



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3174

Introduced 2/19/2021, 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.

LRB102 14914 HLH 20269 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  
10 the private sector through large scale investment and  
11 development projects, the Department is authorized to receive  
12 and approve applications for the designation of "High Impact  
13 Businesses" in 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

1 500 full-time equivalent jobs at a designated location  
2 in 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  
7 the investments would not be placed in service in  
8 qualified property and the job creation or job  
9 retention would not occur without the tax credits and  
10 exemptions set forth in subsection (b) of this  
11 Section. The terms "placed in service" and "qualified  
12 property" have the same meanings as described in  
13 subsection (h) of Section 201 of the Illinois Income  
14 Tax Act; or

15 (B) the business intends to establish a new  
16 electric generating facility at a designated location  
17 in Illinois. "New electric generating facility", for  
18 purposes of this Section, means a newly-constructed  
19 electric generation plant or a newly-constructed  
20 generation capacity expansion at an existing electric  
21 generation plant, including the transmission lines and  
22 associated equipment that transfers electricity from  
23 points of supply to points of delivery, and for which  
24 such new foundation construction commenced not sooner  
25 than July 1, 2001. Such facility shall be designed to  
26 provide baseload electric generation and shall operate

1 on a continuous basis throughout the year; and (i)  
2 shall have an aggregate rated generating capacity of  
3 at least 1,000 megawatts for all new units at one site  
4 if it uses natural gas as its primary fuel and  
5 foundation construction of the facility is commenced  
6 on or before December 31, 2004, or shall have an  
7 aggregate rated generating capacity of at least 400  
8 megawatts for all new units at one site if it uses coal  
9 or gases derived from coal as its primary fuel and  
10 shall support the creation of at least 150 new  
11 Illinois coal mining jobs, or (ii) shall be funded  
12 through a federal Department of Energy grant before  
13 December 31, 2010 and shall support the creation of  
14 Illinois coal-mining jobs, or (iii) shall use coal  
15 gasification or integrated gasification-combined cycle  
16 units that generate electricity or chemicals, or both,  
17 and shall support the creation of Illinois coal-mining  
18 jobs. The business must certify in writing that the  
19 investments necessary to establish a new electric  
20 generating facility would not be placed in service and  
21 the job creation in the case of a coal-fueled plant  
22 would not occur without the tax credits and exemptions  
23 set forth in subsection (b-5) of this Section. The  
24 term "placed in service" has the same meaning as  
25 described in subsection (h) of Section 201 of the  
26 Illinois Income Tax Act; or

1 (B-5) the business intends to establish a new  
2 gasification facility at a designated location in  
3 Illinois. As used in this Section, "new gasification  
4 facility" means a newly constructed coal gasification  
5 facility that generates chemical feedstocks or  
6 transportation fuels derived from coal (which may  
7 include, but are not limited to, methane, methanol,  
8 and nitrogen fertilizer), that supports the creation  
9 or retention of Illinois coal-mining jobs, and that  
10 qualifies for financial assistance from the Department  
11 before December 31, 2010. A new gasification facility  
12 does not include a pilot project located within  
13 Jefferson County or within a county adjacent to  
14 Jefferson County for synthetic natural gas from coal;  
15 or

16 (C) the business intends to establish production  
17 operations at a new coal mine, re-establish production  
18 operations at a closed coal mine, or expand production  
19 at an existing coal mine at a designated location in  
20 Illinois not sooner than July 1, 2001; provided that  
21 the production operations result in the creation of  
22 150 new Illinois coal mining jobs as described in  
23 subdivision (a)(3)(B) of this Section, and further  
24 provided that the coal extracted from such mine is  
25 utilized as the predominant source for a new electric  
26 generating facility. The business must certify in

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

9 (D) the business intends to construct new  
10 transmission facilities or upgrade existing  
11 transmission facilities at designated locations in  
12 Illinois, for which construction commenced not sooner  
13 than July 1, 2001. For the purposes of this Section,  
14 "transmission facilities" means transmission lines  
15 with a voltage rating of 115 kilovolts or above,  
16 including associated equipment, that transfer  
17 electricity from points of supply to points of  
18 delivery and that transmit a majority of the  
19 electricity generated by a new electric generating  
20 facility designated as a High Impact Business in  
21 accordance with this Section. The business must  
22 certify in writing that the investments necessary to  
23 construct new transmission facilities or upgrade  
24 existing transmission facilities would not be placed  
25 in service without the tax credits and exemptions set  
26 forth in subsection (b-5) of this Section. The term

1 "placed in service" has the same meaning as described  
2 in subsection (h) of Section 201 of the Illinois  
3 Income Tax Act; or

4 (E) the business intends to establish a new wind  
5 power facility at a designated location in Illinois.  
6 For purposes of this Section, "new wind power  
7 facility" means a newly constructed electric  
8 generation facility, or a newly constructed expansion  
9 of an existing electric generation facility, placed in  
10 service on or after July 1, 2009, that generates  
11 electricity using wind energy devices, and such  
12 facility shall be deemed to include all associated  
13 transmission lines, substations, and other equipment  
14 related to the generation of electricity from wind  
15 energy devices. For purposes of this Section, "wind  
16 energy device" means any device, with a nameplate  
17 capacity of at least 0.5 megawatts, that is used in the  
18 process of converting kinetic energy from the wind to  
19 generate electricity; or

