



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3153

Introduced 2/1/2012, by Sen. Chris Lauzen

SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-15

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that, for all Agreements entered into on or after the effective date of the amendatory Act, and all modifications to or restructuring of Agreements occurring on or after the effective date of the amendatory Act, the total amount of the Credit used by any Taxpayer shall not exceed \$500,000 for any taxable year, including any amount carried forward from a prior taxable year. Effective immediately.

LRB097 19680 HLH 64936 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 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 (Text of Section before amendment by P.A. 97-636)

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
17 to foster job creation and retention in Illinois.

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

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

23 (d) The Credit shall not exceed the Incremental Income Tax

1 attributable to the project that is the subject of the
2 Agreement.

3 (d-5) For all Agreements entered into on or after the
4 effective date of this amendatory Act of the 97th General
5 Assembly, and all modifications to or restructuring of
6 Agreements occurring on or after the effective date of this
7 amendatory Act of the 97th General Assembly, the total amount
8 of the Credit used by any Taxpayer shall not exceed \$500,000
9 for any taxable year, including any amount carried forward from
10 a prior taxable year.

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

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

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

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

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

15 (B) the Taxpayer (i) had an Illinois net loss or an
16 Illinois net loss deduction under Section 207 of the
17 Illinois Income Tax Act for the taxable year in which
18 the Credit is awarded, (ii) employed a minimum of 1,000
19 full-time employees in this State during the taxable
20 year in which the Credit is awarded, and (iii) has
21 applied for an Agreement within 365 days after December
22 14, 2009 (the effective date of Public Act 96-834);

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

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

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

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

1 (1.5) The election under this subsection (f) may also
2 be made by a Taxpayer for any Credit awarded pursuant to an
3 agreement that was executed between January 1, 2011 and
4 June 30, 2011, if the Taxpayer (i) is primarily engaged in
5 the manufacture of inner tubes or tires, or both, from
6 natural and synthetic rubber, (ii) employs a minimum of
7 2,400 full-time employees in Illinois at the time of
8 application, (iii) creates at least 350 full-time jobs and
9 retains at least 250 full-time jobs in Illinois that would
10 have been at risk of being created or retained outside of
11 Illinois, and (iv) makes a capital investment of at least
12 \$200,000,000 at the project location.

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

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

21 (4) If a Taxpayer who meets the requirements of
22 subparagraph (A) of paragraph (1) of this subsection (f)
23 elects to claim the Credit against its withholdings as
24 provided in this subsection (f), then, on and after the
25 date of the election, the terms of the Agreement between
26 the Taxpayer and the Department may not be further amended

1 during the term of the Agreement.

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

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

18 (Text of Section after amendment by P.A. 97-636)

19 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
20 forth in this Act, a Taxpayer is entitled to a Credit against
21 or, as described in subsection (g) of this Section, a payment
22 towards taxes imposed pursuant to subsections (a) and (b) of
23 Section 201 of the Illinois Income Tax Act that may be imposed
24 on the Taxpayer for a taxable year beginning on or after
25 January 1, 1999, if the Taxpayer is awarded a Credit by the

1 Department under this Act for that taxable year.

2 (a) The Department shall make Credit awards under this Act
3 to foster job creation and retention in Illinois.

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

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

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

12 (d-5) For all Agreements entered into on or after the
13 effective date of this amendatory Act of the 97th General
14 Assembly, and all modifications to or restructuring of
15 Agreements occurring on or after the effective date of this
16 amendatory Act of the 97th General Assembly, the total amount
17 of the Credit used by any Taxpayer shall not exceed \$500,000
18 for any taxable year, including any amount carried forward from
19 a prior taxable year.

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

23 (f) In lieu of the Credit allowed under this Act against
24 the taxes imposed pursuant to subsections (a) and (b) of
25 Section 201 of the Illinois Income Tax Act for any taxable year
26 ending on or after December 31, 2009, the Taxpayer may elect to

1 claim the Credit against its obligation to pay over withholding
2 under Section 704A of the Illinois Income Tax Act.

