



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5834

Introduced 2/16/2012, by Rep. Richard Morthland

#### SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.3	from Ch. 67 1/2, par. 608
35 ILCS 120/1f	from Ch. 120, par. 440f
220 ILCS 5/9-222.1	from Ch. 111 2/3, par. 9-222.1

Amends the Illinois Enterprise Zone Act. Provides that an Enterprise Zone shall be extended for an additional 20 years upon application by the corporate authorities of the county or municipality that designated the Enterprise Zone. Amends the Retailers' Occupation Tax Act. Provides that exemptions granted under the Act for tangible personal property used or consumed in an Enterprise Zone may be in effect for not more than the term of the enterprise zone. Amends the Public Utilities Act and the Retailers' Occupation Tax Act to make conforming changes in provisions concerning tax exemptions for businesses located in Enterprise Zones. Effective immediately.

LRB097 18210 HLH 63434 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 Enterprise Zone Act is amended by  
5 changing Section 5.3 as follows:

6 (20 ILCS 655/5.3) (from Ch. 67 1/2, par. 608)

7 Sec. 5.3. Certification of Enterprise Zones; Effective  
8 date.

9 (a) Approval of designated Enterprise Zones shall be made  
10 by the Department by certification of the designating  
11 ordinance. The Department shall promptly issue a certificate  
12 for each Enterprise Zone upon its approval. The certificate  
13 shall be signed by the Director of the Department, shall make  
14 specific reference to the designating ordinance, which shall be  
15 attached thereto, and shall be filed in the office of the  
16 Secretary of State. A certified copy of the Enterprise Zone  
17 Certificate, or a duplicate original thereof, shall be recorded  
18 in the office of recorder of deeds of the county in which the  
19 Enterprise Zone lies.

20 (b) An Enterprise Zone shall be effective upon its  
21 certification. The Department shall transmit a copy of the  
22 certification to the Department of Revenue, and to the  
23 designating municipality or county.

1           Upon certification of an Enterprise Zone, the terms and  
2 provisions of the designating ordinance shall be in effect, and  
3 may not be amended or repealed except in accordance with  
4 Section 5.4.

5           (c) An Enterprise Zone shall be in effect for 30 calendar  
6 years, or for a lesser number of years specified in the  
7 certified designating ordinance. Enterprise Zones shall  
8 terminate at midnight of December 31 of the final calendar year  
9 of the certified term, except as provided in Section 5.4. The  
10 Department shall grant, upon application by the corporate  
11 authorities of the county or municipality that adopted the  
12 ordinance designating the Enterprise Zone, a one-time  
13 extension of 20 additional calendar years for each Zone.

14           (d) No more than 12 Enterprise Zones may be certified by  
15 the Department in calendar year 1984, no more than 12  
16 Enterprise Zones may be certified by the Department in calendar  
17 year 1985, no more than 13 Enterprise Zones may be certified by  
18 the Department in calendar year 1986, no more than 15  
19 Enterprise Zones may be certified by the Department in calendar  
20 year 1987, and no more than 20 Enterprise Zones may be  
21 certified by the Department in calendar year 1990. In other  
22 calendar years, no more than 13 Enterprise Zones may be  
23 certified by the Department. The Department may also designate  
24 up to 8 additional Enterprise Zones outside the regular  
25 application cycle if warranted by the extreme economic  
26 circumstances as determined by the Department. The Department

1 may also designate one additional Enterprise Zone outside the  
2 regular application cycle if an aircraft manufacturer agrees to  
3 locate an aircraft manufacturing facility in the proposed  
4 Enterprise Zone. Notwithstanding any other provision of this  
5 Act, no more than 89 Enterprise Zones may be certified by the  
6 Department for the 10 calendar years commencing with 1983. The  
7 7 additional Enterprise Zones authorized by Public Act 86-15  
8 shall not lie within municipalities or unincorporated areas of  
9 counties that abut or are contiguous to Enterprise Zones  
10 certified pursuant to this Section prior to June 30, 1989. The  
11 7 additional Enterprise Zones (excluding the additional  
12 Enterprise Zone which may be designated outside the regular  
13 application cycle) authorized by Public Act 86-1030 shall not  
14 lie within municipalities or unincorporated areas of counties  
15 that abut or are contiguous to Enterprise Zones certified  
16 pursuant to this Section prior to February 28, 1990. Beginning  
17 in calendar year 2004 and until December 31, 2008, one  
18 additional enterprise zone may be certified by the Department.  
19 In any calendar year, the Department may not certify more than  
20 3 Zones located within the same municipality. The Department  
21 may certify Enterprise Zones in each of the 10 calendar years  
22 commencing with 1983. The Department may not certify more than  
23 a total of 18 Enterprise Zones located within the same county  
24 (whether within municipalities or within unincorporated  
25 territory) for the 10 calendar years commencing with 1983.  
26 Thereafter, the Department may not certify any additional

1 Enterprise Zones, but may amend and rescind certifications of  
2 existing Enterprise Zones in accordance with Section 5.4.

