

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 Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a
12 newly-constructed electric generation plant or a newly
13 constructed generation capacity expansion at an existing
14 facility, including the transmission lines and associated
15 equipment that transfers electricity from points of supply to
16 points of delivery, and for which foundation construction
17 commenced not sooner than July 1, 2001, which is designed to
18 provide baseload electric generation operating on a continuous
19 basis throughout the year and:

20 (1) has an aggregate rated generating capacity of at
21 least 400 megawatts for all new units at one site, uses
22 coal or gases derived from coal as its primary fuel source,
23 and supports the creation of at least 150 new Illinois coal
24 mining jobs; or

25 (2) is funded through a federal Department of Energy
26 grant before July 1, 2006 and supports the creation of
27 Illinois coal-mining jobs; or

28 (3) uses coal gasification or integrated
29 gasification-combined cycle units that generate
30 electricity or chemicals, or both, and supports the
31 creation of Illinois coal-mining jobs.

32 "New gasification facility" means a newly constructed coal

1 gasification facility that generates chemical feedstocks or
2 transportation fuels derived from coal (which may include, but
3 are not limited to, methane, methanol, and nitrogen
4 fertilizer), that supports the creation or retention of
5 Illinois coal-mining jobs, and that qualifies for financial
6 assistance from the Department before December 31, 2007. ~~2006.~~
7 ~~A new gasification facility does not include a pilot project~~
8 ~~located within Jefferson County or within a county adjacent to~~
9 ~~Jefferson County for synthetic natural gas from coal.~~

10 "New facility" means a new electric generating facility or
11 a new gasification facility. ~~A new facility does not include a~~
12 ~~pilot project located within Jefferson County or within a~~
13 ~~county adjacent to Jefferson County for synthetic natural gas~~
14 ~~from coal.~~

15 "Eligible business" means an entity that proposes to
16 construct a new facility and that has applied to the Department
17 to receive financial assistance pursuant to this Section. With
18 respect to use and occupation taxes, wherever there is a
19 reference to taxes, that reference means only those taxes paid
20 on Illinois-mined coal used in a new facility.

21 "Department" means the Illinois Department of Commerce and
22 Economic Opportunity.

23 (b) The Department is authorized to provide financial
24 assistance to eligible businesses for new facilities from funds
25 appropriated by the General Assembly as further provided in
26 this Section.

27 An eligible business seeking qualification for financial
28 assistance for a new facility, for purposes of this Section
29 only, shall apply to the Department in the manner specified by
30 the Department. Any projections provided by an eligible
31 business as part of the application shall be independently
32 verified in a manner as set forth by the Department. An
33 application shall include, but not be limited to:

34 (1) the projected or actual completion date of the new
35 facility for which financial assistance is sought;

36 (2) copies of documentation deemed acceptable by the

1 Department establishing either (i) the total State
2 occupation and use taxes paid on Illinois-mined coal used
3 at the new facility for a minimum of 4 preceding calendar
4 quarters or (ii) the projected amount of State occupation
5 and use taxes paid on Illinois-mined coal used at the new
6 facility in 4 calendar year quarters after completion of
7 the new facility. Bond proceeds subject to this Section
8 shall not be allocated to an eligible business until the
9 eligible business has demonstrated the revenue stream
10 sufficient to service the debt on the bonds; and

11 (3) the actual or projected amount of capital
12 investment by the eligible business in the new facility.

13 The Department shall determine the maximum amount of
14 financial assistance for eligible businesses in accordance
15 with this paragraph. The Department shall not provide financial
16 assistance from general obligation bond funds to any eligible
17 business unless it receives a written certification from the
18 Director of the Bureau of the Budget (now Governor's Office of
19 Management and Budget) that 80% of the State occupation and use
20 tax receipts for a minimum of the preceding 4 calendar quarters
21 for all eligible businesses or as included in projections on
22 approved applications by eligible businesses equal or exceed
23 110% of the maximum annual debt service required with respect
24 to general obligation bonds issued for that purpose. The
25 Department may provide financial assistance not to exceed the
26 amount of State general obligation debt calculated as above,
27 the amount of actual or projected capital investment in the
28 facility, or \$100,000,000, whichever is less. Financial
29 assistance received pursuant to this Section may be used for
30 capital facilities consisting of buildings, structures,
31 durable equipment, and land at the new facility. Subject to the
32 provisions of the agreement covering the financial assistance,
33 a portion of the financial assistance may be required to be
34 repaid to the State if certain conditions for the governmental
35 purpose of the assistance were not met.

