

# HB3865



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3865

Introduced 10/17/2019, by Rep. Lawrence Walsh, Jr.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Amends the Illinois Enterprise Zone Act. With respect to new wind power facilities and Wind Energy Businesses, repeals language providing that (i) the penalties for failure to comply with the Prevailing Wage Act are limited to the penalties identified in the Prevailing Wage Act and (ii) the Department of Commerce and Economic Opportunity may not revoke a High Impact Business designation as a result of the failure to comply with the Prevailing Wage Act. Effective immediately.

LRB101 13300 HLH 62142 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 5.5 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:

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

1 full-time equivalent jobs at a designated location in  
2 Illinois or intends to make a minimum investment of  
3 \$30,000,000 which will be placed in service in  
4 qualified property and intends to retain 1,500  
5 full-time retained jobs at a designated location in  
6 Illinois. 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)

1 shall have an aggregate rated generating capacity of at  
2 least 1,000 megawatts for all new units at one site if  
3 it uses natural gas as its primary fuel and foundation  
4 construction of the facility is commenced on or before  
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  
8 from coal as its primary fuel and shall support the  
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)  
13 shall 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  
24 subsection (h) of Section 201 of the Illinois Income  
25 Tax Act; or

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

1 gasification facility at a designated location in  
2 Illinois. As used in this Section, "new gasification  
3 facility" means a newly constructed coal gasification  
4 facility that generates chemical feedstocks 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  
18 at an existing coal mine at a designated location in  
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  
25 generating facility. The business must certify in  
26 writing that the investments necessary to establish a

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

8 (D) the business intends to 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  
18 generated by a new electric generating facility  
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

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

3 (E) the business intends to establish a new wind  
4 power facility at a designated location in Illinois.  
5 For purposes of this Section, "new wind power facility"  
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  
15 energy device" means any device, with a nameplate  
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; or

19 (F) the business commits to (i) make a minimum  
20 investment of \$500,000,000, which will be placed in  
21 service in a qualified property, (ii) create 125  
22 full-time equivalent jobs at a designated location in  
23 Illinois, (iii) establish a fertilizer plant at a  
24 designated location in Illinois that complies with the  
25 set-back standards as described in Table 1: Initial  
26 Isolation and Protective Action Distances in the 2012

1 Emergency Response Guidebook published by the United  
2 States Department of Transportation, (iv) pay a  
3 prevailing wage for employees at that location who are  
4 engaged in construction activities, and (v) secure an  
5 appropriate level of general liability insurance to  
6 protect against catastrophic failure of the fertilizer  
7 plant or any of its constituent systems; in addition,  
8 the business must agree to enter into a construction  
9 project labor agreement including provisions  
10 establishing wages, benefits, and other compensation  
11 for employees performing work under the project labor  
12 agreement at that location; for the purposes of this  
13 Section, "fertilizer plant" means a newly constructed  
14 or upgraded plant utilizing gas used in the production  
15 of anhydrous ammonia and downstream nitrogen  
16 fertilizer products for resale; for the purposes of  
17 this Section, "prevailing wage" means the hourly cash  
18 wages plus fringe benefits for training and  
19 apprenticeship programs approved by the U.S.  
20 Department of Labor, Bureau of Apprenticeship and  
21 Training, health and welfare, insurance, vacations and  
22 pensions paid generally, in the locality in which the  
23 work is being performed, to employees engaged in work  
24 of a similar character on public works; this paragraph  
25 (F) applies only to businesses that submit an  
26 application to the Department within 60 days after the



1 effective date of this amendatory Act of the 98th  
2 General Assembly; and

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

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

1 this Section.

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

18 (b-6) Businesses designated as High Impact Businesses  
19 pursuant to subdivision (a)(3)(E) of this Section shall qualify  
20 for the exemptions described in Section 51 of the Retailers'  
21 Occupation Tax Act; any business so designated as a High Impact  
22 Business being, for purposes of this Section, a "Wind Energy  
23 Business".

24 (b-7) Beginning on January 1, 2021, businesses designated  
25 as High Impact Businesses by the Department shall qualify for  
26 the High Impact Business construction jobs credit under

1 subsection (h-5) of Section 201 of the Illinois Income Tax Act  
2 if the business meets the criteria set forth in subsection (i)  
3 of this Section. The total aggregate amount of credits awarded  
4 under the Blue Collar Jobs Act (Article 20 of this amendatory  
5 Act of the 101st General Assembly) shall not exceed \$20,000,000  
6 in any State fiscal year.

