

SB1841



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1841

Introduced 2/26/2021, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/232 new

Creates the Recovery and Mental Health Tax Credit Act. Provides that the Department of Human Services shall establish and administer a recovery tax credit program to provide tax incentives to qualified employers who employ eligible individuals in recovery from a substance use disorder or mental illness in part-time and full-time positions within Illinois. Creates the Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Communities. Sets forth the membership of the Council. Provides that the Council shall advise the Department of Human Services regarding employment of persons with mental illnesses and substance use disorders in minority communities. Amends the Illinois Income Tax Act to make conforming changes.

LRB102 10793 HLH 16123 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 1. Short title. This Act may be cited as the
5 Recovery and Mental Health Tax Credit Act.

6 Section 5. Findings.

7 (a) In the interest of reducing stigma, the General
8 Assembly finds and declares that those residents of Illinois
9 diagnosed with mental illness and substance use disorders
10 should be eligible for and encouraged to seek gainful
11 employment.

12 (b) The General Assembly finds and declares that minority
13 communities in the State have been more negatively impacted in
14 employment opportunities for minority residents diagnosed with
15 mental illness and substance use disorders and should receive
16 additional employment opportunities and incentives for
17 employing minority residents diagnosed with mental illness or
18 substance use disorders.

19 (c) In the interest of providing additional employment
20 opportunities for those residents of Illinois diagnosed with
21 mental illness or substance use disorders, the General
22 Assembly finds and declares that certain qualified employers
23 who employ eligible individuals should be eligible for a tax

1 credit.

2 Section 10. Definitions. As used in this Act:

3 "Department" means the Department of Human Services.

4 "Eligible individual" means an individual with a substance
5 use disorder, as that term is defined under Section 1-10 of the
6 Substance Use Disorder Act, or an individual with a mental
7 illness as that term is defined under Section 1-129 of the
8 Mental Health and Developmental Disabilities Code, who is in a
9 state of wellness and recovery where there is an abatement of
10 signs and symptoms that characterize active substance use
11 disorder or mental illness and has demonstrated to the
12 qualified employer's satisfaction, pursuant to regulations
13 promulgated by the Department, that he or she has completed a
14 course of treatment or is currently in receipt of treatment
15 for such substance use disorder or mental illness. A relapse
16 in an individual's state of wellness shall not make the
17 individual ineligible, so long as the individual shows a
18 continued commitment to recovery that aligns with an
19 individual's relapse prevention plan discharge plan or
20 recovery plan.

21 "Qualified employer" means an employer operating within
22 the State that has received a certificate of tax credit from
23 the Department after the Department has determined that the
24 employer:

25 (1) provides a recovery supportive environment for

1 their employees evidenced by a formal working relationship
2 with a substance use disorder treatment provider or
3 facility or mental health provider or facility, each as
4 may be licensed or certified within the State of Illinois,
5 and providing reasonable accommodation to the employees to
6 address their substance use disorder or mental illness,
7 all at no cost or expense to the eligible individual; and

8 (2) satisfies all other criteria in this Section and
9 established by the Department to participate in the
10 recovery tax program created hereunder.

11 "Taxpayer" means any individual, corporation, partnership,
12 trust, or other entity subject to the Illinois income tax. For
13 the purposes of this Act, 2 individuals filing a joint return
14 shall be considered one taxpayer.

15 Section 15. Authorization of tax credit program for
16 individuals in recovery from substance use disorders or mental
17 illness.

18 (a) For taxable years beginning on or after January 1,
19 2022, the Department is authorized to and shall establish and
20 administer a recovery tax credit program to provide tax
21 incentives to qualified employers who employ eligible
22 individuals in recovery from a substance use disorder or
23 mental illness in part-time and full-time positions within
24 Illinois. The Department shall award the tax credit by
25 issuance of a certificate of tax credit to the qualified

1 employer, who will present the certificate of tax credit to
2 the Department of Revenue as a credit against the qualified
3 employer's tax obligation in accordance with this Act.

4 (b) To be a qualified employer, an employer must apply
5 annually to the Department to claim a credit based upon
6 eligible individuals employed during the preceding calendar
7 year, using the forms prescribed by the Department. To be
8 approved for a credit under this Act, the employer must:

9 (1) agree to provide to the Department the information
10 necessary to demonstrate that the employer has satisfied
11 program eligibility requirements and provided all
12 information requested or needed by the Department,
13 including the number of hours worked by the eligible
14 individual and other information necessary for the
15 Department to calculate the amount of credit permitted;
16 and

17 (2) agree to provide names, employer identification
18 numbers, amounts that the employer may claim, and other
19 information necessary for the Department to calculate any
20 tax credit.

21 (c) To be an eligible individual, the individual must be
22 diagnosed with or have been diagnosed with a substance use
23 disorder or mental illness. Disclosure by the eligible
24 individual of his or her mental illness or substance use
25 disorder shall be completely voluntary and his or her health
26 information may not be shared or disclosed under this Act

1 without the eligible individual's express written consent. The
2 eligible individual must have been employed by the qualified
3 employer in the State for a minimum of 500 hours during the
4 applicable calendar year and the tax credit may only begin on
5 the date the eligible individual is hired by the qualified
6 employer and ending on December 31 of that calendar year or the
7 date that the eligible individual's employment with the
8 qualified employer ends, whichever occurs first. Only one tax
9 credit may be awarded for any eligible individual while
10 employed by the same or related qualified employer. The hours
11 of employment of 2 or more eligible individuals may not be
12 aggregated to reach the minimum number of hours. If an
13 eligible individual has worked in excess of 500 hours between
14 the date of hiring and December 31 of that year, a qualified
15 employer can elect to compute and claim a credit for such
16 eligible individual in that year based on the hours worked by
17 December 31. Alternatively, the qualified employer may elect
18 to include such individual in the computation of the credit in
19 the year immediately succeeding the year in which the eligible
20 individual was hired. In that case, the credit shall be
21 computed on the basis of all hours worked by the eligible
22 individual from the date of hire to the earlier of the last day
23 of employment or December 31 of the succeeding year.

