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AN ACT concerning State government.

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## 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 (2) such business is not located, at the time of 17 designation, in an enterprise zone designated pursuant to 18 this Act;

19 (3) the business intends to do one or more of the 20 following:

(A) the business intends to make a minimum
 investment of \$12,000,000 which will be placed in
 service in qualified property and intends to create 500

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full-time equivalent jobs at a designated location in 1 2 Illinois or intends to make a minimum investment of \$30,000,000 which will be placed in service 3 in qualified property and intends to retain 1,500 4 5 full-time jobs at a designated location in Illinois. 6 The business must certify in writing that the 7 investments would not be placed in service in qualified 8 property and the job creation or job retention would 9 not occur without the tax credits and exemptions set 10 forth in subsection (b) of this Section. The terms 11 "placed in service" and "qualified property" have the 12 same meanings as described in subsection (h) of Section 13 201 of the Illinois Income Tax Act; or

14 (B) the business intends to establish a new 15 electric generating facility at a designated location 16 in Illinois. "New electric generating facility", for 17 purposes of this Section, means a newly-constructed 18 electric generation plant or a newly-constructed 19 generation capacity expansion at an existing electric 20 generation plant, including the transmission lines and 21 associated equipment that transfers electricity from 22 points of supply to points of delivery, and for which 23 such new foundation construction commenced not sooner 24 than July 1, 2001. Such facility shall be designed to 25 provide baseload electric generation and shall operate 26 on a continuous basis throughout the year; and (i)

shall have an aggregate rated generating capacity of at 1 least 1,000 megawatts for all new units at one site if 2 3 it uses natural gas as its primary fuel and foundation construction of the facility is commenced on or before 4 5 December 31, 2004, or shall have an aggregate rated 6 generating capacity of at least 400 megawatts for all 7 new units at one site if it uses coal or gases derived from coal as its primary fuel and shall support the 8 9 creation of at least 150 new Illinois coal mining jobs, 10 or (ii) shall be funded through a federal Department of 11 Energy grant before December 31, 2010 and shall support 12 the creation of Illinois coal-mining jobs, or (iii) shall 13 use coal gasification or integrated 14 gasification-combined cycle units that generate 15 electricity or chemicals, or both, and shall support 16 the creation of Illinois coal-mining jobs. The 17 business must certify in writing that the investments 18 necessary to establish a new electric generating 19 facility would not be placed in service and the job 20 creation in the case of a coal-fueled plant would not 21 occur without the tax credits and exemptions set forth 22 in subsection (b-5) of this Section. The term "placed 23 in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income 24 25 Tax Act; or

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(B-5) the business intends to establish a new

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gasification facility at a designated location in 1 2 Illinois. As used in this Section, "new gasification 3 facility" means a newly constructed coal gasification feedstocks facility that generates chemical 4 or 5 transportation fuels derived from coal (which may 6 include, but are not limited to, methane, methanol, and 7 nitrogen fertilizer), that supports the creation or 8 retention of Illinois coal-mining jobs, and that 9 qualifies for financial assistance from the Department 10 before December 31, 2010. A new gasification facility 11 does not include a pilot project located within 12 Jefferson County or within a county adjacent to 13 Jefferson County for synthetic natural gas from coal; 14 or

15 (C) the business intends to establish production 16 operations at a new coal mine, re-establish production 17 operations at a closed coal mine, or expand production at an existing coal mine at a designated location in 18 19 Illinois not sooner than July 1, 2001; provided that 20 the production operations result in the creation of 150 21 new Illinois coal mining jobs as described in 22 subdivision (a) (3) (B) of this Section, and further 23 provided that the coal extracted from such mine is 24 utilized as the predominant source for a new electric generating facility. The business must certify in 25 26 writing that the investments necessary to establish a SB1923 Enrolled - 5 - LRB096 11155 RCE 21530 b

new, expanded, or reopened coal mine would not be placed in service and the job creation would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

