



Rep. Stephanie A. Kifowit

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1 AMENDMENT TO HOUSE BILL 5172

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5172 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Enterprise Zone Act is amended by  
5 changing Section 5.5 as follows:

6 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

7 Sec. 5.5. High Impact Business.

8 (a) In order to respond to unique opportunities to assist  
9 in the encouragement, development, growth and expansion of the  
10 private sector through large scale investment and development  
11 projects, the Department is authorized to receive and approve  
12 applications for the designation of "High Impact Businesses" in  
13 Illinois subject to the following conditions:

14 (1) such applications may be submitted at any time  
15 during the year;

16 (2) such business is not located, at the time of

1 designation, in an enterprise zone designated pursuant to  
2 this Act;

3 (3) the business intends to do one or more of the  
4 following:

5 (A) the business intends to make a minimum  
6 investment of \$12,000,000 which will be placed in  
7 service in qualified property and intends to create 500  
8 full-time equivalent jobs at a designated location in  
9 Illinois or intends to make a minimum investment of  
10 \$30,000,000 which will be placed in service in  
11 qualified property and intends to retain 1,500  
12 full-time retained jobs at a designated location in  
13 Illinois. The business must certify in writing that the  
14 investments would not be placed in service in qualified  
15 property and the job creation or job retention would  
16 not occur without the tax credits and exemptions set  
17 forth in subsection (b) of this Section. The terms  
18 "placed in service" and "qualified property" have the  
19 same meanings as described in subsection (h) of Section  
20 201 of the Illinois Income Tax Act; or

21 (B) the business intends to establish a new  
22 electric generating facility at a designated location  
23 in Illinois. "New electric generating facility", for  
24 purposes of this Section, means a newly-constructed  
25 electric generation plant or a newly-constructed  
26 generation capacity expansion at an existing electric

1 generation plant, including the transmission lines and  
2 associated equipment that transfers electricity from  
3 points of supply to points of delivery, and for which  
4 such new foundation construction commenced not sooner  
5 than July 1, 2001. Such facility shall be designed to  
6 provide baseload electric generation and shall operate  
7 on a continuous basis throughout the year; and (i)  
8 shall have an aggregate rated generating capacity of at  
9 least 1,000 megawatts for all new units at one site if  
10 it uses natural gas as its primary fuel and foundation  
11 construction of the facility is commenced on or before  
12 December 31, 2004, or shall have an aggregate rated  
13 generating capacity of at least 400 megawatts for all  
14 new units at one site if it uses coal or gases derived  
15 from coal as its primary fuel and shall support the  
16 creation of at least 150 new Illinois coal mining jobs,  
17 or (ii) shall be funded through a federal Department of  
18 Energy grant before December 31, 2010 and shall support  
19 the creation of Illinois coal-mining jobs, or (iii)  
20 shall use coal gasification or integrated  
21 gasification-combined cycle units that generate  
22 electricity or chemicals, or both, and shall support  
23 the creation of Illinois coal-mining jobs. The  
24 business must certify in writing that the investments  
25 necessary to establish a new electric generating  
26 facility would not be placed in service and the job

1 creation in the case of a coal-fueled plant would not  
2 occur without the tax credits and exemptions set forth  
3 in subsection (b-5) of this Section. The term "placed  
4 in service" has the same meaning as described in  
5 subsection (h) of Section 201 of the Illinois Income  
6 Tax Act; or

7 (B-5) the business intends to establish a new  
8 gasification facility at a designated location in  
9 Illinois. As used in this Section, "new gasification  
10 facility" means a newly constructed coal gasification  
11 facility that generates chemical feedstocks or  
12 transportation fuels derived from coal (which may  
13 include, but are not limited to, methane, methanol, and  
14 nitrogen fertilizer), that supports the creation or  
15 retention of Illinois coal-mining jobs, and that  
16 qualifies for financial assistance from the Department  
17 before December 31, 2010. A new gasification facility  
18 does not include a pilot project located within  
19 Jefferson County or within a county adjacent to  
20 Jefferson County for synthetic natural gas from coal;  
21 or

22 (C) the business intends to establish production  
23 operations at a new coal mine, re-establish production  
24 operations at a closed coal mine, or expand production  
25 at an existing coal mine at a designated location in  
26 Illinois not sooner than July 1, 2001; provided that

1 the production operations result in the creation of 150  
2 new Illinois coal mining jobs as described in  
3 subdivision (a)(3)(B) of this Section, and further  
4 provided that the coal extracted from such mine is  
5 utilized as the predominant source for a new electric  
6 generating facility. The business must certify in  
7 writing that the investments necessary to establish a  
8 new, expanded, or reopened coal mine would not be  
9 placed in service and the job creation would not occur  
10 without the tax credits and exemptions set forth in  
11 subsection (b-5) of this Section. The term "placed in  
12 service" has the same meaning as described in  
13 subsection (h) of Section 201 of the Illinois Income  
14 Tax Act; or

