



Sen. Kimberly A. Lightford

Filed: 1/9/2017

09900SB0263sam001

LRB099 03426 HLH 52196 a

1 AMENDMENT TO SENATE BILL 263

2 AMENDMENT NO. _____. Amend Senate Bill 263 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 704A as follows:

6 (35 ILCS 5/704A)

7 Sec. 704A. Employer's return and payment of tax withheld.

8 (a) In general, every employer who deducts and withholds or
9 is required to deduct and withhold tax under this Act on or
10 after January 1, 2008 shall make those payments and returns as
11 provided in this Section.

12 (b) Returns. Every employer shall, in the form and manner
13 required by the Department, make returns with respect to taxes
14 withheld or required to be withheld under this Article 7 for
15 each quarter beginning on or after January 1, 2008, on or
16 before the last day of the first month following the close of

1 that quarter.

2 (c) Payments. With respect to amounts withheld or required
3 to be withheld on or after January 1, 2008:

4 (1) Semi-weekly payments. For each calendar year, each
5 employer who withheld or was required to withhold more than
6 \$12,000 during the one-year period ending on June 30 of the
7 immediately preceding calendar year, payment must be made:

8 (A) on or before each Friday of the calendar year,
9 for taxes withheld or required to be withheld on the
10 immediately preceding Saturday, Sunday, Monday, or
11 Tuesday;

12 (B) on or before each Wednesday of the calendar
13 year, for taxes withheld or required to be withheld on
14 the immediately preceding Wednesday, Thursday, or
15 Friday.

16 Beginning with calendar year 2011, payments made under
17 this paragraph (1) of subsection (c) must be made by
18 electronic funds transfer.

19 (2) Semi-weekly payments. Any employer who withholds
20 or is required to withhold more than \$12,000 in any quarter
21 of a calendar year is required to make payments on the
22 dates set forth under item (1) of this subsection (c) for
23 each remaining quarter of that calendar year and for the
24 subsequent calendar year.

25 (3) Monthly payments. Each employer, other than an
26 employer described in items (1) or (2) of this subsection,

1 shall pay to the Department, on or before the 15th day of
2 each month the taxes withheld or required to be withheld
3 during the immediately preceding month.

4 (4) Payments with returns. Each employer shall pay to
5 the Department, on or before the due date for each return
6 required to be filed under this Section, any tax withheld
7 or required to be withheld during the period for which the
8 return is due and not previously paid to the Department.

9 (d) Regulatory authority. The Department may, by rule:

10 (1) Permit employers, in lieu of the requirements of
11 subsections (b) and (c), to file annual returns due on or
12 before January 31 of the year for taxes withheld or
13 required to be withheld during the previous calendar year
14 and, if the aggregate amounts required to be withheld by
15 the employer under this Article 7 (other than amounts
16 required to be withheld under Section 709.5) do not exceed
17 \$1,000 for the previous calendar year, to pay the taxes
18 required to be shown on each such return no later than the
19 due date for such return.

20 (2) Provide that any payment required to be made under
21 subsection (c)(1) or (c)(2) is deemed to be timely to the
22 extent paid by electronic funds transfer on or before the
23 due date for deposit of federal income taxes withheld from,
24 or federal employment taxes due with respect to, the wages
25 from which the Illinois taxes were withheld.

26 (3) Designate one or more depositories to which payment

1 of taxes required to be withheld under this Article 7 must
2 be paid by some or all employers.

3 (4) Increase the threshold dollar amounts at which
4 employers are required to make semi-weekly payments under
5 subsection (c) (1) or (c) (2).

6 (e) Annual return and payment. Every employer who deducts
7 and withholds or is required to deduct and withhold tax from a
8 person engaged in domestic service employment, as that term is
9 defined in Section 3510 of the Internal Revenue Code, may
10 comply with the requirements of this Section with respect to
11 such employees by filing an annual return and paying the taxes
12 required to be deducted and withheld on or before the 15th day
13 of the fourth month following the close of the employer's
14 taxable year. The Department may allow the employer's return to
15 be submitted with the employer's individual income tax return
16 or to be submitted with a return due from the employer under
17 Section 1400.2 of the Unemployment Insurance Act.

18 (f) Magnetic media and electronic filing. Any W-2 Form
19 that, under the Internal Revenue Code and regulations
20 promulgated thereunder, is required to be submitted to the
21 Internal Revenue Service on magnetic media or electronically
22 must also be submitted to the Department on magnetic media or
23 electronically for Illinois purposes, if required by the
24 Department.

