



Sen. Rickey R. Hendon

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1 AMENDMENT TO SENATE BILL 1965

2 AMENDMENT NO. _____. Amend Senate Bill 1965 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 213 as follows:

6 (35 ILCS 5/213)

7 Sec. 213. Film production services credit. For tax years
8 beginning on or after January 1, 2004, a taxpayer who has been
9 awarded a tax credit under the Film Production Services Tax
10 Credit Act is entitled to a credit against the taxes imposed
11 under subsections (a) and (b) of Section 201 of this Act in an
12 amount determined by the Department of Commerce and Economic
13 Opportunity ~~Community Affairs~~ under the Film Production
14 Services Tax Credit Act. If the taxpayer is a partnership or
15 Subchapter S corporation, the credit is allowed to the partners
16 or shareholders in accordance with the determination of income
17 and distributive share of income under Sections 702 and 704 and
18 Subchapter S of the Internal Revenue Code.

19 A transfer of this credit may be made by the taxpayer
20 earning the credit within one year after the credit is awarded
21 in accordance with rules adopted by the Department of Commerce
22 and Economic Opportunity.

23 The Department, in cooperation with the Department of
24 Commerce and Economic Opportunity ~~Community Affairs~~, must

1 prescribe rules to enforce and administer the provisions of
2 this Section. This Section is exempt from the provisions of
3 Section 250 of this Act.

4 The credit may not be carried ~~forward or~~ back. If the
5 amount of the credit exceeds the tax liability for the year,
6 the excess may be carried forward and applied to the tax
7 liability of the 5 taxable years following the excess credit
8 year. The credit shall be applied to the earliest year for
9 which there is a tax liability. If there are credits from more
10 than one tax year that are available to offset a liability, the
11 earlier credit shall be applied first. In no event shall a
12 credit under this Section reduce the taxpayer's liability to
13 less than zero.

14 (Source: P.A. 93-543, eff. 1-1-04; revised 12-6-03.)

15 Section 10. The Film Production Services Tax Credit Act is
16 amended by changing Sections 10, 15, 20, 45, and 90 and by
17 adding Section 43 as follows:

18 (35 ILCS 15/10)

19 (Section scheduled to be repealed on January 1, 2006)

20 Sec. 10. Definitions. As used in this Act:

21 "Accredited production" means a film, video, or television
22 production that has been certified by the Department in which
23 the aggregate Illinois labor expenditures included in the cost
24 of the production, in the period that ends 12 months after the
25 time principal filming or taping of the production began,
26 exceed \$100,000 for productions of 30 minutes or longer, or
27 \$50,000 for productions of less than 30 minutes; but does not
28 include a production that:

29 (1) is news, current events, or public programming, or
30 a program that includes weather or market reports;

31 (2) is a talk show;

32 (3) is a production in respect of a game,

1 questionnaire, or contest;

2 (4) is a sports event or activity;

3 (5) is a gala presentation or awards show;

4 (6) is a finished production that solicits funds;

5 (7) is a production produced by a film production
6 company if records, as required by 18 U.S.C. 2257, are to
7 be maintained by that film production company with respect
8 to any performer portrayed in that single media or
9 multimedia program; or

10 (8) is a production produced primarily for industrial,
11 corporate, or institutional purposes.

12 "Accredited production certificate" means a certificate
13 issued by the Department certifying that the production is an
14 accredited production that meets the guidelines of this Act.

15 "Applicant" means a taxpayer that is a film production
16 company that is operating or has operated an accredited
17 production located within the State of Illinois and that (i)
18 owns the copyright in the accredited production throughout the
19 Illinois production period or (ii) has contracted directly with
20 the owner of the copyright in the accredited production or a
21 person acting on behalf of the owner to provide services for
22 the production, where the owner of the copyright is not an
23 eligible production corporation.

24 "Credit" means the amount equal to 25% of the Illinois
25 labor expenditure approved by the Department. The applicant is
26 deemed to have paid, on its balance due day for the year, an
27 amount equal to 25% of its qualified Illinois labor expenditure
28 for the tax year. For Illinois labor expenditures generated by
29 the employment of residents of geographic areas of high poverty
30 or high unemployment, as determined by the Department, in an
31 accredited production approved by the Department after January
32 1, 2005, the applicant shall receive an enhanced credit 10% in
33 addition to the 25% credit.

34 "Department" means the Department of Commerce and Economic

1 Opportunity Community Affairs.

2 "Director" means the Director of Commerce and Economic
3 Opportunity Community Affairs.

4 "Illinois labor expenditure" means salary or wages paid to
5 employees of the applicant for services on the accredited
6 production;

7 To qualify as an Illinois labor expenditure, the
8 expenditure must be:

9 (1) Reasonable in the circumstances.

10 (2) Included in the federal income tax basis of the
11 property.

12 (3) Incurred by the applicant for services on or after
13 January 1, 2004.

14 (4) Incurred for the production stages of the
15 accredited production, from the final script stage to the
16 end of the post-production stage.

17 (5) Limited to the first \$25,000 of wages paid or
18 incurred to each employee of the production.

19 (6) Exclusive of the salary or wages paid to or
20 incurred for the 2 highest paid employees of the
21 production.

22 (7) Directly attributable to the accredited
23 production.

24 (8) Paid in the tax year for which the applicant is
25 claiming the credit or no later than 60 days after the end
26 of the tax year.

27 (9) Paid to persons resident in Illinois at the time
28 the payments were made.

