



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2141

Introduced 2/15/2019, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

35 ILCS 25/10
35 ILCS 25/25
35 ILCS 25/35

Amends the Small Business Job Creation Tax Credit Act. Provides that the Act applies for a second set of incentive periods beginning on July 1, 2019. Provides that certain provisions concerning employees who had participated as worker-trainees in the Put Illinois to Work Program during 2010 do not apply to the second set of incentive periods. Effective immediately.

LRB101 08045 HLH 53107 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 Small Business Job Creation Tax Credit Act
5 is amended by changing Sections 10, 25, and 35 as follows:

6 (35 ILCS 25/10)

7 Sec. 10. Definitions. In this Act:

8 "Applicant" means a person that is operating a business
9 located within the State of Illinois that is engaged in
10 interstate or intrastate commerce and has fewer than 50
11 full-time employees, without regard to the location of
12 employment of such employees at the beginning of the incentive
13 period. ~~either:~~

14 ~~(1) has no more than 50 full time employees, without~~
15 ~~regard to the location of employment of such employees at~~
16 ~~the beginning of the incentive period; or~~

17 ~~(2) hired within the incentive period an employee who~~
18 ~~had participated as worker trainee in the Put Illinois to~~
19 ~~Work Program during 2010.~~

20 In the case of any person that is a member of a unitary
21 business group within the meaning of subdivision (a) (27) of
22 Section 1501 of the Illinois Income Tax Act, "applicant" refers
23 to the unitary business group.

1 "Certificate" means the tax credit certificate issued by
2 the Department under Section 35 of this Act.

3 "Certificate of eligibility" means the certificate issued
4 by the Department under Section 20 of this Act.

5 "Credit" means the amount awarded by the Department to an
6 applicant by issuance of a certificate under Section 35 of this
7 Act for each new full-time equivalent employee hired or job
8 created.

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

11 "Director" means the Director of the Department.

12 "Full-time employee" means an individual who is employed
13 for a basic wage for at least 35 hours each week or who renders
14 any other standard of service generally accepted by industry
15 custom or practice as full-time employment. An individual for
16 whom a W-2 is issued by a Professional Employer Organization is
17 a full-time employee if he or she is employed in the service of
18 the applicant for a basic wage for at least 35 hours each week
19 or renders any other standard of service generally accepted by
20 industry custom or practice as full-time employment. For the
21 purposes of this Act, such an individual shall be considered a
22 full-time employee of the applicant.

23 "Professional Employer Organization" (PEO) shall have the
24 same meaning as defined in Section 5-5 of the Economic
25 Development for a Growing Economy Tax Credit Act. As used in
26 this Section, "Professional Employer Organization" does not

1 include a day and temporary labor service agency regulated
2 under the Day and Temporary Labor Services Act.

3 "Incentive period" means the period beginning on July 1 and
4 ending on June 30 of the following year. The first set of
5 incentive periods ~~period~~ shall begin on July 1, 2010 and ~~the~~
6 ~~last incentive period shall~~ end on June 30, 2016. The second
7 set of incentive periods shall begin on July 1, 2019.

8 "Basic wage" means compensation for employment that is no
9 less than \$10 per hour or the equivalent salary for a new
10 employee.

11 "New employee" means a full-time employee who first became
12 employed by an applicant with fewer than 50 full-time employees
13 within the incentive period, whose hire results in a net
14 increase in the applicant's number of full-time Illinois
15 employees, and who is receiving a basic wage as compensation.+

16 ~~(1) who first became employed by an applicant with less~~
17 ~~than 50 full time employees within the incentive period~~
18 ~~whose hire results in a net increase in the applicant's~~
19 ~~full time Illinois employees and who is receiving a basic~~
20 ~~wage as compensation; or~~

21 ~~(2) who participated as a worker trainee in the Put~~
22 ~~Illinois to Work Program during 2010 and who is~~
23 ~~subsequently hired during the incentive period by an~~
24 ~~applicant and who is receiving a basic wage as~~
25 ~~compensation.~~

26 The term "new employee" does not include:

1 (1) a person who was previously employed in Illinois by
2 the applicant or a related member prior to the onset of the
3 incentive period; or

4 (2) any individual who has a direct or indirect
5 ownership interest of at least 5% in the profits, capital,
6 or value of the applicant or a related member.

