



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3849

Introduced 2/14/2020, by Sen. Ann Gillespie

SYNOPSIS AS INTRODUCED:

20 ILCS 655/5.1	from Ch. 67 1/2, par. 606
20 ILCS 655/5.4	from Ch. 67 1/2, par. 609
20 ILCS 655/8.1	

Amends the Illinois Enterprise Zone Act. Contains provisions concerning provisional certification and provisional decertification of Enterprise Zones. Further provides that if the Department of Commerce and Economic Opportunity determines that 60% or more of the businesses receiving tax incentives because of their location within a particular Enterprise Zone fail to submit specified required information to the Department in any calendar year, then the Enterprise Zone may be decertified by the Department. Makes conforming.

LRB101 19299 RJF 68766 b

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 Sections 5.1, 5.4, and 8.1 as follows:

6 (20 ILCS 655/5.1) (from Ch. 67 1/2, par. 606)

7 Sec. 5.1. Application to Department.

8 (a) A county or municipality which has adopted an ordinance
9 designating an area as an enterprise zone shall make written
10 application to the Department to have such proposed enterprise
11 zone certified by the Department as an Enterprise Zone. The
12 application shall include:

13 (i) a certified copy of the ordinance designating the
14 proposed zone;

15 (ii) a map of the proposed enterprise zone, showing
16 existing streets and highways;

17 (iii) an analysis, and any appropriate supporting
18 documents and statistics, demonstrating that the proposed
19 zone area is qualified in accordance with Section 4;

20 (iv) a statement detailing any tax, grant, and other
21 financial incentives or benefits, and any programs, to be
22 provided by the municipality or county to business
23 enterprises within the zone, other than those provided in

1 the designating ordinance, which are not to be provided
2 throughout the municipality or county;

3 (v) a statement setting forth the economic development
4 and planning objectives for the zone;

5 (vi) a statement describing the functions, programs,
6 and services to be performed by designated zone
7 organizations within the zone;

8 (vii) an estimate of the economic impact of the zone,
9 considering all of the tax incentives, financial benefits
10 and programs contemplated, upon the revenues of the
11 municipality or county;

12 (viii) a transcript of all public hearings on the zone;

13 (ix) in the case of a joint application, a statement
14 detailing the need for a zone covering portions of more
15 than one municipality or county and a description of the
16 agreement between joint applicants; and

17 (x) such additional information as the Department by
18 regulation may require.

19 (b) The Department may provide for provisional
20 certification of substantially complete applications pending
21 the receipt of any of the items identified in subsection (a) of
22 this Section or any additional information requested by the
23 Department.

24 (Source: P.A. 82-1019.)

25 (20 ILCS 655/5.4) (from Ch. 67 1/2, par. 609)

1 Sec. 5.4. Amendment and Decertification of Enterprise
2 Zones.

3 (a) The terms of a certified enterprise zone designating
4 ordinance may be amended to

5 (i) alter the boundaries of the Enterprise Zone, or

6 (ii) expand, limit or repeal tax incentives or benefits
7 provided in the ordinance, or

8 (iii) alter the termination date of the zone, or

9 (iv) make technical corrections in the enterprise zone
10 designating ordinance; but such amendment shall not be
11 effective unless the Department issues an amended
12 certificate for the Enterprise Zone, approving the amended
13 designating ordinance. Upon the adoption of any ordinance
14 amending or repealing the terms of a certified enterprise
15 zone designating ordinance, the municipality or county
16 shall promptly file with the Department an application for
17 approval thereof, containing substantially the same
18 information as required for an application under Section
19 5.1 insofar as material to the proposed changes. The
20 municipality or county must hold a public hearing on the
21 proposed changes as specified in Section 5 and, if the
22 amendment is to effectuate the limitation of tax abatements
23 under Section 5.4.1, then the public notice of the hearing
24 shall state that property that is in both the enterprise
25 zone and a redevelopment project area may not receive tax
26 abatements unless within 60 days after the adoption of the

1 amendment to the designating ordinance the municipality
2 has determined that eligibility for tax abatements has been
3 established,

4 (v) include an area within another municipality or
5 county as part of the designated enterprise zone provided
6 the requirements of Section 4 are complied with, or

7 (vi) effectuate the limitation of tax abatements under
8 Section 5.4.1.

9 (b) The Department shall approve or disapprove a proposed
10 amendment to a certified enterprise zone within 90 days of its
11 receipt of the application from the municipality or county. The
12 Department may not approve changes in a Zone which are not in
13 conformity with this Act, as now or hereafter amended, or with
14 other applicable laws. If the Department issues an amended
15 certificate for an Enterprise Zone, the amended certificate,
16 together with the amended zone designating ordinance, shall be
17 filed, recorded and transmitted as provided in Section 5.3.

