



Sen. Thomas Cullerton

**Filed: 6/18/2013**

09800HB3271sam002

LRB098 09263 HLH 46914 a

1 AMENDMENT TO HOUSE BILL 3271

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3271, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Economic Development for a Growing Economy  
6 Tax Credit Act is amended by changing Section 5-15 as follows:

7 (35 ILCS 10/5-15)

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

16 (a) The Department shall make Credit awards under this Act

1 to foster job creation and retention in Illinois.

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

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

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

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

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

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

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

5 (A) the Taxpayer (i) had an Illinois net loss or an  
6 Illinois net loss deduction under Section 207 of the  
7 Illinois Income Tax Act for the taxable year in which  
8 the Credit is awarded, (ii) employed a minimum of 1,000  
9 full-time employees in this State during the taxable  
10 year in which the Credit is awarded, (iii) has an  
11 Agreement under this Act on December 14, 2009 (the  
12 effective date of Public Act 96-834), and (iv) is in  
13 compliance with all provisions of that Agreement;

14 (B) the Taxpayer (i) had an Illinois net loss or an  
15 Illinois net loss deduction under Section 207 of the  
16 Illinois Income Tax Act for the taxable year in which  
17 the Credit is awarded, (ii) employed a minimum of 1,000  
18 full-time employees in this State during the taxable  
19 year in which the Credit is awarded, and (iii) has  
20 applied for an Agreement within 365 days after December  
21 14, 2009 (the effective date of Public Act 96-834);

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

1           the 96th General Assembly, (iii) creates at least 400  
2           new jobs in Illinois, (iv) retains at least 2,000 jobs  
3           in Illinois that would have been at risk of relocation  
4           out of Illinois over a 10-year period, and (v) makes a  
5           capital investment of at least \$75,000,000;

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

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

26          (1.5) The election under this subsection (f) may also

1 be made by a Taxpayer for any Credit awarded pursuant to an  
2 agreement that was executed between January 1, 2011 and  
3 June 30, 2011, if the Taxpayer (i) is primarily engaged in  
4 the manufacture of inner tubes or tires, or both, from  
5 natural and synthetic rubber, (ii) employs a minimum of  
6 2,400 full-time employees in Illinois at the time of  
7 application, (iii) creates at least 350 full-time jobs and  
8 retains at least 250 full-time jobs in Illinois that would  
9 have been at risk of being created or retained outside of  
10 Illinois, and (iv) makes a capital investment of at least  
11 \$200,000,000 at the project location.

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

26 (1.7) Notwithstanding any other provision of law, the

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

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

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

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

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

1           (iv) the taxpayer employs a minimum of 2,000  
2           full-time employees at its corporate headquarters and  
3           non-retail corporate locations in Illinois at the time  
4           of application;

5           (v) the taxpayer retains at least 2,000 full-time  
6           jobs in Illinois that would have been at risk of being  
7           relocated outside of Illinois as a result of a business  
8           combination with a third party;

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

12          (vii) the taxpayer makes a capital investment of at  
13          least \$150,000,000 at the project location.

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

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

22          (4) If a Taxpayer who meets the requirements of  
23          subparagraph (A) of paragraph (1) of this subsection (f)  
24          elects to claim the Credit against its withholdings as  
25          provided in this subsection (f), then, on and after the  
26          date of the election, the terms of the Agreement between

1           the Taxpayer and the Department may not be further amended  
2           during the term of the Agreement.

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

16          (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;  
17          96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.  
18          3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

19          Section 99. Effective date. This Act takes effect upon  
20          becoming law."