Public Act 92-0207

SB1285 Enrolled                                  LRB9207332SMtm

AN ACT concerning economic development.

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

Section 1. Short title. This Act may be cited as the Corporate Headquarters Relocation Act.

Section 5. Purpose. The General Assembly has determined that the relocation of the international headquarters of large, multinational corporations from outside of Illinois to a location within Illinois creates a substantial public benefit and will foster economic growth and development within the State. Specifically, these relocations will foster a positive image of the State of Illinois and its human and natural resources throughout the United States and the world; contribute to a strong residential housing market; directly and indirectly create jobs and additional taxes within the State; encourage the relocation of other similar businesses to the State; and otherwise foster the development of commerce and industry within the State of Illinois. These relocations should be encouraged through the use of incentives that encourage long-term commitments by business and industry to Illinois and that would otherwise not be available through existing incentives programs.

Section 10. Definitions. As used in this Act:
"Corporate headquarters" means the building or buildings that the principal executive officers of an eligible business have designated as their principal offices and that has at least 250 employees who are principally located in that building or those buildings. The principal executive officers may include, by way of example and not of limitation, the chief executive officer, the chief operating officer, and other senior officer-level employees of the eligible business. "Corporate headquarters" may also include ancillary transportation facilities owned or leased by the eligible business whether or not physically adjacent to the principal office building or buildings used by the principal executive officers. The ancillary transportation facilities may include, but are not limited to, airplane hangars, helipads or heliports, fixed base operations, maintenance facilities, and other aviation-related facilities. All
employees of the eligible business may count toward the satisfaction of the numeric requirement of this definition, including but not limited to support staff and other personnel who work in or from the office building or buildings or transportation facilities.

"Department" means the Department of Commerce and Community Affairs.

"Director" means the Director of Commerce and Community Affairs.

"Eligible business" means a business that: (i) is engaged in interstate or intrastate commerce; (ii) maintains its corporate headquarters in a state other than Illinois as of the effective date of this Act; (iii) had annual worldwide revenues of at least $25,000,000,000 for the year immediately preceding its application to the Department for the benefits authorized by this Act; and (iv) is prepared to commit contractually to relocating its corporate headquarters to the State of Illinois in consideration of the benefits authorized by this Act.

"Fund" means the Corporate Headquarters Relocation Assistance Fund.

"Qualifying project" means the relocation of the corporate headquarters of an eligible business from a location outside of Illinois to a location within Illinois, whether to an existing structure or otherwise. When the relocation involves an initial interim facility within Illinois and a subsequent further relocation within 5 years after the effective date of this Act to a permanent facility also within Illinois, all those activities collectively constitute a "qualifying project" under this Act.

"Relocation costs" means the expenses incurred by an eligible business for a qualifying project, including, but not limited to, the following: moving costs and related expenses; purchase of new or replacement equipment; outside professional fees and commissions; premiums for property and casualty insurance coverage; capital investment costs; financing costs; property assembly and development costs, including, but not limited to, the purchase, lease, and construction of equipment, buildings, and land, infrastructure improvements and site development costs, leasehold improvements costs, rehabilitation costs, and costs of studies, surveys, development of plans, and professional services costs such as architectural, engineering, legal, financial, planning, or other related services; "relocation costs", however, does not include moving costs associated with the relocation of the personal residences of the employees of the eligible business and does not include any costs that do not directly result from the relocation of the business to a location within Illinois. In determining whether costs directly result from the relocation of the business, the Department shall consider whether the costs would likely have been incurred by the business if it had not relocated from its original location.

