



Rep. Jack D. Franks

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LRB097 15154 HLH 66261 a

1 AMENDMENT TO HOUSE BILL 3934

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3934 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy  
5 Tax Credit Act is amended by changing Sections 5-10, 5-20,  
6 5-45, and 5-50 and by adding Section 5-26 as follows:

7 (35 ILCS 10/5-10)

8 Sec. 5-10. Powers of the Department. The Department, in  
9 addition to those powers granted under the Civil Administrative  
10 Code of Illinois, is granted and shall have all the powers  
11 necessary or convenient to carry out and effectuate the  
12 purposes and provisions of this Act, including, but not limited  
13 to, power and authority to:

14 (a) Promulgate procedures, rules, or regulations deemed  
15 necessary and appropriate for the administration of the  
16 programs; establish forms for applications, notifications,

1 contracts, or any other agreements; and accept applications at  
2 any time during the year.

3 (b) Provide and assist Taxpayers pursuant to the provisions  
4 of this Act, and cooperate with Taxpayers that are parties to  
5 Agreements to promote, foster, and support economic  
6 development, capital investment, and job creation or retention  
7 within the State.

8 (c) Enter into agreements and memoranda of understanding  
9 for participation of and engage in cooperation with agencies of  
10 the federal government, local units of government,  
11 universities, research foundations or institutions, regional  
12 economic development corporations, or other organizations for  
13 the purposes of this Act.

14 (d) Gather information and conduct inquiries, in the manner  
15 and by the methods as it deems desirable, including without  
16 limitation, gathering information with respect to Applicants  
17 for the purpose of making any designations or certifications  
18 necessary or desirable or to gather information to assist the  
19 Committee with any recommendation or guidance in the  
20 furtherance of the purposes of this Act.

21 (e) Establish, negotiate and effectuate any term,  
22 agreement or other document with any person, necessary or  
23 appropriate to accomplish the purposes of this Act; and to  
24 consent, subject to the provisions of any Agreement with  
25 another party, to the modification or restructuring of any  
26 Agreement to which the Department is a party, provided that all

1 Agreements entered into on or after the effective date of this  
2 amendatory Act of the 97th General Assembly, and all  
3 modifications to or restructuring of Agreements occurring on or  
4 after the effective date of this amendatory Act of the 97th  
5 General Assembly, require the approval of the Economic  
6 Incentive Committee established under Section 5-26 of this Act.

7 (f) Fix, determine, charge, and collect any premiums, fees,  
8 charges, costs, and expenses from Applicants, including,  
9 without limitation, any application fees, commitment fees,  
10 program fees, financing charges, or publication fees as deemed  
11 appropriate to pay expenses necessary or incident to the  
12 administration, staffing, or operation in connection with the  
13 Department's or Committee's activities under this Act, or for  
14 preparation, implementation, and enforcement of the terms of  
15 the Agreement, or for consultation, advisory and legal fees,  
16 and other costs; however, all fees and expenses incident  
17 thereto shall be the responsibility of the Applicant.

18 (g) Provide for sufficient personnel to permit  
19 administration, staffing, operation, and related support  
20 required to adequately discharge its duties and  
21 responsibilities described in this Act from funds made  
22 available through charges to Applicants or from funds as may be  
23 appropriated by the General Assembly for the administration of  
24 this Act.

25 (h) Require Applicants, upon written request, to issue any  
26 necessary authorization to the appropriate federal, state, or

1 local authority for the release of information concerning a  
2 project being considered under the provisions of this Act, with  
3 the information requested to include, but not be limited to,  
4 financial reports, returns, or records relating to the  
5 Taxpayers' or its project.

6 (i) Require that a Taxpayer shall at all times keep proper  
7 books of record and account in accordance with generally  
8 accepted accounting principles consistently applied, with the  
9 books, records, or papers related to the Agreement in the  
10 custody or control of the Taxpayer open for reasonable  
11 Department inspection and audits, and including, without  
12 limitation, the making of copies of the books, records, or  
13 papers, and the inspection or appraisal of any of the Taxpayer  
14 or project assets.

