



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5440

Introduced 2/15/2012, by Rep. Michelle Mussman - Keith Farnham

#### SYNOPSIS AS INTRODUCED:

35 ILCS 11/21 new  
35 ILCS 11/Act title  
35 ILCS 11/1  
35 ILCS 11/5  
35 ILCS 11/10  
35 ILCS 11/15  
35 ILCS 11/20  
35 ILCS 11/25  
35 ILCS 11/99

Amends the Business Location Efficiency Incentive Act. Provides for the continuation, validation, and re-enactment of the Act, which was inadvertently repealed on December 31, 2011. Effective immediately.

LRB097 17684 HLH 62895 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Business Location Efficiency Incentive Act  
5 is amended by adding Section 21 as follows:

6 (35 ILCS 11/21 new)

7 Sec. 21. Continuation of Act; validation.

8 (a) The General Assembly finds and declares that:

9 (1) Public Act 97-636, which takes effect on June 1,  
10 2012, changed the repeal date set for the Business Location  
11 Efficiency Incentive Act from December 31, 2011 to December  
12 31, 2016.

13 (2) The Statute on Statutes sets forth general rules on  
14 the repeal of statutes and the construction of multiple  
15 amendments, but Section 1 of that Act also states that  
16 these rules will not be observed when the result would be  
17 "inconsistent with the manifest intent of the General  
18 Assembly or repugnant to the context of the statute".

19 (3) This amendatory Act of the 97th General Assembly  
20 manifests the intention of the General Assembly to extend  
21 the repeal of the Business Location Efficiency Incentive  
22 Act and have the Business Location Efficiency Incentive Act  
23 continue in effect until December 31, 2016.

1           (4) The Business Location Efficiency Incentive Act was  
2           originally enacted to protect, promote, and preserve the  
3           general welfare. Any construction of this Act that results  
4           in the repeal of this Act on December 31, 2011 would be  
5           inconsistent with the manifest intent of the General  
6           Assembly and repugnant to the context of the Business  
7           Location Efficiency Incentive Act.

8           (b) It is hereby declared to have been the intent of the  
9           General Assembly that the Business Location Efficiency  
10           Incentive Act not be subject to repeal on December 31, 2011.

11           (c) The Business Location Efficiency Incentive Act shall be  
12           deemed to have been in continuous effect since January 1, 2007  
13           (the effective date of Public Act 94-966), and it shall  
14           continue to be in effect henceforward until it is otherwise  
15           lawfully repealed. All previously enacted amendments to the Act  
16           taking effect on or after December 31, 2011, are hereby  
17           validated.

18           (d) All actions taken in reliance on or pursuant to the  
19           Business Location Efficiency Incentive Act by the Department of  
20           Revenue, the Department of Commerce and Economic Opportunity,  
21           or any other person or entity are hereby validated.

22           (e) In order to ensure the continuing effectiveness of the  
23           Business Location Efficiency Incentive Act, it is set forth in  
24           full and re-enacted by this amendatory Act of the 97th General  
25           Assembly. This re-enactment is intended as a continuation of  
26           the Act. It is not intended to supersede any amendment to the

1 Act that is enacted by the 97th General Assembly.

2 (f) The Business Location Efficiency Incentive Act applies  
3 to all claims, civil actions, and proceedings pending on or  
4 filed on or before the effective date of this Act.

5 Section 10. The Business Location Efficiency Incentive Act  
6 is re-enacted as follows:

7 (35 ILCS 11/Act title)

8 An Act concerning business incentives.

9 (35 ILCS 11/1)

10 (Section scheduled to be repealed on December 31, 2011)

11 Sec. 1. Short title. This Act may be cited as the Business  
12 Location Efficiency Incentive Act.

13 (Source: P.A. 94-966, eff. 1-1-07.)

14 (35 ILCS 11/5)

15 (Section scheduled to be repealed on December 31, 2011)

16 Sec. 5. Definitions. In this Act:

17 "Location efficient" means a project that maximizes the use  
18 of existing investments in infrastructure, avoids or minimizes  
19 additional government expenditures for new infrastructure, and  
20 has nearby housing affordable to the permanent workforce of the  
21 project or has accessible and affordable mass transit or its  
22 equivalent or some combination of both.

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

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

16 "Accessible and affordable mass transit" means access to  
17 transit stops with regular and frequent service within one mile  
18 from the project site and pedestrian access to transit stops.

