



Rep. Maurice A. West, II

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10200HB0186ham002

LRB102 04787 HLH 35287 a

1 AMENDMENT TO HOUSE BILL 186

2 AMENDMENT NO. _____. Amend House Bill 186 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
9 or 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
6 than \$12,000 during the one-year period ending on June 30
7 of the immediately preceding calendar year, payment must
8 be made:

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

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

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

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

26 (3) Monthly payments. Each employer, other than an

1 employer described in items (1) or (2) of this subsection,
2 shall pay to the Department, on or before the 15th day of
3 each month the taxes withheld or required to be withheld
4 during the immediately preceding month.

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

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

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

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

1 (3) Designate one or more depositories to which
2 payment of taxes required to be withheld under this
3 Article 7 must be paid by some or all employers.

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

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

19 (f) Magnetic media and electronic filing. With respect to
20 taxes withheld in calendar years prior to 2017, any W-2 Form
21 that, under the Internal Revenue Code and regulations
22 promulgated thereunder, is required to be submitted to the
23 Internal Revenue Service on magnetic media or electronically
24 must also be submitted to the Department on magnetic media or
25 electronically for Illinois purposes, if required by the
26 Department.

1 With respect to taxes withheld in 2017 and subsequent
2 calendar years, the Department may, by rule, require that any
3 return (including any amended return) under this Section and
4 any W-2 Form that is required to be submitted to the Department
5 must be submitted on magnetic media or electronically.

6 The due date for submitting W-2 Forms shall be as
7 prescribed by the Department by rule.

8 (g) For amounts deducted or withheld after December 31,
9 2009, a taxpayer who makes an election under subsection (f) of
10 Section 5-15 of the Economic Development for a Growing Economy
11 Tax Credit Act for a taxable year shall be allowed a credit
12 against payments due under this Section for amounts withheld
13 during the first calendar year beginning after the end of that
14 taxable year equal to the amount of the credit for the
15 incremental income tax attributable to full-time employees of
16 the taxpayer awarded to the taxpayer by the Department of
17 Commerce and Economic Opportunity under the Economic
18 Development for a Growing Economy Tax Credit Act for the
19 taxable year and credits not previously claimed and allowed to
20 be carried forward under Section 211(4) of this Act as
21 provided in subsection (f) of Section 5-15 of the Economic
22 Development for a Growing Economy Tax Credit Act. The credit
23 or credits may not reduce the taxpayer's obligation for any
24 payment due under this Section to less than zero. If the amount
25 of the credit or credits exceeds the total payments due under
26 this Section with respect to amounts withheld during the

1 calendar year, the excess may be carried forward and applied
2 against the taxpayer's liability under this Section in the
3 succeeding calendar years as allowed to be carried forward
4 under paragraph (4) of Section 211 of this Act. The credit or
5 credits shall be applied to the earliest year for which there
6 is a tax liability. If there are credits from more than one
7 taxable year that are available to offset a liability, the
8 earlier credit shall be applied first. Each employer who
9 deducts and withholds or is required to deduct and withhold
10 tax under this Act and who retains income tax withholdings
11 under subsection (f) of Section 5-15 of the Economic
12 Development for a Growing Economy Tax Credit Act must make a
13 return with respect to such taxes and retained amounts in the
14 form and manner that the Department, by rule, requires and pay
15 to the Department or to a depository designated by the
16 Department those withheld taxes not retained by the taxpayer.
17 For purposes of this subsection (g), the term taxpayer shall
18 include taxpayer and members of the taxpayer's unitary
19 business group as defined under paragraph (27) of subsection
20 (a) of Section 1501 of this Act. This Section is exempt from
21 the provisions of Section 250 of this Act. No credit awarded
22 under the Economic Development for a Growing Economy Tax
23 Credit Act for agreements entered into on or after January 1,
24 2015 may be credited against payments due under this Section.

25 (g-1) For amounts deducted or withheld after December 31,
26 2024, a taxpayer who makes an election under the Reimagining

1 Electric Vehicles in Illinois Act shall be allowed a credit
2 against payments due under this Section for amounts withheld
3 during the first quarterly reporting period beginning after
4 the certificate is issued equal to the portion of the REV
5 Illinois Credit attributable to the incremental income tax
6 attributable to new employees and retained employees as
7 certified by the Department of Commerce and Economic
8 Opportunity pursuant to an agreement with the taxpayer under
9 the Reimagining Electric Vehicles in Illinois Act for the
10 taxable year. The credit or credits may not reduce the
11 taxpayer's obligation for any payment due under this Section
12 to less than zero. If the amount of the credit or credits
13 exceeds the total payments due under this Section with respect
14 to amounts withheld during the quarterly reporting period, the
15 excess may be carried forward and applied against the
16 taxpayer's liability under this Section in the succeeding
17 quarterly reporting period as allowed to be carried forward
18 under paragraph (4) of Section 211 of this Act. The credit or
19 credits shall be applied to the earliest quarterly reporting
20 period for which there is a tax liability. If there are credits
21 from more than one quarterly reporting period that are
22 available to offset a liability, the earlier credit shall be
23 applied first. Each employer who deducts and withholds or is
24 required to deduct and withhold tax under this Act and who
25 retains income tax withholdings this subsection must make a
26 return with respect to such taxes and retained amounts in the