8 (D) business intends to the construct new 9 transmission facilities or upgrade existing 10 transmission facilities at designated locations in 11 Illinois, for which construction commenced not sooner 12 than July 1, 2001. For the purposes of this Section, 13 "transmission facilities" means transmission lines 14 with a voltage rating of 115 kilovolts or above, 15 including associated equipment, that transfer 16 electricity from points of supply to points of delivery 17 and that transmit a majority of the electricity generated by a new electric generating facility 18 19 designated as a High Impact Business in accordance with 20 this Section. The business must certify in writing that 21 the investments necessary to construct new 22 transmission facilities or upgrade existing 23 transmission facilities would not be placed in service 24 without the tax credits and exemptions set forth in 25 subsection (b-5) of this Section. The term "placed in 26 service" has the same meaning as described in SB1923 Enrolled - 6 - LRB096 11155 RCE 21530 b

subsection (h) of Section 201 of the Illinois Income
 Tax Act; or and

3 (E) the business intends to establish a new wind power facility at a designated location in Illinois. 4 For purposes of this Section, "new wind power facility" 5 6 means a newly constructed electric generation 7 facility, or a newly constructed expansion of an 8 existing electric generation facility, placed in 9 service on or after July 1, 2009, that generates 10 electricity using wind energy devices, and such 11 facility shall be deemed to include all associated 12 transmission lines, substations, and other equipment 13 related to the generation of electricity from wind 14 energy devices. For purposes of this Section, "wind energy device" means any device, with a nameplate 15 16 capacity of at least 0.5 megawatts, that is used in the 17 process of converting kinetic energy from the wind to 18 generate electricity; and

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

(b) Businesses designated as High Impact Businesses
pursuant to subdivision (a) (3) (A) of this Section shall qualify
for the credits and exemptions described in the following Acts:
Section 9-222 and Section 9-222.1A of the Public Utilities Act,

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subsection (h) of Section 201 of the Illinois Income Tax Act, 1 2 and Section 1d of the Retailers' Occupation Tax Act; provided 3 that these credits and exemptions described in these Acts shall not be authorized until the minimum investments set forth in 4 5 subdivision (a) (3) (A) of this Section have been placed in 6 service in qualified properties and, in the case of the 7 exemptions described in the Public Utilities Act and Section 1d 8 of the Retailers' Occupation Tax Act, the minimum full-time 9 equivalent jobs or full-time jobs set forth in subdivision 10 (a) (3) (A) of this Section have been created or retained. 11 Businesses designated as High Impact Businesses under this 12 Section shall also qualify for the exemption described in 13 Section 51 of the Retailers' Occupation Tax Act. The credit provided in subsection (h) of Section 201 of the Illinois 14 15 Income Tax Act shall be applicable to investments in qualified 16 property as set forth in subdivision (a) (3) (A) of this Section.

17 (b-5) Businesses designated as High Impact Businesses pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C), 18 19 and (a) (3) (D) of this Section shall qualify for the credits and 20 exemptions described in the following Acts: Section 51 of the Retailers' Occupation Tax Act, Section 9-222 and Section 21 22 9-222.1A of the Public Utilities Act, and subsection (h) of 23 Section 201 of the Illinois Income Tax Act; however, the credits and exemptions authorized under Section 9-222 24 and 25 Section 9-222.1A of the Public Utilities Act, and subsection 26 (h) of Section 201 of the Illinois Income Tax Act shall not be SB1923 Enrolled - 8 - LRB096 11155 RCE 21530 b

authorized until the new electric generating facility, the new gasification facility, the new transmission facility, or the new, expanded, or reopened coal mine is operational, except that a new electric generating facility whose primary fuel source is natural gas is eligible only for the exemption under Section 51 of the Retailers' Occupation Tax Act.

7 (b-6) Businesses designated as High Impact Businesses 8 pursuant to subdivision (a) (3) (E) of this Section shall qualify 9 for the exemptions described in Section 51 of the Retailers' 10 Occupation Tax Act; any business so designated as a High Impact 11 Business being, for purposes of this Section, a "Wind Energy 12 Business".

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

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

25 (e) Except for new wind power facilities contemplated under
26 <u>subdivision (a)(3)(E) of this Section, new</u> proposed

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

6 (f) Except for businesses contemplated under subdivision 7 (a) (3) (E) of this Section, in In the event that a business is 8 designated a High Impact Business and it is later determined 9 after reasonable notice and an opportunity for a hearing as 10 provided under the Illinois Administrative Procedure Act, that 11 the business would have placed in service in qualified property 12 the investments and created or retained the requisite number of 13 jobs without the benefits of the High Impact Business designation, the Department shall be required to immediately 14 15 revoke the designation and notify the Director of the 16 Department of Revenue who shall begin proceedings to recover 17 all wrongfully exempted State taxes with interest. The business shall also be ineligible for all State funded Department 18 19 programs for a period of 10 years.