15 (D) the business intends to construct new  
16 transmission facilities or upgrade existing  
17 transmission facilities at designated locations in  
18 Illinois, for which construction commenced not sooner  
19 than July 1, 2001. For the purposes of this Section,  
20 "transmission facilities" means transmission lines  
21 with a voltage rating of 115 kilovolts or above,  
22 including associated equipment, that transfer  
23 electricity from points of supply to points of delivery  
24 and that transmit a majority of the electricity  
25 generated by a new electric generating facility  
26 designated as a High Impact Business in accordance with

1           this Section. The business must certify in writing that  
2           the investments necessary to construct new  
3           transmission facilities or upgrade existing  
4           transmission facilities would not be placed in service  
5           without the tax credits and exemptions set forth in  
6           subsection (b-5) of this Section. The term "placed in  
7           service" has the same meaning as described in  
8           subsection (h) of Section 201 of the Illinois Income  
9           Tax Act; or

10           (E) the business intends to establish a new wind  
11           power facility at a designated location in Illinois.  
12           For purposes of this Section, "new wind power facility"  
13           means a newly constructed electric generation  
14           facility, or a newly constructed expansion of an  
15           existing electric generation facility, placed in  
16           service on or after July 1, 2009, that generates  
17           electricity using wind energy devices, and such  
18           facility shall be deemed to include all associated  
19           transmission lines, substations, and other equipment  
20           related to the generation of electricity from wind  
21           energy devices. For purposes of this Section, "wind  
22           energy device" means any device, with a nameplate  
23           capacity of at least 0.5 megawatts, that is used in the  
24           process of converting kinetic energy from the wind to  
25           generate electricity; or

26           (F) the business commits to (i) make a minimum

1 investment of \$500,000,000, which will be placed in  
2 service in a qualified property, (ii) create 125  
3 full-time equivalent jobs at a designated location in  
4 Illinois, (iii) establish a fertilizer plant at a  
5 designated location in Illinois that complies with the  
6 set-back standards as described in Table 1: Initial  
7 Isolation and Protective Action Distances in the 2012  
8 Emergency Response Guidebook published by the United  
9 States Department of Transportation, (iv) pay a  
10 prevailing wage for employees at that location who are  
11 engaged in construction activities, and (v) secure an  
12 appropriate level of general liability insurance to  
13 protect against catastrophic failure of the fertilizer  
14 plant or any of its constituent systems; in addition,  
15 the business must agree to enter into a construction  
16 project labor agreement including provisions  
17 establishing wages, benefits, and other compensation  
18 for employees performing work under the project labor  
19 agreement at that location; for the purposes of this  
20 Section, "fertilizer plant" means a newly constructed  
21 or upgraded plant utilizing gas used in the production  
22 of anhydrous ammonia and downstream nitrogen  
23 fertilizer products for resale; for the purposes of  
24 this Section, "prevailing wage" means the hourly cash  
25 wages plus fringe benefits for training and  
26 apprenticeship programs approved by the U.S.

1 Department of Labor, Bureau of Apprenticeship and  
2 Training, health and welfare, insurance, vacations and  
3 pensions paid generally, in the locality in which the  
4 work is being performed, to employees engaged in work  
5 of a similar character on public works; this paragraph  
6 (F) applies only to businesses that submit an  
7 application to the Department within 60 days after the  
8 effective date of this amendatory Act of the 98th  
9 General Assembly; or and

10 (G) the business intends to establish a new  
11 qualified hydroponics facility or expand production at  
12 an existing qualified hydroponics facility to engage  
13 in the practice of hydroponics, provided that the  
14 production operations result in the creation of at  
15 least 25 full-time-equivalent Illinois jobs; for the  
16 purposes of this paragraph:

17 "hydroponics" means a system in which  
18 water-soluble nutrients are placed in intimate  
19 contact with a plant's root system, being grown in  
20 an inert supportive medium, which inert supportive  
21 medium itself supplies physical support for the  
22 roots and does not add or subtract plant nutrients;  
23 and

24 "qualified hydroponics facility" means real  
25 property used for an indoor agriculture production  
26 operation using hydroponics techniques or



1           practices for growing plants produced by  
2           agriculture that are useful for human beings,  
3           including, but not limited to, forages, field  
4           crops, sod, berries, herbs, fruits, vegetables,  
5           flowers, seeds, and nursery stock; "qualified  
6           hydroponics facility" does not include an indoor  
7           agriculture production operation for growing  
8           plants that are illegal under federal law; and

9           (4) no later than 90 days after an application is  
10          submitted, the Department shall notify the applicant of the  
11          Department's determination of the qualification of the  
12          proposed High Impact Business under this Section.