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

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

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

26 (f) Except for businesses contemplated under subdivision

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

14 (g) The Department shall revoke a High Impact Business  
15 designation if the participating business fails to comply with  
16 the terms and conditions of the designation. ~~However, the~~  
17 ~~penalties for new wind power facilities or Wind Energy~~  
18 ~~Businesses for failure to comply with any of the terms or~~  
19 ~~conditions of the Illinois Prevailing Wage Act shall be only~~  
20 ~~those penalties identified in the Illinois Prevailing Wage Act,~~  
21 ~~and the Department shall not revoke a High Impact Business~~  
22 ~~designation as a result of the failure to comply with any of~~  
23 ~~the terms or conditions of the Illinois Prevailing Wage Act in~~  
24 ~~relation to a new wind power facility or a Wind Energy~~  
25 ~~Business.~~

26 (h) Prior to designating a business, the Department shall

1 provide the members of the General Assembly and Commission on  
2 Government Forecasting and Accountability with a report  
3 setting forth the terms and conditions of the designation and  
4 guarantees that have been received by the Department in  
5 relation to the proposed business being designated.

6 (i) High Impact Business construction jobs credit.  
7 Beginning on January 1, 2021, a High Impact Business may  
8 receive a tax credit against the tax imposed under subsections  
9 (a) and (b) of Section 201 of the Illinois Income Tax Act in an  
10 amount equal to 50% of the amount of the incremental income tax  
11 attributable to High Impact Business construction jobs credit  
12 employees employed in the course of completing a High Impact  
13 Business construction jobs project. However, the High Impact  
14 Business construction jobs credit may equal 75% of the amount  
15 of the incremental income tax attributable to High Impact  
16 Business construction jobs credit employees if the High Impact  
17 Business construction jobs credit project is located in an  
18 underserved area.

19 The Department shall certify to the Department of Revenue:  
20 (1) the identity of taxpayers that are eligible for the High  
21 Impact Business construction jobs credit; and (2) the amount of  
22 High Impact Business construction jobs credits that are claimed  
23 pursuant to subsection (h-5) of Section 201 of the Illinois  
24 Income Tax Act in each taxable year. Any business entity that  
25 receives a High Impact Business construction jobs credit shall  
26 maintain a certified payroll pursuant to subsection (j) of this

1 Section.

2 As used in this subsection (i):

3 "High Impact Business construction jobs credit" means an  
4 amount equal to 50% (or 75% if the High Impact Business  
5 construction project is located in an underserved area) of the  
6 incremental income tax attributable to High Impact Business  
7 construction job employees. The total aggregate amount of  
8 credits awarded under the Blue Collar Jobs Act (Article 20 of  
9 this amendatory Act of the 101st General Assembly) shall not  
10 exceed \$20,000,000 in any State fiscal year

11 "High Impact Business construction job employee" means a  
12 laborer or worker who is employed by an Illinois contractor or  
13 subcontractor in the actual construction work on the site of a  
14 High Impact Business construction job project.

15 "High Impact Business construction jobs project" means  
16 building a structure or building or making improvements of any  
17 kind to real property, undertaken and commissioned by a  
18 business that was designated as a High Impact Business by the  
19 Department. The term "High Impact Business construction jobs  
20 project" does not include the routine operation, routine  
21 repair, or routine maintenance of existing structures,  
22 buildings, or real property.

23 "Incremental income tax" means the total amount withheld  
24 during the taxable year from the compensation of High Impact  
25 Business construction job employees.

26 "Underserved area" means a geographic area that meets one

1 or more of the following conditions:

2 (1) the area has a poverty rate of at least 20%  
3 according to the latest federal decennial census;

4 (2) 75% or more of the children in the area participate  
5 in the federal free lunch program according to reported  
6 statistics from the State Board of Education;

7 (3) at least 20% of the households in the area receive  
8 assistance under the Supplemental Nutrition Assistance  
9 Program (SNAP); or

10 (4) the area has an average unemployment rate, as  
11 determined by the Illinois Department of Employment  
12 Security, that is more than 120% of the national  
13 unemployment average, as determined by the U.S. Department  
14 of Labor, for a period of at least 2 consecutive calendar  
15 years preceding the date of the application.

