

SB3430



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3430

Introduced 2/7/2012, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Creates the Illinois Titanium Powdered Metals Development Act. Creates the Illinois Titanium Powdered Metals Development Advisory Committee within the Department of Commerce and Economic Opportunity. Sets forth the membership of the Committee, including the Director of Commerce and Economic Opportunity and members appointed by the Governor and each of the legislative leaders. Sets forth the powers and duties of the Committee, including assisting with the growth and development of the titanium powdered metals industry within Illinois and the creation of a consortium or center that conducts, coordinates, and supports titanium powdered metals research, promotion, and marketing activities in the State. Requires the Committee to prepare and submit an annual report to the Governor and the General Assembly. Contains other provisions. Amends the Illinois Enterprise Zone Act. Provides that businesses that (i) intend to make minimum investment of \$3,000,000 in titanium powdered metals manufacturing which will be placed in service in qualified property and (ii) intend to create or retain a minimum of 15 full-time equivalent jobs in titanium powdered metals manufacturing at a location in Illinois are considered high impact businesses. Effective immediately.

LRB097 19176 HLH 64418 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 1. Short title. This Act may be cited as the
5 Illinois Titanium Powdered Metals Development Act.

6 Section 5. Purpose. The purpose of this Act is to assist in
7 the development of the titanium powdered metals industry in
8 Illinois. The industry is growing but under the current
9 economic climate and conditions needs state assistance to
10 further promote and develop itself. The State's assistance will
11 help the industry to grow, stabilize, and create jobs. The
12 production of Titanium powder is an energy efficient process
13 that reduces the use of energy. Titanium powder, when used in
14 manufacturing processes, helps to create energy efficient
15 products. Furthermore, the State's assistance will help
16 provide additional needed resources to existing and new
17 research programs while also giving the industry the ability to
18 partner with Illinois' world class higher educational
19 institutions. This will enable Illinois' titanium powdered
20 metals industry to become a world class leader.

21 Section 10. Definition. As used in this Act, "titanium
22 powdered metals" means a powdered metalworking process through

1 solid-state reduction, atomization, electrolysis, or chemical
2 processing whereby the final product has been manufactured
3 using at least 50% titanium tetrachloride (TiCL₄).

4 "Department" means the Department of Commerce and Economic
5 Opportunity.

6 "Director" means the Director of Commerce and Economic
7 Opportunity.

8 Section 15. Creation of the Advisory Committee. The
9 Illinois Titanium Powdered Metals Development Advisory
10 Committee is hereby created within the Department of Commerce
11 and Economic Opportunity. The Advisory Committee shall be
12 composed of the following voting members: the Director of
13 Commerce and Economic Opportunity, who shall be Chairman of the
14 Advisory Committee, and 4 members of the General Assembly (one
15 each appointed by the President of the Senate, the Senate
16 Minority Leader, the Speaker of the House of Representatives,
17 and the House Minority Leader). Members appointed by a
18 legislative leader shall serve for the duration of the General
19 Assembly for which he or she is appointed, so long as the
20 member remains a member of that General Assembly.

21 The Advisory Committee shall meet at the call of the
22 Chairman. At any time, the majority of the Advisory Committee
23 may petition the Chairman for a meeting of the Committee. Three
24 members of the Advisory Committee shall constitute a quorum.

1 Section 20. Powers and duties of the Advisory Committee.
2 The Advisory Committee shall have the following powers and
3 duties:

4 (1) to develop an annual agenda to assist the growth
5 and development of the titanium powdered metals industry
6 within Illinois that may include, but is not limited to,
7 research, marketing, and promotional methodologies
8 conducted for the purpose of increasing the use of titanium
9 powdered metals produced, used, or transported by Illinois
10 companies with an emphasis on the following areas:
11 maintaining and increasing employment of Illinois workers
12 in the titanium powdered metals industry, titanium
13 powdered metals preparation and characterization,
14 marketing, public awareness and education, and
15 environmental impacts;

16 (2) to support and coordinate titanium powdered metals
17 research, marketing, and promotion in Illinois;

18 (3) to make direct loans or grants to companies in
19 Illinois that produce, manufacture, or substantially use
20 titanium powdered metals for the promotion, research,
21 manufacture, infrastructure, and research and development
22 of titanium powdered metals, including engineering, legal,
23 or design qualified experts, and for any other purpose in
24 fulfillment of this Act;

25 (4) to seek the assistance, help, and expertise of the
26 staff of the Department as the Advisory Committee deems

1 necessary to accomplish its goals under this Act;

2 (5) to cooperate to the fullest extent possible with
3 State and federal agencies and departments, independent
4 organizations, and other interested groups, public and
5 private, for the purposes of promoting Illinois titanium
6 powdered metal resources;

7 (6) to focus on (i) existing titanium powdered metals
8 research, marketing, and promotion efforts, (ii) ways to
9 make use of existing facilities in Illinois or other
10 institutions carrying out research, marketing, and
11 promotion of titanium powdered metals, and (iii) make
12 maximum use of the facilities available in Illinois,
13 including universities and colleges located within the
14 State;

15 (7) to create a consortium that conducts, coordinates,
16 and supports titanium powdered metals research, promotion,
17 and marketing activities in the State of Illinois;
18 programmatic activities of the consortium or center shall
19 be subject to approval by the Advisory Committee and shall
20 be consistent with the purposes of this Section;

21 (8) to adopt, amend, or repeal rules, regulations, and
22 bylaws governing the Advisory Committee's organization and
23 conduct of business;

24 (9) to search for, accept, and expend gifts or grants
25 in any form from any public agency or any other source;

26 (10) to publish, from time to time, the results of

1 titanium powdered metals research, marketing, and
2 promotion projects supported by the Advisory Committee.

