



Rep. Frank J. Mautino

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1 AMENDMENT TO HOUSE BILL 379

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 379 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 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.

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

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

6           (d) The Credit shall not exceed the Incremental Income Tax  
7 attributable to the project that is the subject of the  
8 Agreement.

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

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

18           (1) The election under this subsection (f) may be made  
19 only by a Taxpayer that (i) is primarily engaged in one of  
20 the following business activities: water purification and  
21 treatment, motor vehicle metal stamping, automobile  
22 manufacturing, automobile and light duty motor vehicle  
23 manufacturing, motor vehicle manufacturing, light truck  
24 and utility vehicle manufacturing, heavy duty truck  
25 manufacturing, motor vehicle body manufacturing, cable  
26 television infrastructure design or manufacturing, or

1 wireless telecommunication or computing terminal device  
2 design or manufacturing for use on public networks and (ii)  
3 meets the following criteria:

4 (A) 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, (iii) has an  
10 Agreement under this Act on December 14, 2009 (the  
11 effective date of Public Act 96-834), and (iv) is in  
12 compliance with all provisions of that Agreement;

13 (B) the Taxpayer (i) had an Illinois net loss or an  
14 Illinois net loss deduction under Section 207 of the  
15 Illinois Income Tax Act for the taxable year in which  
16 the Credit is awarded, (ii) employed a minimum of 1,000  
17 full-time employees in this State during the taxable  
18 year in which the Credit is awarded, and (iii) has  
19 applied for an Agreement within 365 days after December  
20 14, 2009 (the effective date of Public Act 96-834);

21 (C) the Taxpayer (i) had an Illinois net operating  
22 loss carryforward under Section 207 of the Illinois  
23 Income Tax Act in a taxable year ending during calendar  
24 year 2008, (ii) has applied for an Agreement within 150  
25 days after the effective date of this amendatory Act of  
26 the 96th General Assembly, (iii) creates at least 400

1 new jobs in Illinois, (iv) retains at least 2,000 jobs  
2 in Illinois that would have been at risk of relocation  
3 out of Illinois over a 10-year period, and (v) makes a  
4 capital investment of at least \$75,000,000;

5 (D) the Taxpayer (i) had an Illinois net operating  
6 loss carryforward under Section 207 of the Illinois  
7 Income Tax Act in a taxable year ending during calendar  
8 year 2009, (ii) has applied for an Agreement within 150  
9 days after the effective date of this amendatory Act of  
10 the 96th General Assembly, (iii) creates at least 150  
11 new jobs, (iv) retains at least 1,000 jobs in Illinois  
12 that would have been at risk of relocation out of  
13 Illinois over a 10-year period, and (v) makes a capital  
14 investment of at least \$57,000,000; or

15 (E) the Taxpayer (i) employed at least 2,500  
16 full-time employees in the State during the year in  
17 which the Credit is awarded, (ii) commits to make at  
18 least \$500,000,000 in combined capital improvements  
19 and project costs under the Agreement, (iii) applies  
20 for an Agreement between January 1, 2011 and June 30,  
21 2011, (iv) executes an Agreement for the Credit during  
22 calendar year 2011, and (v) was incorporated no more  
23 than 5 years before the filing of an application for an  
24 Agreement.

25 (1.5) The election under this subsection (f) may also  
26 be made by a Taxpayer for any Credit awarded pursuant to an

1 agreement that was executed between January 1, 2011 and  
2 June 30, 2011, if the Taxpayer (i) is primarily engaged in  
3 the manufacture of inner tubes or tires, or both, from  
4 natural and synthetic rubber, (ii) employs a minimum of  
5 2,400 full-time employees in Illinois at the time of  
6 application, (iii) creates at least 350 full-time jobs and  
7 retains at least 250 full-time jobs in Illinois that would  
8 have been at risk of being created or retained outside of  
9 Illinois, and (iv) makes a capital investment of at least  
10 \$200,000,000 at the project location.

