

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 Small Business Job Creation Tax Credit Act
5 is amended by changing Sections 10 and 25 as follows:

6 (35 ILCS 25/10)

7 (Text of Section before amendment by P.A. 97-636)

8 Sec. 10. Definitions. In this Act:

9 "Applicant" means a person that is operating a business
10 located within the State of Illinois that is engaged in
11 interstate or intrastate commerce and either:

12 (1) has no more than 50 full-time employees, without
13 regard to the location of employment of such employees at
14 the beginning of the incentive period; or

15 (2) hired within the incentive period an employee who
16 had participated as worker-trainee in the Put Illinois to
17 Work Program during 2010.

18 In the case of any person that is a member of a unitary
19 business group within the meaning of subdivision (a)(27) of
20 Section 1501 of the Illinois Income Tax Act, "applicant" refers
21 to the unitary business group.

22 "Certificate" means the tax credit certificate issued by
23 the Department under Section 35 of this Act.

1 "Certificate of eligibility" means the certificate issued
2 by the Department under Section 20 of this Act.

3 "Credit" means the amount awarded by the Department to an
4 applicant by issuance of a certificate under Section 35 of this
5 Act for each new full-time equivalent employee hired or job
6 created.

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

9 "Director" means the Director of the Department.

10 "Full-time employee" means an individual who is employed
11 for a basic wage for at least 35 hours each week or who renders
12 any other standard of service generally accepted by industry
13 custom or practice as full-time employment. An individual for
14 whom a W-2 is issued by a Professional Employer Organization is
15 a full-time employee if he or she is employed in the service of
16 the applicant for a basic wage for at least 35 hours each week
17 or renders any other standard of service generally accepted by
18 industry custom or practice as full-time employment. For the
19 purposes of this Act, such an individual shall be considered a
20 full-time employee of the applicant.

21 "Professional Employer Organization" (PEO) shall have the
22 same meaning as defined in Section 5-5 of the Economic
23 Development for a Growing Economy Tax Credit Act. As used in
24 this Section, "Professional Employer Organization" does not
25 include a day and temporary labor service agency regulated
26 under the Day and Temporary Labor Services Act.

1 "Incentive period" means the period beginning July 1, 2010
2 and ending on June 30, 2011.

3 "Basic wage" means compensation for employment that is no
4 less than \$10 per hour or the equivalent salary for a new
5 employee.

6 "New employee" means a full-time employee:

7 (1) who first became employed by an applicant with less
8 than 50 full-time employees within the incentive period
9 whose hire results in a net increase in the applicant's
10 full-time Illinois employees and who is receiving a basic
11 wage as compensation; or

12 (2) who participated as a worker-trainee in the Put
13 Illinois to Work Program during 2010 and who is
14 subsequently hired during the incentive period by an
15 applicant and who is receiving a basic wage as
16 compensation.

17 The term "new employee" does not include:

18 (1) a person who was previously employed in Illinois by
19 the applicant or a related member prior to the onset of the
20 incentive period; or

21 (2) any individual who has a direct or indirect
22 ownership interest of at least 5% in the profits, capital,
23 or value of the applicant or a related member.

24 "Noncompliance date" means, in the case of an applicant
25 that is not complying with the requirements of the provisions
26 of this Act, the day following the last date upon which the

1 taxpayer was in compliance with the requirements of the
2 provisions of this Act, as determined by the Director, pursuant
3 to Section 45 of this Act.

4 "Put Illinois to Work Program" means a worker training and
5 employment program that was established by the State of
6 Illinois with funding from the United States Department of
7 Health and Human Services of Emergency Temporary Assistance to
8 Needy Families funds authorized by the American Recovery and
9 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF
10 funds were in turn used by the State of Illinois to fund the
11 Put Illinois to Work Program.

12 "Related member" means a person that, with respect to the
13 applicant during any portion of the incentive period, is any
14 one of the following,

15 (1) An individual, if the individual and the members of
16 the individual's family (as defined in Section 318 of the
17 Internal Revenue Code) own directly, indirectly,
18 beneficially, or constructively, in the aggregate, at
19 least 50% of the value of the outstanding profits, capital,
20 stock, or other ownership interest in the applicant.

21 (2) A partnership, estate, or trust and any partner or
22 beneficiary, if the partnership, estate, or trust and its
23 partners or beneficiaries own directly, indirectly,
24 beneficially, or constructively, in the aggregate, at
25 least 50% of the profits, capital, stock, or other
26 ownership interest in the applicant.