36 An eligible business shall file a monthly report with the

1 Illinois Department of Revenue stating the amount of
2 Illinois-mined coal purchased during the previous month for use
3 in the new facility, the purchase price of that coal, the
4 amount of State occupation and use taxes paid on that purchase
5 to the seller of the Illinois-mined coal, and such other
6 information as that Department may reasonably require. In sales
7 of Illinois-mined coal between related parties, the purchase
8 price of the coal must have been determined in an arms-length
9 transaction. The report shall be filed with the Illinois
10 Department of Revenue on or before the 20th day of each month
11 on a form provided by that Department. However, no report need
12 be filed by an eligible business in a month when it made no
13 reportable purchases of coal in the previous month. The
14 Illinois Department of Revenue shall provide a summary of such
15 reports to the Governor's Office of Management and Budget.

16 Upon granting financial assistance to an eligible
17 business, the Department shall certify the name of the eligible
18 business to the Illinois Department of Revenue. Beginning with
19 the receipt of the first report of State occupation and use
20 taxes paid by an eligible business and continuing for a 25-year
21 period, the Illinois Department of Revenue shall each month pay
22 into the Energy Infrastructure Fund 80% of the net revenue
23 realized from the 6.25% general rate on the selling price of
24 Illinois-mined coal that was sold to an eligible business.

25 (Source: P.A. 93-167, eff. 7-10-03; 93-1064, eff. 1-13-05;
26 94-65, eff. 6-21-05.)

27 Section 10. The Illinois Enterprise Zone Act is amended by
28 changing Section 5.5 as follows:

29 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

30 Sec. 5.5. High Impact Business.

31 (a) In order to respond to unique opportunities to assist
32 in the encouragement, development, growth and expansion of the
33 private sector through large scale investment and development
34 projects, the Department is authorized to receive and approve

1 applications for the designation of "High Impact Businesses" in
2 Illinois subject to the following conditions:

3 (1) such applications may be submitted at any time
4 during the year;

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

8 (3) the business intends to do one or more of the
9 following:

10 (A) the business intends to make a minimum
11 investment of \$12,000,000 which will be placed in
12 service in qualified property and intends to create 500
13 full-time equivalent jobs at a designated location in
14 Illinois or intends to make a minimum investment of
15 \$30,000,000 which will be placed in service in
16 qualified property and intends to retain 1,500
17 full-time jobs at a designated location in Illinois.
18 The business must certify in writing that the
19 investments would not be placed in service in qualified
20 property and the job creation or job retention would
21 not occur without the tax credits and exemptions set
22 forth in subsection (b) of this Section. The terms
23 "placed in service" and "qualified property" have the
24 same meanings as described in subsection (h) of Section
25 201 of the Illinois Income Tax Act; or

26 (B) the business intends to establish a new
27 electric generating facility at a designated location
28 in Illinois. "New electric generating facility", for
29 purposes of this Section, means a newly-constructed
30 electric generation plant or a newly-constructed
31 generation capacity expansion at an existing electric
32 generation plant, including the transmission lines and
33 associated equipment that transfers electricity from
34 points of supply to points of delivery, and for which
35 such new foundation construction commenced not sooner
36 than July 1, 2001. Such facility shall be designed to

1 provide baseload electric generation and shall operate
2 on a continuous basis throughout the year; and (i)
3 shall have an aggregate rated generating capacity of at
4 least 1,000 megawatts for all new units at one site if
5 it uses natural gas as its primary fuel and foundation
6 construction of the facility is commenced on or before
7 December 31, 2004, or shall have an aggregate rated
8 generating capacity of at least 400 megawatts for all
9 new units at one site if it uses coal or gases derived
10 from coal as its primary fuel and shall support the
11 creation of at least 150 new Illinois coal mining jobs,
12 or (ii) shall be funded through a federal Department of
13 Energy grant before July 1, 2006 and shall support the
14 creation of Illinois coal-mining jobs, or (iii) shall
15 use coal gasification or integrated
16 gasification-combined cycle units that generate
17 electricity or chemicals, or both, and shall support
18 the creation of Illinois coal-mining jobs. The
19 business must certify in writing that the investments
20 necessary to establish a new electric generating
21 facility would not be placed in service and the job
22 creation in the case of a coal-fueled plant would not
23 occur without the tax credits and exemptions set forth
24 in subsection (b-5) of this Section. The term "placed
25 in service" has the same meaning as described in
26 subsection (h) of Section 201 of the Illinois Income
27 Tax Act; or