1 form and manner that the Department, by rule, requires and pay
2 to the Department or to a depository designated by the
3 Department those withheld taxes not retained by the taxpayer.
4 For purposes of this subsection (g-1), the term taxpayer shall
5 include taxpayer and members of the taxpayer's unitary
6 business group as defined under paragraph (27) of subsection
7 (a) of Section 1501 of this Act. This Section is exempt from
8 the provisions of Section 250 of this Act.

9 (h) An employer may claim a credit against payments due
10 under this Section for amounts withheld during the first
11 calendar year ending after the date on which a tax credit
12 certificate was issued under Section 35 of the Small Business
13 Job Creation Tax Credit Act. The credit shall be equal to the
14 amount shown on the certificate, but may not reduce the
15 taxpayer's obligation for any payment due under this Section
16 to less than zero. If the amount of the credit exceeds the
17 total payments due under this Section with respect to amounts
18 withheld during the calendar year, the excess may be carried
19 forward and applied against the taxpayer's liability under
20 this Section in the 5 succeeding calendar years. The credit
21 shall be applied to the earliest year for which there is a tax
22 liability. If there are credits from more than one calendar
23 year that are available to offset a liability, the earlier
24 credit shall be applied first. This Section is exempt from the
25 provisions of Section 250 of this Act.

26 (i) Each employer with 50 or fewer full-time equivalent

1 employees during the reporting period may claim a credit
2 against the payments due under this Section for each qualified
3 employee in an amount equal to the maximum credit allowable.
4 The credit may be taken against payments due for reporting
5 periods that begin on or after January 1, 2020, and end on or
6 before December 31, 2027. An employer may not claim a credit
7 for an employee who has worked fewer than 90 consecutive days
8 immediately preceding the reporting period; however, such
9 credits may accrue during that 90-day period and be claimed
10 against payments under this Section for future reporting
11 periods after the employee has worked for the employer at
12 least 90 consecutive days. In no event may the credit exceed
13 the employer's liability for the reporting period. Each
14 employer who deducts and withholds or is required to deduct
15 and withhold tax under this Act and who retains income tax
16 withholdings under this subsection must make a return with
17 respect to such taxes and retained amounts in the form and
18 manner that the Department, by rule, requires and pay to the
19 Department or to a depository designated by the Department
20 those withheld taxes not retained by the employer.

21 For each reporting period, the employer may not claim a
22 credit or credits for more employees than the number of
23 employees making less than the minimum or reduced wage for the
24 current calendar year during the last reporting period of the
25 preceding calendar year. Notwithstanding any other provision
26 of this subsection, an employer shall not be eligible for

1 credits for a reporting period unless the average wage paid by
2 the employer per employee for all employees making less than
3 \$55,000 during the reporting period is greater than the
4 average wage paid by the employer per employee for all
5 employees making less than \$55,000 during the same reporting
6 period of the prior calendar year.

7 For purposes of this subsection (i):

8 "Compensation paid in Illinois" has the meaning ascribed
9 to that term under Section 304(a)(2)(B) of this Act.

10 "Employer" and "employee" have the meaning ascribed to
11 those terms in the Minimum Wage Law, except that "employee"
12 also includes employees who work for an employer with fewer
13 than 4 employees. Employers that operate more than one
14 establishment pursuant to a franchise agreement or that
15 constitute members of a unitary business group shall aggregate
16 their employees for purposes of determining eligibility for
17 the credit.

18 "Full-time equivalent employees" means the ratio of the
19 number of paid hours during the reporting period and the
20 number of working hours in that period.

21 "Maximum credit" means the percentage listed below of the
22 difference between the amount of compensation paid in Illinois
23 to employees who are paid not more than the required minimum
24 wage reduced by the amount of compensation paid in Illinois to
25 employees who were paid less than the current required minimum
26 wage during the reporting period prior to each increase in the

1 required minimum wage on January 1. If an employer pays an
2 employee more than the required minimum wage and that employee
3 previously earned less than the required minimum wage, the
4 employer may include the portion that does not exceed the
5 required minimum wage as compensation paid in Illinois to
6 employees who are paid not more than the required minimum
7 wage.

8 (1) 25% for reporting periods beginning on or after
9 January 1, 2020 and ending on or before December 31, 2020;

10 (2) 21% for reporting periods beginning on or after
11 January 1, 2021 and ending on or before December 31, 2021;

12 (3) 17% for reporting periods beginning on or after
13 January 1, 2022 and ending on or before December 31, 2022;

14 (4) 13% for reporting periods beginning on or after
15 January 1, 2023 and ending on or before December 31, 2023;

16 (5) 9% for reporting periods beginning on or after
17 January 1, 2024 and ending on or before December 31, 2024;

18 (6) 5% for reporting periods beginning on or after
19 January 1, 2025 and ending on or before December 31, 2025.

