



Sen. Kimberly A. Lightford

Filed: 12/2/2014

09800HB4733sam004

LRB098 16645 AMC 62713 a

1 AMENDMENT TO HOUSE BILL 4733

2 AMENDMENT NO. _____. Amend House Bill 4733, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Income Tax Act is amended by
6 changing Section 704A as follows:

7 (35 ILCS 5/704A)

8 Sec. 704A. Employer's return and payment of tax withheld.

9 (a) In general, every employer who deducts and withholds or
10 is required to deduct and withhold tax under this Act on or
11 after January 1, 2008 shall make those payments and returns as
12 provided in this Section.

13 (b) Returns. Every employer shall, in the form and manner
14 required by the Department, make returns with respect to taxes
15 withheld or required to be withheld under this Article 7 for
16 each quarter beginning on or after January 1, 2008, on or

1 before the last day of the first month following the close of
2 that quarter.

3 (c) Payments. With respect to amounts withheld or required
4 to be withheld on or after January 1, 2008:

5 (1) Semi-weekly payments. For each calendar year, each
6 employer who withheld or was required to withhold more than
7 \$12,000 during the one-year period ending on June 30 of the
8 immediately preceding calendar year, payment must be made:

9 (A) on or before each Friday of the calendar year,
10 for taxes withheld or required to be withheld on the
11 immediately preceding Saturday, Sunday, Monday, or
12 Tuesday;

13 (B) on or before each Wednesday of the calendar
14 year, for taxes withheld or required to be withheld on
15 the immediately preceding Wednesday, Thursday, or
16 Friday.

17 Beginning with calendar year 2011, payments made under
18 this paragraph (1) of subsection (c) must be made by
19 electronic funds transfer.

20 (2) Semi-weekly payments. Any employer who withholds
21 or is required to withhold more than \$12,000 in any quarter
22 of a calendar year is required to make payments on the
23 dates set forth under item (1) of this subsection (c) for
24 each remaining quarter of that calendar year and for the
25 subsequent calendar year.

26 (3) Monthly payments. Each employer, other than an

1 employer described in items (1) or (2) of this subsection,
2 shall pay to the Department, on or before the 15th day of
3 each month the taxes withheld or required to be withheld
4 during the immediately preceding month.

5 (4) Payments with returns. Each employer shall pay to
6 the Department, on or before the due date for each return
7 required to be filed under this Section, any tax withheld
8 or required to be withheld during the period for which the
9 return is due and not previously paid to the Department.

10 (d) Regulatory authority. The Department may, by rule:

11 (1) Permit employers, in lieu of the requirements of
12 subsections (b) and (c), to file annual returns due on or
13 before January 31 of the year for taxes withheld or
14 required to be withheld during the previous calendar year
15 and, if the aggregate amounts required to be withheld by
16 the employer under this Article 7 (other than amounts
17 required to be withheld under Section 709.5) do not exceed
18 \$1,000 for the previous calendar year, to pay the taxes
19 required to be shown on each such return no later than the
20 due date for such return.

21 (2) Provide that any payment required to be made under
22 subsection (c)(1) or (c)(2) is deemed to be timely to the
23 extent paid by electronic funds transfer on or before the
24 due date for deposit of federal income taxes withheld from,
25 or federal employment taxes due with respect to, the wages
26 from which the Illinois taxes were withheld.

1 (3) Designate one or more depositories to which payment
2 of taxes required to be withheld under this Article 7 must
3 be paid by some or all employers.

4 (4) Increase the threshold dollar amounts at which
5 employers are required to make semi-weekly payments under
6 subsection (c) (1) or (c) (2).

7 (e) Annual return and payment. Every employer who deducts
8 and withholds or is required to deduct and withhold tax from a
9 person engaged in domestic service employment, as that term is
10 defined in Section 3510 of the Internal Revenue Code, may
11 comply with the requirements of this Section with respect to
12 such employees by filing an annual return and paying the taxes
13 required to be deducted and withheld on or before the 15th day
14 of the fourth month following the close of the employer's
15 taxable year. The Department may allow the employer's return to
16 be submitted with the employer's individual income tax return
17 or to be submitted with a return due from the employer under
18 Section 1400.2 of the Unemployment Insurance Act.

