

HB5827



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5827

Introduced 4/30/2024, by Rep. Yolonda Morris

SYNOPSIS AS INTRODUCED:

35 ILCS 5/229

Amends the Illinois Income Tax Act. Provides that, if a taxpayer is awarded a credit by the Department of Commerce and Economic Opportunity in connection with a qualifying Illinois data center located in a qualified area or a data center developed by a minority-owned business, a women-owned business, or a business owned a person with a disability, then the taxpayer is entitled to an additional income tax credit in an amount equal to 5% of the taxpayer's investment in qualified tangible personal property used in the construction or operation of that data center. Effective immediately.

LRB103 40194 HLH 72036 b

A BILL FOR

1 AN ACT concerning revenue.

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 229 as follows:

6 (35 ILCS 5/229)

7 Sec. 229. Data center construction employment tax credit.

8 (a) A taxpayer who has been awarded a credit by the
9 Department of Commerce and Economic Opportunity under Section
10 605-1025 of the Department of Commerce and Economic
11 Opportunity Law of the Civil Administrative Code of Illinois
12 is entitled to a credit against the taxes imposed under
13 subsections (a) and (b) of Section 201 of this Act. The amount
14 of the credit shall be 20% of the wages paid during the taxable
15 year to a full-time or part-time employee of a construction
16 contractor employed by a certified data center if those wages
17 are paid for the construction of a new data center in a
18 geographic area that meets any one of the following criteria:

19 (1) the area has a poverty rate of at least 20%,
20 according to the U.S. Census Bureau American Community
21 Survey 5-Year Estimates;

22 (2) 75% or more of the children in the area
23 participate in the federal free lunch program, according

1 to reported statistics from the State Board of Education;

2 (3) 20% or more of the households in the area receive
3 assistance under the Supplemental Nutrition Assistance
4 Program (SNAP), according to data from the U.S. Census
5 Bureau American Community Survey 5-year Estimates; or

6 (4) the area has an average unemployment rate, as
7 determined by the Department of Employment Security, that
8 is more than 120% of the national unemployment average, as
9 determined by the U.S. Department of Labor, for a period
10 of at least 2 consecutive calendar years preceding the
11 date of the application.

12 (a-5) For taxable years beginning on or after January 1,
13 2025, if the taxpayer is awarded a credit under Section
14 605-1025 of the Department of Commerce and Economic
15 Opportunity Law of the Civil Administrative Code of Illinois
16 in connection with a qualifying Illinois data center located
17 in a qualified area or a data center developed by a qualified
18 business enterprise, then the taxpayer is entitled to an
19 additional credit against the tax imposed by subsections (a)
20 and (b) of Section 201 in an amount equal to 5% of the
21 taxpayer's investment in qualified tangible personal property
22 used in the construction or operation of that data center. The
23 credit shall be available for a period of 5 taxable years after
24 the property is placed in service. The taxpayer may transfer
25 the credit in accordance with rules adopted by the Department
26 of Commerce and Economic Opportunity.

1 (a-10) For taxable years ending before December 31, 2023,
2 if the taxpayer is a partnership, a Subchapter S corporation,
3 or a limited liability company that has elected partnership
4 tax treatment, the credit shall be allowed to the partners,
5 shareholders, or members in accordance with the determination
6 of income and distributive share of income under Sections 702
7 and 704 and subchapter S of the Internal Revenue Code, as
8 applicable. For taxable years ending on or after December 31,
9 2023, if the taxpayer is a partnership or a Subchapter S
10 corporation, then the provisions of Section 251 apply. The
11 Department, in cooperation with the Department of Commerce and
12 Economic Opportunity, shall adopt rules to enforce and
13 administer this Section. This Section is exempt from the
14 provisions of Section 250 of this Act.

15 (b) In no event shall a credit under this Section reduce
16 the taxpayer's liability to less than zero. If the amount of
17 the credit exceeds the tax liability for the year, the excess
18 may be carried forward and applied to the tax liability of the
19 5 taxable years following the excess credit year. The tax
20 credit shall be applied to the earliest year for which there is
21 a tax liability. If there are credits for more than one year
22 that are available to offset a liability, the earlier credit
23 shall be applied first.

24 (c) No credit shall be allowed with respect to any
25 certification for any taxable year ending after the revocation
26 of the certification by the Department of Commerce and

1 Economic Opportunity. Upon receiving notification by the
2 Department of Commerce and Economic Opportunity of the
3 revocation of certification, the Department shall notify the
4 taxpayer that no credit is allowed for any taxable year ending
5 after the revocation date, as stated in such notification. If
6 any credit has been allowed with respect to a certification
7 for a taxable year ending after the revocation date, any
8 refund paid to the taxpayer for that taxable year shall, to the
9 extent of that credit allowed, be an erroneous refund within
10 the meaning of Section 912 of this Act.

11 (d) As used in this Section:

12 "Qualified area" means an opportunity zone, an area
13 designated as an R3 community pursuant to the Cannabis
14 Regulation and Tax Act, or a community designated as a
15 Disproportionately Impacted Area that is eligible for
16 participation in the Illinois Adult-Use Cannabis Social Equity
17 Program administered by the Department of Commerce and
18 Economic Opportunity.

19 "Qualified business enterprise" means a minority-owned
20 business, a women-owned business, or a business owned a person
21 with a disability, as those terms are defined in the Business
22 Enterprise for Minorities, Women, and Persons with
23 Disabilities Act.

24 "Qualified tangible personal property" has the meaning
25 given to that term in Section 605-1025 of the Department of
26 Commerce and Economic Opportunity Law of the Civil

1 Administrative Code of Illinois.

2 (e) This Section is exempt from the provisions of Section
3 250.

4 (Source: P.A. 102-558, eff. 8-20-21; 103-396, eff. 1-1-24.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.