1 (3) A corporation, and any party related to the
2 corporation in a manner that would require an attribution
3 of stock from the corporation under the attribution rules
4 of Section 318 of the Internal Revenue Code, if the
5 applicant and any other related member own, in the
6 aggregate, directly, indirectly, beneficially, or
7 constructively, at least 50% of the value of the
8 corporation's outstanding stock.

9 (4) A corporation and any party related to that
10 corporation in a manner that would require an attribution
11 of stock from the corporation to the party or from the
12 party to the corporation under the attribution rules of
13 Section 318 of the Internal Revenue Code, if the
14 corporation and all such related parties own, in the
15 aggregate, at least 50% of the profits, capital, stock, or
16 other ownership interest in the applicant.

17 (5) A person to or from whom there is attribution of
18 stock ownership in accordance with Section 1563(e) of the
19 Internal Revenue Code, except that for purposes of
20 determining whether a person is a related member under this
21 paragraph, "20%" shall be substituted for "5%" whenever
22 "5%" appears in Section 1563(e) of the Internal Revenue
23 Code.

24 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

25 (Text of Section after amendment by P.A. 97-636)

1 Sec. 10. Definitions. In this Act:

2 "Applicant" means a person that is operating a business
3 located within the State of Illinois that is engaged in
4 interstate or intrastate commerce and either:

5 (1) has no more than 50 full-time employees, without
6 regard to the location of employment of such employees at
7 the beginning of the incentive period; or

8 (2) hired within the incentive period an employee who
9 had participated as worker-trainee in the Put Illinois to
10 Work Program during 2010.

11 In the case of any person that is a member of a unitary
12 business group within the meaning of subdivision (a)(27) of
13 Section 1501 of the Illinois Income Tax Act, "applicant" refers
14 to the unitary business group.

15 "Certificate" means the tax credit certificate issued by
16 the Department under Section 35 of this Act.

17 "Certificate of eligibility" means the certificate issued
18 by the Department under Section 20 of this Act.

19 "Credit" means the amount awarded by the Department to an
20 applicant by issuance of a certificate under Section 35 of this
21 Act for each new full-time equivalent employee hired or job
22 created.

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

25 "Director" means the Director of the Department.

26 "Full-time employee" means an individual who is employed

1 for a basic wage for at least 35 hours each week or who renders
2 any other standard of service generally accepted by industry
3 custom or practice as full-time employment. An individual for
4 whom a W-2 is issued by a Professional Employer Organization is
5 a full-time employee if he or she is employed in the service of
6 the applicant for a basic wage for at least 35 hours each week
7 or renders any other standard of service generally accepted by
8 industry custom or practice as full-time employment. For the
9 purposes of this Act, such an individual shall be considered a
10 full-time employee of the applicant.

11 "Professional Employer Organization" (PEO) shall have the
12 same meaning as defined in Section 5-5 of the Economic
13 Development for a Growing Economy Tax Credit Act. As used in
14 this Section, "Professional Employer Organization" does not
15 include a day and temporary labor service agency regulated
16 under the Day and Temporary Labor Services Act.

17 "Incentive period" means the period beginning on July 1 and
18 ending on June 30 of the following year. The first incentive
19 period shall begin on July 1, 2010 and the last incentive
20 period shall end on June 30, 2016.

21 "Basic wage" means compensation for employment that is no
22 less than \$10 per hour or the equivalent salary for a new
23 employee.

24 "New employee" means a full-time employee:

25 (1) who first became employed by an applicant with less
26 than 50 full-time employees within the incentive period

1 whose hire results in a net increase in the applicant's
2 full-time Illinois employees and who is receiving a basic
3 wage as compensation; or

4 (2) who participated as a worker-trainee in the Put
5 Illinois to Work Program during 2010 and who is
6 subsequently hired during the incentive period by an
7 applicant and who is receiving a basic wage as
8 compensation.

9 The term "new employee" does not include:

10 (1) a person who was previously employed in Illinois by
11 the applicant or a related member prior to the onset of the
12 incentive period; or

13 (2) any individual who has a direct or indirect
14 ownership interest of at least 5% in the profits, capital,
15 or value of the applicant or a related member.