19 (f) Magnetic media and electronic filing. Any W-2 Form
20 that, under the Internal Revenue Code and regulations
21 promulgated thereunder, is required to be submitted to the
22 Internal Revenue Service on magnetic media or electronically
23 must also be submitted to the Department on magnetic media or
24 electronically for Illinois purposes, if required by the
25 Department.

26 (g) For amounts deducted or withheld after December 31,

1 2009, a taxpayer who makes an election under subsection (f) of
2 Section 5-15 of the Economic Development for a Growing Economy
3 Tax Credit Act for a taxable year shall be allowed a credit
4 against payments due under this Section for amounts withheld
5 during the first calendar year beginning after the end of that
6 taxable year equal to the amount of the credit for the
7 incremental income tax attributable to full-time employees of
8 the taxpayer awarded to the taxpayer by the Department of
9 Commerce and Economic Opportunity under the Economic
10 Development for a Growing Economy Tax Credit Act for the
11 taxable year and credits not previously claimed and allowed to
12 be carried forward under Section 211(4) of this Act as provided
13 in subsection (f) of Section 5-15 of the Economic Development
14 for a Growing Economy Tax Credit Act. The credit or credits may
15 not reduce the taxpayer's obligation for any payment due under
16 this Section to less than zero. If the amount of the credit or
17 credits exceeds the total payments due under this Section with
18 respect to amounts withheld during the calendar year, the
19 excess may be carried forward and applied against the
20 taxpayer's liability under this Section in the succeeding
21 calendar years as allowed to be carried forward under paragraph
22 (4) of Section 211 of this Act. The credit or credits shall be
23 applied to the earliest year for which there is a tax
24 liability. If there are credits from more than one taxable year
25 that are available to offset a liability, the earlier credit
26 shall be applied first. Each employer who deducts and withholds

1 or is required to deduct and withhold tax under this Act and
2 who retains income tax withholdings under subsection (f) of
3 Section 5-15 of the Economic Development for a Growing Economy
4 Tax Credit Act must make a return with respect to such taxes
5 and retained amounts in the form and manner that the
6 Department, by rule, requires and pay to the Department or to a
7 depository designated by the Department those withheld taxes
8 not retained by the taxpayer. For purposes of this subsection
9 (g), the term taxpayer shall include taxpayer and members of
10 the taxpayer's unitary business group as defined under
11 paragraph (27) of subsection (a) of Section 1501 of this Act.
12 This Section is exempt from the provisions of Section 250 of
13 this Act.

14 (h) An employer may claim a credit against payments due
15 under this Section for amounts withheld during the first
16 calendar year ending after the date on which a tax credit
17 certificate was issued under Section 35 of the Small Business
18 Job Creation Tax Credit Act. The credit shall be equal to the
19 amount shown on the certificate, but may not reduce the
20 taxpayer's obligation for any payment due under this Section to
21 less than zero. If the amount of the credit exceeds the total
22 payments due under this Section with respect to amounts
23 withheld during the calendar year, the excess may be carried
24 forward and applied against the taxpayer's liability under this
25 Section in the 5 succeeding calendar years. The credit shall be
26 applied to the earliest year for which there is a tax

1 liability. If there are credits from more than one calendar
2 year that are available to offset a liability, the earlier
3 credit shall be applied first. This Section is exempt from the
4 provisions of Section 250 of this Act.

5 (i) Each employer that (i) does not employ more than 50
6 employees at any time during the applicable payment period and
7 (ii) is subject to the Minimum Wage Law may claim a credit
8 against payments due under this Section on and after July 1,
9 2015 and on or before June 30, 2018 in an amount equal to the
10 difference between: (1) the wages paid by the employer to
11 employees in Illinois whose wages do not exceed the minimum
12 wage, calculated as if those employees were entitled to the
13 minimum wage set forth under Section 4 of the Minimum Wage Law
14 and not a higher minimum wage adopted by a unit of local
15 government; and (2) the wages that would have been paid by the
16 employer to those employees if the minimum wage had been \$8.25
17 per hour during that period.