3 (1) The election under this subsection (f) may be made
4 only by a Taxpayer that (i) is primarily engaged in one of
5 the following business activities: water purification and
6 treatment, motor vehicle metal stamping, automobile
7 manufacturing, automobile and light duty motor vehicle
8 manufacturing, motor vehicle manufacturing, light truck
9 and utility vehicle manufacturing, heavy duty truck
10 manufacturing, motor vehicle body manufacturing, cable
11 television infrastructure design or manufacturing, or
12 wireless telecommunication or computing terminal device
13 design or manufacturing for use on public networks and (ii)
14 meets the following criteria:

15 (A) the Taxpayer (i) had an Illinois net loss or an
16 Illinois net loss deduction under Section 207 of the
17 Illinois Income Tax Act for the taxable year in which
18 the Credit is awarded, (ii) employed a minimum of 1,000
19 full-time employees in this State during the taxable
20 year in which the Credit is awarded, (iii) has an
21 Agreement under this Act on December 14, 2009 (the
22 effective date of Public Act 96-834), and (iv) is in
23 compliance with all provisions of that Agreement;

24 (B) the Taxpayer (i) had an Illinois net loss or an
25 Illinois net loss deduction under Section 207 of the
26 Illinois Income Tax Act for the taxable year in which

1 the Credit is awarded, (ii) employed a minimum of 1,000
2 full-time employees in this State during the taxable
3 year in which the Credit is awarded, and (iii) has
4 applied for an Agreement within 365 days after December
5 14, 2009 (the effective date of Public Act 96-834);

6 (C) 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 2008, (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 400
12 new jobs in Illinois, (iv) retains at least 2,000 jobs
13 in Illinois that would have been at risk of relocation
14 out of Illinois over a 10-year period, and (v) makes a
15 capital investment of at least \$75,000,000;

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

26 (E) the Taxpayer (i) employed at least 2,500

1 full-time employees in the State during the year in
2 which the Credit is awarded, (ii) commits to make at
3 least \$500,000,000 in combined capital improvements
4 and project costs under the Agreement, (iii) applies
5 for an Agreement between January 1, 2011 and June 30,
6 2011, (iv) executes an Agreement for the Credit during
7 calendar year 2011, and (v) was incorporated no more
8 than 5 years before the filing of an application for an
9 Agreement.

10 (1.5) The election under this subsection (f) may also
11 be made by a Taxpayer for any Credit awarded pursuant to an
12 agreement that was executed between January 1, 2011 and
13 June 30, 2011, if the Taxpayer (i) is primarily engaged in
14 the manufacture of inner tubes or tires, or both, from
15 natural and synthetic rubber, (ii) employs a minimum of
16 2,400 full-time employees in Illinois at the time of
17 application, (iii) creates at least 350 full-time jobs and
18 retains at least 250 full-time jobs in Illinois that would
19 have been at risk of being created or retained outside of
20 Illinois, and (iv) makes a capital investment of at least
21 \$200,000,000 at the project location.

22 (1.6) The election under this subsection (f) may also
23 be made by a Taxpayer for any Credit awarded pursuant to an
24 agreement that was executed within 150 days after the
25 effective date of this amendatory Act of the 97th General
26 Assembly, if the Taxpayer (i) is primarily engaged in the

1 operation of a discount department store, (ii) maintains
2 its corporate headquarters in Illinois, (iii) employs a
3 minimum of 4,250 full-time employees at its corporate
4 headquarters in Illinois at the time of application, (iv)
5 retains at least 4,250 full-time jobs in Illinois that
6 would have been at risk of being relocated outside of
7 Illinois, (v) had a minimum of \$40,000,000,000 in total
8 revenue in 2010, and (vi) makes a capital investment of at
9 least \$300,000,000 at the project location.

10 (1.7) Notwithstanding any other provision of law, the
11 election under this subsection (f) may also be made by a
12 Taxpayer for any Credit awarded pursuant to an agreement
13 that was executed or applied for on or after July 1, 2011
14 and on or before March 31, 2012, if the Taxpayer is
15 primarily engaged in the manufacture of original and
16 aftermarket filtration parts and products for automobiles,
17 motor vehicles, light duty motor vehicles, light trucks and
18 utility vehicles, and heavy duty trucks, (ii) employs a
19 minimum of 1,000 full-time employees in Illinois at the
20 time of application, (iii) creates at least 250 full-time
21 jobs in Illinois, (iv) relocates its corporate
22 headquarters to Illinois from another state, and (v) makes
23 a capital investment of at least \$4,000,000 at the project
24 location.

25 (2) An election under this subsection shall allow the
26 credit to be taken against payments otherwise due under

1 Section 704A of the Illinois Income Tax Act during the
2 first calendar year beginning after the end of the taxable
3 year in which the credit is awarded under this Act.

4 (3) The election shall be made in the form and manner
5 required by the Illinois Department of Revenue and, once
6 made, shall be irrevocable.

7 (4) If a Taxpayer who meets the requirements of
8 subparagraph (A) of paragraph (1) of this subsection (f)
9 elects to claim the Credit against its withholdings as
10 provided in this subsection (f), then, on and after the
11 date of the election, the terms of the Agreement between
12 the Taxpayer and the Department may not be further amended
13 during the term of the Agreement.

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

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

4 Section 95. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

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