24 (d) The aggregate amount of all credits the Department may
25 award under this Act in any calendar year may not exceed
26 \$2,000,000.

1 (e) If the qualified employer's taxable year is a calendar
2 year, the employer shall be entitled to claim the credit as
3 shown on the certificate of tax credit on the calendar year
4 return for which the certificate of tax credit was issued. If
5 the certified employer's taxable year is a fiscal year, the
6 qualified employer shall be entitled to claim the credit as
7 shown on the certificate of tax credit on the return for the
8 fiscal year that includes the last day of the calendar year
9 covered by the certificate of tax credit.

10 (f) If Department criteria and all other requirements are
11 met, a qualified employer shall be entitled to a tax credit
12 equal to the product of \$1 and the number of hours worked by
13 each eligible individual during the eligible individual's
14 period of employment with the qualified employer. The tax
15 credit awarded hereunder may not exceed \$2,000 per eligible
16 individual employed by the qualified employer in the State. In
17 determining the amount of tax credit that any qualified
18 employer may claim, the Department shall review all claims
19 submitted for credit by all employers and, to the extent that
20 the total amount claimed by employers exceeds the amount
21 allocated for this program in that calendar year, shall issue
22 tax credits on a pro-rata basis corresponding to each
23 qualified employer's share of the total amount claimed.

24 (g) No credit shall be taken under this Act if the taxpayer
25 claims a federal income tax deduction for the employment of
26 the eligible individual by a qualified employer.

1 (h) No tax credit awarded under this Act may reduce a
2 qualified employer's tax obligation to less than zero.

3 (i) The Department of Revenue shall review and accept the
4 tax credit certificates issued by the Department and apply the
5 tax credit towards the qualified employer's income tax
6 obligation. A taxpayer that is a qualified employer that has
7 received a certificate of tax credit from the Department shall
8 be allowed a credit against the tax imposed equal to the amount
9 shown on such certificate of tax credit. If the taxpayer is (i)
10 a corporation having an election in effect under Subchapter S
11 of the federal Internal Revenue Code, (ii) a partnership, or
12 (iii) a limited liability company, the credit provided under
13 this Act may be claimed by the shareholders of the
14 corporation, the partners of the partnership, or the members
15 of the limited liability company in the same manner as those
16 shareholders, partners, or members account for their
17 proportionate shares of the income or losses of the
18 corporation, partnership, or limited liability company, or as
19 provided in the bylaws or other executed agreement of the
20 corporation, partnership, or limited liability company. In
21 carrying out this Act, no patient-specific information shall
22 be shared or disclosed. Any information collected by the
23 Department or the Department of Revenue shall not be subject
24 to public disclosure or Freedom of Information Act requests.

25 (j) The credit under this Act is exempt from the
26 provisions of Section 250 of the Illinois Income Tax Act.

1 Section 20. Advisory Council on Mental Illness and
2 Substance Use Disorder Impacts on Employment Opportunities
3 within Minority Communities. The Secretary of the Department
4 shall appoint the Advisory Council on Mental Illness and
5 Substance Use Disorder Impacts on Employment Opportunities
6 within Minority Communities, to be composed of 15 members,
7 which shall include a balanced representation of recipients,
8 services providers, employers, local governmental units,
9 community and welfare advocacy groups, academia, and the
10 general public. The Advisory Council shall advise the
11 Department regarding all aspects of employment impacts
12 resulting from mental illnesses and substance use disorders
13 within minority communities, tax credits, outreach, marketing,
14 and education about the tax credit and employment
15 opportunities, and other areas as deemed appropriate by the
16 Secretary. In appointing the first Council, the Secretary
17 shall name 8 members to 2-year terms and 7 members to serve
18 4-year terms, all of whom shall be appointed within 6 months of
19 the effective date of this Act. All members appointed
20 thereafter shall serve 4 year terms. Members shall serve
21 without compensation other than reimbursement of expenses
22 actually incurred in the performance of their official duties.
23 At its first meeting, the Advisory Council shall select a
24 chair from among its members. The Advisory Council shall meet
25 at least quarterly and at other times at the call of the chair.

1 Section 25. Powers. The Department shall adopt rules for
2 the administration of this Act. The Department may enter into
3 an intergovernmental agreement with the Department of Revenue
4 for the administration of this Act.

5 Section 90. The Illinois Income Tax Act is amended by
6 adding Section 232 as follows:

7 (35 ILCS 5/232 new)

8 Sec. 232. Recovery and Mental Health Tax Credit Act. A
9 taxpayer who has been awarded a credit under the Recovery and
10 Mental Health Tax Credit Act is entitled to a credit against
11 the tax imposed by subsections (a) and (b) of Section 201 as
12 provided in that Act. This Section is exempt from the
13 provisions of Section 250.