



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3929

Introduced 2/26/2009, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Amends the Illinois Enterprise Zone Act. Provides that businesses that intend to establish a new wind power facility in Illinois may be considered "high impact businesses" and qualify for certain occupation tax exemptions. Exempts businesses that intend to establish new wind power facilities from provisions of the Act requiring applicants for designation as high impact businesses to provide the Department with (i) the prospective plan for which 1,500 full-time jobs would be eliminated if the business is not designated and (ii) proof of alternative non-Illinois sites which would receive the proposed investment and job creation if the business is not designated, and from provisions of the Act concerning revocation of high impact business status. Requires payment of prevailing hourly wages.

LRB096 11127 RCE 21489 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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

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 (1.5) any application submitted by a business seeking
17 designation as a High Impact Business pursuant to
18 subdivision (a)(3)(E) of this Section shall include a
19 certification by that business that it intends to pay not
20 less than the general prevailing hourly wages to all
21 laborers and workers employed by or on behalf of that
22 business at the site of that business's new wind power
23 facility in the construction of that new wind power

1 facility; for purposes of this item (1.5), "general
2 prevailing hourly wages" means the hourly prevailing wages
3 published by the Illinois Department of Labor for the
4 county in which the new wind power facility is located (or
5 the average of such prevailing wages if the new wind power
6 facility is located in more than one county);

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

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

12 (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

1 201 of the Illinois Income Tax Act; or

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

1 shall use coal gasification or integrated
2 gasification-combined cycle units that generate
3 electricity or chemicals, or both, and shall support
4 the creation of Illinois coal-mining jobs. The
5 business must certify in writing that the investments
6 necessary to establish a new electric generating
7 facility would not be placed in service and the job
8 creation in the case of a coal-fueled plant would not
9 occur without the tax credits and exemptions set forth
10 in subsection (b-5) of this Section. The term "placed
11 in service" has the same meaning as described in
12 subsection (h) of Section 201 of the Illinois Income
13 Tax Act; or

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

1 Jefferson County for synthetic natural gas from coal;
2 or

3 (C) the business intends to establish production
4 operations at a new coal mine, re-establish production
5 operations at a closed coal mine, or expand production
6 at an existing coal mine at a designated location in
7 Illinois not sooner than July 1, 2001; provided that
8 the production operations result in the creation of 150
9 new Illinois coal mining jobs as described in
10 subdivision (a)(3)(B) of this Section, and further
11 provided that the coal extracted from such mine is
12 utilized as the predominant source for a new electric
13 generating facility. The business must certify in
14 writing that the investments necessary to establish a
15 new, expanded, or reopened coal mine would not be
16 placed in service and the job creation would not occur
17 without the tax credits and exemptions set forth in
18 subsection (b-5) of this Section. The term "placed in
19 service" has the same meaning as described in
20 subsection (h) of Section 201 of the Illinois Income
21 Tax Act; or

22 (D) the business intends to construct new
23 transmission facilities or upgrade existing
24 transmission facilities at designated locations in
25 Illinois, for which construction commenced not sooner
26 than July 1, 2001. For the purposes of this Section,

1 "transmission facilities" means transmission lines
2 with a voltage rating of 115 kilovolts or above,
3 including associated equipment, that transfer
4 electricity from points of supply to points of delivery
5 and that transmit a majority of the electricity
6 generated by a new electric generating facility
7 designated as a High Impact Business in accordance with
8 this Section. The business must certify in writing that
9 the investments necessary to construct new
10 transmission facilities or upgrade existing
11 transmission facilities would not be placed in service
12 without the tax credits and exemptions set forth in
13 subsection (b-5) of this Section. The term "placed in
14 service" has the same meaning as described in
15 subsection (h) of Section 201 of the Illinois Income
16 Tax Act; ~~or and~~