3 Section 25. Other functions of the Advisory Committee. The
4 Advisory Committee shall also:

5 (1) create and maintain current and accurate records on
6 all markets for and actual uses of titanium powdered metals
7 processed, used, or transported in Illinois and ways of
8 making those records available to the public upon request;

9 (2) identify all current and anticipated future
10 technical, economic, institutional, market, environmental,
11 regulatory, and other impediments to the use of titanium
12 powdered metals and the titanium powdered metal industry in
13 Illinois;

14 (3) identify alternative plans or actions that would
15 maintain or increase the use of titanium powdered metals
16 and the titanium powdered metal industry in Illinois;

17 (4) develop strategies and policies to promote
18 responsible uses of titanium powdered metals and the
19 titanium powdered industry in Illinois.

20 Section 60. The Illinois Enterprise Zone Act is amended by
21 changing Section 5.5 as follows:

22 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

23 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) the business intends to do one or more of the
13 following:

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

1 "placed in service" and "qualified property" have the
2 same meanings as described in subsection (h) of Section
3 201 of the Illinois Income Tax Act; or

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

1 Energy grant before December 31, 2010 and shall support
2 the creation of Illinois coal-mining jobs, or (iii)
3 shall use coal gasification or integrated
4 gasification-combined cycle units that generate
5 electricity or chemicals, or both, and shall support
6 the creation of Illinois coal-mining jobs. The
7 business must certify in writing that the investments
8 necessary to establish a new electric generating
9 facility would not be placed in service and the job
10 creation in the case of a coal-fueled plant would not
11 occur without the tax credits and exemptions set forth
12 in subsection (b-5) of this Section. The term "placed
13 in service" has the same meaning as described in
14 subsection (h) of Section 201 of the Illinois Income
15 Tax Act; or

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

1 does not include a pilot project located within
2 Jefferson County or within a county adjacent to
3 Jefferson County for synthetic natural gas from coal;
4 or

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

24 (D) the business intends to construct new
25 transmission facilities or upgrade existing
26 transmission facilities at designated locations in

1 Illinois, for which construction commenced not sooner
2 than July 1, 2001. For the purposes of this Section,
3 "transmission facilities" means transmission lines
4 with a voltage rating of 115 kilovolts or above,
5 including associated equipment, that transfer
6 electricity from points of supply to points of delivery
7 and that transmit a majority of the electricity
8 generated by a new electric generating facility
9 designated as a High Impact Business in accordance with
10 this Section. The business must certify in writing that
11 the investments necessary to construct new
12 transmission facilities or upgrade existing
13 transmission facilities would not be placed in service
14 without the tax credits and exemptions set forth in
15 subsection (b-5) of this Section. The term "placed in
16 service" has the same meaning as described in
17 subsection (h) of Section 201 of the Illinois Income
18 Tax Act; or

19 (E) the business intends to establish a new wind
20 power facility at a designated location in Illinois.
21 For purposes of this Section, "new wind power facility"
22 means a newly constructed electric generation
23 facility, or a newly constructed expansion of an
24 existing electric generation facility, placed in
25 service on or after July 1, 2009, that generates
26 electricity using wind energy devices, and such

1 facility shall be deemed to include all associated
2 transmission lines, substations, and other equipment
3 related to the generation of electricity from wind
4 energy devices. For purposes of this Section, "wind
5 energy device" means any device, with a nameplate
6 capacity of at least 0.5 megawatts, that is used in the
7 process of converting kinetic energy from the wind to
8 generate electricity; ~~or~~ and

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

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

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

21 (b-5) Businesses designated as High Impact Businesses
22 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
23 and (a) (3) (D) of this Section shall qualify for the credits and
24 exemptions described in the following Acts: Section 51 of the
25 Retailers' Occupation Tax Act, Section 9-222 and Section
26 9-222.1A of the Public Utilities Act, and subsection (h) of

1 Section 201 of the Illinois Income Tax Act; however, the
2 credits and exemptions authorized under Section 9-222 and
3 Section 9-222.1A of the Public Utilities Act, and subsection
4 (h) of Section 201 of the Illinois Income Tax Act shall not be
5 authorized until the new electric generating facility, the new
6 gasification facility, the new transmission facility, or the
7 new, expanded, or reopened coal mine is operational, except
8 that a new electric generating facility whose primary fuel
9 source is natural gas is eligible only for the exemption under
10 Section 51 of the Retailers' Occupation Tax Act.

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

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

23 (d) Except for businesses contemplated under subdivision
24 (a) (3) (E) of this Section, existing Illinois businesses which
25 apply for designation as a High Impact Business must provide
26 the Department with the prospective plan for which 1,500

1 full-time jobs would be eliminated in the event that the
2 business is not designated.

3 (e) Except for new wind power facilities contemplated under
4 subdivision (a)(3)(E) of this Section, new proposed facilities
5 which apply for designation as High Impact Business must
6 provide the Department with proof of alternative non-Illinois
7 sites which would receive the proposed investment and job
8 creation in the event that the business is not designated as a
9 High Impact Business.

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

24 (g) The Department shall revoke a High Impact Business
25 designation if the participating business fails to comply with
26 the terms and conditions of the designation. However, the

1 penalties for new wind power facilities or Wind Energy
2 Businesses for failure to comply with any of the terms or
3 conditions of the Illinois Prevailing Wage Act shall be only
4 those penalties identified in the Illinois Prevailing Wage Act,
5 and the Department shall not revoke a High Impact Business
6 designation as a result of the failure to comply with any of
7 the terms or conditions of the Illinois Prevailing Wage Act in
8 relation to a new wind power facility or a Wind Energy
9 Business.

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

16 (Source: P.A. 95-18, eff. 7-30-07; 96-28, eff. 7-1-09.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.