



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5059

Introduced 1/27/2022, by Rep. Mark L. Walker

SYNOPSIS AS INTRODUCED:

20 ILCS 715/25

Amends the Corporate Accountability for Tax Expenditures Act. Provides that, if a recipient is found by the National Labor Relations Board to be in violation of federal labor law with respect to the unionization of its workers, and if the violation occurs in Illinois, then the recipient shall, within 90 days after the finding, inform the agency with which the recipient has a development assistance agreement of the finding, and the development assistance granted to the recipient under the terms of the agreement may not be renewed.

LRB102 23336 HLH 34045 b

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 Corporate Accountability for Tax
5 Expenditures Act is amended by changing Section 25 as follows:

6 (20 ILCS 715/25)

7 Sec. 25. Recapture.

8 (a) All development assistance agreements shall contain,
9 at a minimum, the following recapture provisions:

10 (1) The recipient must (i) make the level of capital
11 investment in the economic development project specified
12 in the development assistance agreement; (ii) create or
13 retain, or both, the requisite number of jobs, paying not
14 less than specified wages for the created and retained
15 jobs, within and for the duration of the time period
16 specified in the legislation authorizing, or the
17 administrative rules implementing, the development
18 assistance programs and the development assistance
19 agreement.

20 (2) If the recipient fails to create or retain the
21 requisite number of jobs within and for the time period
22 specified, in the legislation authorizing, or the
23 administrative rules implementing, the development

1 assistance programs and the development assistance
2 agreement, the recipient shall be deemed to no longer
3 qualify for the State economic assistance and the
4 applicable recapture provisions shall take effect.

5 (3) If the recipient receives State economic
6 assistance in the form of a High Impact Business
7 designation pursuant to Section 5.5 of the Illinois
8 Enterprise Zone Act and the business receives the benefit
9 of the exemption authorized under Section 51 of the
10 Retailers' Occupation Tax Act (for the sale of building
11 materials incorporated into a High Impact Business
12 location) or the utility tax exemption authorized under
13 Section 9-222.1A of the Public Utilities Act and the
14 recipient fails to create or retain the requisite number
15 of jobs, as determined by the legislation authorizing the
16 development assistance programs or the administrative
17 rules implementing such legislation, or both, within the
18 requisite period of time, the recipient shall be required
19 to pay to the State the full amount of both the State tax
20 exemption and the utility tax exemption that it received
21 as a result of the High Impact Business designation.

22 (4) If the recipient receives a grant or loan pursuant
23 to the Large Business Development Program, the Business
24 Development Public Infrastructure Program, or the
25 Industrial Training Program and the recipient fails to
26 create or retain the requisite number of jobs for the

1 requisite time period, as provided in the legislation
2 authorizing the development assistance programs or the
3 administrative rules implementing such legislation, or
4 both, or in the development assistance agreement, the
5 recipient shall be required to repay to the State a pro
6 rata amount of the grant; that amount shall reflect the
7 percentage of the deficiency between the requisite number
8 of jobs to be created or retained by the recipient and the
9 actual number of such jobs in existence as of the date the
10 Department determines the recipient is in breach of the
11 job creation or retention covenants contained in the
12 development assistance agreement. If the recipient of
13 development assistance under the Large Business
14 Development Program, the Business Development Public
15 Infrastructure Program, or the Industrial Training Program
16 ceases operations at the specific project site, during the
17 5-year period commencing on the date of assistance, the
18 recipient shall be required to repay the entire amount of
19 the grant or to accelerate repayment of the loan back to
20 the State.

21 (5) If the recipient receives a tax credit under the
22 Economic Development for a Growing Economy tax credit
23 program, the development assistance agreement must provide
24 that (i) if the number of new or retained employees falls
25 below the requisite number set forth in the development
26 assistance agreement, the allowance of the credit shall be

1 automatically suspended until the number of new and
2 retained employees equals or exceeds the requisite number
3 in the development assistance agreement; (ii) if the
4 recipient discontinues operations at the specific project
5 site during the 5-year period after the beginning of the
6 first tax year for which the Department issues a tax
7 credit certificate, the recipient shall forfeit all
8 credits taken by the recipient during such 5-year period;
9 and (iii) in the event of a revocation or suspension of the
10 credit, the Department shall contact the Director of
11 Revenue to initiate proceedings against the recipient to
12 recover wrongfully exempted Illinois State income taxes
13 and the recipient shall promptly repay to the Department
14 of Revenue any wrongfully exempted Illinois State income
15 taxes. The forfeited amount of credits shall be deemed
16 assessed on the date the Department contacts the
17 Department of Revenue and the recipient shall promptly
18 repay to the Department of Revenue any wrongfully exempted
19 Illinois State income taxes.

20 (6) If the recipient is found by the National Labor
21 Relations Board to be in violation of federal labor law
22 with respect to the unionization of its workers, and if
23 the violation occurs in Illinois, then the recipient
24 shall, within 90 days after the finding, inform the agency
25 with which the recipient has a development assistance
26 agreement of the finding, and the recipient is not

1 eligible for renewal of any development assistance granted
2 to the recipient.

3 (b) The Director may elect to waive enforcement of any
4 contractual provision arising out of the development
5 assistance agreement required by this Act based on a finding
6 that the waiver is necessary to avert an imminent and
7 demonstrable hardship to the recipient that may result in such
8 recipient's insolvency or discharge of workers. If a waiver is
9 granted, the recipient must agree to a contractual
10 modification, including recapture provisions, to the
11 development assistance agreement. The existence of any waiver
12 granted pursuant to this subsection (b), the date of the
13 granting of such waiver, and a brief summary of the reasons
14 supporting the granting of such waiver shall be disclosed
15 consistent with the provisions of Section 25 of this Act.

16 (b-5) The Department shall post, on its website, (i) the
17 identity of each recipient from whom amounts were recaptured
18 under this Section on or after the effective date of this
19 amendatory Act of the 97th General Assembly, (ii) the date of
20 the recapture, (iii) a summary of the reasons supporting the
21 recapture, and (iv) the amount recaptured from those
22 recipients.

23 (c) Beginning June 1, 2004, the Department shall annually
24 compile a report on the outcomes and effectiveness of
25 recapture provisions by program, including but not limited to:
26 (i) the total number of companies that receive development

1 assistance as defined in this Act; (ii) the total number of
2 recipients in violation of development agreements with the
3 Department; (iii) the total number of completed recapture
4 efforts; (iv) the total number of recapture efforts initiated;
5 and (v) the number of waivers granted. This report shall be
6 disclosed consistent with the provisions of Section 20 of this
7 Act.

8 (d) For the purposes of this Act, recapture provisions do
9 not include the Illinois Department of Transportation Economic
10 Development Program, any grants under the Industrial Training
11 Program that are not given as an incentive to a recipient
12 business organization, or any successor programs as described
13 in the term "development assistance" in Section 5 of this Act.

14 (Source: P.A. 97-2, eff. 5-6-11; 97-721, eff. 6-29-12; 98-109,
15 eff. 7-25-13; 98-463, eff. 8-16-13.)