



Sen. Scott M. Bennett

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10200SB1983sam001

LRB102 16117 HLH 25526 a

1 AMENDMENT TO SENATE BILL 1983

2 AMENDMENT NO. _____. Amend Senate Bill 1983 by replacing
3 everything after the enacting clause with the following:

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

1 administrative rules implementing, the development
2 assistance programs and the development assistance
3 agreement.

4 (2) If the recipient fails to create or retain the
5 requisite number of jobs within and for the time period
6 specified, in the legislation authorizing, or the
7 administrative rules implementing, the development
8 assistance programs and the development assistance
9 agreement, the recipient shall be deemed to no longer
10 qualify for the State economic assistance and the
11 applicable recapture provisions shall take effect.

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

1 exemption and the utility tax exemption that it received
2 as a result of the High Impact Business designation.

3 (4) If the recipient receives a grant or loan pursuant
4 to the Large Business Development Program, the Business
5 Development Public Infrastructure Program, or the
6 Industrial Training Program and the recipient fails to
7 create or retain the requisite number of jobs for the
8 requisite time period, as provided in the legislation
9 authorizing the development assistance programs or the
10 administrative rules implementing such legislation, or
11 both, or in the development assistance agreement, the
12 recipient shall be required to repay to the State a pro
13 rata amount of the grant; that amount shall reflect the
14 percentage of the deficiency between the requisite number
15 of jobs to be created or retained by the recipient and the
16 actual number of such jobs in existence as of the date the
17 Department determines the recipient is in breach of the
18 job creation or retention covenants contained in the
19 development assistance agreement. If the recipient of
20 development assistance under the Large Business
21 Development Program, the Business Development Public
22 Infrastructure Program, or the Industrial Training Program
23 ceases operations at the specific project site, during the
24 5-year period commencing on the date of assistance, the
25 recipient shall be required to repay the entire amount of
26 the grant or to accelerate repayment of the loan back to

1 the State.

2 (5) Except as provided in paragraph (5.1), if ~~if~~ the
3 recipient receives a tax credit under the Economic
4 Development for a Growing Economy tax credit program, the
5 development assistance agreement must provide that (i) if
6 the number of new or retained employees falls below the
7 requisite number set forth in the development assistance
8 agreement, the allowance of the credit shall be
9 automatically suspended until the number of new and
10 retained employees equals or exceeds the requisite number
11 in the development assistance agreement; (ii) if the
12 recipient discontinues operations at the specific project
13 site during the 5-year period after the beginning of the
14 first tax year for which the Department issues a tax
15 credit certificate, the recipient shall forfeit all
16 credits taken by the recipient during such 5-year period;
17 and (iii) in the event of a revocation or suspension of the
18 credit, the Department shall contact the Director of
19 Revenue to initiate proceedings against the recipient to
20 recover wrongfully exempted Illinois State income taxes
21 and the recipient shall promptly repay to the Department
22 of Revenue any wrongfully exempted Illinois State income
23 taxes. The forfeited amount of credits shall be deemed
24 assessed on the date the Department contacts the
25 Department of Revenue and the recipient shall promptly
26 repay to the Department of Revenue any wrongfully exempted

1 Illinois State income taxes.

2 (5.1) For taxable years that begin on or after January
3 1, 2020 and begin prior to January 1, 2022, credits
4 awarded under the Economic Development for a Growing
5 Economy tax credit program shall not be revoked or
6 suspended as a result of the recipient's failure to meet
7 the requirements for new or retained employees if that
8 failure is due to a direct and substantial hardship caused
9 by the COVID-19 pandemic and the Taxpayer maintains job
10 creation and retention at the level of 85% of the
11 Agreement requirements. For the Department to grant relief
12 under this paragraph (5.1), proof of a direct and
13 substantial hardship caused by the COVID-19 pandemic must
14 be submitted to the Department during the annual
15 certificate of verification issuance process.

16 (b) The Director may elect to waive enforcement of any
17 contractual provision arising out of the development
18 assistance agreement required by this Act based on a finding
19 that the waiver is necessary to avert an imminent and
20 demonstrable hardship to the recipient that may result in such
21 recipient's insolvency or discharge of workers. If a waiver is
22 granted, the recipient must agree to a contractual
23 modification, including recapture provisions, to the
24 development assistance agreement. The existence of any waiver
25 granted pursuant to this subsection (b), the date of the
26 granting of such waiver, and a brief summary of the reasons

1 supporting the granting of such waiver shall be disclosed
2 consistent with the provisions of Section 25 of this Act.

3 (b-5) The Department shall post, on its website, (i) the
4 identity of each recipient from whom amounts were recaptured
5 under this Section on or after the effective date of this
6 amendatory Act of the 97th General Assembly, (ii) the date of
7 the recapture, (iii) a summary of the reasons supporting the
8 recapture, and (iv) the amount recaptured from those
9 recipients.

10 (c) Beginning June 1, 2004, the Department shall annually
11 compile a report on the outcomes and effectiveness of
12 recapture provisions by program, including but not limited to:
13 (i) the total number of companies that receive development
14 assistance as defined in this Act; (ii) the total number of
15 recipients in violation of development agreements with the
16 Department; (iii) the total number of completed recapture
17 efforts; (iv) the total number of recapture efforts initiated;
18 and (v) the number of waivers granted. This report shall be
19 disclosed consistent with the provisions of Section 20 of this
20 Act.

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

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

3 Section 10. The Economic Development for a Growing Economy
4 Tax Credit Act is amended by changing Section 5-55 as follows:

5 (35 ILCS 10/5-55)

6 Sec. 5-55. Certificate of verification; submission to the
7 Department of Revenue. A Taxpayer claiming a Credit under this
8 Act shall submit to the Department of Revenue a copy of the
9 Director's certificate of verification under this Act for the
10 taxable year. However, failure to submit a copy of the
11 certificate with the Taxpayer's tax return shall not
12 invalidate a claim for a Credit.

13 For a Taxpayer to be eligible for a certificate of
14 verification, the Taxpayer shall provide proof as required by
15 the Department prior to the end of each calendar year,
16 including, but not limited to, attestation by the Taxpayer
17 that:

18 (1) The project has substantially achieved the level
19 of new full-time jobs specified in its Agreement.

20 (2) The project has substantially achieved the level
21 of annual payroll in Illinois specified in its Agreement.

22 (3) The project has substantially achieved the level
23 of capital investment in Illinois specified in its
24 Agreement.

1 (4) For taxable years that begin on or after January
2 1, 2020 and begin prior to January 1, 2022, the Department
3 shall not find a Taxpayer out of compliance with an
4 Agreement on the basis of a failure to maintain the job
5 creation or retention requirements of an Agreement so long
6 as the level of job creation or retention is maintained at
7 85% of the Agreement requirements during the modification
8 period and the Taxpayer demonstrates to the Department, to
9 the Department's satisfaction, that the failure to
10 maintain the contractually-required job creation and
11 retention levels is due to a direct and substantial
12 hardship caused the COVID-19 pandemic. The Department
13 shall require proof of a direct and substantial hardship
14 caused by the COVID-19 pandemic; that determination shall
15 be left to the sole and absolute discretion of the
16 Department.

17 (Source: P.A. 91-476, eff. 8-11-99.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."