18 (c) An Enterprise Zone may be decertified by joint action
19 of the Department and the designating county or municipality in
20 accordance with this Section. The designating county or
21 municipality shall conduct at least one public hearing within
22 the zone prior to its adoption of an ordinance of
23 de-designation. The mayor of the designating municipality or
24 the chairman of the county board of the designating county
25 shall execute a joint decertification agreement with the
26 Department. A decertification of an Enterprise Zone shall not

1 become effective until at least 6 months after the execution of
2 the decertification agreement, which shall be filed in the
3 office of the Secretary of State.

4 (d) An Enterprise Zone may be decertified for cause by the
5 Department in accordance with this Section. Prior to
6 decertification: (1) the Department shall notify the chief
7 elected official of the designating county or municipality in
8 writing of the specific deficiencies which provide cause for
9 decertification; (2) the Department shall place the
10 designating county or municipality on probationary status for
11 at least 6 months during which time corrective action may be
12 achieved in the enterprise zone by the designating county or
13 municipality; and, (3) the Department shall conduct at least
14 one public hearing within the zone. If such corrective action
15 is not achieved during the probationary period, the Department
16 shall issue an amended certificate signed by the Director of
17 the Department decertifying the enterprise zone, which
18 certificate shall be filed in the office of the Secretary of
19 State. A certified copy of the amended enterprise zone
20 certificate, or a duplicate original thereof, shall be recorded
21 in the office of recorder of the county in which the enterprise
22 zone lies, and shall be provided to the chief elected official
23 of the designating county or municipality. Decertification of
24 an Enterprise Zone shall not become effective until 60 days
25 after the date of filing.

26 (d-5) The Department shall provisionally decertify any

1 Enterprise Zone that fails to report any capital investment,
2 job creation or retention, or State tax expenditures for 3
3 consecutive calendar years. Prior to provisional
4 decertification: (1) the Department shall notify the chief
5 elected official of the designating county or municipality in
6 writing of the specific deficiencies which provide cause for
7 decertification; (2) the Department shall place the
8 designating county or municipality on probationary status for
9 at least 6 months during which time corrective action may be
10 achieved in the Enterprise Zone by the designating county or
11 municipality; and (3) the Department shall conduct at least one
12 public hearing within the Zone. If such corrective action is
13 not achieved during the probationary period, the Department
14 shall issue an amended certificate signed by the Director of
15 the Department provisionally decertifying the Enterprise Zone
16 as of the scheduled termination date of the then-current
17 designation. If the provisionally-decertified Zone was
18 approved and designated after the 101st General Assembly and
19 has been in existence for less than 15 years, such Zone shall
20 not be eligible for an additional 10-year designation after the
21 expiration date of the original Zone set forth in subsection
22 (c) of Section 5.3. Further, if such corrective action is not
23 achieved during the probationary period provided for in this
24 Section, following such probationary period the Zone becomes
25 available for a different area to compete for designation.

26 (e) In the event of a decertification, provisional

1 decertification, or an amendment reducing the length of the
2 term or the area of an Enterprise Zone or the adoption of an
3 ordinance reducing or eliminating tax benefits in an Enterprise
4 Zone, all benefits previously extended within the Zone pursuant
5 to this Act or pursuant to any other Illinois law providing
6 benefits specifically to or within Enterprise Zones shall
7 remain in effect for the original stated term of the Enterprise
8 Zone, with respect to business enterprises within the Zone on
9 the effective date of such decertification, provisional
10 decertification, or amendment, and with respect to individuals
11 participating in urban homestead programs under this Act.

12 (f) Except as otherwise provided in Section 5.4.1, with
13 respect to business enterprises (or expansions thereof) which
14 are proposed or under development within a Zone at the time of
15 a decertification or an amendment reducing the length of the
16 term of the Zone, or excluding from the Zone area the site of
17 the proposed enterprise, or an ordinance reducing or
18 eliminating tax benefits in a Zone, such business enterprise
19 shall be entitled to the benefits previously applicable within
20 the Zone for the original stated term of the Zone, if the
21 business enterprise establishes:

22 (i) that the proposed business enterprise or expansion
23 has been committed to be located within the Zone;

24 (ii) that substantial and binding financial
25 obligations have been made towards the development of such
26 enterprise; and

1 (iii) that such commitments have been made in
2 reasonable reliance on the benefits and programs which were
3 to have been applicable to the enterprise by reason of the
4 Zone, including in the case of a reduction in term of a
5 zone, the original length of the term.

6 In declaratory judgment actions under this paragraph, the
7 Department and the designating municipality or county shall be
8 necessary parties defendant.

9 (Source: P.A. 90-258, eff. 7-30-97.)

