

AN ACT concerning intermodal facilities.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Intermodal Facilities Promotion Act.

Section 5. Purpose. The General Assembly has determined that it is in the interest of the State of Illinois to promote development that will protect, promote, and improve freight rail systems and their intermodal connections in Illinois and encourage the efficient development of those facilities.

Section 10. Definitions. As used in this Act:

"Agreement" means the agreement between an eligible developer and the Department under the provisions of Section 30 of this Act.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Eligible developer" means an individual, partnership, corporation, or other entity that develops an intermodal terminal facility in the City of Joliet.

"Eligible employer" means an individual, partnership,

corporation, or other entity that employs full-time employees at an intermodal terminal facility in the City of Joliet.

"Full-time employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the eligible employer for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment.

"Incremental income tax" means the total amount withheld from the compensation of new employees under Article 7 of the Illinois Income Tax Act arising from employment by an eligible employer.

"Infrastructure" means roads, access roads, streets, bridges, sidewalks, water and sewer line extensions, water distribution and purification facilities, waste disposal systems, sewage treatment facilities, stormwater drainage and retention facilities, gas and electric utility line extensions, or other improvements that are essential to the development of the project that is the subject of an agreement.

"Intermodal terminal facility" means a cohesively planned project consisting of at least 2,000 acres of land, improvements to that land, equipment, and appliances necessary

for the receipt and transfer of goods between one mode of transportation and another and for the assembly and storage of those goods.

"New employee" means a full-time employee first employed by an eligible employer in the project that is the subject of an agreement between the Department and an eligible developer and who is hired after the eligible developer enters into the agreement, but does not include:

(1) an employee of the eligible employer who performs a job that (i) existed for at least 6 months before the employee was hired and (ii) was previously performed by another employee;

(2) an employee of the eligible employer who was previously employed in Illinois by a related member of the eligible employer and whose employment was shifted to the eligible employer after the eligible employer entered into the agreement; or

(3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the eligible employer.

Notwithstanding item (2) of this definition, an employee may be considered a new employee under the agreement if the employee performs a job that was previously performed by an employee who was:

- (A) treated under the agreement as a new employee; and
- (B) promoted by the eligible employer to another job.

Notwithstanding any provision to the contrary, an employee employed in a part of the project that lies within a business district created pursuant to Division 74.3 of Article 11 of the Illinois Municipal Code or a redevelopment project area created pursuant to the Tax Increment Allocation Redevelopment Act shall not be considered a new employee.

"Professional Employer Organization" (PEO) means an employee leasing company, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act.

"Related member" means a person or entity that, with respect to the eligible employer during any portion of the taxable year, is any one of the following:

(1) an individual stockholder, if the stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the eligible employer's outstanding stock;

(2) a partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, or beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the eligible employer;

(3) a corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock;

(4) a corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the eligible employer; or

(5) a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a related member under this definition, 20% shall be substituted for 5% wherever 5% appears in Section 1563(e) of the Internal Revenue Code.

Section 15. Intermodal Facilities Promotion Fund. The Intermodal Facilities Promotion Fund is created as a special fund in the State treasury. As soon as possible, upon

certification of the Department of Revenue following review of the amounts contained in the quarter annual report required under paragraph (4) of Section 30, the Comptroller shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Intermodal Facilities Promotion Fund an amount equal to the incremental income tax for the previous month attributable to a project that is the subject of an agreement.

Section 20. Grants from the Intermodal Facilities Promotion Fund. In State fiscal years 2010 through 2016, all moneys in the Intermodal Facilities Promotion Fund, held solely for the benefit of eligible developers, shall be appropriated to the Department to make infrastructure grants to eligible developers pursuant to agreements.

Section 25. Limitation on grant amounts. The total amount of a grant to an eligible developer shall not exceed the lesser of:

- (1) \$3,000,000 in each State fiscal year; or
- (2) the total amount of infrastructure costs incurred by the eligible developer with respect to a project that is the subject of an agreement.

No eligible developer shall receive moneys that are attributable to a project that is not the subject of the developer's agreement with the Department.

Section 30. Agreements with applicants. The Department shall enter into an agreement with an eligible developer who is entitled to grants under this Act. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the location of the project, the number of jobs created by the project, and project costs. For purposes of this subsection, "project costs" includes the cost of the project incurred or to be incurred by the eligible developer, including infrastructure costs, but excludes the value of State or local incentives, including tax increment financing and deductions, credits, or exemptions afforded to an employer located in an enterprise zone.

(2) A requirement that the eligible developer shall maintain operations at the project location, stated as a minimum number of years not to exceed 10 years.

(3) A specific method for determining the number of new employees attributable to the project.

(4) A requirement that the eligible developer shall report on a quarter annual basis to the Department and the Department of Revenue the number of new employees and the incremental income tax withheld in connection with the new employees.

(5) A provision authorizing the Department to verify

with the Department of Revenue the amounts reported under paragraph (4).

(6) A provision authorizing the Department of Revenue to audit the information reported under paragraph (4).

Section 35. Rules. The Department and the Department of Revenue may promulgate rules necessary to implement this Act.

Section 90. The State Finance Act is amended by adding Section 5.719 as follows:

(30 ILCS 105/5.719 new)

Sec. 5.719. The Intermodal Facilities Promotion Fund.

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