



Sen. Toi W. Hutchinson

Filed: 5/11/2012

09700HB0503sam001

LRB097 03320 HLH 69479 a

1 AMENDMENT TO HOUSE BILL 503

2 AMENDMENT NO. _____. Amend House Bill 503 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Interactive Digital Media Tax Credit Act.

6 Section 5. Definitions; rules.

7 (a) As used in this Act:

8 "Base Illinois production spending" is the average amount
9 of expenses incurred by the applicant for all productions in
10 calendar years 2009, 2010, and 2011, including, without
11 limitation, all of the following:

12 (1) expenses to purchase, from vendors within
13 Illinois, tangible personal property that is used in the
14 accredited production;

15 (2) expenses to acquire services from vendors in
16 Illinois for an accredited production, including services

1 for editing and processing; and

2 (3) compensation paid to contractual or salaried
3 employees who are Illinois residents and who perform
4 services with respect to the accredited production, not to
5 exceed \$100,000 for any one employee.

6 "Base number of employees" is the average of all full-time
7 employees who were employed by an applicant in calendar years
8 2009, 2010, and 2011.

9 "Interactive digital media project" means: (1) a
10 production of interactive entertainment which is produced for
11 distribution in commercial or educational markets, including a
12 computer game, video game, simulation or animation; or (2) a
13 production intended for Internet or wireless distribution.

14 "Accredited production" means the production of an
15 interactive digital media project that has been certified by
16 the Department in which the Illinois production spending
17 included in the cost of the production exceeds \$100,000 per
18 year.

19 "Accredited production certificate" means a certificate
20 issued by the Department certifying that the interactive
21 digital media production is an accredited production that meets
22 the guidelines of this Act.

23 "Applicant" means a taxpayer that is an interactive digital
24 media company that is operating or has operated an accredited
25 production located within the State of Illinois and that (i)
26 owns the copyright in the accredited production throughout the

1 Illinois production period or (ii) has contracted directly with
2 the owner of the copyright in the accredited production or a
3 person acting on behalf of the owner to provide services for
4 the production if the owner of the copyright is not an eligible
5 production corporation.

6 "Credit" means, for an interactive digital media
7 accredited production commencing on or after January 1, 2013:

8 (1) an amount equal to 30% of the Illinois production
9 spending for the taxable year; and

10 (2) an additional amount equal to 5% of the Illinois
11 production spending if the accredited production company
12 is located in a geographic area of high poverty or high
13 unemployment, as determined by the Department.

14 "Department" means the Department of Commerce and Economic
15 Opportunity.

16 "Director" means the Director of Commerce and Economic
17 Opportunity.

18 "Illinois labor expenditure" means salary or wages paid to
19 employees of the applicant for services on the accredited
20 production. To qualify as an Illinois labor expenditure, the
21 expenditure must be all of the following:

22 (1) Reasonable in the circumstances.

23 (2) Included in the applicant's federal income tax
24 basis.

25 (3) Incurred by the applicant for services performed on
26 or after January 1, 2013.

1 (4) Incurred during the production stages of the
2 accredited production.

3 (5) Limited to the first \$100,000 of wages paid to or
4 incurred with respect to each new employee of a production
5 commencing on or after January 1, 2013.

6 (6) Directly attributable to the accredited
7 production.

8 (7) Paid in the tax year for which the applicant is
9 claiming the credit or no later than 60 days after the end
10 of the tax year.

11 (8) Paid to persons residing in Illinois at the time
12 the payments were made.

13 (9) Paid for services rendered in Illinois.

14 "Illinois production spending" means the expenses incurred
15 by the applicant for an accredited production above the base
16 Illinois production spending, including, without limitation,
17 all of the following:

18 (1) expenses to purchase, from vendors located in
19 Illinois, tangible personal property that is used in the
20 accredited production;

21 (2) expenses to acquire services from vendors located
22 in Illinois for an accredited production, including
23 services related to editing or processing; and

24 (3) the compensation, not to exceed \$100,000 for any
25 one employee, for contractual or salaried employees who are
26 Illinois residents performing services with respect to the

1 accredited production.

2 "New employee" means a full-time employee who (i) is first
3 employed by an applicant on or after January 1, 2013 and (ii)
4 is in excess of, or in addition to, the applicant's base number
5 of employees. The term "new employee" does not include:

6 (1) an employee of the eligible employer who performs a
7 job that (i) existed for at least 6 months before the
8 employee was hired and (ii) was previously performed by
9 another employee; and

10 (2) an employee of the eligible employer who was
11 previously employed in Illinois by a related member of the
12 eligible employer and whose employment was shifted to the
13 eligible employer after the eligible employer entered into
14 the agreement; or

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

20 "Qualified production facility" means a facility in the
21 State in which interactive digital media projects are or are
22 intended to be regularly produced.