Section 15. Powers of the Department. The Department, in addition to the powers granted under the Civil Administrative Code of Illinois, has all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the power to:
(1) promulgate rules and establish procedures deemed necessary and appropriate for the administration of this Act;

(2) negotiate and execute any term, agreement, or other document with any person, entity, or body politic necessary or appropriate to accomplish the purposes of this Act;

(3) fix, determine, charge, and collect premiums, fees, charges, costs, and expenses from eligible businesses, including, without limitation, application fees, commitment fees, program fees, financing charges, or publication fees as deemed appropriate to pay expenses necessary or incident to the administration of the Department's activities and duties under this Act, including the preparation and enforcement of any agreement, or for consultation services, legal services, or other costs;

(4) require eligible businesses, upon written request, to issue any necessary authorization to the appropriate federal, state, or local authority for the release of information concerning a qualifying project; and

(5) take whatever actions are necessary or appropriate to protect the State's interest in the event of bankruptcy, default, foreclosure, or noncompliance with the terms and conditions of any agreement entered into pursuant to this Act, including the power to sell, dispose, lease, or rent, upon terms and conditions determined by the Director to be appropriate, real or personal property that the Department may receive as a result of these actions.

Section 20. Reimbursement for relocation costs.
(a) The initial application of an eligible business proposing a qualifying project must be filed with the Department no later than July 1, 2004.

(b) Upon receipt and approval of an application from an eligible business proposing a qualifying project, the Department may enter into an agreement with the eligible business wherein the Department agrees to reimburse the eligible business for its relocation costs subject to the following terms, conditions, and limitations:

(1) The eligible business must apply to the Department for reimbursement of its relocation costs.

(2) The application submitted by the eligible business must identify with specificity the relocation costs for which reimbursement is sought, and the eligible business must provide the Department with all supporting documentation as requested by the Department. The eligible business may amend its application for reimbursement from time to time in order to cover additional relocation costs incurred after the submission of an initial application.

(3) The Department reserves the right to approve or disapprove specific items and categories of relocation costs.

(4) The eligible business must in fact relocate its corporate headquarters to the State of Illinois within a time frame specified by the Department.

(5) The eligible business may receive reimbursement
for not greater than 50% of its documented relocation costs.

(6) The agreement between the Department and the eligible business must provide that reimbursement will be provided by means of one or more grants that shall be issued annually by the Department for a period not to exceed 10 years or until 50% of the eligible business' relocation costs are reimbursed, whichever occurs first.

(7) The amount of the annual grant that may be issued to the eligible business by the Department may not exceed 50% of the total amount withheld from employees of the eligible business employed at the corporate headquarters during the preceding calendar year under Article 7 of the Illinois Income Tax Act.

(8) In applying to the Department for reimbursement, the eligible business must certify the total amount withheld during the preceding calendar year under Article 7 of the Illinois Income Tax Act from its employees employed at the corporate headquarters.

(9) The Department may issue grants from the Corporate Headquarters Relocation Assistance Fund to eligible businesses for reimbursement of relocation costs as provided by this Act.

Section 25. Review of application for reimbursement. No eligible business is eligible for reimbursement of relocation costs under this Act unless the Department determines at the time of the eligible business' initial application that, if not for that reimbursement, the eligible business would not have determined to relocate its corporate headquarters to Illinois. The eligible business may satisfy this requirement by, among other means, presenting evidence to the Department that the eligible business has or had multi-state location options and could reasonably and efficiently have located its corporate headquarters to a state other than Illinois; by a demonstration that at least one other state is or was being considered for the location of its corporate headquarters; or through evidence that receipt of the benefits authorized by this Act is an important factor in the eligible business' decision to locate its corporate headquarters to Illinois, and that without that assistance, the eligible business likely would not establish its corporate headquarters in Illinois.

Section 30. Transfers to Corporate Headquarters Relocation Assistance Fund. Upon receipt of a certification by the eligible business of the aggregate amount withheld from its employees employed at the corporate headquarters during the preceding calendar year under Article 7 of the Illinois Income Tax Act, the Department shall then certify to the State Treasurer that 50% of that amount is eligible to be transferred from the General Revenue Fund to the Corporate Headquarters Relocation Assistance Fund. This amount shall be referred to as the "certified transfer amount". Upon receipt of the certification from the Department, the Treasurer shall transfer the certified transfer amount within 30 days from the General Revenue Fund to the Corporate Headquarters Relocation Assistance Fund.