11 (1.6) The election under this subsection (f) may also  
12 be made by a Taxpayer for any Credit awarded pursuant to an  
13 agreement that was executed within 150 days after the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly, if the Taxpayer (i) is primarily engaged in the  
16 operation of a discount department store, (ii) maintains  
17 its corporate headquarters in Illinois, (iii) employs a  
18 minimum of 4,250 full-time employees at its corporate  
19 headquarters in Illinois at the time of application, (iv)  
20 retains at least 4,250 full-time jobs in Illinois that  
21 would have been at risk of being relocated outside of  
22 Illinois, (v) had a minimum of \$40,000,000,000 in total  
23 revenue in 2010, and (vi) makes a capital investment of at  
24 least \$300,000,000 at the project location.

25 (1.7) Notwithstanding any other provision of law, the  
26 election under this subsection (f) may also be made by a

1 Taxpayer for any Credit awarded pursuant to an agreement  
2 that was executed or applied for on or after July 1, 2011  
3 and on or before March 31, 2012, if the Taxpayer is  
4 primarily engaged in the manufacture of original and  
5 aftermarket filtration parts and products for automobiles,  
6 motor vehicles, light duty motor vehicles, light trucks and  
7 utility vehicles, and heavy duty trucks, (ii) employs a  
8 minimum of 1,000 full-time employees in Illinois at the  
9 time of application, (iii) creates at least 250 full-time  
10 jobs in Illinois, (iv) relocates its corporate  
11 headquarters to Illinois from another state, and (v) makes  
12 a capital investment of at least \$4,000,000 at the project  
13 location.

14 (1.8) The election under this subsection (f) may also  
15 be made if:

16 (i) the agreement awarding the Credit was executed  
17 on or after the effective date of this amendatory Act  
18 of the 98th General Assembly but not later than 150  
19 days after the effective date of this amendatory Act of  
20 the 98th General Assembly;

21 (ii) the taxpayer is primarily engaged in retail  
22 and business-to-business office products distribution,  
23 sales, and service;

24 (iii) the taxpayer maintains its corporate  
25 headquarters in Illinois;

26 (iv) the taxpayer employs a minimum of 2,050

1           full-time employees at its corporate headquarters and  
2           non-retail corporate locations in Illinois at the time  
3           of application;

4           (v) the taxpayer retains at least 2,050 full-time  
5           jobs in Illinois that would have been at risk of being  
6           relocated outside of Illinois as a result of a business  
7           combination with a third party;

8           (vi) the taxpayer creates at least 200 full-time  
9           jobs in Illinois as a result of a business combination  
10           with a third party;

11           (vii) the taxpayer's total aggregate revenue, when  
12           combined with that third party, was at least  
13           \$17,500,000,000 in 2012; and

14           (viii) the taxpayer makes a capital investment of  
15           at least \$150,000,000 at the project location.

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

21           (3) The election shall be made in the form and manner  
22           required by the Illinois Department of Revenue and, once  
23           made, shall be irrevocable.

24           (4) If a Taxpayer who meets the requirements of  
25           subparagraph (A) of paragraph (1) of this subsection (f)  
26           elects to claim the Credit against its withholdings as

1 provided in this subsection (f), then, on and after the  
2 date of the election, the terms of the Agreement between  
3 the Taxpayer and the Department may not be further amended  
4 during the term of the Agreement.

5 (g) A pass-through entity that has been awarded a credit  
6 under this Act, its shareholders, or its partners may treat  
7 some or all of the credit awarded pursuant to this Act as a tax  
8 payment for purposes of the Illinois Income Tax Act. The term  
9 "tax payment" means a payment as described in Article 6 or  
10 Article 8 of the Illinois Income Tax Act or a composite payment  
11 made by a pass-through entity on behalf of any of its  
12 shareholders or partners to satisfy such shareholders' or  
13 partners' taxes imposed pursuant to subsections (a) and (b) of  
14 Section 201 of the Illinois Income Tax Act. In no event shall  
15 the amount of the award credited pursuant to this Act exceed  
16 the Illinois income tax liability of the pass-through entity or  
17 its shareholders or partners for the taxable year.

18 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;  
19 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.  
20 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

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