



Rep. John E. Bradley

Filed: 5/26/2004

09300SB3188ham001

LRB093 19067 RAS 51661 a

1 AMENDMENT TO SENATE BILL 3188

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3188 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic  
5 Opportunity Law of the Civil Administrative Code is amended by  
6 changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation  
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a  
12 newly-constructed electric generation plant or a newly  
13 constructed generation capacity expansion at an existing  
14 facility, including the transmission lines and associated  
15 equipment that transfers electricity from points of supply to  
16 points of delivery, and for which foundation construction  
17 commenced not sooner than July 1, 2001, which is designed to  
18 provide baseload electric generation operating on a continuous  
19 basis throughout the year~~+~~ and:

20 (1) ~~which~~ has an aggregate rated generating capacity of  
21 at least 400 megawatts for all new units at one site, uses  
22 coal or gases derived from coal as its primary fuel source,  
23 and supports the creation of at least 150 new Illinois coal  
24 mining jobs; or

1           (2) is (i) funded through a federal Department of  
2           Energy grant before July 1, 2005, and (ii) uses coal  
3           gasification or integrated gasification-combined cycle  
4           units that generate electricity or chemicals, or both, and  
5           that supports the creation of Illinois coal-mining jobs.

6           "Eligible business" means an entity that proposes to  
7           construct a new electric generating facility and that has  
8           applied to the Department to receive financial assistance  
9           pursuant to this Section. With respect to use and occupation  
10          taxes, wherever there is a reference to taxes, that reference  
11          means only those taxes paid on Illinois-mined coal used in a  
12          new electric generating facility.

13          "Department" means the Illinois Department of Commerce and  
14          Economic Opportunity ~~Community Affairs~~.

15          (b) The Department is authorized to provide financial  
16          assistance to eligible businesses for new electric generating  
17          facilities from funds appropriated by the General Assembly as  
18          further provided in this Section.

19          An eligible business seeking qualification for financial  
20          assistance for a new electric generating facility, for purposes  
21          of this Section only, shall apply to the Department in the  
22          manner specified by the Department. Any projections provided by  
23          an eligible business as part of the application shall be  
24          independently verified in a manner as set forth by the  
25          Department. An application shall include, but not be limited  
26          to:

27                 (1) the projected or actual completion date of the new  
28                 electric generating facility for which financial  
29                 assistance is sought;

30                 (2) copies of documentation deemed acceptable by the  
31                 Department establishing either (i) the total State  
32                 occupation and use taxes paid on Illinois-mined coal used  
33                 at the new electric generating facility for a minimum of 4  
34                 preceding calendar quarters or (ii) the projected amount of

1 State occupation and use taxes paid on Illinois-mined coal  
2 used at the new electric generating facility in 4 calendar  
3 year quarters after completion of the new electric  
4 generating facility. Bond proceeds subject to this Section  
5 shall not be allocated to an eligible business until the  
6 eligible business has demonstrated the revenue stream  
7 sufficient to service the debt on the bonds; and

8 (3) the actual or projected amount of capital  
9 investment by the eligible business in the new electric  
10 generating facility.

11 The Department shall determine the maximum amount of  
12 financial assistance for eligible businesses in accordance  
13 with this paragraph. The Department shall not provide financial  
14 assistance from general obligation bond funds to any eligible  
15 business unless it receives a written certification from the  
16 Director of the Bureau of the Budget (now Governor's Office of  
17 Management and Budget) that 80% of the State occupation and use  
18 tax receipts for a minimum of the preceding 4 calendar quarters  
19 for all eligible businesses or as included in projections on  
20 approved applications by eligible businesses equal or exceed  
21 110% of the maximum annual debt service required with respect  
22 to general obligation bonds issued for that purpose. The  
23 Department may provide financial assistance not to exceed the  
24 amount of State general obligation debt calculated as above,  
25 the amount of actual or projected capital investment in the  
26 energy generation facility, or \$100,000,000, whichever is  
27 less. Financial assistance received pursuant to this Section  
28 may be used for capital facilities consisting of buildings,  
29 structures, durable equipment, and land at the new electric  
30 generating facility. Subject to the provisions of the agreement  
31 covering the financial assistance, a portion of the financial  
32 assistance may be required to be repaid to the State if certain  
33 conditions for the governmental purpose of the assistance were  
34 not met.