16 (j) Each contractor and subcontractor who is engaged in and  
17 executing a High Impact Business Construction jobs project, as  
18 defined under subsection (i) of this Section, for a business  
19 that is entitled to a credit pursuant to subsection (i) of this  
20 Section shall:

21 (1) make and keep, for a period of 5 years from the  
22 date of the last payment made on or after the effective  
23 date of this amendatory Act of the 101st General Assembly  
24 on a contract or subcontract for a High Impact Business  
25 Construction Jobs Project, records for all laborers and  
26 other workers employed by the contractor or subcontractor

1 on the project; the records shall include:

2 (A) the worker's name;

3 (B) the worker's address;

4 (C) the worker's telephone number, if available;

5 (D) the worker's social security number;

6 (E) the worker's classification or  
7 classifications;

8 (F) the worker's gross and net wages paid in each  
9 pay period;

10 (G) the worker's number of hours worked each day;

11 (H) the worker's starting and ending times of work  
12 each day;

13 (I) the worker's hourly wage rate; and

14 (J) the worker's hourly overtime wage rate;

15 (2) no later than the 15th day of each calendar month,  
16 provide a certified payroll for the immediately preceding  
17 month to the taxpayer in charge of the High Impact Business  
18 construction jobs project; within 5 business days after  
19 receiving the certified payroll, the taxpayer shall file  
20 the certified payroll with the Department of Labor and the  
21 Department of Commerce and Economic Opportunity; a  
22 certified payroll must be filed for only those calendar  
23 months during which construction on a High Impact Business  
24 construction jobs project has occurred; the certified  
25 payroll shall consist of a complete copy of the records  
26 identified in paragraph (1) of this subsection (j), but may



1           exclude the starting and ending times of work each day; the  
2           certified payroll shall be accompanied by a statement  
3           signed by the contractor or subcontractor or an officer,  
4           employee, or agent of the contractor or subcontractor which  
5           avers that:

6                   (A) he or she has examined the certified payroll  
7           records required to be submitted by the Act and such  
8           records are true and accurate; and

9                   (B) the contractor or subcontractor is aware that  
10          filing a certified payroll that he or she knows to be  
11          false is a Class A misdemeanor.

12          A general contractor is not prohibited from relying on a  
13          certified payroll of a lower-tier subcontractor, provided the  
14          general contractor does not knowingly rely upon a  
15          subcontractor's false certification.

16          Any contractor or subcontractor subject to this  
17          subsection, and any officer, employee, or agent of such  
18          contractor or subcontractor whose duty as an officer, employee,  
19          or agent it is to file a certified payroll under this  
20          subsection, who willfully fails to file such a certified  
21          payroll on or before the date such certified payroll is  
22          required by this paragraph to be filed and any person who  
23          willfully files a false certified payroll that is false as to  
24          any material fact is in violation of this Act and guilty of a  
25          Class A misdemeanor.

26          The taxpayer in charge of the project shall keep the

1 records submitted in accordance with this subsection on or  
2 after the effective date of this amendatory Act of the 101st  
3 General Assembly for a period of 5 years from the date of the  
4 last payment for work on a contract or subcontract for the High  
5 Impact Business construction jobs project.

6 The records submitted in accordance with this subsection  
7 shall be considered public records, except an employee's  
8 address, telephone number, and social security number, and made  
9 available in accordance with the Freedom of Information Act.  
10 The Department of Labor shall accept any reasonable submissions  
11 by the contractor that meet the requirements of this subsection  
12 (j) and shall share the information with the Department in  
13 order to comply with the awarding of a High Impact Business  
14 construction jobs credit. A contractor, subcontractor, or  
15 public body may retain records required under this Section in  
16 paper or electronic format.

17 (k) Upon 7 business days' notice, each contractor and  
18 subcontractor shall make available for inspection and copying  
19 at a location within this State during reasonable hours, the  
20 records identified in this subsection (j) to the taxpayer in  
21 charge of the High Impact Business construction jobs project,  
22 its officers and agents, the Director of the Department of  
23 Labor and his deputies and agents, and to federal, State, or  
24 local law enforcement agencies and prosecutors.

25 (Source: P.A. 101-9, eff. 6-5-19.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.