7 "Noncompliance date" means, in the case of an applicant
8 that is not complying with the requirements of the provisions
9 of this Act, the day following the last date upon which the
10 taxpayer was in compliance with the requirements of the
11 provisions of this Act, as determined by the Director, pursuant
12 to Section 45 of this Act.

13 ~~"Put Illinois to Work Program" means a worker training and~~
14 ~~employment program that was established by the State of~~
15 ~~Illinois with funding from the United States Department of~~
16 ~~Health and Human Services of Emergency Temporary Assistance for~~
17 ~~Needy Families funds authorized by the American Recovery and~~
18 ~~Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF~~
19 ~~funds were in turn used by the State of Illinois to fund the~~
20 ~~Put Illinois to Work Program.~~

21 "Related member" means a person that, with respect to the
22 applicant during any portion of the incentive period, is any
23 one of the following,

24 (1) An individual, if the individual and the members of
25 the individual's family (as defined in Section 318 of the
26 Internal Revenue Code) own directly, indirectly,

1 beneficially, or constructively, in the aggregate, at
2 least 50% of the value of the outstanding profits, capital,
3 stock, or other ownership interest in the applicant.

4 (2) A partnership, estate, or trust and any partner or
5 beneficiary, if the partnership, estate, or trust and its
6 partners or beneficiaries own directly, indirectly,
7 beneficially, or constructively, in the aggregate, at
8 least 50% of the profits, capital, stock, or other
9 ownership interest in the applicant.

10 (3) A corporation, and any party related to the
11 corporation in a manner that would require an attribution
12 of stock from the corporation under the attribution rules
13 of Section 318 of the Internal Revenue Code, if the
14 applicant and any other related member own, in the
15 aggregate, directly, indirectly, beneficially, or
16 constructively, at least 50% of the value of the
17 corporation's outstanding stock.

18 (4) A corporation and any party related to that
19 corporation in a manner that would require an attribution
20 of stock from the corporation to the party or from the
21 party to the corporation under the attribution rules of
22 Section 318 of the Internal Revenue Code, if the
23 corporation and all such related parties own, in the
24 aggregate, at least 50% of the profits, capital, stock, or
25 other ownership interest in the applicant.

26 (5) A person to or from whom there is attribution of

1 stock ownership in accordance with Section 1563(e) of the
2 Internal Revenue Code, except that for purposes of
3 determining whether a person is a related member under this
4 paragraph, "20%" shall be substituted for "5%" whenever
5 "5%" appears in Section 1563(e) of the Internal Revenue
6 Code.

7 (Source: P.A. 100-863, eff. 8-14-18.)

8 (35 ILCS 25/25)

9 Sec. 25. Tax credit.

10 (a) Subject to the conditions set forth in this Act, an
11 applicant is entitled to a credit against payment of taxes
12 withheld under Section 704A of the Illinois Income Tax Act in
13 the first calendar year ending on or after the date that is 12
14 months after the date of hire of a new employee. The credit
15 shall be allowed as a credit to an applicant for each full-time
16 employee hired during the incentive period that results in a
17 net increase in full-time Illinois employees, if the net
18 increase in the employer's full-time Illinois employees is
19 maintained for at least 12 months. †

20 ~~(1) for new employees who participated as~~
21 ~~worker trainees in the Put Illinois to Work Program during~~
22 ~~2010.~~

23 ~~(A) in the first calendar year ending on or after~~
24 ~~the date that is 6 months after December 31, 2010, or~~
25 ~~the date of hire, whichever is later. Under this~~

1 ~~subparagraph, the applicant is entitled to one half of~~
2 ~~the credit allowable for each new employee who is~~
3 ~~employed for at least 6 months after the date of hire;~~
4 ~~and~~

5 ~~(B) in the first calendar year ending on or after~~
6 ~~the date that is 12 months after December 31, 2010, or~~
7 ~~the date of hire, whichever is later. Under this~~
8 ~~subparagraph, the applicant is entitled to one half of~~
9 ~~the credit allowable for each new employee who is~~
10 ~~employed for at least 12 months after the date of hire;~~

11 ~~(2) for all other new employees, in the first calendar~~
12 ~~year ending on or after the date that is 12 months after~~
13 ~~the date of hire of a new employee. The credit shall be~~
14 ~~allowed as a credit to an applicant for each full-time~~
15 ~~employee hired during the incentive period that results in~~
16 ~~a net increase in full time Illinois employees, where the~~
17 ~~net increase in the employer's full time Illinois~~
18 ~~employees is maintained for at least 12 months.~~

19 (b) The Department shall make credit awards under this Act
20 to further job creation.