25 (g) For amounts deducted or withheld after December 31,
26 2009, a taxpayer who makes an election under subsection (f) of

1 Section 5-15 of the Economic Development for a Growing Economy
2 Tax Credit Act for a taxable year shall be allowed a credit
3 against payments due under this Section for amounts withheld
4 during the first calendar year beginning after the end of that
5 taxable year equal to the amount of the credit for the
6 incremental income tax attributable to full-time employees of
7 the taxpayer awarded to the taxpayer by the Department of
8 Commerce and Economic Opportunity under the Economic
9 Development for a Growing Economy Tax Credit Act for the
10 taxable year and credits not previously claimed and allowed to
11 be carried forward under Section 211(4) of this Act as provided
12 in subsection (f) of Section 5-15 of the Economic Development
13 for a Growing Economy Tax Credit Act. The credit or credits may
14 not reduce the taxpayer's obligation for any payment due under
15 this Section to less than zero. If the amount of the credit or
16 credits exceeds the total payments due under this Section with
17 respect to amounts withheld during the calendar year, the
18 excess may be carried forward and applied against the
19 taxpayer's liability under this Section in the succeeding
20 calendar years as allowed to be carried forward under paragraph
21 (4) of Section 211 of this Act. The credit or credits shall be
22 applied to the earliest year for which there is a tax
23 liability. If there are credits from more than one taxable year
24 that are available to offset a liability, the earlier credit
25 shall be applied first. Each employer who deducts and withholds
26 or is required to deduct and withhold tax under this Act and

1 who retains income tax withholdings under subsection (f) of
2 Section 5-15 of the Economic Development for a Growing Economy
3 Tax Credit Act must make a return with respect to such taxes
4 and retained amounts in the form and manner that the
5 Department, by rule, requires and pay to the Department or to a
6 depository designated by the Department those withheld taxes
7 not retained by the taxpayer. For purposes of this subsection
8 (g), the term taxpayer shall include taxpayer and members of
9 the taxpayer's unitary business group as defined under
10 paragraph (27) of subsection (a) of Section 1501 of this Act.
11 This Section is exempt from the provisions of Section 250 of
12 this Act.

13 (h) An employer may claim a credit against payments due
14 under this Section for amounts withheld during the first
15 calendar year ending after the date on which a tax credit
16 certificate was issued under Section 35 of the Small Business
17 Job Creation Tax Credit Act. The credit shall be equal to the
18 amount shown on the certificate, but may not reduce the
19 taxpayer's obligation for any payment due under this Section to
20 less than zero. If the amount of the credit exceeds the total
21 payments due under this Section with respect to amounts
22 withheld during the calendar year, the excess may be carried
23 forward and applied against the taxpayer's liability under this
24 Section in the 5 succeeding calendar years. The credit shall be
25 applied to the earliest year for which there is a tax
26 liability. If there are credits from more than one calendar

1 year that are available to offset a liability, the earlier
2 credit shall be applied first. This Section is exempt from the
3 provisions of Section 250 of this Act.

4 (i) Each employer that does not employ more than 50
5 employees at any time during the applicable payment period may
6 claim a credit against payments due under this Section for
7 reporting periods that begin on or after July 1, 2017 and end
8 on or before June 30, 2020, for each qualified employee, in an
9 amount equal to: (1) the maximum credit, minus (2) the
10 difference between the average wage paid to the qualified
11 employee by the employer during the reporting period and the
12 minimum wage in effect for that category of employee in the
13 jurisdiction where the employee is employed, multiplied by (3)
14 the number of hours the employee worked during the reporting
15 period.

16 For the purposes of this subsection (i):

17 (1) "Category of employee" means:

18 (A) employees who are under 18 years of age;

19 (B) employees who are 18 years of age or older, but
20 who qualify for a reduced minimum wage as provided
21 under paragraph (2) of subsection (a) of Section 4 of
22 the Minimum Wage Law;

23 (C) employees who are engaged in an occupation in
24 which gratuities have customarily and usually
25 constituted, and have been recognized as part of, the
26 remuneration for hire purposes, as provided in

1 subsection (c) of Section 4 of the Minimum Wage Law;

2 (D) employees who are 18 years of age or older, but
3 who qualify for a reduced minimum wage under Section 5
4 of the Minimum Wage Law;

5 (E) employees who are 18 years of age or older, but
6 who qualify for a reduced minimum wage under Section 6
7 of the Minimum Wage Law; and

8 (F) employees who are 18 years of age or older and
9 do not qualify under paragraph (B), (C), (D), or (E) of
10 this item (1).

11 (2) "Employer" and "employee" have the meanings
12 ascribed to those terms in the Minimum Wage Law, except
13 that "employee" also includes employees who work for an
14 employer employing fewer than 4 employees.

