



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1359

Introduced 2/8/2011, by Sen. Carole Pankau

SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-15

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that, on and after the effective date of the amendatory Act, any Taxpayer that is awarded a credit under the Act may elect to claim the Credit against its withholding tax obligations (now, only certain taxpayers that are engaged in motor vehicle metal stamping, automobile manufacturing, automobile and light duty motor vehicle manufacturing, motor vehicle manufacturing, light truck and utility vehicle manufacturing, heavy duty truck manufacturing, or motor vehicle body manufacturing may claim the credit against withholdings). Effective immediately.

LRB097 05471 HLH 45530 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 Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
8 forth in this Act, a Taxpayer is entitled to a Credit against
9 or, as described in subsection (g) of this Section, a payment
10 towards taxes imposed pursuant to subsections (a) and (b) of
11 Section 201 of the Illinois Income Tax Act that may be imposed
12 on the Taxpayer for a taxable year beginning on or after
13 January 1, 1999, if the Taxpayer is awarded a Credit by the
14 Department under this Act for that taxable year.

15 (a) The Department shall make Credit awards under this Act
16 to foster job creation and retention in Illinois.

17 (b) A person that proposes a project to create new jobs in
18 Illinois must enter into an Agreement with the Department for
19 the Credit under this Act.

20 (c) The Credit shall be claimed for the taxable years
21 specified in the Agreement.

22 (d) The Credit shall not exceed the Incremental Income Tax
23 attributable to the project that is the subject of the

1 Agreement.

2 (e) Nothing herein shall prohibit a Tax Credit Award to an
3 Applicant that uses a PEO if all other award criteria are
4 satisfied.

5 (f) In lieu of the Credit allowed under this Act against
6 the taxes imposed pursuant to subsections (a) and (b) of
7 Section 201 of the Illinois Income Tax Act for any taxable year
8 ending on or after December 31, 2009, the Taxpayer may elect to
9 claim the Credit against its obligation to pay over withholding
10 under Section 704A of the Illinois Income Tax Act.

11 (1) Prior to the effective date of this amendatory Act
12 of the 97th General Assembly, the ~~The~~ election under this
13 subsection (f) may be made only by a Taxpayer that (i) is
14 primarily engaged in one of the following business
15 activities: motor vehicle metal stamping, automobile
16 manufacturing, automobile and light duty motor vehicle
17 manufacturing, motor vehicle manufacturing, light truck
18 and utility vehicle manufacturing, heavy duty truck
19 manufacturing, or motor vehicle body manufacturing and
20 (ii) meets the following criteria:

21 (A) the Taxpayer (i) had an Illinois net loss or an
22 Illinois net loss deduction under Section 207 of the
23 Illinois Income Tax Act for the taxable year in which
24 the Credit is awarded, (ii) employed a minimum of 1,000
25 full-time employees in this State during the taxable
26 year in which the Credit is awarded, (iii) has an

1 Agreement under this Act on December 14, 2009 (the
2 effective date of Public Act 96-834), and (iv) is in
3 compliance with all provisions of that Agreement;

4 (B) the Taxpayer (i) had an Illinois net loss or an
5 Illinois net loss deduction under Section 207 of the
6 Illinois Income Tax Act for the taxable year in which
7 the Credit is awarded, (ii) employed a minimum of 1,000
8 full-time employees in this State during the taxable
9 year in which the Credit is awarded, and (iii) has
10 applied for an Agreement within 365 days after December
11 14, 2009 (the effective date of Public Act 96-834); or

12 (C) the Taxpayer (i) had an Illinois net operating
13 loss carryforward under Section 207 of the Illinois
14 Income Tax Act in a taxable year ending during calendar
15 year 2008, (ii) has applied for an Agreement within 150
16 days after the effective date of this amendatory Act of
17 the 96th General Assembly, (iii) creates at least 400
18 new jobs in Illinois, (iv) retains at least 2,000 jobs
19 in Illinois that would have been at risk of relocation
20 out of Illinois over a 10-year period, and (v) makes a
21 capital investment of at least \$75,000,000.

22 (1.5) On and after the effective date of this
23 amendatory Act of the 97th General Assembly, any Taxpayer
24 that is awarded a Credit under this Act may elect to claim
25 the Credit against its obligation to pay over withholding
26 under Section 704A of the Illinois Income Tax Act.

1 (2) An election under this subsection shall allow the
2 credit to be taken against payments otherwise due under
3 Section 704A of the Illinois Income Tax Act during the
4 first calendar year beginning after the end of the taxable
5 year in which the credit is awarded under this Act.

6 (3) The election shall be made in the form and manner
7 required by the Illinois Department of Revenue and, once
8 made, shall be irrevocable.

9 (4) If a Taxpayer who meets the requirements of
10 subparagraph (A) of paragraph (1) of this subsection (f)
11 elects to claim the Credit against its withholdings as
12 provided in this subsection (f), then, on and after the
13 date of the election, the terms of the Agreement between
14 the Taxpayer and the Department may not be further amended
15 during the term of the Agreement.

16 (g) A pass-through entity that has been awarded a credit
17 under this Act, its shareholders, or its partners may treat
18 some or all of the credit awarded pursuant to this Act as a tax
19 payment for purposes of the Illinois Income Tax Act. The term
20 "tax payment" means a payment as described in Article 6 or
21 Article 8 of the Illinois Income Tax Act or a composite payment
22 made by a pass-through entity on behalf of any of its
23 shareholders or partners to satisfy such shareholders' or
24 partners' taxes imposed pursuant to subsections (a) and (b) of
25 Section 201 of the Illinois Income Tax Act. In no event shall
26 the amount of the award credited pursuant to this Act exceed

1 the Illinois income tax liability of the pass-through entity or
2 its shareholders or partners for the taxable year.

3 (Source: P.A. 95-375, eff. 8-23-07; 96-834, eff. 12-14-09;
4 96-836, eff. 12-16-09; 96-905, eff. 6-4-10; 96-1000, eff.
5 7-2-10.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.