13          (b) Businesses designated as High Impact Businesses  
14          pursuant to subdivision (a) (3) (A) of this Section shall qualify  
15          for the credits and exemptions described in the following Acts:  
16          Section 9-222 and Section 9-222.1A of the Public Utilities Act,  
17          subsection (h) of Section 201 of the Illinois Income Tax Act,  
18          and Section 1d of the Retailers' Occupation Tax Act; provided  
19          that these credits and exemptions described in these Acts shall  
20          not be authorized until the minimum investments set forth in  
21          subdivision (a) (3) (A) of this Section have been placed in  
22          service in qualified properties and, in the case of the  
23          exemptions described in the Public Utilities Act and Section 1d  
24          of the Retailers' Occupation Tax Act, the minimum full-time  
25          equivalent jobs or full-time retained jobs set forth in  
26          subdivision (a) (3) (A) of this Section have been created or

1 retained. Businesses designated as High Impact Businesses  
2 under this Section shall also qualify for the exemption  
3 described in Section 51 of the Retailers' Occupation Tax Act.  
4 The credit provided in subsection (h) of Section 201 of the  
5 Illinois Income Tax Act shall be applicable to investments in  
6 qualified property as set forth in subdivision (a)(3)(A) of  
7 this Section.

8 (b-5) Businesses designated as High Impact Businesses  
9 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),  
10 and (a)(3)(D) of this Section shall qualify for the credits and  
11 exemptions described in the following Acts: Section 51 of the  
12 Retailers' Occupation Tax Act, Section 9-222 and Section  
13 9-222.1A of the Public Utilities Act, and subsection (h) of  
14 Section 201 of the Illinois Income Tax Act; however, the  
15 credits and exemptions authorized under Section 9-222 and  
16 Section 9-222.1A of the Public Utilities Act, and subsection  
17 (h) of Section 201 of the Illinois Income Tax Act shall not be  
18 authorized until the new electric generating facility, the new  
19 gasification facility, the new transmission facility, or the  
20 new, expanded, or reopened coal mine is operational, except  
21 that a new electric generating facility whose primary fuel  
22 source is natural gas is eligible only for the exemption under  
23 Section 51 of the Retailers' Occupation Tax Act.

24 (b-6) Businesses designated as High Impact Businesses  
25 pursuant to subdivision (a)(3)(E) of this Section shall qualify  
26 for the exemptions described in Section 51 of the Retailers'

1 Occupation Tax Act; any business so designated as a High Impact  
2 Business being, for purposes of this Section, a "Wind Energy  
3 Business".

4 (c) High Impact Businesses located in federally designated  
5 foreign trade zones or sub-zones are also eligible for  
6 additional credits, exemptions and deductions as described in  
7 the following Acts: Section 9-221 and Section 9-222.1 of the  
8 Public Utilities Act; and subsection (g) of Section 201, and  
9 Section 203 of the Illinois Income Tax Act.

10 (d) Except for businesses contemplated under subdivision  
11 (a) (3) (E) of this Section, existing Illinois businesses which  
12 apply for designation as a High Impact Business must provide  
13 the Department with the prospective plan for which 1,500  
14 full-time retained jobs would be eliminated in the event that  
15 the business is not designated.

16 (e) Except for new wind power facilities contemplated under  
17 subdivision (a) (3) (E) of this Section, new proposed facilities  
18 which apply for designation as High Impact Business must  
19 provide the Department with proof of alternative non-Illinois  
20 sites which would receive the proposed investment and job  
21 creation in the event that the business is not designated as a  
22 High Impact Business.

23 (f) Except for businesses contemplated under subdivision  
24 (a) (3) (E) of this Section, in the event that a business is  
25 designated a High Impact Business and it is later determined  
26 after reasonable notice and an opportunity for a hearing as

1 provided under the Illinois Administrative Procedure Act, that  
2 the business would have placed in service in qualified property  
3 the investments and created or retained the requisite number of  
4 jobs without the benefits of the High Impact Business  
5 designation, the Department shall be required to immediately  
6 revoke the designation and notify the Director of the  
7 Department of Revenue who shall begin proceedings to recover  
8 all wrongfully exempted State taxes with interest. The business  
9 shall also be ineligible for all State funded Department  
10 programs for a period of 10 years.

11 (g) The Department shall revoke a High Impact Business  
12 designation if the participating business fails to comply with  
13 the terms and conditions of the designation. However, the  
14 penalties for new wind power facilities or Wind Energy  
15 Businesses for failure to comply with any of the terms or  
16 conditions of the Illinois Prevailing Wage Act shall be only  
17 those penalties identified in the Illinois Prevailing Wage Act,  
18 and the Department shall not revoke a High Impact Business  
19 designation as a result of the failure to comply with any of  
20 the terms or conditions of the Illinois Prevailing Wage Act in  
21 relation to a new wind power facility or a Wind Energy  
22 Business.

23 (h) Prior to designating a business, the Department shall  
24 provide the members of the General Assembly and Commission on  
25 Government Forecasting and Accountability with a report  
26 setting forth the terms and conditions of the designation and

1 guarantees that have been received by the Department in  
2 relation to the proposed business being designated.

3 (Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)

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