15 (3) "Maximum credit" means: (A) \$0.45 per hour for
16 qualified employees for whom the employer receives an
17 allowance for gratuities under subsection (c) of Section 4
18 of the Minimum Wage Law; (B) \$0.53 per hour for employees
19 who receive a reduced minimum wage under Section 6 of the
20 Minimum Wage Law; and (C) \$0.75 per hour for all other
21 qualified employees.

22 (4) "Qualified employee" means an employee making no
23 more than \$0.75 per hour more than the minimum wage for
24 that category of employee, except that: (A) in the case of
25 employees who are engaged in an occupation in which
26 gratuities have customarily and usually constituted, and

1 have been recognized as part of, the remuneration for hire
2 purposes, as provided in subsection (c) of Section 4 of the
3 Minimum Wage Law, "qualified employee" means an employee
4 making no more than \$0.45 per hour more than the minimum
5 wage for that category of employee; and (B) for employees
6 who qualify for a reduced minimum wage under Section 6 of
7 the Minimum Wage Law, "qualified employee" means an
8 employee making no more than \$0.53 per hour more than the
9 minimum wage for that category of employee.

10 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;
11 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.
12 8-12-11; 97-507, eff. 8-23-11.)

13 Section 10. The Minimum Wage Law is amended by changing
14 Section 4 as follows:

15 (820 ILCS 105/4) (from Ch. 48, par. 1004)

16 Sec. 4. (a)(1) Every employer shall pay to each of his
17 employees in every occupation wages of not less than \$2.30 per
18 hour or in the case of employees under 18 years of age wages of
19 not less than \$1.95 per hour, except as provided in Sections 5
20 and 6 of this Act, and on and after January 1, 1984, every
21 employer shall pay to each of his employees in every occupation
22 wages of not less than \$2.65 per hour or in the case of
23 employees under 18 years of age wages of not less than \$2.25
24 per hour, and on and after October 1, 1984 every employer shall

1 pay to each of his employees in every occupation wages of not
2 less than \$3.00 per hour or in the case of employees under 18
3 years of age wages of not less than \$2.55 per hour, and on or
4 after July 1, 1985 every employer shall pay to each of his
5 employees in every occupation wages of not less than \$3.35 per
6 hour or in the case of employees under 18 years of age wages of
7 not less than \$2.85 per hour, and from January 1, 2004 through
8 December 31, 2004 every employer shall pay to each of his or
9 her employees who is 18 years of age or older in every
10 occupation wages of not less than \$5.50 per hour, and from
11 January 1, 2005 through June 30, 2007 every employer shall pay
12 to each of his or her employees who is 18 years of age or older
13 in every occupation wages of not less than \$6.50 per hour, and
14 from July 1, 2007 through June 30, 2008 every employer shall
15 pay to each of his or her employees who is 18 years of age or
16 older in every occupation wages of not less than \$7.50 per
17 hour, and from July 1, 2008 through June 30, 2009 every
18 employer shall pay to each of his or her employees who is 18
19 years of age or older in every occupation wages of not less
20 than \$7.75 per hour, and from July 1, 2009 through June 30,
21 2010 every employer shall pay to each of his or her employees
22 who is 18 years of age or older in every occupation wages of
23 not less than \$8.00 per hour, and from ~~on and after~~ July 1,
24 2010 through June 30, 2017 every employer shall pay to each of
25 his or her employees who is 18 years of age or older in every
26 occupation wages of not less than \$8.25 per hour, and from July

1 1, 2017 to June 30, 2018 every employer shall pay to each of
2 his or her employees who is 18 years of age or older in every
3 occupation wages of not less than \$9.00 per hour, and from July
4 1, 2018 to June 30, 2019 every employer shall pay to each of
5 his or her employees who is 18 years of age or older in every
6 occupation wages of not less than \$9.50 per hour, and from July
7 1, 2019 to June 30, 2020 every employer shall pay to each of
8 his or her employees who is 18 years of age or older in every
9 occupation wages of not less than \$10.00 per hour, and from
10 July 1, 2020 to June 30, 2021 every employer shall pay to each
11 of his or her employees who is 18 years of age or older in every
12 occupation wages of not less than \$10.50 per hour, and on and
13 after July 1, 2021 every employer shall pay to each of his or
14 her employees who is 18 years of age or older in every
15 occupation wages of not less than \$11.00 per hour.