28 (B-5) the business intends to establish a new
29 gasification facility at a designated location in
30 Illinois. As used in this Section, "new gasification
31 facility" means a newly constructed coal gasification
32 facility that generates chemical feedstocks or
33 transportation fuels derived from coal (which may
34 include, but are not limited to, methane, methanol, and
35 nitrogen fertilizer), that supports the creation or
36 retention of Illinois coal-mining jobs, and that

1 qualifies for financial assistance from the Department
2 before December 31, 2007 ~~2006~~. ~~A new gasification~~
3 ~~facility does not include a pilot project located~~
4 ~~within Jefferson County or within a county adjacent to~~
5 ~~Jefferson County for synthetic natural gas from coal;~~
6 or

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

26 (D) the business intends to construct new
27 transmission facilities or upgrade existing
28 transmission facilities at designated locations in
29 Illinois, for which construction commenced not sooner
30 than July 1, 2001. For the purposes of this Section,
31 "transmission facilities" means transmission lines
32 with a voltage rating of 115 kilovolts or above,
33 including associated equipment, that transfer
34 electricity from points of supply to points of delivery
35 and that transmit a majority of the electricity
36 generated by a new electric generating facility

1 designated as a High Impact Business in accordance with
2 this Section. The business must certify in writing that
3 the investments necessary to construct new
4 transmission facilities or upgrade existing
5 transmission facilities would not be placed in service
6 without the tax credits and exemptions set forth in
7 subsection (b-5) of this Section. The term "placed in
8 service" has the same meaning as described in
9 subsection (h) of Section 201 of the Illinois Income
10 Tax Act; and

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

15 (b) Businesses designated as High Impact Businesses
16 pursuant to subdivision (a) (3) (A) of this Section shall qualify
17 for the credits and exemptions described in the following Acts:
18 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
19 subsection (h) of Section 201 of the Illinois Income Tax Act,
20 and Section 1d of the Retailers' Occupation Tax Act; provided
21 that these credits and exemptions described in these Acts shall
22 not be authorized until the minimum investments set forth in
23 subdivision (a) (3) (A) of this Section have been placed in
24 service in qualified properties and, in the case of the
25 exemptions described in the Public Utilities Act and Section 1d
26 of the Retailers' Occupation Tax Act, the minimum full-time
27 equivalent jobs or full-time jobs set forth in subdivision
28 (a) (3) (A) of this Section have been created or retained.
29 Businesses designated as High Impact Businesses under this
30 Section shall also qualify for the exemption described in
31 Section 51 of the Retailers' Occupation Tax Act. The credit
32 provided in subsection (h) of Section 201 of the Illinois
33 Income Tax Act shall be applicable to investments in qualified
34 property as set forth in subdivision (a) (3) (A) of this Section.

35 (b-5) Businesses designated as High Impact Businesses
36 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),

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

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

21 (d) Existing Illinois businesses which apply for
22 designation as a High Impact Business must provide the
23 Department with the prospective plan for which 1,500 full-time
24 jobs would be eliminated in the event that the business is not
25 designated.

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

31 (f) In the event that a business is designated a High
32 Impact Business and it is later determined after reasonable
33 notice and an opportunity for a hearing as provided under the
34 Illinois Administrative Procedure Act, that the business would
35 have placed in service in qualified property the investments
36 and created or retained the requisite number of jobs without

1 the benefits of the High Impact Business designation, the
2 Department shall be required to immediately revoke the
3 designation and notify the Director of the Department of
4 Revenue who shall begin proceedings to recover all wrongfully
5 exempted State taxes with interest. The business shall also be
6 ineligible for all State funded Department programs for a
7 period of 10 years.

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

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

17 (Source: P.A. 93-1064, eff. 1-13-05; 93-1067, eff. 1-15-05;
18 94-65, eff. 6-21-05.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.