16 "Noncompliance date" means, in the case of an applicant
17 that is not complying with the requirements of the provisions
18 of this Act, the day following the last date upon which the
19 taxpayer was in compliance with the requirements of the
20 provisions of this Act, as determined by the Director, pursuant
21 to Section 45 of this Act.

22 "Put Illinois to Work Program" means a worker training and
23 employment program that was established by the State of
24 Illinois with funding from the United States Department of
25 Health and Human Services of Emergency Temporary Assistance to
26 Needy Families funds authorized by the American Recovery and

1 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF
2 funds were in turn used by the State of Illinois to fund the
3 Put Illinois to Work Program.

4 "Related member" means a person that, with respect to the
5 applicant during any portion of the incentive period, is any
6 one of the following,

7 (1) An individual, if the individual and the members of
8 the individual's family (as defined in Section 318 of the
9 Internal Revenue Code) own directly, indirectly,
10 beneficially, or constructively, in the aggregate, at
11 least 50% of the value of the outstanding profits, capital,
12 stock, or other ownership interest in the applicant.

13 (2) A partnership, estate, or trust and any partner or
14 beneficiary, if the partnership, estate, or trust and its
15 partners or beneficiaries own directly, indirectly,
16 beneficially, or constructively, in the aggregate, at
17 least 50% of the profits, capital, stock, or other
18 ownership interest in the applicant.

19 (3) A corporation, and any party related to the
20 corporation in a manner that would require an attribution
21 of stock from the corporation under the attribution rules
22 of Section 318 of the Internal Revenue Code, if the
23 applicant and any other related member own, in the
24 aggregate, directly, indirectly, beneficially, or
25 constructively, at least 50% of the value of the
26 corporation's outstanding stock.

1 (4) A corporation and any party related to that
2 corporation in a manner that would require an attribution
3 of stock from the corporation to the party or from the
4 party to the corporation under the attribution rules of
5 Section 318 of the Internal Revenue Code, if the
6 corporation and all such related parties own, in the
7 aggregate, at least 50% of the profits, capital, stock, or
8 other ownership interest in the applicant.

9 (5) A person to or from whom there is attribution of
10 stock ownership in accordance with Section 1563(e) of the
11 Internal Revenue Code, except that for purposes of
12 determining whether a person is a related member under this
13 paragraph, "20%" shall be substituted for "5%" whenever
14 "5%" appears in Section 1563(e) of the Internal Revenue
15 Code.

16 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;
17 97-636, eff. 6-1-12.)

18 (35 ILCS 25/25)

19 (Text of Section before amendment by P.A. 97-636)

20 Sec. 25. Tax credit.

21 (a) Subject to the conditions set forth in this Act, an
22 applicant is entitled to a credit against payment of taxes
23 withheld under Section 704A of the Illinois Income Tax Act:

24 (1) for new employees who participated as
25 worker-trainees in the Put Illinois to Work Program during

1 2010:

2 (A) in the first calendar year ending on or after
3 the date that is 6 months after December 31, 2010, or
4 the date of hire, whichever is later. Under this
5 subparagraph, the applicant is entitled to one-half of
6 the credit allowable for each new employee who is
7 employed for at least 6 months after the date of hire;
8 and

9 (B) in the first calendar year ending on or after
10 the date that is 12 months after December 31, 2010, or
11 the date of hire, whichever is later. Under this
12 subparagraph, the applicant is entitled to one-half of
13 the credit allowable for each new employee who is
14 employed for at least 12 months after the date of hire;

15 (2) for all other new employees, in the first calendar
16 year ending on or after the date that is 12 months after
17 the date of hire of a new employee. The credit shall be
18 allowed as a credit to an applicant for each full-time
19 employee hired during the incentive period that results in
20 a net increase in full-time Illinois employees, where the
21 net increase in the employer's full-time Illinois
22 employees is maintained for at least 12 months.

23 (b) The Department shall make credit awards under this Act
24 to further job creation.

25 (c) The credit shall be claimed for the first calendar year
26 ending on or after the date on which the certificate is issued

1 by the Department.

2 (d) The credit shall not exceed \$2,500 per new employee
3 hired.

4 (e) The net increase in full-time Illinois employees,
5 measured on an annual full-time equivalent basis, shall be the
6 total number of full-time Illinois employees of the applicant
7 on June 30, 2011, minus the number of full-time Illinois
8 employees employed by the employer on July 1, 2010. For
9 purposes of the calculation, an employer that begins doing
10 business in this State during the incentive period, as
11 determined by the Director, shall be treated as having zero
12 Illinois employees on July 1, 2010.