17 (E) the business intends to establish a new wind
18 power facility at a designated location in Illinois.
19 For purposes of this Section, "new wind power facility"
20 means a newly constructed electric generation
21 facility, or a newly constructed expansion of an
22 existing electric generation facility, that generates
23 electricity using wind energy devices, and such
24 facility shall be deemed to include all associated
25 transmission lines, substations, and other equipment
26 related to the generation of electricity from wind

1 energy devices. For purposes of this Section, "wind
2 energy device" means any device, with a nameplate
3 capacity of at least 0.5 megawatts, that is used in the
4 process of converting kinetic energy from the wind to
5 generate electricity; and

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

10 (b) Businesses designated as High Impact Businesses
11 pursuant to subdivision (a) (3) (A) of this Section shall qualify
12 for the credits and exemptions described in the following Acts:
13 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
14 subsection (h) of Section 201 of the Illinois Income Tax Act,
15 and Section 1d of the Retailers' Occupation Tax Act; provided
16 that these credits and exemptions described in these Acts shall
17 not be authorized until the minimum investments set forth in
18 subdivision (a) (3) (A) of this Section have been placed in
19 service in qualified properties and, in the case of the
20 exemptions described in the Public Utilities Act and Section 1d
21 of the Retailers' Occupation Tax Act, the minimum full-time
22 equivalent jobs or full-time jobs set forth in subdivision
23 (a) (3) (A) of this Section have been created or retained.
24 Businesses designated as High Impact Businesses under this
25 Section shall also qualify for the exemption described in
26 Section 5l of the Retailers' Occupation Tax Act. The credit

1 provided in subsection (h) of Section 201 of the Illinois
2 Income Tax Act shall be applicable to investments in qualified
3 property as set forth in subdivision (a) (3) (A) of this Section.

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

20 (b-6) Businesses designated as High Impact Businesses
21 pursuant to subdivision (a) (3) (E) of this Section shall qualify
22 for the exemptions described in Section 51 of the Retailers'
23 Occupation Tax Act.

24 (c) High Impact Businesses located in federally designated
25 foreign trade zones or sub-zones are also eligible for
26 additional credits, exemptions and deductions as described in

1 the following Acts: Section 9-221 and Section 9-222.1 of the
2 Public Utilities Act; and subsection (g) of Section 201, and
3 Section 203 of the Illinois Income Tax Act.

4 (d) Except for businesses contemplated under subsection
5 (a)(3)(E) of this Section, existing ~~Existing~~ Illinois
6 businesses which apply for designation as a High Impact
7 Business must provide the Department with the prospective plan
8 for which 1,500 full-time jobs would be eliminated in the event
9 that the business is not designated.

10 (e) Except for new wind power facilities contemplated under
11 subsection (a)(3)(E) of this Section, new ~~New~~ proposed
12 facilities which apply for designation as High Impact Business
13 must provide the Department with proof of alternative
14 non-Illinois sites which would receive the proposed investment
15 and job creation in the event that the business is not
16 designated as a High Impact Business.

17 (f) Except for businesses contemplated under subsection
18 (a)(3)(E) of this Section, in ~~In~~ the event that a business is
19 designated a High Impact Business and it is later determined
20 after reasonable notice and an opportunity for a hearing as
21 provided under the Illinois Administrative Procedure Act, that
22 the business would have placed in service in qualified property
23 the investments and created or retained the requisite number of
24 jobs without the benefits of the High Impact Business
25 designation, the Department shall be required to immediately
26 revoke the designation and notify the Director of the

1 Department of Revenue who shall begin proceedings to recover
2 all wrongfully exempted State taxes with interest. The business
3 shall also be ineligible for all State funded Department
4 programs for a period of 10 years.

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

8 (h) Prior to designating a business, the Department shall
9 provide the members of the General Assembly and Commission on
10 Government Forecasting and Accountability with a report
11 setting forth the terms and conditions of the designation and
12 guarantees that have been received by the Department in
13 relation to the proposed business being designated.

14 (Source: P.A. 94-65, eff. 6-21-05; 95-18, eff. 7-30-07.)