1           An eligible business shall file a monthly report with the  
2 Illinois Department of Revenue stating the amount of  
3 Illinois-mined coal purchased during the previous month for use  
4 in the new electric generating facility, the purchase price of  
5 that coal, the amount of State occupation and use taxes paid on  
6 that purchase to the seller of the Illinois-mined coal, and  
7 such other information as that Department may reasonably  
8 require. In sales of Illinois-mined coal between related  
9 parties, the purchase price of the coal must have been  
10 determined in an arms-length transaction. The report shall be  
11 filed with the Illinois Department of Revenue on or before the  
12 20th day of each month on a form provided by that Department.  
13 However, no report need be filed by an eligible business in a  
14 month when it made no reportable purchases of coal in the  
15 previous month. The Illinois Department of Revenue shall  
16 provide a summary of such reports to the Governor's Office of  
17 Management and Budget ~~Bureau of the Budget~~.

18           Upon granting financial assistance to an eligible  
19 business, the Department shall certify the name of the eligible  
20 business to the Illinois Department of Revenue. Beginning with  
21 the receipt of the first report of State occupation and use  
22 taxes paid by an eligible business and continuing for a 25-year  
23 period, the Illinois Department of Revenue shall each month pay  
24 into the Energy Infrastructure Fund 80% of the net revenue  
25 realized from the 6.25% general rate on the selling price of  
26 Illinois-mined coal that was sold to an eligible business.

27           (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03; revised  
28 8-23-03.)

29           Section 10. The Illinois Enterprise Zone Act is amended by  
30 changing Section 5.5 as follows:

31           (20 ILCS 655/5.5)   (from Ch. 67 1/2, par. 609.1)

32           Sec. 5.5. High Impact Business.

1           (a) In order to respond to unique opportunities to assist  
2 in the encouragement, development, growth and expansion of the  
3 private sector through large scale investment and development  
4 projects, the Department is authorized to receive and approve  
5 applications for the designation of "High Impact Businesses" in  
6 Illinois subject to the following conditions:

7           (1) such applications may be submitted at any time  
8 during the year;

9           (2) such business is not located, at the time of  
10 designation, in an enterprise zone designated pursuant to  
11 this Act;

12           (3) (A) the business intends to make a minimum  
13 investment of \$12,000,000 which will be placed in  
14 service in qualified property and intends to create 500  
15 full-time equivalent jobs at a designated location in  
16 Illinois or intends to make a minimum investment of  
17 \$30,000,000 which will be placed in service in  
18 qualified property and intends to retain 1,500  
19 full-time jobs at a designated location in Illinois.  
20 The business must certify in writing that the  
21 investments would not be placed in service in qualified  
22 property and the job creation or job retention would  
23 not occur without the tax credits and exemptions set  
24 forth in subsection (b) of this Section. The terms  
25 "placed in service" and "qualified property" have the  
26 same meanings as described in subsection (h) of Section  
27 201 of the Illinois Income Tax Act; or

28           (B) the business intends to establish a new  
29 electric generating facility at a designated location  
30 in Illinois. "New electric generating facility"   for  
31 purposes of this Section   means a newly-constructed  
32 electric generation plant or a newly-constructed  
33 generation capacity expansion at an existing electric  
34 generation plant, including the transmission lines and

1 associated equipment that transfers electricity from  
2 points of supply to points of delivery, and for which  
3 such new foundation construction commenced not sooner  
4 than July 1, 2001. Such facility shall be designed to  
5 provide baseload electric generation and shall operate  
6 on a continuous basis throughout the year; and shall  
7 have an aggregate rated generating capacity of at least  
8 1,000 megawatts for all new units at one site if it  
9 uses natural gas as its primary fuel and foundation  
10 construction of the facility is commenced on or before  
11 December 31, 2004, or shall have an aggregate rated  
12 generating capacity of at least 400 megawatts for all  
13 new units at one site if it uses coal or gases derived  
14 from coal as its primary fuel and shall support the  
15 creation of at least 150 new Illinois coal mining jobs,  
16 or, is (i) funded through a federal Department of  
17 Energy grant before July 1, 2005, and (ii) uses coal  
18 gasification or integrated gasification-combined cycle  
19 units that generate electricity or chemicals, or both,  
20 and shall support the creation of Illinois coal-mining  
21 jobs. The business must certify in writing that the  
22 investments necessary to establish a new electric  
23 generating facility would not be placed in service and  
24 the job creation in the case of a coal-fueled plant  
25 would not occur without the tax credits and exemptions  
26 set forth in subsection (b-5) of this Section. The term  
27 "placed in service" has the same meaning as described  
28 in subsection (h) of Section 201 of the Illinois Income  
29 Tax Act; or