13 (f) The net increase in the number of full-time Illinois
14 employees of the applicant under subsection (e) must be
15 sustained continuously for at least 12 months, starting with
16 the date of hire of a new employee during the incentive period.
17 Eligibility for the credit does not depend on the continuous
18 employment of any particular individual. For purposes of this
19 subsection (f), if a new employee ceases to be employed before
20 the completion of the 12-month period for any reason, the net
21 increase in the number of full-time Illinois employees shall be
22 treated as continuous if a different new employee is hired as a
23 replacement within a reasonable time for the same position.

24 (g) The Department shall promulgate rules to enable an
25 applicant for which a PEO has been contracted to issue W-2s and
26 make payment of taxes withheld under Section 704A of the

1 Illinois Income Tax Act for new employees to retain the benefit
2 of tax credits to which the applicant is otherwise entitled
3 under this Act.

4 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

5 (Text of Section after amendment by P.A. 97-636)

6 Sec. 25. Tax credit.

7 (a) Subject to the conditions set forth in this Act, an
8 applicant is entitled to a credit against payment of taxes
9 withheld under Section 704A of the Illinois Income Tax Act:

10 (1) for new employees who participated as
11 worker-trainees in the Put Illinois to Work Program during
12 2010:

13 (A) in the first calendar year ending on or after
14 the date that is 6 months after December 31, 2010, or
15 the date of hire, whichever is later. Under this
16 subparagraph, the applicant is entitled to one-half of
17 the credit allowable for each new employee who is
18 employed for at least 6 months after the date of hire;
19 and

20 (B) in the first calendar year ending on or after
21 the date that is 12 months after December 31, 2010, or
22 the date of hire, whichever is later. Under this
23 subparagraph, the applicant is entitled to one-half of
24 the credit allowable for each new employee who is
25 employed for at least 12 months after the date of hire;

1 (2) for all other new employees, in the first calendar
2 year ending on or after the date that is 12 months after
3 the date of hire of a new employee. The credit shall be
4 allowed as a credit to an applicant for each full-time
5 employee hired during the incentive period that results in
6 a net increase in full-time Illinois employees, where the
7 net increase in the employer's full-time Illinois
8 employees is maintained for at least 12 months.

9 (b) The Department shall make credit awards under this Act
10 to further job creation.

11 (c) The credit shall be claimed for the first calendar year
12 ending on or after the date on which the certificate is issued
13 by the Department.

14 (d) The credit shall not exceed \$2,500 per new employee
15 hired.

16 (e) The net increase in full-time Illinois employees,
17 measured on an annual full-time equivalent basis, shall be the
18 total number of full-time Illinois employees of the applicant
19 on the final day of the incentive period, minus the number of
20 full-time Illinois employees employed by the employer on the
21 first day of that same incentive period. For purposes of the
22 calculation, an employer that begins doing business in this
23 State during the incentive period, as determined by the
24 Director, shall be treated as having zero Illinois employees on
25 the first day of the incentive period.

26 (f) The net increase in the number of full-time Illinois

1 employees of the applicant under subsection (e) must be
2 sustained continuously for at least 12 months, starting with
3 the date of hire of a new employee during the incentive period.
4 Eligibility for the credit does not depend on the continuous
5 employment of any particular individual. For purposes of this
6 subsection (f), if a new employee ceases to be employed before
7 the completion of the 12-month period for any reason, the net
8 increase in the number of full-time Illinois employees shall be
9 treated as continuous if a different new employee is hired as a
10 replacement within a reasonable time for the same position.

11 (g) The Department shall promulgate rules to enable an
12 applicant for which a PEO has been contracted to issue W-2s and
13 make payment of taxes withheld under Section 704A of the
14 Illinois Income Tax Act for new employees to retain the benefit
15 of tax credits to which the applicant is otherwise entitled
16 under this Act.

17 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;
18 97-636, eff. 6-1-12.)

19 Section 95. No acceleration or delay. Where this Act makes
20 changes in a statute that is represented in this Act by text
21 that is not yet or no longer in effect (for example, a Section
22 represented by multiple versions), the use of that text does
23 not accelerate or delay the taking effect of (i) the changes
24 made by this Act or (ii) provisions derived from any other
25 Public Act.