Section 35. Corporate Headquarters Relocation Assistance
Fund; creation. The Corporate Headquarters Relocation Assistance Fund is created as a separate fund within the State treasury. From the Fund and pursuant to the provisions of this Act, the Department may issue grants to reimburse eligible businesses for relocation costs incurred in connection with the relocation of a corporate headquarters to the State of Illinois.

Section 40. Other incentives. Nothing in this Act precludes an eligible business with respect to a qualifying project from applying for or receiving any other federal, State, or local assistance or incentives in connection with the relocation of its corporate headquarters to the State of Illinois.

Section 905. The State Finance Act is amended by adding Section 5.545 as follows:

(30 ILCS 105/5.545 new)
Sec. 5.545. The Corporate Headquarters Relocation Assistance Fund.

Section 910. The Illinois Income Tax Act is amended by changing Section 211 as follows:

(35 ILCS 5/211)
Sec. 211. Economic Development for a Growing Economy Tax Credit. For tax years beginning on or after January 1, 1999, a Taxpayer who has entered into an Agreement under the Economic Development for a Growing Economy Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount to be determined in the Agreement. If the Taxpayer is a partnership or Subchapter S corporation, the credit shall be allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code. The Department, in cooperation with the Department of Commerce and Community Affairs, shall prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

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

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

2. The amount of the credit allowed during the tax year plus the sum of all amounts allowed in prior years shall not exceed 100% of the aggregate amount expended by the Taxpayer during all prior tax years on approved costs defined by Agreement.

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

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

(5) No credit shall be allowed with respect to any Agreement for any taxable year ending after the Noncompliance Date. Upon receiving notification by the Department of Commerce and Community Affairs of the noncompliance of a Taxpayer with an Agreement, the Department shall notify the Taxpayer that no credit is allowed with respect to that Agreement for any taxable year ending after the Noncompliance Date, as stated in such notification. If any credit has been allowed with respect to an Agreement for a taxable year ending after the Noncompliance Date for that Agreement, any refund paid to the Taxpayer for that taxable year shall, to the extent of that credit allowed, be an erroneous refund within the meaning of Section 912 of this Act.

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

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

Section 915. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Sections 5-35 and 5-45 as follows:

(35 ILCS 10/5-35)
Sec. 5-35. Relocation of jobs in Illinois. A taxpayer is not entitled to claim the credit provided by this Act with respect to any jobs that the taxpayer relocates from one site in Illinois to another site in Illinois. A taxpayer with respect to a qualifying project certified under the Corporate Headquarters Relocation Act, however, is not subject to the requirements of this Section but is nevertheless considered an applicant for purposes of this Act. Moreover, any full-time employee of an eligible business relocated to Illinois in connection with that qualifying project is deemed to be a new employee for purposes of this Act. Determinations under this Section shall be made by the Department.

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

(35 ILCS 10/5-45)
Sec. 5-45. Amount and duration of the credit.
(a) The Department shall determine the amount and duration of the credit awarded under this Act. The duration of the credit may not exceed 10 taxable years. The credit may be stated as a percentage of the Incremental Income Tax attributable to the applicant's project and may include a fixed dollar limitation.

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

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

Section 920. The Property Tax Code is amended by changing Section 18-165 as follows:

(35 ILCS 200/18-165)
Sec. 18-165. Abatement of taxes.
(a) Any taxing district, upon a majority vote of its governing authority, may, after the determination of the assessed valuation of its property, order the clerk of that county to abate any portion of its taxes on the following types of property:
(1) Commercial and industrial.
   (A) The property of any commercial or industrial firm, including but not limited to the property of any firm that is used for collecting, separating, storing, or processing recyclable materials, locating within the taxing district during the immediately preceding year from another state, territory, or country, or having been newly created within this State during the immediately preceding year, or expanding an existing facility. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $4,000,000; or
   (B) The property of any commercial or industrial development of at least 500 acres having been created within the taxing district. The abatement shall not exceed a period of 20 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $12,000,000.
   (C) The property of any commercial or industrial firm currently located in the taxing district that expands a facility or its number of employees. The abatement shall not exceed a period of 10 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $4,000,000. The abatement period may be renewed at the option of the taxing districts.
(2) Horse racing. Any property in the taxing
district which is used for the racing of horses and upon which capital improvements consisting of expansion, improvement or replacement of existing facilities have been made since July 1, 1987. The combined abatements for such property from all taxing districts in any county shall not exceed $5,000,000 annually and shall not exceed a period of 10 years.

(3) Auto racing. Any property designed exclusively for the racing of motor vehicles. Such abatement shall not exceed a period of 10 years.

(4) Academic or research institute. The property of any academic or research institute in the taxing district that (i) is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code, (ii) operates for the benefit of the public by actually and exclusively performing scientific research and making the results of the research available to the interested public on a non-discriminatory basis, and (iii) employs more than 100 employees. An abatement granted under this paragraph shall be for at least 15 years and the aggregate amount of abated taxes for all taxing districts combined shall not exceed $5,000,000.

(5) Housing for older persons. Any property in the taxing district that is devoted exclusively to affordable housing for older households. For purposes of this paragraph, "older households" means those households (i) living in housing provided under any State or federal program that the Department of Human Rights determines is specifically designed and operated to assist elderly persons and is solely occupied by persons 55 years of age or older and (ii) whose annual income does not exceed 80% of the area gross median income, adjusted for family size, as such gross income and median income are determined from time to time by the United States Department of Housing and Urban Development. The abatement shall not exceed a period of 15 years, and the aggregate amount of abated taxes for all taxing districts shall not exceed $3,000,000.

(6) Historical society. For assessment years 1998 through 2000, the property of an historical society qualifying as an exempt organization under Section 501(c)(3) of the federal Internal Revenue Code.

(7) Recreational facilities. Any property in the taxing district (i) that is used for a municipal airport, (ii) that is subject to a leasehold assessment under Section 9-195 of this Code and (iii) which is sublet from a park district that is leasing the property from a municipality, but only if the property is used exclusively for recreational facilities or for parking lots used exclusively for those facilities. The abatement shall not exceed a period of 10 years.

(8) Relocated corporate headquarters. If approval occurs within 5 years after the effective date of this amendatory Act of the 92nd General Assembly, any property or a portion of any property in a taxing district that is used by an eligible business for a corporate headquarters as defined in the Corporate Headquarters Relocation Act. Instead of an abatement under this paragraph (8), a taxing district may enter into an agreement with an eligible business to make annual payments to that
eligible business in an amount not to exceed the property
taxes paid directly or indirectly by that eligible
business to the taxing district and any other taxing
districts for premises occupied pursuant to a written
lease and may make those payments without the need for an
annual appropriation. No school district, however, may
enter into an agreement with, or abate taxes for, an
eligible business unless the municipality in which the
corporate headquarters is located agrees to provide
funding to the school district in an amount equal to the
amount abated or paid by the school district as provided
in this paragraph (8). Any abatement ordered or
agreement entered into under this paragraph (8) may be
effective for the entire term specified by the taxing
district, except the term of the abatement or annual
payments may not exceed 20 years.

(b) Upon a majority vote of its governing authority, any
municipality may, after the determination of the assessed
valuation of its property, order the county clerk to abate
any portion of its taxes on any property that is located
within the corporate limits of the municipality in accordance
with Section 8-3-18 of the Illinois Municipal Code.
(Source: P.A. 90-46, eff. 7-3-97; 90-415, eff. 8-15-97;
90-568, eff. 1-1-99; 90-655, eff. 7-30-98; 91-644, eff.
8-20-99; 91-885, eff. 7-6-00.)

Section 999. Effective date. This Act takes effect upon
becoming law.
Approved August 01, 2001.

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