(g) The Department shall revoke a High Impact Business designation if the participating business fails to comply with the terms and conditions of the designation. <u>However, the</u> <u>penalties for new wind power facilities or Wind Energy</u> <u>Businesses for failure to comply with any of the terms or</u> <u>conditions of the Illinois Prevailing Wage Act shall be only</u> <u>those penalties identified in the Illinois Prevailing Wage Act,</u> SB1923 Enrolled - 10 - LRB096 11155 RCE 21530 b

1 and the Department shall not revoke a High Impact Business 2 designation as a result of the failure to comply with any of 3 the terms or conditions of the Illinois Prevailing Wage Act in 4 relation to a new wind power facility or a Wind Energy 5 Business.

6 (h) Prior to designating a business, the Department shall 7 provide the members of the General Assembly and Commission on 8 Government Forecasting and Accountability with a report 9 setting forth the terms and conditions of the designation and 10 guarantees that have been received by the Department in 11 relation to the proposed business being designated.

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

Section 10. The Prevailing Wage Act is amended by changing Section 2 as follows:

15 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

Sec. 2. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as hereinafter defined, by any public body and to anyone under contracts for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As used in this Act, unless the context indicates otherwise:

24 "Public works" means all fixed works constructed by any

public body, other than work done directly by any public 1 2 utility company, whether or not done under public supervision 3 or direction, or paid for wholly or in part out of public funds. "Public works" as defined herein includes all projects 4 5 financed in whole or in part with bonds issued under the Industrial Project Revenue Bond Act (Article 11, Division 74 of 6 the Illinois Municipal Code), the Industrial Building Revenue 7 8 Bond Act, the Illinois Finance Authority Act, the Illinois 9 Sports Facilities Authority Act, or the Build Illinois Bond 10 Act, and all projects financed in whole or in part with loans 11 or other funds made available pursuant to the Build Illinois 12 Act. "Public works" also includes all projects financed in whole or in part with funds from the Fund for Illinois' Future 13 14 under Section 6z-47 of the State Finance Act, funds for school construction under Section 5 of the General Obligation Bond 15 16 funds authorized under Section 3 of the School Act, 17 Construction Bond Act, funds for school infrastructure under Section 6z-45 of the State Finance Act, and funds for 18 19 transportation purposes under Section 4 of the General 20 Obligation Bond Act. "Public works" also includes all projects 21 financed in whole or in part with funds from the Department of 22 Commerce and Economic Opportunity under the Illinois Renewable 23 Fuels Development Program Act for which there is no project labor agreement. "Public works" also includes all projects at 24 25 leased facility property used for airport purposes under 26 Section 35 of the Local Government Facility Lease Act. "Public SB1923 Enrolled - 12 - LRB096 11155 RCE 21530 b

works" also includes the construction of a new wind power
 facility by a business designated as a High Impact Business
 under Section 5.5(a) (3) (E) of the Illinois Enterprise Zone Act.

"Construction" means all work on public works involving
laborers, workers or mechanics. This includes any maintenance,
repair, assembly, or disassembly work performed on equipment
whether owned, leased, or rented.

"Locality" means the county where the physical work upon 8 9 public works is performed, except (1) that if there is not available in the county a sufficient number of competent 10 11 skilled laborers, workers and mechanics to construct the public 12 works efficiently and properly, "locality" includes any other county nearest the one in which the work or construction is to 13 be performed and from which such persons may be obtained in 14 15 sufficient numbers to perform the work and (2) that, with 16 respect to contracts for highway work with the Department of Transportation of this State, "locality" may at the discretion 17 of the Secretary of the Department of Transportation be 18 construed to include two or more adjacent counties from which 19 20 workers may be accessible for work on such construction.

"Public body" means the State or any officer, board or commission of the State or any political subdivision or department thereof, or any institution supported in whole or in part by public funds, and includes every county, city, town, village, township, school district, irrigation, utility, reclamation improvement or other district and every other SB1923 Enrolled - 13 - LRB096 11155 RCE 21530 b

political subdivision, district or municipality of the state whether such political subdivision, municipality or district operates under a special charter or not.

4 The terms "general prevailing rate of hourly wages", "general prevailing rate of wages" or "prevailing rate of 5 6 wages" when used in this Act mean the hourly cash wages plus fringe benefits for training and apprenticeship programs 7 8 approved by the U.S. Department of Labor, Bureau of 9 Apprenticeship and Training, health and welfare, insurance, 10 vacations and pensions paid generally, in the locality in which 11 the work is being performed, to employees engaged in work of a 12 similar character on public works.

13 (Source: P.A. 94-750, eff. 5-9-06; 95-341, eff. 8-21-07.)

Section 99. Effective date. This Act takes effect July 1, 2009.