18 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;
19 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.
20 8-12-11; 97-507, eff. 8-23-11.)

21 Section 10. The Minimum Wage Law is amended by changing
22 Section 4 as follows:

23 (820 ILCS 105/4) (from Ch. 48, par. 1004)

24 Sec. 4. (a) (1) Every employer shall pay to each of his

1 employees in every occupation wages of not less than \$2.30 per
2 hour or in the case of employees under 18 years of age wages of
3 not less than \$1.95 per hour, except as provided in Sections 5
4 and 6 of this Act, and on and after January 1, 1984, every
5 employer shall pay to each of his employees in every occupation
6 wages of not less than \$2.65 per hour or in the case of
7 employees under 18 years of age wages of not less than \$2.25
8 per hour, and on and after October 1, 1984 every employer shall
9 pay to each of his employees in every occupation wages of not
10 less than \$3.00 per hour or in the case of employees under 18
11 years of age wages of not less than \$2.55 per hour, and on or
12 after July 1, 1985 every employer shall pay to each of his
13 employees in every occupation wages of not less than \$3.35 per
14 hour or in the case of employees under 18 years of age wages of
15 not less than \$2.85 per hour, and from January 1, 2004 through
16 December 31, 2004 every employer shall pay to each of his or
17 her employees who is 18 years of age or older in every
18 occupation wages of not less than \$5.50 per hour, and from
19 January 1, 2005 through June 30, 2007 every employer shall pay
20 to each of his or her employees who is 18 years of age or older
21 in every occupation wages of not less than \$6.50 per hour, and
22 from July 1, 2007 through June 30, 2008 every employer shall
23 pay to each of his or her employees who is 18 years of age or
24 older in every occupation wages of not less than \$7.50 per
25 hour, and from July 1, 2008 through June 30, 2009 every
26 employer shall pay to each of his or her employees who is 18

1 years of age or older in every occupation wages of not less
2 than \$7.75 per hour, and from July 1, 2009 through June 30,
3 2010 every employer shall pay to each of his or her employees
4 who is 18 years of age or older in every occupation wages of
5 not less than \$8.00 per hour, and from ~~on and after~~ July 1,
6 2010 through June 30, 2015 every employer shall pay to each of
7 his or her employees who is 18 years of age or older in every
8 occupation wages of not less than \$8.25 per hour, and from July
9 1, 2015 to June 30, 2016 every employer shall pay to each of
10 his or her employees who is 18 years of age or older in every
11 occupation wages of not less than \$9.00 per hour, and from July
12 1, 2016 to June 30, 2017 every employer shall pay to each of
13 his or her employees who is 18 years of age or older in every
14 occupation wages of not less than \$9.50 per hour, and from July
15 1, 2017 to June 30, 2018 every employer shall pay to each of
16 his or her employees who is 18 years of age or older in every
17 occupation wages of not less than \$10.00 per hour, and from
18 July 1, 2018 to June 30, 2019 every employer shall pay to each
19 of his or her employees who is 18 years of age or older in every
20 occupation wages of not less than \$10.50 per hour, and on and
21 after July 1, 2019 every employer shall pay to each of his or
22 her employees who is 18 years of age or older in every
23 occupation wages of not less than \$11.00 per hour.

24 (2) Unless an employee's wages are reduced under Section 6,
25 then in lieu of the rate prescribed in item (1) of this
26 subsection (a), an employer may pay an employee who is 18 years

1 of age or older, during the first 90 consecutive calendar days
2 after the employee is initially employed by the employer, a
3 wage that is not more than 50¢ less than the wage prescribed in
4 item (1) of this subsection (a); however, an employer shall pay
5 not less than the rate prescribed in item (1) of this
6 subsection (a) to:

7 (A) a day or temporary laborer, as defined in Section 5
8 of the Day and Temporary Labor Services Act, who is 18
9 years of age or older; and

10 (B) an employee who is 18 years of age or older and
11 whose employment is occasional or irregular and requires
12 not more than 90 days to complete.