30 (C) the business intends to establish production  
31 operations at a new coal mine, re-establish production  
32 operations at a closed coal mine, or expand production  
33 at an existing coal mine at a designated location in  
34 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  
27 this Section. The business must certify in writing that  
28 the investments necessary to construct new  
29 transmission facilities or upgrade existing  
30 transmission facilities would not be placed in service  
31 without the tax credits and exemptions set forth in  
32 subsection (b-5) of this Section. The term "placed in  
33 service" has the same meaning as described in  
34 subsection (h) of Section 201 of the Illinois Income

1 Tax Act; and

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

6 (b) Businesses designated as High Impact Businesses  
7 pursuant to subdivision (a) (3) (A) of this Section shall qualify  
8 for the credits and exemptions described in the following Acts:  
9 Section 9-222 and Section 9-222.1A of the Public Utilities Act,  
10 subsection (h) of Section 201 of the Illinois Income Tax Act, ~~and~~  
11 ~~and~~ Section 1d of the Retailers' Occupation Tax Act, ~~and~~ provided  
12 that these credits and exemptions described in these Acts shall  
13 not be authorized until the minimum investments set forth in  
14 subdivision (a) (3) (A) of this Section have been placed in  
15 service in qualified properties and, in the case of the  
16 exemptions described in the Public Utilities Act and Section 1d  
17 of the Retailers' Occupation Tax Act, the minimum full-time  
18 equivalent jobs or full-time jobs set forth in subdivision  
19 (a) (3) (A) of this Section have been created or retained.  
20 Businesses designated as High Impact Businesses under this  
21 Section shall also qualify for the exemption described in  
22 Section 51 of the Retailers' Occupation Tax Act. The credit  
23 provided in subsection (h) of Section 201 of the Illinois  
24 Income Tax Act shall be applicable to investments in qualified  
25 property as set forth in subdivision (a) (3) (A) of this Section.

26 (b-5) Businesses designated as High Impact Businesses  
27 pursuant to subdivisions (a) (3) (B), (a) (3) (C), and (a) (3) (D)  
28 of this Section shall qualify for the credits and exemptions  
29 described in the following Acts: Section 51 of the Retailers'  
30 Occupation Tax Act, Section 9-222 and Section 9-222.1A of the  
31 Public Utilities Act, and subsection (h) of Section 201 of the  
32 Illinois Income Tax Act; however, the credits and exemptions  
33 authorized under Section 9-222 and Section 9-222.1A of the  
34 Public Utilities Act, and subsection (h) of Section 201 of the



1 Illinois Income Tax Act shall not be authorized until the new  
2 electric generating facility, the new transmission facility,  
3 or the new, expanded, or reopened coal mine is operational,  
4 except that a new electric generating facility whose primary  
5 fuel source is natural gas is eligible only for the exemption  
6 under Section 51 of the Retailers' Occupation Tax Act.

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

13 (d) Existing Illinois businesses which apply for  
14 designation as a High Impact Business must provide the  
15 Department with the prospective plan for which 1,500 full-time  
16 jobs would be eliminated in the event that the business is not  
17 designated.

18 (e) New proposed facilities which apply for designation as  
19 High Impact Business must provide the Department with proof of  
20 alternative non-Illinois sites which would receive the  
21 proposed investment and job creation in the event that the  
22 business is not designated as a High Impact Business.

23 (f) In the event that a business is designated a High  
24 Impact Business and it is later determined after reasonable  
25 notice and an opportunity for a hearing as provided under the  
26 Illinois Administrative Procedure Act, that the business would  
27 have placed in service in qualified property the investments  
28 and created or retained the requisite number of jobs without  
29 the benefits of the High Impact Business designation, the  
30 Department shall be required to immediately revoke the  
31 designation and notify the Director of the Department of  
32 Revenue who shall begin proceedings to recover all wrongfully  
33 exempted State taxes with interest. The business shall also be  
34 ineligible for all State funded Department programs for a

1 period of 10 years.

2 (g) The Department shall revoke a High Impact Business  
3 designation if the participating business fails to comply with  
4 the terms and conditions of the designation.

5 (h) Prior to designating a business, the Department shall  
6 provide the members of the General Assembly and Illinois  
7 Economic and Fiscal Commission with a report setting forth the  
8 terms and conditions of the designation and guarantees that  
9 have been received by the Department in relation to the  
10 proposed business being designated.

11 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01; revised  
12 3-7-02.)".