3 (e) Notwithstanding any other provision of law, if (i) the  
4 county board of any county in which a current military base is  
5 located, in part or in whole, or in which a military base that  
6 has been closed within 20 years of the effective date of this  
7 amendatory Act of 1998 is located, in part or in whole, adopts  
8 a designating ordinance in accordance with Section 5 of this  
9 Act to designate the military base in that county as an  
10 enterprise zone and (ii) the property otherwise meets the  
11 qualifications for an enterprise zone as prescribed in Section  
12 4 of this Act, then the Department may certify the designating  
13 ordinance or ordinances, as the case may be.

14 (Source: P.A. 92-16, eff. 6-28-01; 92-777, eff. 1-1-03; 93-436,  
15 eff. 1-1-04.)

16 Section 15. The Retailers' Occupation Tax Act is amended by  
17 changing Section 1f as follows:

18 (35 ILCS 120/1f) (from Ch. 120, par. 440f)

19 Sec. 1f. Except for High Impact Businesses, the exemption  
20 stated in Sections 1d and 1e of this Act shall only apply to  
21 business enterprises which:

22 (1) either (i) make investments which cause the  
23 creation of a minimum of 200 full-time equivalent jobs in  
24 Illinois or (ii) make investments which cause the retention

1 of a minimum of 2000 full-time jobs in Illinois or (iii)  
2 make investments of a minimum of \$40,000,000 and retain at  
3 least 90% of the jobs in place on the date on which the  
4 exemption is granted and for the duration of the exemption;  
5 and

6 (2) are located in an Enterprise Zone established  
7 pursuant to the Illinois Enterprise Zone Act; and

8 (3) are certified by the Department of Commerce and  
9 Economic Opportunity as complying with the requirements  
10 specified in clauses (1), (2) and (3).

11 Any business enterprise seeking to avail itself of the  
12 exemptions stated in Sections 1d or 1e, or both, shall make  
13 application to the Department of Commerce and Economic  
14 Opportunity in such form and providing such information as may  
15 be prescribed by the Department of Commerce and Economic  
16 Opportunity. However, no business enterprise shall be  
17 required, as a condition for certification under clause (4) of  
18 this Section, to attest that its decision to invest under  
19 clause (1) of this Section and to locate under clause (2) of  
20 this Section is predicated upon the availability of the  
21 exemptions authorized by Sections 1d or 1e.

22 The Department of Commerce and Economic Opportunity shall  
23 determine whether the business enterprise meets the criteria  
24 prescribed in this Section. If the Department of Commerce and  
25 Economic Opportunity determines that such business enterprise  
26 meets the criteria, it shall issue a certificate of eligibility

1 for exemption to the business enterprise in such form as is  
2 prescribed by the Department of Revenue. The Department of  
3 Commerce and Economic Opportunity shall act upon such  
4 certification requests within 60 days after receipt of the  
5 application, and shall file with the Department of Revenue a  
6 copy of each certificate of eligibility for exemption.

7 The Department of Commerce and Economic Opportunity shall  
8 have the power to promulgate rules and regulations to carry out  
9 the provisions of this Section including the power to define  
10 the amounts and types of eligible investments not specified in  
11 this Section which business enterprises must make in order to  
12 receive the exemptions stated in Sections 1d and 1e of this  
13 Act; and to require that any business enterprise that is  
14 granted a tax exemption repay the exempted tax if the business  
15 enterprise fails to comply with the terms and conditions of the  
16 certification.

17 Such certificate of eligibility for exemption shall be  
18 presented by the business enterprise to its supplier when  
19 making the initial purchase of tangible personal property for  
20 which an exemption is granted by Section 1d or Section 1e, or  
21 both, together with a certification by the business enterprise  
22 that such tangible personal property is exempt from taxation  
23 under Section 1d or Section 1e and by indicating the exempt  
24 status of each subsequent purchase on the face of the purchase  
25 order.

26 The Department of Commerce and Economic Opportunity shall

1 determine the period during which such exemption from the taxes  
2 imposed under this Act is in effect which shall not exceed 50  
3 20 years or the certified term of the enterprise zone  
4 (including any extensions granted under subsection (c) of  
5 Section 5.3 of the Illinois Enterprise Zone Act), whichever  
6 period is shorter.

7 (Source: P.A. 94-793, eff. 5-19-06.)