16 (2) Unless an employee's wages are reduced under Section 6,
17 then in lieu of the rate prescribed in item (1) of this
18 subsection (a), an employer may pay an employee who is 18 years
19 of age or older, during the first 90 consecutive calendar days
20 after the employee is initially employed by the employer, a
21 wage that is not more than 50¢ less than the wage prescribed in
22 item (1) of this subsection (a); however, an employer shall pay
23 not less than the rate prescribed in item (1) of this
24 subsection (a) to:

25 (A) a day or temporary laborer, as defined in Section 5
26 of the Day and Temporary Labor Services Act, who is 18

1 years of age or older; and

2 (B) an employee who is 18 years of age or older and
3 whose employment is occasional or irregular and requires
4 not more than 90 days to complete.

5 (3) At no time shall the wages paid to any employee under
6 18 years of age be more than 50¢ less than the wage required to
7 be paid to employees who are at least 18 years of age under
8 item (1) of this subsection (a).

9 (b) No employer shall discriminate between employees on the
10 basis of sex or mental or physical disability, except as
11 otherwise provided in this Act by paying wages to employees at
12 a rate less than the rate at which he pays wages to employees
13 for the same or substantially similar work on jobs the
14 performance of which requires equal skill, effort, and
15 responsibility, and which are performed under similar working
16 conditions, except where such payment is made pursuant to (1) a
17 seniority system; (2) a merit system; (3) a system which
18 measures earnings by quantity or quality of production; or (4)
19 a differential based on any other factor other than sex or
20 mental or physical disability, except as otherwise provided in
21 this Act.

22 (c) Every employer of an employee engaged in an occupation
23 in which gratuities have customarily and usually constituted
24 and have been recognized as part of the remuneration for hire
25 purposes is entitled to an allowance for gratuities as part of
26 the hourly wage rate provided in Section 4, subsection (a) in

1 an amount not to exceed 40% of the applicable minimum wage
2 rate. The Director shall require each employer desiring an
3 allowance for gratuities to provide substantial evidence that
4 the amount claimed, which may not exceed 40% of the applicable
5 minimum wage rate, was received by the employee in the period
6 for which the claim of exemption is made, and no part thereof
7 was returned to the employer.

8 (d) No camp counselor who resides on the premises of a
9 seasonal camp of an organized not-for-profit corporation shall
10 be subject to the adult minimum wage if the camp counselor (1)
11 works 40 or more hours per week, and (2) receives a total
12 weekly salary of not less than the adult minimum wage for a
13 40-hour week. If the counselor works less than 40 hours per
14 week, the counselor shall be paid the minimum hourly wage for
15 each hour worked. Every employer of a camp counselor under this
16 subsection is entitled to an allowance for meals and lodging as
17 part of the hourly wage rate provided in Section 4, subsection
18 (a), in an amount not to exceed 25% of the minimum wage rate.

19 (e) A camp counselor employed at a day camp is not subject
20 to the adult minimum wage if the camp counselor is paid a
21 stipend on a onetime or periodic basis and, if the camp
22 counselor is a minor, the minor's parent, guardian or other
23 custodian has consented in writing to the terms of payment
24 before the commencement of such employment.

25 (f) Preemption of home rule powers.

26 (1) The establishment of a minimum wage that employers

1 must pay their employees is an exclusive power and function
2 of the State. Except as provided in paragraph (2) of this
3 subsection (f), a home rule unit may not regulate or
4 establish a minimum wage. This subsection (f) is a denial
5 and limitation of the home rule powers and functions under
6 subsection (h) of Section 6 of Article VII of the Illinois
7 Constitution.

8 (2) Paragraph (1) of this subsection (f) shall not
9 apply to Ordinance No. 02014-9680 adopted by the City
10 Council of the City of Chicago on December 2, 2014,
11 provided that: (i) the provisions set forth in that
12 ordinance are not changed by the City Council of the City
13 of Chicago after December 2, 2014; (ii) the minimum wage
14 required to be paid to employees subject to Section
15 1-24-020 of that ordinance beginning July 1, 2019, and each
16 year thereafter, is no greater than \$13.00 per hour; and
17 (iii) the minimum wage required to be paid employees
18 subject to that ordinance in occupations receiving
19 gratuities beginning July 1, 2019, and each year
20 thereafter, is no greater than the amount calculated by the
21 Commissioner of Business Affairs and Consumer Protection
22 of the City of Chicago by June 1, 2018 pursuant to
23 paragraph (3) of subsection (a) of Section 1-24-030 of that
24 ordinance. This paragraph (2) of this subsection (f) is a
25 limitation under subsection (i) of Section 6 of Article VII
26 of the Illinois Constitution.

1 (Source: P.A. 99-143, eff. 7-27-15.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".