21 (c) The credit shall be claimed for the first calendar year
22 ending on or after the date on which the certificate is issued
23 by the Department.

24 (d) The credit shall not exceed \$2,500 per new employee
25 hired.

26 (e) The net increase in full-time Illinois employees,

1 measured on an annual full-time equivalent basis, shall be the
2 total number of full-time Illinois employees of the applicant
3 on the final day of the incentive period, minus the number of
4 full-time Illinois employees employed by the employer on the
5 first day of that same incentive period. For purposes of the
6 calculation, an employer that begins doing business in this
7 State during the incentive period, as determined by the
8 Director, shall be treated as having zero Illinois employees on
9 the first day of the incentive period.

10 (f) The net increase in the number of full-time Illinois
11 employees of the applicant under subsection (e) must be
12 sustained continuously for at least 12 months, starting with
13 the date of hire of a new employee during the incentive period.
14 Eligibility for the credit does not depend on the continuous
15 employment of any particular individual. For purposes of this
16 subsection (f), if a new employee ceases to be employed before
17 the completion of the 12-month period for any reason, the net
18 increase in the number of full-time Illinois employees shall be
19 treated as continuous if a different new employee is hired as a
20 replacement within a reasonable time for the same position.

21 (g) The Department shall promulgate rules to enable an
22 applicant for which a PEO has been contracted to issue W-2s and
23 make payment of taxes withheld under Section 704A of the
24 Illinois Income Tax Act for new employees to retain the benefit
25 of tax credits to which the applicant is otherwise entitled
26 under this Act.

1 (h) The credit under this Act is exempt from the provisions
2 of Section 250 of the Illinois Income Tax Act.

3 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11;
4 97-636, eff. 6-1-12; 97-1052, eff. 8-23-12.)

5 (35 ILCS 25/35)

6 Sec. 35. Application for award of tax credit; tax credit
7 certificate.

8 (a) On or after the conclusion of the 12-month period ~~(or~~
9 ~~6-month period, for purposes of subparagraph (A) of item (1) of~~
10 ~~subsection (a) of Section 25)~~ after a new employee has been
11 hired, an applicant shall file with the Department an
12 application for award of a credit. The application shall
13 include the following:

14 (1) The names, Social Security numbers, job
15 descriptions, salary or wage rates, and dates of hire of
16 the new employees with respect to whom the credit is being
17 requested, ~~and an indication of whether each new employee~~
18 ~~listed participated as a worker trainee in the Put Illinois~~
19 ~~to Work Program.~~

20 (2) A certification that each new employee listed has
21 been retained on the job for one year (or 6 months, for
22 purposes of subparagraph (A) of item (1) of subsection (a)
23 of Section 25) from the date of hire.

24 (3) The number of new employees hired by the applicant
25 during the incentive period.

1 (4) The net increase in the number of full-time
2 Illinois employees of the applicant (including the new
3 employees listed in the request) between the beginning of
4 the incentive period and the dates on which the new
5 employees listed in the request were hired. ~~This~~
6 ~~requirement does not apply for tax credits the applicant is~~
7 ~~seeking because the new employee had participated as a~~
8 ~~worker trainee in the Put Illinois to Work Program.~~

9 (5) An agreement that the Director is authorized to
10 verify with the appropriate State agencies the information
11 contained in the request before issuing a certificate to
12 the applicant.

13 (6) Any other information the Department determines to
14 be appropriate.

15 (b) Although an application may be filed at any time after
16 the conclusion of the 12-month period ~~(or 6 month period, for~~
17 ~~purposes of subparagraph (A) of item (1) of subsection (a) of~~
18 ~~Section 25)~~ after a new employee was hired, an application
19 filed more than 90 days after the earliest date on which it
20 could have been filed shall not be awarded any credit if, prior
21 to the date it is filed, the Department has received
22 applications under this Section for credits totaling more than
23 \$50,000,000.

24 (c) The Department shall issue a certificate to each
25 applicant awarded a credit under this Act. The certificate
26 shall include the following:

1 (1) The name and taxpayer identification number of the
2 applicant.

3 (2) The date on which the certificate is issued.

4 (3) The credit amount that will be allowed.

5 (4) Any other information the Department determines to
6 be appropriate.

7 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

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