10 (20 ILCS 655/8.1)

11 Sec. 8.1. Accounting.

12 (a) Any business receiving tax incentives due to its
13 location within an Enterprise Zone or its designation as a High
14 Impact Business must annually report to the Department of
15 Revenue information reasonably required by the Department of
16 Revenue to enable the Department to verify and calculate the
17 total Enterprise Zone or High Impact Business tax benefits for
18 property taxes and taxes imposed by the State that are received
19 by the business, broken down by incentive category and
20 enterprise zone, if applicable. Reports will be due no later
21 than May 31 of each year and shall cover the previous calendar
22 year. The first report will be for the 2012 calendar year and
23 will be due no later than May 31, 2013. Failure to report data
24 may result in ineligibility to receive incentives. To the
25 extent that a business receiving tax incentives has obtained an

1 Enterprise Zone Building Materials Exemption Certificate or a
2 High Impact Business Building Materials Exemption Certificate,
3 that business is required to report those building materials
4 exemption benefits only under subsection (a-5) of this Section.
5 No additional reporting for those building materials exemption
6 benefits is required under this subsection (a). In addition, if
7 the Department determines that 60% or more of the businesses
8 receiving tax incentives because of their location within a
9 particular Enterprise Zone failed to submit the information
10 required under this subsection (a) to the Department in any
11 calendar year, then the Enterprise Zone may be decertified by
12 the Department. The Department, in consultation with the
13 Department of Revenue, is authorized to adopt rules governing
14 ineligibility to receive exemptions, including the length of
15 ineligibility. Factors to be considered in determining whether
16 a business is ineligible shall include, but are not limited to,
17 prior compliance with the reporting requirements, cooperation
18 in discontinuing and correcting violations, the extent of the
19 violation, and whether the violation was willful or
20 inadvertent.

21 (a-5) Each contractor or other entity that has been issued
22 an Enterprise Zone Building Materials Exemption Certificate
23 under Section 5k of the Retailers' Occupation Tax Act or a High
24 Impact Business Building Materials Exemption Certificate under
25 Section 5l of the Retailers' Occupation Tax Act shall annually
26 report to the Department of Revenue the total value of the

1 Enterprise Zone or High Impact Business building materials
2 exemption from State taxes. Reports shall contain information
3 reasonably required by the Department of Revenue to enable it
4 to verify and calculate the total tax benefits for taxes
5 imposed by the State, and shall be broken down by Enterprise
6 Zone. Reports are due no later than May 31 of each year and
7 shall cover the previous calendar year. The first report will
8 be for the 2013 calendar year and will be due no later than May
9 31, 2014. Failure to report data may result in revocation of
10 the Enterprise Zone Building Materials Exemption Certificate
11 or High Impact Business Building Materials Exemption
12 Certificate issued to the contractor or other entity.

13 The Department of Revenue is authorized to adopt rules
14 governing revocation determinations, including the length of
15 revocation. Factors to be considered in revocations shall
16 include, but are not limited to, prior compliance with the
17 reporting requirements, cooperation in discontinuing and
18 correcting violations, and whether the certificate was used
19 unlawfully during the preceding year.

20 (b) Each person required to file a return under the Gas
21 Revenue Tax Act, the Gas Use Tax Act, the Electricity Excise
22 Tax Act, or the Telecommunications Excise Tax Act shall file,
23 on or before May 31 of each year, a report with the Department
24 of Revenue, in the manner and form required by the Department
25 of Revenue, containing information reasonably required by the
26 Department of Revenue to enable the Department of Revenue to

1 calculate the amount of the deduction for taxes imposed by the
2 State that is taken under each Act, respectively, due to the
3 location of a business in an Enterprise Zone or its designation
4 as a High Impact Business. The report shall be itemized by
5 business and the business location address.

6 (c) Employers shall report their job creation, retention,
7 and capital investment numbers within the zone annually to the
8 Department of Revenue no later than May 31 of each calendar
9 year. High Impact Businesses shall report their job creation,
10 retention, and capital investment numbers to the Department of
11 Revenue no later than May 31 of each year.

12 (d) The Department of Revenue will aggregate and collect
13 the tax, job, and capital investment data by Enterprise Zone
14 and High Impact Business and report this information, formatted
15 to exclude company-specific proprietary information, to the
16 Department and the Board by August 1, 2013, and by August 1 of
17 every calendar year thereafter. The Department will include
18 this information in their required reports under Section 6 of
19 this Act. The Board shall consider this information during the
20 reviews required under subsection (d-5) of Section 5.4 of this
21 Act and subsection (c) of Section 5.3 of this Act.

22 (e) The Department of Revenue, in its discretion, may
23 require that the reports filed under this Section be submitted
24 electronically.

25 (f) The Department of Revenue shall have the authority to
26 adopt rules as are reasonable and necessary to implement the

1 provisions of this Section.

2 (Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)