20 The amount computed under this subsection may continue to
21 be claimed for reporting periods beginning on or after January
22 1, 2026 and:

23 (A) ending on or before December 31, 2026 for
24 employers with more than 5 employees; or

25 (B) ending on or before December 31, 2027 for
26 employers with no more than 5 employees.

1 "Qualified employee" means an employee who is paid not
2 more than the required minimum wage and has an average wage
3 paid per hour by the employer during the reporting period
4 equal to or greater than his or her average wage paid per hour
5 by the employer during each reporting period for the
6 immediately preceding 12 months. A new qualified employee is
7 deemed to have earned the required minimum wage in the
8 preceding reporting period.

9 "Reporting period" means the quarter for which a return is
10 required to be filed under subsection (b) of this Section.

11 (j) Each employer with 250 or fewer full-time equivalent
12 employees during the reporting period may claim a credit
13 against the payments due under this Section for each qualified
14 employee in an amount equal to the credit amount. The credit
15 may be taken against payments due for reporting periods that
16 begin on or after January 1, 2023 and end on or before December
17 31, 2032. Credits for a particular qualified employee may be
18 taken during the tax year in which the credit was earned. An
19 employer may not claim a credit for an employee who has worked
20 fewer than 180 consecutive days immediately preceding the
21 first day of the first pay period during which the raise is in
22 effect. In no event may the credit exceed the employer's
23 liability for the reporting period. Each employer who deducts
24 and withholds or is required to deduct and withhold tax under
25 this Act and who retains income tax withholdings under this
26 subsection must make a return with respect to such taxes and

1 retained amounts in the form and manner that the Department,
2 by rule, requires and pay to the Department or to a depository
3 designated by the Department those withheld taxes not retained
4 by the employer.

5 Notwithstanding any other provision of this subsection, an
6 employer is not eligible for credits under this subsection for
7 a reporting period unless the average wage paid by the
8 employer per employee for all employees making less than
9 \$52,000 during the reporting period is greater than the
10 average wage paid by the employer per employee for all
11 employees making less than \$52,000 during the same reporting
12 period of the prior calendar year.

13 For purposes of this subsection (j):

14 "Base period" means the employer's reporting period that
15 immediately precedes the reporting period in which the
16 qualified employee's raise takes effect.

17 "Compensation paid in Illinois" has the meaning ascribed
18 to that term under paragraph (B) of item (2) of subsection (a)
19 of Section 304 of this Act.

20 "Credit amount" means the amount listed below:

21 (1) 25% of the difference between the amount of
22 compensation paid in Illinois by the employer to the
23 qualified employee in the base period and the portion of
24 the compensation paid in Illinois by the employer to the
25 qualified employee in the reporting period for which the
26 credit is taken that does not exceed \$37,400 when

1 annualized; plus

2 (2) 20% of the compensation paid in Illinois by the
3 employer to the qualified employee in the reporting period
4 for which the credit is taken that exceeds the greater of
5 (i) the amount of compensation paid in Illinois by the
6 employer to the qualified employee in the base period or
7 (ii) \$37,400 when annualized but does not exceed \$41,600
8 when annualized; plus

9 (3) 15% of the compensation paid in Illinois by the
10 employer to the qualified employee in the reporting period
11 for which the credit is taken that exceeds the greater of
12 (i) the amount of compensation paid in Illinois by the
13 employer to the qualified employee in the base period or
14 (ii) \$41,600 when annualized but does not exceed \$52,000
15 when annualized.

16 "Employer" and "employee" have the meanings ascribed to
17 those terms in the Minimum Wage Law, except that "employee"
18 also includes employees who work for an employer with fewer
19 than 4 employees. Employers that operate more than one
20 establishment pursuant to a franchise agreement or that
21 constitute members of a unitary business group shall aggregate
22 their employees for purposes of determining eligibility for
23 the credit.

24 "Full-time equivalent employees" means the ratio of the
25 number of paid hours during the reporting period and the
26 number of working hours in that period.

1 "Qualified employee" means an employee who receives a
2 raise from an employer, whose post-raise annual salary
3 attributable to that employer is not less than \$31,200, and
4 who continues to be employed by the employer during the
5 reporting period for which the credit is taken.

6 "Raise" means a permanent increase in an employee's hourly
7 pay or salary that does not result in reduced hours or reduced
8 benefits and is not a temporary bonus.

9 "Reporting period" means the quarter for which a return is
10 required to be filed under subsection (b) of this Section.

11 (Source: P.A. 101-1, eff. 2-19-19; 102-669, eff. 11-16-21.)".