13 (3) At no time shall the wages paid to any employee under
14 18 years of age be more than 50¢ less than the wage required to
15 be paid to employees who are at least 18 years of age under
16 item (1) of this subsection (a).

17 (b) No employer shall discriminate between employees on the
18 basis of sex or mental or physical handicap, except as
19 otherwise provided in this Act by paying wages to employees at
20 a rate less than the rate at which he pays wages to employees
21 for the same or substantially similar work on jobs the
22 performance of which requires equal skill, effort, and
23 responsibility, and which are performed under similar working
24 conditions, except where such payment is made pursuant to (1) a
25 seniority system; (2) a merit system; (3) a system which
26 measures earnings by quantity or quality of production; or (4)

1 a differential based on any other factor other than sex or
2 mental or physical handicap, except as otherwise provided in
3 this Act.

4 (c) Every employer of an employee engaged in an occupation
5 in which gratuities have customarily and usually constituted
6 and have been recognized as part of the remuneration for hire
7 purposes is entitled to an allowance for gratuities as part of
8 the hourly wage rate provided in Section 4, subsection (a) in
9 an amount not to exceed 40% of the applicable minimum wage
10 rate. The Director shall require each employer desiring an
11 allowance for gratuities to provide substantial evidence that
12 the amount claimed, which may not exceed 40% of the applicable
13 minimum wage rate, was received by the employee in the period
14 for which the claim of exemption is made, and no part thereof
15 was returned to the employer.

16 (d) No camp counselor who resides on the premises of a
17 seasonal camp of an organized not-for-profit corporation shall
18 be subject to the adult minimum wage if the camp counselor (1)
19 works 40 or more hours per week, and (2) receives a total
20 weekly salary of not less than the adult minimum wage for a
21 40-hour week. If the counselor works less than 40 hours per
22 week, the counselor shall be paid the minimum hourly wage for
23 each hour worked. Every employer of a camp counselor under this
24 subsection is entitled to an allowance for meals and lodging as
25 part of the hourly wage rate provided in Section 4, subsection
26 (a), in an amount not to exceed 25% of the minimum wage rate.

1 (e) A camp counselor employed at a day camp is not subject
2 to the adult minimum wage if the camp counselor is paid a
3 stipend on a onetime or periodic basis and, if the camp
4 counselor is a minor, the minor's parent, guardian or other
5 custodian has consented in writing to the terms of payment
6 before the commencement of such employment.

7 (f) Preemption of home rule powers.

8 (1) The establishment of a minimum wage that employers
9 must pay their employees is an exclusive power and function
10 of the State. Except as provided in paragraph (2) of this
11 subsection (f), a home rule unit may not regulate or
12 establish a minimum wage. This subsection (f) is a denial
13 and limitation of the home rule powers and functions under
14 subsection (h) of Section 6 of Article VII of the Illinois
15 Constitution.

16 (2) Paragraph (1) of this subsection (f) shall not
17 apply to Ordinance No. 02014-9680 adopted by the City
18 Council of City of Chicago on December 2, 2014, provided
19 that: (i) the provisions set forth in that ordinance are
20 not changed by the City Council of the City of Chicago
21 after December 2, 2014; (ii) the minimum wage required to
22 be paid to employees subject to Section 1-24-020 of that
23 ordinance beginning July 1, 2019, and each year thereafter,
24 is no greater than \$13.00 per hour; and (iii) the minimum
25 wage required to be paid employees subject to that
26 ordinance in occupations receiving gratuities beginning

1 July 1, 2019, and each year thereafter, is no greater than
2 the amount calculated by the Commissioner of Business
3 Affairs and Consumer Protection of the City of Chicago by
4 June 1, 2018 pursuant to paragraph (3) of subsection (a) of
5 Section 1-24-030 of that ordinance. This paragraph (2) of
6 this subsection (f) is a limitation under subsection (i) of
7 Section 6 of Article VII of the Illinois Constitution.

8 (Source: P.A. 94-1072, eff. 7-1-07; 94-1102, eff. 7-1-07;
9 95-945, eff. 1-1-09.)".