15 (j) Take whatever actions are necessary or appropriate to  
16 protect the State's interest in the event of bankruptcy,  
17 default, foreclosure, or noncompliance with the terms and  
18 conditions of financial assistance or participation required  
19 under this Act, including the power to sell, dispose, lease, or  
20 rent, upon terms and conditions determined by the Director to  
21 be appropriate, real or personal property that the Department  
22 may receive as a result of these actions.

23 (Source: P.A. 91-476, eff. 8-11-99.)

24 (35 ILCS 10/5-20)

25 Sec. 5-20. Application for a project to create and retain

1 new jobs.

2 (a) Any Taxpayer proposing a project located or planned to  
3 be located in Illinois may request consideration for  
4 designation of its project, by formal written letter of request  
5 or by formal application to the Department, in which the  
6 Applicant states its intent to make at least a specified level  
7 of investment and intends to hire or retain a specified number  
8 of full-time employees at a designated location in Illinois. As  
9 circumstances require, the Department may require a formal  
10 application from an Applicant and a formal letter of request  
11 for assistance.

12 (b) In order to qualify for Credits under this Act, an  
13 Applicant's project must:

14 (1) involve an investment of at least \$5,000,000 in  
15 capital improvements to be placed in service and to employ  
16 at least 25 New Employees within the State as a direct  
17 result of the project;

18 (2) involve an investment of at least an amount (to be  
19 expressly specified by the Department and the Committee) in  
20 capital improvements to be placed in service and will  
21 employ at least an amount (to be expressly specified by the  
22 Department and the Committee) of New Employees within the  
23 State, provided that the Department and the Committee have  
24 determined that the project will provide a substantial  
25 economic benefit to the State; or

26 (3) if the applicant has 100 or fewer employees,

1           involve an investment of at least \$1,000,000 in capital  
2           improvements to be placed in service and to employ at least  
3           5 New Employees within the State as a direct result of the  
4           project.

5           (c) After receipt of an application, the Department may  
6           enter into an Agreement with the Applicant if the application  
7           is accepted in accordance with Section 5-25 and the Agreement  
8           is approved by the Economic Incentive Committee established  
9           under Section 5-26 of this Act.

10          (Source: P.A. 93-882, eff. 1-1-05.)

11           (35 ILCS 10/5-26 new)

12           Sec. 5-26. Economic Incentive Committee; creation; duties.  
13           An Economic Incentive Committee is created within the  
14           Department for the purpose of approving Agreements entered into  
15           under this Act. The Committee shall consist of 5 members  
16           appointed by the Governor with the advice and consent of the  
17           Senate. Each member of the Committee shall be a business owner  
18           or shall have expertise in economic development or academia.

19           The Committee shall approve or deny each Agreement within 5  
20           days after the Agreement is submitted to the Committee. Members  
21           shall serve without compensation, but may be reimbursed for  
22           their necessary expenses. If a member has a conflict of  
23           interest with respect to any Agreement, he or she shall recuse  
24           himself or herself from consideration of that Agreement. The  
25           Committee shall consider each Agreement submitted on or before

1 December 31, 2016 and shall be dissolved as soon after that  
2 date as possible.

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 fixed  
10 dollar limitation. With respect to Agreements entered into or  
11 modified on or after the effective date of this amendatory Act  
12 of the 97th General Assembly, the amount and duration of the  
13 credit is subject to final approval by the Economic Incentive  
14 Committee established under Section 5-26 of this Act.

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

1 of the maximum credit per year that would otherwise be  
2 available under this Act.

