



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5479

Introduced 1/31/2022, by Rep. David A. Welter

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/232 new

Creates the Grocery Store New Construction Tax Credit Act. Creates a tax credit for taxpayers who undertake a project to construct a new grocery store in the State, subject to certain capital investment and employment requirements. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB102 25059 HLH 34319 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 Grocery Store New Construction Tax Credit Act.

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

7 "Credit" means the amount agreed to between the Department
8 and applicant under this Act, but not to exceed the lesser of:
9 (1) the sum of (i) 50% of the incremental income tax
10 attributable to new employees at the applicant's project and
11 (ii) 10% of the training costs of new employees; or (2) 100% of
12 the incremental income tax attributable to new employees at
13 the applicant's project. However, if the project is located in
14 an underserved area, then the amount of the credit may not
15 exceed the lesser of: (1) the sum of (i) 75% of the incremental
16 income tax attributable to new employees at the applicant's
17 project and (ii) 10% of the training costs of new employees; or
18 (2) 100% of the incremental income tax attributable to new
19 employees at the applicant's project.

20 "Department" means the Department of Commerce and Economic
21 Opportunity.

22 "Full-time employee" means an individual who is employed
23 for consideration for at least 35 hours each week or who

1 renders any other standard of service generally accepted by
2 industry custom or practice as full-time employment. An
3 individual for whom a W-2 is issued by a Professional Employer
4 Organization (PEO) is a full-time employee if employed in the
5 service of the applicant for consideration for at least 35
6 hours each week or who renders any other standard of service
7 generally accepted by industry custom or practice as full-time
8 employment to the applicant.

9 "Grocery store" means a retail establishment located in
10 this State that primarily sells food and beverages for
11 consumption off the premises of the establishment.

12 "Incremental income tax" means the total amount withheld
13 during the taxable year from the compensation of new employees
14 arising from employment at a project that is the subject of an
15 Agreement.

16 "New employee" means:

17 (1) a full-time employee first employed by a taxpayer
18 in the project that is the subject of an agreement who is
19 hired after the taxpayer enters into the tax credit
20 agreement.

21 (2) The term "new employee" does not include:

22 (A) an employee of the taxpayer who performs a job
23 that was previously performed by another employee, if
24 that job existed for at least 6 months before hiring
25 the employee;

26 (B) an employee of the taxpayer who was previously

1 employed in Illinois by a related member of the
2 taxpayer and whose employment was shifted to the
3 taxpayer after the taxpayer entered into the tax
4 credit agreement; or

5 (C) a child, grandchild, parent, or spouse, other
6 than a spouse who is legally separated from the
7 individual, of any individual who has a direct or an
8 indirect ownership interest of at least 5% in the
9 profits, capital, or value of the taxpayer.

10 An employee may be considered a new employee under the
11 agreement if the employee performs a job that was previously
12 performed by an employee who was:

- 13 (1) treated under the agreement as a new employee; and
14 (2) promoted by the taxpayer to another job.

15 "Project" means the construction of a new grocery store in
16 the State.

17 "Related member" has the meaning given to that term in
18 Section 5-5 of the Economic Development for a Growing Economy
19 Tax Credit Act.

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

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

24 (2) 75% or more of the children in the area
25 participate in the federal free lunch program according to
26 reported statistics from the State Board of Education;

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

4 (4) the area has an average unemployment rate, as
5 determined by the Illinois Department of Employment
6 Security, that is more than 120% of the national
7 unemployment average, as determined by the U.S. Department
8 of Labor, for a period of at least 2 consecutive calendar
9 years preceding the date of the application.

10 Section 10. Tax credit awards.

11 (a) Subject to the conditions set forth in this Act, a
12 taxpayer is entitled to a credit against taxes imposed
13 pursuant to subsections (a), (b), and (p) of Section 201 of the
14 Illinois Income Tax Act for taxable years beginning on or
15 after January 1, 2023 if the taxpayer is awarded a credit by
16 the Department under this Act for that taxable year.

17 (b) The Department shall make credit awards under this Act
18 to encourage job creation and to facilitate the construction
19 of new grocery stores in the State.

20 (c) A person that proposes a project to construct a new
21 grocery store in Illinois must enter into an agreement with
22 the Department for the credit under this Act.

23 (d) The credit shall be claimed for the taxable years
24 specified in the agreement.

25 (e) The credit shall not exceed the incremental income tax

1 attributable to the project that is the subject of the
2 agreement.

3 (f) Nothing in this Act shall prohibit a tax credit award
4 to an applicant that uses a PEO if all other award criteria are
5 satisfied.

6 Section 15. Application for a project to create and retain
7 new jobs.

8 (a) Any taxpayer proposing a project located or planned to
9 be located in Illinois may request consideration for
10 designation of its project, by formal written letter of
11 request or by formal application to the Department, in which
12 the applicant states its intent to make at least a specified
13 level of investment and intends to hire or retain a specified
14 number of full-time employees at a designated location in
15 Illinois. As circumstances require, the Department may require
16 a formal application from an applicant and a formal letter of
17 request for assistance.