19 "Affordable workforce housing" means owner-occupied or  
20 rental housing that costs, based on current census data for the  
21 municipality where the project is located or any municipality  
22 within 3 miles of the municipality where the project is  
23 located, no more than 35% of the median salary at the project  
24 site, exclusive of the highest 10% of the site's salaries. If  
25 the project is located in an unincorporated area, "affordable  
26 workforce housing" means no more than 35% of the median salary

1 at the project site, excluding the highest 10% of the site's  
2 salaries, based on the median cost of rental or of  
3 owner-occupied housing in the county where the unincorporated  
4 area is located.

5 "Department" means the Department of Commerce and Economic  
6 Opportunity (DCEO) or its successor agency.

7 "Applicant" means a company or its representative that  
8 negotiates or applies for economic development assistance from  
9 DCEO.

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

14 "Existence of infrastructure" means the existence within  
15 1,500 feet of the proposed site of roads, sewers, sidewalks,  
16 and other utilities and a description of the investments or  
17 improvements, if any, that an applicant expects State or local  
18 government to make to that infrastructure.

19 (Source: P.A. 94-966, eff. 1-1-07.)

20 (35 ILCS 11/10)

21 (Section scheduled to be repealed on December 31, 2011)

22 Sec. 10. Economic development assistance awards.

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

1 (b) DCEO may give an applicant an increased tax credit or  
2 extension if the applicant's location efficiency report  
3 demonstrates that the applicant is seeking assistance for a  
4 project to be located in an area that satisfies this Act's  
5 standards for affordable workforce housing or affordable and  
6 accessible mass transit. If the Department determines from the  
7 location efficiency report that the applicant is seeking  
8 assistance in an area that is not location efficient, the  
9 Department may award an increase in State economic development  
10 assistance if an applicant (i) submits, and the Department  
11 accepts, an applicant's employee housing and transportation  
12 remediation plan or (ii) creates jobs in a labor surplus area  
13 as defined by the Department of Employment Security at the end  
14 of each calendar year.

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

24 (d) The Department may provide technical assistance to  
25 employers requesting assistance in developing an appropriate  
26 employee housing or transportation plan.

1 (Source: P.A. 94-966, eff. 1-1-07.)

2 (35 ILCS 11/15)

3 (Section scheduled to be repealed on December 31, 2011)

4 Sec. 15. Summaries; progress reports.

5 (a) DCEO shall include summaries of the initial employee  
6 housing or transportation plans for each assisted project in  
7 the annual compilation and publication of project progress  
8 reports required under subsection (d) of Section 20 of the  
9 Corporate Accountability for Tax Expenditures Act. Companies  
10 that fail to do so or that make inadequate progress shall have  
11 their increased tax credit or extension eliminated. Applicants  
12 and submitted data are subject to all disclosure, reporting,  
13 and recapture provisions set forth in Public Act 93-552.

14 (b) By June 1, 2008 and by June 1 of each year thereafter  
15 through 2011, the Department shall include, when appropriate,  
16 data on the outcomes or status of approved employee housing or  
17 transportation plans in the project progress reports required  
18 under the Corporate Accountability for Tax Expenditure Act.

19 (Source: P.A. 94-966, eff. 1-1-07.)

20 (35 ILCS 11/20)

21 (Section scheduled to be repealed on December 31, 2011)

22 Sec. 20. Duration of incentives; report to General  
23 Assembly.

24 (a) Any multi-year incentive awarded under this Act shall



1 continue for the time period called for in the agreement with  
2 the Department and shall not be altered by the repeal of this  
3 Act.

4 (b) By January 1, 2011, the Department shall submit to the  
5 Speaker of the House of Representatives and the President of  
6 the Senate, for assignment to the appropriate committees, a  
7 report on the incentives awarded under this Act and the  
8 Department's activities, findings, and recommendations with  
9 respect to this Act and its extension, amendment, or repeal.  
10 The report, when acted upon by those committees, shall be  
11 distributed to each member of the General Assembly.

12 (Source: P.A. 94-966, eff. 1-1-07.)

13 (35 ILCS 11/25)

14 (Section scheduled to be repealed on December 31, 2011)

15 Sec. 25. Repeal. This Act is repealed on December 31, 2016.

16 (Source: P.A. 97-636, eff. 6-1-12.)

17 (35 ILCS 11/99)

18 (Section scheduled to be repealed on December 31, 2011)

19 Sec. 99. Effective date. This Act takes effect January 1,  
20 2007.

21 (Source: P.A. 94-966, eff. 1-1-07.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.