29 (10) Paid for services rendered in Illinois.

30 (Source: P.A. 93-543, eff. 1-1-04; revised 11-3-04.)

31 (35 ILCS 15/15)

32 (Section scheduled to be repealed on January 1, 2006)

33 Sec. 15. Powers of the Department. The Department, in

1 addition to those powers granted under the Civil Administrative
2 Code of Illinois, is granted and has all the powers necessary
3 or convenient to carry out and effectuate the purposes and
4 provisions of this Act, including, but not limited to, power
5 and authority to:

6 (a) Adopt rules deemed necessary and appropriate for the
7 administration of the tax credit program; establish forms for
8 applications, notifications, contracts, or any other
9 agreements; and accept applications at any time during the
10 year.

11 (b) Assist applicants pursuant to the provisions of this
12 Act to promote, foster, and support film production and its
13 related job creation or retention within the State.

14 (c) Gather information and conduct inquiries, in the manner
15 and by the methods as it deems desirable, including any
16 information required for the Department to comply with Section
17 45 and, without limitation, gathering information with respect
18 to applicants for the purpose of making any designations or
19 certifications necessary or desirable or to gather information
20 to assist the Department with any recommendation or guidance in
21 the furtherance of the purposes of this Act, including, but not
22 limited to, information as to whether the applicant
23 participated in training, education, and recruitment programs
24 that are organized in cooperation with Illinois colleges and
25 universities, labor organizations, and the motion picture
26 industry, and are designed to promote and encourage the
27 training and hiring of Illinois residents who represent the
28 diversity of the Illinois population.

29 (d) Provide for sufficient personnel to permit
30 administration, staffing, operation, and related support
31 required to adequately discharge its duties and
32 responsibilities described in this Act from funds as may be
33 appropriated by the General Assembly for the administration of
34 this Act.

1 (e) Require applicants, upon written request, to issue any
2 necessary authorization to the appropriate federal, state, or
3 local authority for the release of information concerning a
4 project being considered under the provisions of this Act, with
5 the information requested to include, but not be limited to,
6 financial reports, returns, or records relating to the
7 applicant or the accredited production.

8 (f) Require that an applicant must at all times keep proper
9 books of record and account in accordance with generally
10 accepted accounting principles consistently applied, with the
11 books, records, or papers related to the accredited production
12 in the custody or control of the taxpayer open for reasonable
13 Department inspection and audits, and including, without
14 limitation, the making of copies of the books, records, or
15 papers, and the inspection or appraisal of any of the assets of
16 the applicant or the accredited production.

17 (g) Take whatever actions are necessary or appropriate to
18 protect the State's interest in the event of bankruptcy,
19 default, foreclosure, or noncompliance with the terms and
20 conditions of financial assistance or participation required
21 under this Act, including the power to sell, dispose, lease, or
22 rent, upon terms and conditions determined by the Director to
23 be appropriate, real or personal property that the Department
24 may receive as a result of these actions.

25 (Source: P.A. 93-543, eff. 1-1-04.)

26 (35 ILCS 15/20)

27 (Section scheduled to be repealed on January 1, 2006)

28 Sec. 20. Tax credit awards. Subject to the conditions set
29 forth in this Act, an applicant is entitled to a credit as of
30 ~~25% of the Illinois labor expenditure~~ approved by the
31 Department under Section 40 of this Act.

32 (Source: P.A. 93-543, eff. 1-1-04.)

1 (35 ILCS 15/43 new)

2 Sec. 43. Training programs for skills in critical demand.
3 To accomplish the purposes of this Act, the Department may use
4 the training programs provided for Illinois under Section
5 605-800 of the Department of Commerce and Economic Opportunity
6 Law of the Civil Administrative Code of Illinois.

7 (35 ILCS 15/45)

8 (Section scheduled to be repealed on January 1, 2006)

9 Sec. 45. Evaluation of tax credit program; reports to the
10 General Assembly.

11 (a) The Department shall evaluate the tax credit program.
12 The evaluation must include an assessment of the effectiveness
13 of the program in creating and retaining new jobs in Illinois
14 and of the revenue impact of the program, and may include a
15 review of the practices and experiences of other states or
16 nations with similar programs. Upon completion of this
17 evaluation, the Department shall determine the overall success
18 of the program, and may make a recommendation to extend,
19 modify, or not extend the program based on this evaluation.

20 (b) At the end of each fiscal quarter, the Department must
21 submit to the General Assembly a report that includes, without
22 limitation, the following information:

23 (1) the economic impact of the tax credit program,
24 including the number of jobs created and retained,
25 including whether the job positions are entry level,
26 management, talent-related, vendor-related, or
27 production-related;

28 (2) the amount of film production spending brought to
29 Illinois, including the amount of spending and type of
30 Illinois vendors hired in connection with an accredited
31 production; and

32 (3) an overall picture of whether the human
33 infrastructure of the motion picture industry in Illinois

1 reflects the geographical, racial and ethnic, gender, and
2 income-level diversity of the State of Illinois.

3 (Source: P.A. 93-543, eff. 1-1-04.)

4 (35 ILCS 15/90)

5 (Section scheduled to be repealed on January 1, 2006)

6 Sec. 90. Repeal. This Act is repealed on January 1, 2007 ~~2~~
7 ~~years after its effective date.~~

8 (Source: P.A. 93-543, eff. 1-1-04; 93-840, eff. 7-30-04.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".