



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4820

Introduced 2/18/2020, by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.5

from Ch. 67 1/2, par. 609.1

Amends the Illinois Enterprise Zone Act. Provides that a business may be considered a high impact business if the business intends to establish a new commercial solar power facility at a designated location in Illinois. Effective immediately.

LRB101 18214 HLH 67656 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 July

1 25, 2013 (the effective date of Public Act 98-109) ~~this~~
2 ~~amendatory Act of the 98th General Assembly; or and~~

3 (G) the business intends to establish a new
4 commercial solar power facility at a designated
5 location in Illinois; for purposes of this Section,
6 "new commercial solar power facility" means a newly
7 constructed electric generation facility or a newly
8 constructed expansion of an existing electric
9 generation facility placed in service on or after July
10 1, 2020 that generates electricity using commercial
11 solar energy systems; such facility shall be deemed to
12 include all associated transmission lines,
13 substations, and other equipment related to the
14 generation of electricity from commercial solar energy
15 devices; for the purposes of this Section, "commercial
16 solar energy device" means any device or assembly of
17 devices that (i) is ground-installed, (ii) uses solar
18 energy from the sun for generating electricity, and
19 (iii) has a nameplate capacity of at least 2 megawatts;
20 and

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

25 (b) Businesses designated as High Impact Businesses
26 pursuant to subdivision (a) (3) (A) of this Section shall qualify

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

20 (b-5) Businesses designated as High Impact Businesses
21 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),
22 and (a)(3)(D) of this Section shall qualify for the credits and
23 exemptions described in the following Acts: Section 51 of the
24 Retailers' Occupation Tax Act, Section 9-222 and Section
25 9-222.1A of the Public Utilities Act, and subsection (h) of
26 Section 201 of the Illinois Income Tax Act; however, the

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

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

16 (b-7) Beginning on January 1, 2021, businesses designated
17 as High Impact Businesses by the Department shall qualify for
18 the High Impact Business construction jobs credit under
19 subsection (h-5) of Section 201 of the Illinois Income Tax Act
20 if the business meets the criteria set forth in subsection (i)
21 of this Section. The total aggregate amount of credits awarded
22 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9
23 ~~this amendatory Act of the 101st General Assembly~~) shall not
24 exceed \$20,000,000 in any State fiscal year.

25 (b-8) Businesses designated as High Impact Businesses
26 pursuant to subdivision (a) (3) (G) shall qualify for the

1 exemptions described in Section 51 of the Retailers' Occupation
2 Tax Act.

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

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

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

23 (f) Except for businesses contemplated under subdivision
24 (a) (3) (E) and (a) (3) (G) of this Section, in the event that a
25 business is designated a High Impact Business and it is later
26 determined after reasonable notice and an opportunity for a

1 hearing as provided under the Illinois Administrative
2 Procedure Act, that the business would have placed in service
3 in qualified property the investments and created or retained
4 the requisite number of jobs without the benefits of the High
5 Impact Business designation, the Department shall be required
6 to immediately revoke the designation and notify the Director
7 of the Department of Revenue who shall begin proceedings to
8 recover all wrongfully exempted State taxes with interest. The
9 business shall also be ineligible for all State funded
10 Department programs for a period of 10 years.

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

24 (h) Prior to designating a business, the Department shall
25 provide the members of the General Assembly and Commission on
26 Government Forecasting and Accountability with a report

1 setting forth the terms and conditions of the designation and
2 guarantees that have been received by the Department in
3 relation to the proposed business being designated.

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

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

26 As used in this subsection (i):

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

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

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

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

24 "Underserved area" means a geographic area that meets one
25 or more of the following conditions:

- 26 (1) the area has a poverty rate of at least 20%

1 according to the latest federal decennial census;

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

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

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

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

19 (1) make and keep, for a period of 5 years from the
20 date of the last payment made on or after June 5, 2019 (the
21 effective date of Public Act 101-9) ~~this amendatory Act of~~
22 ~~the 101st General Assembly~~ on a contract or subcontract for
23 a High Impact Business Construction Jobs Project, records
24 for all laborers and other workers employed by the
25 contractor or subcontractor on the project; the records
26 shall include:

- 1 (A) the worker's name;
- 2 (B) the worker's address;
- 3 (C) the worker's telephone number, if available;
- 4 (D) the worker's social security number;
- 5 (E) the worker's classification or
- 6 classifications;
- 7 (F) the worker's gross and net wages paid in each
- 8 pay period;
- 9 (G) the worker's number of hours worked each day;
- 10 (H) the worker's starting and ending times of work
- 11 each day;
- 12 (I) the worker's hourly wage rate; and
- 13 (J) the worker's hourly overtime wage rate;
- 14 (2) no later than the 15th day of each calendar month,
- 15 provide a certified payroll for the immediately preceding
- 16 month to the taxpayer in charge of the High Impact Business
- 17 construction jobs project; within 5 business days after
- 18 receiving the certified payroll, the taxpayer shall file
- 19 the certified payroll with the Department of Labor and the
- 20 Department of Commerce and Economic Opportunity; a
- 21 certified payroll must be filed for only those calendar
- 22 months during which construction on a High Impact Business
- 23 construction jobs project has occurred; the certified
- 24 payroll shall consist of a complete copy of the records
- 25 identified in paragraph (1) of this subsection (j), but may
- 26 exclude the starting and ending times of work each day; the

1 certified payroll shall be accompanied by a statement
2 signed by the contractor or subcontractor or an officer,
3 employee, or agent of the contractor or subcontractor which
4 avers that:

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

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

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

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

25 The taxpayer in charge of the project shall keep the
26 records submitted in accordance with this subsection on or

1 after June 5, 2019 (the effective date of Public Act 101-9)
2 ~~this amendatory Act of the 101st General Assembly~~ for a period
3 of 5 years from the date of the last payment for work on a
4 contract or subcontract for the High Impact Business
5 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 or her deputies and agents, and to federal,
24 State, or local law enforcement agencies and prosecutors.

25 (Source: P.A. 101-9, eff. 6-5-19; revised 7-12-19.)

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

1 becoming law.