P.A. 102-16, eff. 6-17-21; revised 12-6-21.)

7 (35 ILCS 10/5-77)

8 Sec. 5-77. Sunset of new Agreements. The Department shall  
9 not enter into any new Agreements under the provisions of  
10 Section 5-50 of this Act after June 30, 2032 ~~June 30, 2022~~.

11 (Source: P.A. 99-925, eff. 1-20-17; 100-511, eff. 9-18-17.)

12 Section 999. Effective date. This Act takes effect upon  
13 becoming law, except that Sections 1 through 25 take effect on  
14 January 1, 2023.