



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1601

Introduced 2/9/2011, by Sen. Michael W. Frerichs

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 may 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 50 (instead of 20) years. Amends the Public Utilities Act to make conforming changes in provisions concerning tax exemptions for businesses located in Enterprise Zones.

LRB097 06735 HLH 46823 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 5.3 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3 may not be amended or repealed except in accordance with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 corporate authorities of the county or municipality that
11 adopted the ordinance designating the Enterprise Zone may apply
12 to the Department for a one-time extension of 20 additional
13 calendar years.

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 10. 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.

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

5 Section 15. The Public Utilities Act is amended by changing
6 Section 9-222.1 as follows:

7 (220 ILCS 5/9-222.1) (from Ch. 111 2/3, par. 9-222.1)

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

22 (1) it (i) makes investments which cause the creation
23 of a minimum of 200 full-time equivalent jobs in Illinois;
24 (ii) makes investments of at least \$175,000,000 which cause

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

21 (2) it is either (i) located in an Enterprise Zone
22 established pursuant to the Illinois Enterprise Zone Act or
23 (ii) located in a federally designated Foreign Trade Zone
24 or Sub-Zone and is designated a High Impact Business by the
25 Department of Commerce and Economic Opportunity; and

26 (3) it is certified by the Department of Commerce and

1 Economic Opportunity as complying with the requirements
2 specified in clauses (1) and (2) of this Section.

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

12 The Department of Commerce and Economic Opportunity shall
13 have the power to promulgate rules and regulations to carry out
14 the provisions of this Section including procedures for
15 complying with the requirements specified in clauses (1) and
16 (2) of this Section and procedures for applying for the
17 exemptions authorized under this Section; to define the amounts
18 and types of eligible investments which business enterprises
19 must make in order to receive State utility tax exemptions
20 pursuant to Sections 9-222 and 9-222.1 of this Act; to approve
21 such utility tax exemptions for business enterprises whose
22 investments are not yet placed in service; and to require that
23 business enterprises granted tax exemptions repay the exempted
24 tax should the business enterprise fail to comply with the
25 terms and conditions of the certification. However, no business
26 enterprise shall be required, as a condition for certification

1 under clause (3) of this Section, to attest that its decision
2 to invest under clause (1) of this Section and to locate under
3 clause (2) of this Section is predicated upon the availability
4 of the exemptions authorized by this Section.

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

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