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

1 Isolation and Protective Action Distances in the 2012  
2 Emergency Response Guidebook published by the United  
3 States Department of Transportation, (iv) pay a  
4 prevailing wage for employees at that location who are  
5 engaged in construction activities, and (v) secure an  
6 appropriate level of general liability insurance to  
7 protect against catastrophic failure of the fertilizer  
8 plant or any of its constituent systems; in addition,  
9 the business must agree to enter into a construction  
10 project labor agreement including provisions  
11 establishing wages, benefits, and other compensation  
12 for employees performing work under the project labor  
13 agreement at that location; for the purposes of this  
14 Section, "fertilizer plant" means a newly constructed  
15 or upgraded plant utilizing gas used in the production  
16 of anhydrous ammonia and downstream nitrogen  
17 fertilizer products for resale; for the purposes of  
18 this Section, "prevailing wage" means the hourly cash  
19 wages plus fringe benefits for training and  
20 apprenticeship programs approved by the U.S.  
21 Department of Labor, Bureau of Apprenticeship and  
22 Training, health and welfare, insurance, vacations and  
23 pensions paid generally, in the locality in which the  
24 work is being performed, to employees engaged in work  
25 of a similar character on public works; this paragraph  
26 (F) applies only to businesses that submit an



1 application to the Department within 60 days after  
2 July 25, 2013 (the effective date of Public Act  
3 98-109) ~~this amendatory Act of the 98th General~~  
4 ~~Assembly~~; and

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

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

1 subsection (h) of Section 201 of the Illinois Income Tax Act  
2 shall be applicable to investments in qualified property as  
3 set forth in subdivision (a) (3) (A) of this Section.

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

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

26 (b-7) Beginning on January 1, 2021, businesses designated

1 as High Impact Businesses by the Department shall qualify for  
2 the High Impact Business construction jobs credit under  
3 subsection (h-5) of Section 201 of the Illinois Income Tax Act  
4 if the business meets the criteria set forth in subsection (i)  
5 of this Section. The total aggregate amount of credits awarded  
6 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9  
7 ~~this amendatory Act of the 101st General Assembly~~) shall not  
8 exceed \$20,000,000 in any State fiscal year.

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

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

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

1 designated as a High Impact Business.

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

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

1 ~~Business.~~

2 (h) Prior to designating a business, the Department shall  
3 provide the members of the General Assembly and Commission on  
4 Government Forecasting and Accountability with a report  
5 setting forth the terms and conditions of the designation and  
6 guarantees that have been received by the Department in  
7 relation to the proposed business being designated.

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

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

1 entity that receives a High Impact Business construction jobs  
2 credit shall maintain a certified payroll pursuant to  
3 subsection (j) of this Section.

4 As used in this subsection (i):

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

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

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

26 "Incremental income tax" means the total amount withheld

1 during the taxable year from the compensation of High Impact  
2 Business construction job employees.

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

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

7 (2) 75% or more of the children in the area  
8 participate in the federal free lunch program according to  
9 reported statistics from the State Board of Education;

10 (3) at least 20% of the households in the area receive  
11 assistance under the Supplemental Nutrition Assistance  
12 Program (SNAP); or

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

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

24 (1) make and keep, for a period of 5 years from the  
25 date of the last payment made on or after June 5, 2019 (the  
26 effective date of Public Act 101-9) ~~this amendatory Act of~~

1 ~~the 101st General Assembly~~ on a contract or subcontract  
2 for a High Impact Business Construction Jobs Project,  
3 records for all laborers and other workers employed by the  
4 contractor or subcontractor on the project; the records  
5 shall include:

6 (A) the worker's name;

7 (B) the worker's address;

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

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

10 (E) the worker's classification or  
11 classifications;

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

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

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

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

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

19 (2) no later than the 15th day of each calendar month,  
20 provide a certified payroll for the immediately preceding  
21 month to the taxpayer in charge of the High Impact  
22 Business construction jobs project; within 5 business days  
23 after receiving the certified payroll, the taxpayer shall  
24 file the certified payroll with the Department of Labor  
25 and the Department of Commerce and Economic Opportunity; a  
26 certified payroll must be filed for only those calendar



1 months during which construction on a High Impact Business  
2 construction jobs project has occurred; the certified  
3 payroll shall consist of a complete copy of the records  
4 identified in paragraph (1) of this subsection (j), but  
5 may exclude the starting and ending times of work each  
6 day; the certified payroll shall be accompanied by a  
7 statement signed by the contractor or subcontractor or an  
8 officer, employee, or agent of the contractor or  
9 subcontractor which avers that:

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

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

16 A general contractor is not prohibited from relying on a  
17 certified payroll of a lower-tier subcontractor, provided the  
18 general contractor does not knowingly rely upon a  
19 subcontractor's false certification.

20 Any contractor or subcontractor subject to this  
21 subsection, and any officer, employee, or agent of such  
22 contractor or subcontractor whose duty as an officer,  
23 employee, or agent it is to file a certified payroll under this  
24 subsection, who willfully fails to file such a certified  
25 payroll on or before the date such certified payroll is  
26 required by this paragraph to be filed and any person who

1 willfully files a false certified payroll that is false as to  
2 any material fact is in violation of this Act and guilty of a  
3 Class A misdemeanor.

4 The taxpayer in charge of the project shall keep the  
5 records submitted in accordance with this subsection on or  
6 after June 5, 2019 (the effective date of Public Act 101-9)  
7 ~~this amendatory Act of the 101st General Assembly~~ for a period  
8 of 5 years from the date of the last payment for work on a  
9 contract or subcontract for the High Impact Business  
10 construction jobs project.

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

22 (k) Upon 7 business days' notice, each contractor and  
23 subcontractor shall make available for inspection and copying  
24 at a location within this State during reasonable hours, the  
25 records identified in this subsection (j) to the taxpayer in  
26 charge of the High Impact Business construction jobs project,

1 its officers and agents, the Director of the Department of  
2 Labor and his or her deputies and agents, and to federal,  
3 State, or local law enforcement agencies and prosecutors.

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

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.