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

4 (35 ILCS 10/5-50)

5 Sec. 5-50. Contents of Agreements with Applicants. The  
6 Department shall enter into an Agreement with an Applicant that  
7 is awarded a Credit under this Act. The Agreement must include  
8 all of the following:

9 (1) A detailed description of the project that is the  
10 subject of the Agreement, including the location and amount  
11 of the investment and jobs created or retained.

12 (2) The duration of the Credit and the first taxable  
13 year for which the Credit may be claimed.

14 (3) The Credit amount that will be allowed for each  
15 taxable year.

16 (4) A requirement that the Taxpayer shall maintain  
17 operations at the project location that shall be stated as  
18 a minimum number of years not to exceed 10.

19 (5) A specific method for determining the number of New  
20 Employees employed during a taxable year.

21 (6) A requirement that the Taxpayer shall annually  
22 report to the Department the number of New Employees, the  
23 Incremental Income Tax withheld in connection with the New  
24 Employees, and any other information the Director needs to  
25 perform the Director's duties under this Act.



1           (7) A requirement that the Director is authorized to  
2 verify with the appropriate State agencies the amounts  
3 reported under paragraph (6), and after doing so shall  
4 issue a certificate to the Taxpayer stating that the  
5 amounts have been verified.

6           (8) A requirement that the Taxpayer shall provide  
7 written notification to the Director not more than 30 days  
8 after the Taxpayer makes or receives a proposal that would  
9 transfer the Taxpayer's State tax liability obligations to  
10 a successor Taxpayer.

11           (9) A detailed description of the number of New  
12 Employees to be hired, and the occupation and payroll of  
13 the full-time jobs to be created or retained as a result of  
14 the project.

15           (10) The minimum investment the business enterprise  
16 will make in capital improvements, the time period for  
17 placing the property in service, and the designated  
18 location in Illinois for the investment.

19           (11) A requirement that the Taxpayer shall provide  
20 written notification to the Director and the Committee not  
21 more than 30 days after the Taxpayer determines that the  
22 minimum job creation or retention, employment payroll, or  
23 investment no longer is being or will be achieved or  
24 maintained as set forth in the terms and conditions of the  
25 Agreement.

26           (12) A provision that, if the total number of New

1 Employees falls below a specified level, the allowance of  
2 Credit shall be suspended until the number of New Employees  
3 equals or exceeds the Agreement amount.

4 (13) A detailed description of the items for which the  
5 costs incurred by the Taxpayer will be included in the  
6 limitation on the Credit provided in Section 5-30.

7 (13.5) A provision that, if the Taxpayer never meets  
8 either the investment or job creation and retention  
9 requirements specified in the Agreement during the entire  
10 5-year period beginning on the first day of the first  
11 taxable year in which the Agreement is executed and ending  
12 on the last day of the fifth taxable year after the  
13 Agreement is executed, then the Agreement is automatically  
14 terminated on the last day of the fifth taxable year after  
15 the Agreement is executed and the Taxpayer is not entitled  
16 to the award of any credits for any of that 5-year period.

17 (14) Any other performance conditions or contract  
18 provisions as the Department determines are appropriate.

19 The Department shall post on its website a copy of each  
20 Agreement entered into under this Act on or after the effective  
21 date of this amendatory Act of the 97th General Assembly.

22 Any Agreement entered into on or after the effective date  
23 of this amendatory Act of the 97th General Assembly is subject  
24 to the approval of the Economic Incentive Committee established  
25 under Section 5-26 of this Act. Any modifications to an  
26 existing Agreement that take effect on or after the effective

1 date of this amendatory Act of the 97th General Assembly are  
2 subject to the approval of the Economic Incentive Committee  
3 established under Section 5-26 of this Act. The Department must  
4 forward any proposed Agreements or modifications to the  
5 Economic Incentive Committee within 15 days after the terms of  
6 the Agreement or modification are finalized.

7 (Source: P.A. 97-2, eff. 5-6-11.)

8 Section 99. Effective date. This Act takes effect July 1,  
9 2012."