18 (b) In order to qualify for credits under this Act, an
19 applicant's project must conform to each of the following:

20 (1) If the applicant has more than 100 employees, the
21 applicant's project must involve an investment of at least
22 \$2,500,000 in capital improvements to be placed in service
23 within the State as a direct result of the project. If the
24 applicant has 100 or fewer employees, then there is no
25 capital investment requirement.

1 (2) If the applicant has more than 100 employees, the
2 applicant's project must employ a number of new employees
3 in the State equal to the lesser of: (A) 10% of the number
4 of full-time employees employed by the applicant
5 world-wide on the date the application is filed with the
6 Department; or (B) 50 new employees. If the applicant has
7 100 or fewer employees, the applicant's project must
8 employ a number of new employees in the State equal to the
9 lesser of: (A) 5% of the number of full-time employees
10 employed by the applicant world-wide on the date the
11 application is filed with the Department; or (B) 50 new
12 employees.

13 (c) The Department shall determine which projects will
14 benefit the State. In making its recommendation that an
15 Applicant's application for Credit should or should not be
16 accepted, which shall occur within a reasonable time frame as
17 determined by the nature of the application.

18 (d) After receipt of an application, the Department may
19 enter into an agreement with the applicant if the application
20 is accepted.

21 Section 20. Amount and duration of the credit.

22 (a) The Department shall determine the amount and duration
23 of the credit awarded under this Act. The duration of the
24 credit may not exceed 10 taxable years. The credit may be
25 stated as a percentage of the incremental income tax

1 attributable to the applicant's project and may include a
2 fixed dollar limitation.

3 (b) Notwithstanding subsection (a), and except as the
4 credit may be applied in a carryover year, the credit may be
5 applied against the State income tax liability in more than 10
6 taxable years but not in more than 15 taxable years for an
7 eligible business that (i) qualifies under this Act and the
8 Corporate Headquarters Relocation Act and has in fact
9 undertaken a qualifying project within the time frame
10 specified by the Department of Commerce and Economic
11 Opportunity under that Act, and (ii) applies against its State
12 income tax liability, during the entire 15-year period, no
13 more than 60% of the maximum credit per year that would
14 otherwise be available under this Act.

15 (c) Nothing in this Section shall prevent the Department,
16 in consultation with the Department of Revenue, from adopting
17 rules to extend the sunset of any earned, existing, and unused
18 tax credit or credits.

19 (d) The credit under this Act is exempt from the
20 provisions of Section 250 of the Illinois Income Tax Act.

21 Section 25. Relocation of jobs in Illinois. A taxpayer is
22 not entitled to claim the credit provided by this Act with
23 respect to any jobs that the taxpayer relocates from one site
24 in Illinois to another site in Illinois. A taxpayer with
25 respect to a qualifying project certified under the Corporate

1 Headquarters Relocation Act, however, is not subject to the
2 requirements of this Section but is nevertheless considered an
3 applicant for purposes of this Act. Moreover, any full-time
4 employee of an eligible business relocated to Illinois in
5 connection with that qualifying project is deemed to be a new
6 employee for purposes of this Act. Determinations under this
7 Section shall be made by the Department.

8 Section 30. Powers of the Department. In addition to those
9 powers granted under the Civil Administrative Code of
10 Illinois, the Department is granted and shall have all the
11 powers necessary or convenient to carry out and effectuate the
12 purposes and provisions of this Act, including, but not
13 limited to, the power to adopt rules and the powers set forth
14 in Section 5-10 of the Economic Development for a Growing
15 Economy Tax Credit Act, provided that those powers are not
16 inconsistent with this Act.

17 Section 35. Sexual harassment policy report. Each taxpayer
18 claiming a credit under this Act shall, no later than April 15
19 of each taxable year for which the taxpayer claims a credit
20 under this Act, submit to the Department of Commerce and
21 Economic Opportunity a report detailing that taxpayer's sexual
22 harassment policy, which contains, at a minimum, the following
23 information: (i) the illegality of sexual harassment; (ii) the
24 definition of sexual harassment under State law; (iii) a

1 description of sexual harassment, utilizing examples; (iv) the
2 vendor's internal complaint process, including penalties; (v)
3 the legal recourse, and investigative and complaint processes
4 available through the Department; (vi) directions on how to
5 contact the Department; and (vii) protection against
6 retaliation as provided by Section 6-101 of the Illinois Human
7 Rights Act. A copy of the policy shall be provided to the
8 Department upon request. The reports required under this
9 Section shall be submitted in a form and manner determined by
10 the Department of Commerce and Economic Opportunity.

11 Section 50. The Illinois Income Tax Act is amended by
12 adding Section 232 as follows:

13 (35 ILCS 5/232 new)

14 Sec. 232. Grocery Store New Construction Tax Credit Act. A
15 taxpayer who is awarded a credit under the Grocery Store New
16 Construction Tax Credit Act is entitled to a credit against
17 the taxes imposed by subsections (a), (b), and (p) of Section
18 201 as provided in that Act.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.