23 (b) The Department may adopt rules necessary to implement
24 this Act.

25 Section 10. Tax credit awards. Subject to the conditions

1 set forth in this Act, an applicant is entitled to a credit
2 against the tax imposed under subsections (a) and (b) of
3 Section 201 of the Illinois Income Tax Act as approved by the
4 Department under Section 25 of this Act.

5 Section 15. Application for certification of accredited
6 production. Any applicant proposing an interactive digital
7 media production located or planned to be located in Illinois
8 may request an accredited production certificate by formal
9 application to the Department.

10 Section 20. Issuance of Tax Credit Certificate.

11 (a) In order to qualify for a tax credit under this Act, an
12 applicant must file an application, on forms prescribed by the
13 Department, providing information necessary to calculate the
14 tax credit and any additional information as required by the
15 Department.

16 (b) Upon satisfactory review of the application, the
17 Department shall issue a Tax Credit Certificate stating the
18 amount of the tax credit to which the applicant is entitled.
19 The Tax Credit Certificate shall be effective for expenditures
20 made prior to the date of initial certification and shall be
21 valid until the production is completed.

22 Section 25. Amount and duration of the credit. The amount
23 of the credit awarded under this Act is based on the amount of

1 the Illinois labor expenditure and Illinois production
2 spending approved by the Department for the production as set
3 forth under Section 5. The credit may be taken beginning with
4 the taxable year in which the accredited production company has
5 met the investment requirement. For each year in which such
6 accredited production company either claims or transfers the
7 credit, the accredited production company shall attach a
8 schedule to the accredited production company's Illinois
9 income tax return.

10 Section 30. Transfer of tax credits.

11 (a) Upon application and granting of an accredited
12 production certificate by the Department, an accredited
13 production company, or a partner or member that has received a
14 distribution under that certificate, may elect to transfer, in
15 whole or in part, any unused credit amount granted under this
16 Act. An election to transfer any unused credit amount must be
17 made no later than 5 years after the date the credit is
18 awarded, after which period the credit expires and may not be
19 used. The Department shall notify the Department of Revenue of
20 the election and transfer.

21 (b) An accredited production company that elects to apply a
22 credit amount against taxes remitted is permitted a one-time
23 transfer of unused credits to one transferee. An accredited
24 production company that elects to apply a credit amount against
25 taxes due is permitted a one-time transfer of unused credits to

1 no more than 4 transferees, and such transfers must occur in
2 the same taxable year.

3 (c) The transferee is subject to the same rights and
4 limitations as the accredited production company awarded the
5 credit, except that the transferee may not sell or otherwise
6 transfer the credit.

7 (d) The Department of Revenue may adopt rules to administer
8 this Section.

9 Section 35. Interactive Digital Media Tax Credit Report.
10 The Department shall submit to the General Assembly, no later
11 than July 1, 2017, a report that includes, without limitation:

12 (1) an assessment of the economic impact of the tax
13 credit program created under this Act, including the number
14 of jobs created and retained, and whether the job positions
15 are entry level, management, vendor, or production
16 related;

17 (2) an assessment of the revenue impact of the program,
18 including, but not limited to, the amount of Illinois labor
19 expenditure and Illinois production expenditure brought to
20 Illinois, including the amount of spending and the type of
21 Illinois vendors hired in connection with an accredited
22 production company;

23 (3) in the discretion of the Department, a review of
24 the practices and experiences of other states or nations
25 with similar programs;

1 (4) a determination of whether those receiving
2 qualifying Illinois labor expenditure salaries or wages
3 reflect the geographical, racial, ethnic, gender, and
4 income level diversity of the State of Illinois; and

5 (5) an assessment of the overall success of the
6 program.

7 Section 60. Repealer. This Act is repealed July 1, 2018.

8 Section 65. The Illinois Income Tax Act is amended by
9 adding Section 223 as follows:

10 (35 ILCS 5/223 new)

11 Sec. 223. Interactive Digital Media Tax Credit. For tax
12 years beginning on or after January 1, 2013, taxpayers who have
13 been awarded a credit under the Interactive Digital Media Tax
14 Credit Act are entitled to a credit against the tax imposed
15 under subsections (a) and (b) of Section 201 of this Act as
16 provided in the Interactive Digital Media Tax Credit Act.

17 The credit may not be carried back. If the amount of the
18 credit exceeds the tax liability for the year, the excess may
19 be carried forward and applied to the tax liability of the 5
20 taxable years following the excess credit year. The credit
21 shall be applied to the earliest year for which there is a tax
22 liability. If there are credits from more than one tax year
23 that are available to offset a liability, the earlier credit

1 shall be applied first. In no event shall a credit under this
2 Section reduce the taxpayer's liability to less than zero.

3 This Section is exempt from the provisions of Section 250.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".