



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0554

Introduced 1/27/2005, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

35 ILCS 5/211
35 ILCS 10/5-20
35 ILCS 10/5-45

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that the duration of the credit may not exceed 15 (now, 10) taxable years. In provisions setting forth requirements for applicants for the credit, provides that for projects determined to be eligible because they meet the investment and new employee criteria established by the Department of Commerce and Community Affairs, the Department shall approve those that will provide a return on the State's investment. Amends the Illinois Income Tax Act to make the commensurate change extending the duration of the credit to 15 years. Effective immediately.

LRB094 06729 BDD 36828 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to taxes.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 211 as follows:

6 (35 ILCS 5/211)

7 Sec. 211. Economic Development for a Growing Economy Tax
8 Credit. For tax years beginning on or after January 1, 1999, a
9 Taxpayer who has entered into an Agreement under the Economic
10 Development for a Growing Economy Tax Credit Act is entitled to
11 a credit against the taxes imposed under subsections (a) and
12 (b) of Section 201 of this Act in an amount to be determined in
13 the Agreement. If the Taxpayer is a partnership or Subchapter S
14 corporation, the credit shall be allowed to the partners or
15 shareholders in accordance with the determination of income and
16 distributive share of income under Sections 702 and 704 and
17 subchapter S of the Internal Revenue Code. The Department, in
18 cooperation with the Department of Commerce and Economic
19 Opportunity ~~Community Affairs~~, shall prescribe rules to
20 enforce and administer the provisions of this Section. This
21 Section is exempt from the provisions of Section 250 of this
22 Act.

23 The credit shall be subject to the conditions set forth in
24 the Agreement and the following limitations:

25 (1) The tax credit shall not exceed the Incremental
26 Income Tax (as defined in Section 5-5 of the Economic
27 Development for a Growing Economy Tax Credit Act) with
28 respect to the project.

29 (2) The amount of the credit allowed during the tax
30 year plus the sum of all amounts allowed in prior years
31 shall not exceed 100% of the aggregate amount expended by
32 the Taxpayer during all prior tax years on approved costs

1 defined by Agreement.

2 (3) The amount of the credit shall be determined on an
3 annual basis. Except as applied in a carryover year
4 pursuant to Section 211(4) of this Act, the credit may not
5 be applied against any State income tax liability in more
6 than 15 ~~10~~ taxable years; provided, however, that (i) an
7 eligible business certified by the Department of Commerce
8 and Economic Opportunity ~~Community Affairs~~ under the
9 Corporate Headquarters Relocation Act may not apply the
10 credit against any of its State income tax liability in
11 more than 15 taxable years and (ii) credits allowed to that
12 eligible business are subject to the conditions and
13 requirements set forth in Sections 5-35 and 5-45 of the
14 Economic Development for a Growing Economy Tax Credit Act.

15 (4) The credit may not exceed the amount of taxes
16 imposed pursuant to subsections (a) and (b) of Section 201
17 of this Act. Any credit that is unused in the year the
18 credit is computed may be carried forward and applied to
19 the tax liability of the 5 taxable years following the
20 excess credit year. The credit shall be applied to the
21 earliest year for which there is a tax liability. If there
22 are credits from more than one tax year that are available
23 to offset a liability, the earlier credit shall be applied
24 first.

25 (5) No credit shall be allowed with respect to any
26 Agreement for any taxable year ending after the
27 Noncompliance Date. Upon receiving notification by the
28 Department of Commerce and Economic Opportunity ~~Community~~
29 ~~Affairs~~ of the noncompliance of a Taxpayer with an
30 Agreement, the Department shall notify the Taxpayer that no
31 credit is allowed with respect to that Agreement for any
32 taxable year ending after the Noncompliance Date, as stated
33 in such notification. If any credit has been allowed with
34 respect to an Agreement for a taxable year ending after the
35 Noncompliance Date for that Agreement, any refund paid to
36 the Taxpayer for that taxable year shall, to the extent of

1 that credit allowed, be an erroneous refund within the
2 meaning of Section 912 of this Act.

3 (6) For purposes of this Section, the terms
4 "Agreement", "Incremental Income Tax", and "Noncompliance
5 Date" have the same meaning as when used in the Economic
6 Development for a Growing Economy Tax Credit Act.

7 (Source: P.A. 91-476, eff. 8-11-99; 92-207, eff. 8-1-01;
8 revised 12-6-03.)

9 Section 10. The Economic Development for a Growing Economy
10 Tax Credit Act is amended by changing Sections 5-20 and 5-45 as
11 follows:

12 (35 ILCS 10/5-20)

13 Sec. 5-20. Application for a project to create and retain
14 new jobs.

15 (a) Any Taxpayer proposing a project located or planned to
16 be located in Illinois may request consideration for
17 designation of its project, by formal written letter of request
18 or by formal application to the Department, in which the
19 Applicant states its intent to make at least a specified level
20 of investment and intends to hire or retain a specified number
21 of full-time employees at a designated location in Illinois. As
22 circumstances require, the Department may require a formal
23 application from an Applicant and a formal letter of request
24 for assistance.

25 (b) In order to qualify for Credits under this Act, an
26 Applicant's project must:

27 (1) involve an investment of at least \$5,000,000 in
28 capital improvements to be placed in service and to employ
29 at least 25 New Employees within the State as a direct
30 result of the project;

31 (2) involve an investment of at least an amount (to be
32 expressly specified by the Department and the Committee) in
33 capital improvements to be placed in service and will
34 employ at least an amount (to be expressly specified by the

1 Department and the Committee) of New Employees within the
2 State, provided that the Department and the Committee have
3 determined that the project will provide a substantial
4 economic benefit to the State; or

5 (3) if the applicant has 100 or fewer employees,
6 involve an investment of at least \$1,000,000 in capital
7 improvements to be placed in service and to employ at least
8 5 New Employees within the State and that the State will
9 receive a return on its investment as a direct result of
10 the project.

11 (c) After receipt of an application, the Department may
12 enter into an Agreement with the Applicant if the application
13 is accepted in accordance with Section 5-25.

14 (Source: P.A. 93-882, eff. 1-1-05.)

15 (35 ILCS 10/5-45)

16 Sec. 5-45. Amount and duration of the credit.

17 (a) The Department shall determine the amount and duration
18 of the credit awarded under this Act. The duration of the
19 credit may not exceed 15 ~~10~~ taxable years. The credit may be
20 stated as a percentage of the Incremental Income Tax
21 attributable to the applicant's project and may include a fixed
22 dollar limitation.

23 (b) Notwithstanding subsection (a), and except as the
24 credit may be applied in a carryover year pursuant to Section
25 211(4) of the Illinois Income Tax Act, the credit may be
26 applied against the State income tax liability in more than 10
27 taxable years but not in more than 15 taxable years for an
28 eligible business that (i) qualifies under this Act and the
29 Corporate Headquarters Relocation Act and has in fact
30 undertaken a qualifying project within the time frame specified
31 by the Department of Commerce and Economic Opportunity
32 ~~Community Affairs~~ under that Act, and (ii) applies against its
33 State income tax liability, during the entire 15-year period,
34 no more than 60% of the maximum credit per year that would
35 otherwise be available under this Act.

1 (Source: P.A. 91-476, eff. 8-11-99; 92-207, eff. 8-1-01;
2 revised 12-6-03.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.