



Sen. Rickey R. Hendon

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LRB094 11475 BDD 45301 a

1 AMENDMENT TO SENATE BILL 1965

2 AMENDMENT NO. _____. Amend Senate Bill 1965, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Income Tax Act is amended by
6 changing Section 213 as follows:

7 (35 ILCS 5/213)

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

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

24 The Department, in cooperation with the Department of

1 Commerce and Economic Opportunity ~~Community Affairs~~, must
2 prescribe rules to enforce and administer the provisions of
3 this Section. This Section is exempt from the provisions of
4 Section 250 of this Act.

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

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

16 Section 10. The Film Production Services Tax Credit Act is
17 amended by changing Sections 10, 15, 20, 30, 45, and 90 and by
18 adding Section 43 as follows:

19 (35 ILCS 15/10)

20 (Section scheduled to be repealed on January 1, 2006)

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

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

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

32 (2) is a talk show;

1 (3) is a production in respect of a game,
2 questionnaire, or contest;

3 (4) is a sports event or activity;

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

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

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

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

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

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

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

1 "Department" means the Department of Commerce and Economic
2 Opportunity ~~Community Affairs~~.

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

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

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

10 (1) Reasonable in the circumstances.

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

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

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

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

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

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

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

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

30 (10) Paid for services rendered in Illinois.

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

32 (35 ILCS 15/15)

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

1 Sec. 15. Powers of the Department. The Department, in
2 addition to those powers granted under the Civil Administrative
3 Code of Illinois, is granted and has all the powers necessary
4 or convenient to carry out and effectuate the purposes and
5 provisions of this Act, including, but not limited to, power
6 and authority to:

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

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

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

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

1 this Act.

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

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

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

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

27 (35 ILCS 15/20)

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

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

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

1 (35 ILCS 15/30)

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

3 Sec. 30. Review of application for accredited production
4 certificate.

5 (a) In determining whether to issue an accredited
6 production certificate, the Department must determine that a
7 preponderance of the following conditions exist:

8 (1) The applicant's production intends to make the
9 expenditure in the State required for certification.

10 (2) The applicant's production is economically sound
11 and will benefit the people of the State of Illinois by
12 increasing opportunities for employment and strengthen the
13 economy of Illinois.

14 (3) The applicant has filed a diversity plan with the
15 Department outlining specific goals (i) for hiring
16 minority persons and females, as defined in the Business
17 Enterprise for Minorities, Females, and Persons with
18 Disabilities Act, and (ii) for using vendors receiving
19 certification under the Business Enterprise for
20 Minorities, Females, and Persons with Disabilities Act;
21 the Department has approved the plan as meeting the
22 requirements established by the Department; and the
23 Department has verified that the applicant has met or made
24 good-faith efforts in achieving those goals. The
25 Department must adopt any rules that are necessary to
26 ensure compliance with the provisions of this item (3) and
27 that are necessary to require that the applicant's plan
28 reflects the diversity of this State. ~~The applicant's~~
29 ~~production application includes a provision setting forth~~
30 ~~the percentage of minority workers that the production~~
31 ~~company plans to employ, subject to any applicable~~
32 ~~collective bargaining agreements with a labor organization~~
33 ~~to which the applicant is a signatory, to perform work on~~

1 ~~the production. This provision should stress the~~
2 ~~importance of hiring the percentage of minorities that is~~
3 ~~set out in the application.~~

4 (4) The applicant's production application indicates
5 whether the applicant intends to participate in training,
6 education, and recruitment programs that are organized in
7 cooperation with Illinois colleges and universities, labor
8 organizations, and the motion picture industry and are
9 designed to promote and encourage the training and hiring
10 of Illinois residents who represent the diversity of the
11 Illinois population.

12 (5) That, if not for the credit, the applicant's
13 production would not occur in Illinois, which may be
14 demonstrated by any means including, but not limited to,
15 evidence that the applicant has multi-state or
16 international location options and could reasonably and
17 efficiently locate outside of the State, or demonstration
18 that at least one other state or nation is being considered
19 for the production, or evidence that the receipt of the
20 credit is a major factor in the applicant's decision and
21 that without the credit the applicant likely would not
22 create or retain jobs in Illinois, or demonstration that
23 receiving the credit is essential to the applicant's
24 decision to create or retain new jobs in the State.

25 (6) Awarding the credit will result in an overall
26 positive impact to the State, as determined by the
27 Department using the best available data.

28 (b) If any of the provisions in this Section conflict with
29 any existing collective bargaining agreements, the terms and
30 conditions of those collective bargaining agreements shall
31 control.

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

33 (35 ILCS 15/43 new)

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

6 (35 ILCS 15/45)

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

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

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

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

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

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

31 (3) an overall picture of whether the human
32 infrastructure of the motion picture industry in Illinois
33 reflects the geographical, racial and ethnic, gender, and

1 income-level diversity of the State of Illinois.

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

3 (35 ILCS 15/90)

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

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

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

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