8 Section 25. The Public Utilities Act is amended by changing  
9 Section 9-222.1 as follows:

10 (220 ILCS 5/9-222.1) (from Ch. 111 2/3, par. 9-222.1)

11 Sec. 9-222.1. A business enterprise which is located within  
12 an area designated by a county or municipality as an enterprise  
13 zone pursuant to the Illinois Enterprise Zone Act or located in  
14 a federally designated Foreign Trade Zone or Sub-Zone shall be  
15 exempt from the additional charges added to the business  
16 enterprise's utility bills as a pass-on of municipal and State  
17 utility taxes under Sections 9-221 and 9-222 of this Act, to  
18 the extent such charges are exempted by ordinance adopted in  
19 accordance with paragraph (e) of Section 8-11-2 of the Illinois  
20 Municipal Code in the case of municipal utility taxes, and to  
21 the extent such charges are exempted by the percentage  
22 specified by the Department of Commerce and Economic  
23 Opportunity in the case of State utility taxes, provided such  
24 business enterprise meets the following criteria:



1           (1) it (i) makes investments which cause the creation  
2 of a minimum of 200 full-time equivalent jobs in Illinois;  
3 (ii) makes investments of at least \$175,000,000 which cause  
4 the creation of a minimum of 150 full-time equivalent jobs  
5 in Illinois; (iii) makes investments that cause the  
6 retention of a minimum of 300 full-time equivalent jobs in  
7 the manufacturing sector, as defined by the North American  
8 Industry Classification System, in an area in Illinois in  
9 which the unemployment rate is above 9% and makes an  
10 application to the Department within 3 months after the  
11 effective date of this amendatory Act of the 96th General  
12 Assembly and certifies relocation of the 300 full-time  
13 equivalent jobs within 36 months after the application;  
14 (iv) makes investments which cause the retention of a  
15 minimum of 1,000 full-time jobs in Illinois; or (v) makes  
16 an application to the Department within 2 months after the  
17 effective date of this amendatory Act of the 96th General  
18 Assembly and makes investments that cause the retention of  
19 a minimum of 500 full-time equivalent jobs in 2009 and  
20 2010, 675 full-time jobs in Illinois in 2011, 850 full-time  
21 jobs in 2012, and 1,000 full-time jobs in 2013, in the  
22 manufacturing sector as defined by the North American  
23 Industry Classification System; and

24           (2) it is either (i) located in an Enterprise Zone  
25 established pursuant to the Illinois Enterprise Zone Act or  
26 (ii) located in a federally designated Foreign Trade Zone

1 or Sub-Zone and is designated a High Impact Business by the  
2 Department of Commerce and Economic Opportunity; and

3 (3) it is certified by the Department of Commerce and  
4 Economic Opportunity as complying with the requirements  
5 specified in clauses (1) and (2) of this Section.

6 The Department of Commerce and Economic Opportunity shall  
7 determine the period during which such exemption from the  
8 charges imposed under Section 9-222 is in effect which shall  
9 not exceed 50 ~~30~~ years or the certified term of the enterprise  
10 zone (including any extensions granted under subsection (c) of  
11 Section 5.3 of the Illinois Enterprise Zone Act), whichever  
12 period is shorter, except that the exemption period for a  
13 business enterprise qualifying under item (iii) of clause (1)  
14 of this Section shall not exceed 50 ~~30~~ years.

15 The Department of Commerce and Economic Opportunity shall  
16 have the power to promulgate rules and regulations to carry out  
17 the provisions of this Section including procedures for  
18 complying with the requirements specified in clauses (1) and  
19 (2) of this Section and procedures for applying for the  
20 exemptions authorized under this Section; to define the amounts  
21 and types of eligible investments which business enterprises  
22 must make in order to receive State utility tax exemptions  
23 pursuant to Sections 9-222 and 9-222.1 of this Act; to approve  
24 such utility tax exemptions for business enterprises whose  
25 investments are not yet placed in service; and to require that  
26 business enterprises granted tax exemptions repay the exempted

1 tax should the business enterprise fail to comply with the  
2 terms and conditions of the certification. However, no business  
3 enterprise shall be required, as a condition for certification  
4 under clause (3) of this Section, to attest that its decision  
5 to invest under clause (1) of this Section and to locate under  
6 clause (2) of this Section is predicated upon the availability  
7 of the exemptions authorized by this Section.

8 A business enterprise shall be exempt, in whole or in part,  
9 from the pass-on charges of municipal utility taxes imposed  
10 under Section 9-221, only if it meets the criteria specified in  
11 clauses (1) through (3) of this Section and the municipality  
12 has adopted an ordinance authorizing the exemption under  
13 paragraph (e) of Section 8-11-2 of the Illinois Municipal Code.  
14 Upon certification of the business enterprises by the  
15 Department of Commerce and Economic Opportunity, the  
16 Department of Commerce and Economic Opportunity shall notify  
17 the Department of Revenue of such certification. The Department  
18 of Revenue shall notify the public utilities of the exemption  
19 status of business enterprises from the pass-on charges of  
20 State and municipal utility taxes. Such exemption status shall  
21 be effective within 3 months after certification of the  
22 business enterprise.

23 (Source: P.A. 96-716, eff. 8-25-09; 96-865, eff. 1-21-10.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.