

SB3796



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3796

Introduced 2/9/2024, by Sen. Steve Stadelman

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 which intends to establish a new battery energy storage solution facility at a designated location in Illinois may receive a designation as a High Impact Business. Provides that "new battery energy storage solution facility" means a newly constructed battery energy storage facility, a newly constructed expansion of an existing battery energy storage facility, or the replacement of an existing battery energy storage facility that stores electricity using battery devices and other means, and such facility shall be deemed to include any permanent structures associated with the battery energy storage facility and all associated transmission lines, substations, and other equipment related to the storage and transmission of electric power that has a capacity of not less than 100 megawatt and storage capability of not less than 200 megawatt hours of energy.

LRB103 39039 MXP 69176 b

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, for an initial term of 20 years with
14 an option for renewal for a term not to exceed 20 years,
15 subject to the following conditions:

16 (1) such applications may be submitted at any time
17 during the year;

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

21 (3) the business intends to do, commits to do, or is
22 one or more of the following:

23 (A) the business intends to make a minimum

1 investment of \$12,000,000 which will be placed in
2 service in qualified property and intends to create
3 500 full-time equivalent jobs at a designated location
4 in Illinois or intends to make a minimum investment of
5 \$30,000,000 which will be placed in service in
6 qualified property and intends to retain 1,500
7 full-time retained jobs at a designated location in
8 Illinois. The terms "placed in service" and "qualified
9 property" have the same meanings as described in
10 subsection (h) of Section 201 of the Illinois Income
11 Tax Act; or

12 (B) the business intends to establish a new
13 electric generating facility at a designated location
14 in Illinois. "New electric generating facility", for
15 purposes of this Section, means a newly constructed
16 electric generation plant or a newly constructed
17 generation capacity expansion at an existing electric
18 generation plant, including the transmission lines and
19 associated equipment that transfers electricity from
20 points of supply to points of delivery, and for which
21 such new foundation construction commenced not sooner
22 than July 1, 2001. Such facility shall be designed to
23 provide baseload electric generation and shall operate
24 on a continuous basis throughout the year; and (i)
25 shall have an aggregate rated generating capacity of
26 at least 1,000 megawatts for all new units at one site

1 if it uses natural gas as its primary fuel and
2 foundation construction of the facility is commenced
3 on or before December 31, 2004, or shall have an
4 aggregate rated generating capacity of at least 400
5 megawatts for all new units at one site if it uses coal
6 or gases derived from coal as its primary fuel and
7 shall support the creation of at least 150 new
8 Illinois coal mining jobs, or (ii) shall be funded
9 through a federal Department of Energy grant before
10 December 31, 2010 and shall support the creation of
11 Illinois coal mining ~~coal-mining~~ jobs, or (iii) shall
12 use coal gasification or integrated
13 gasification-combined cycle units that generate
14 electricity or chemicals, or both, and shall support
15 the creation of Illinois coal mining ~~coal-mining~~ jobs.
16 The term "placed in service" has the same meaning as
17 described in subsection (h) of Section 201 of the
18 Illinois Income Tax Act; or

19 (B-5) the business intends to establish a new
20 gasification facility at a designated location in
21 Illinois. As used in this Section, "new gasification
22 facility" means a newly constructed coal gasification
23 facility that generates chemical feedstocks or
24 transportation fuels derived from coal (which may
25 include, but are not limited to, methane, methanol,
26 and nitrogen fertilizer), that supports the creation

1 or retention of Illinois coal mining ~~coal mining~~ jobs,
2 and that qualifies for financial assistance from the
3 Department before December 31, 2010. A new
4 gasification facility does not include a pilot project
5 located within Jefferson County or within a county
6 adjacent to Jefferson County for synthetic natural gas
7 from coal; or

8 (C) the business intends to establish production
9 operations at a new coal mine, re-establish production
10 operations at a closed coal mine, or expand production
11 at an existing coal mine at a designated location in
12 Illinois not sooner than July 1, 2001; provided that
13 the production operations result in the creation of
14 150 new Illinois coal mining jobs as described in
15 subdivision (a)(3)(B) of this Section, and further
16 provided that the coal extracted from such mine is
17 utilized as the predominant source for a new electric
18 generating facility. The term "placed in service" has
19 the same meaning as described in subsection (h) of
20 Section 201 of the Illinois Income Tax Act; or

21 (D) the business intends to construct new
22 transmission facilities or upgrade existing
23 transmission facilities at designated locations in
24 Illinois, for which construction commenced not sooner
25 than July 1, 2001. For the purposes of this Section,
26 "transmission facilities" means transmission lines

1 with a voltage rating of 115 kilovolts or above,
2 including associated equipment, that transfer
3 electricity from points of supply to points of
4 delivery and that transmit a majority of the
5 electricity generated by a new electric generating
6 facility designated as a High Impact Business in
7 accordance with this Section. The term "placed in
8 service" has the same meaning as described in
9 subsection (h) of Section 201 of the Illinois Income
10 Tax Act; or

11 (E) the business intends to establish a new wind
12 power facility at a designated location in Illinois.
13 For purposes of this Section, "new wind power
14 facility" means a newly constructed electric
15 generation facility, a newly constructed expansion of
16 an existing electric generation facility, or the
17 replacement of an existing electric generation
18 facility, including the demolition and removal of an
19 electric generation facility irrespective of whether
20 it will be replaced, placed in service or replaced on
21 or after July 1, 2009, that generates electricity
22 using wind energy devices, and such facility shall be
23 deemed to include any permanent structures associated
24 with the electric generation facility and all
25 associated transmission lines, substations, and other
26 equipment related to the generation of electricity

1 from wind energy devices. For purposes of this
2 Section, "wind energy device" means any device, with a
3 nameplate capacity of at least 0.5 megawatts, that is
4 used in the process of converting kinetic energy from
5 the wind to generate electricity; or

6 (E-5) the business intends to establish a new
7 utility-scale solar facility at a designated location
8 in Illinois. For purposes of this Section, "new
9 utility-scale solar power facility" means a newly
10 constructed electric generation facility, or a newly
11 constructed expansion of an existing electric
12 generation facility, placed in service on or after
13 July 1, 2021, that (i) generates electricity using
14 photovoltaic cells and (ii) has a nameplate capacity
15 that is greater than 5,000 kilowatts, and such
16 facility shall be deemed to include all associated
17 transmission lines, substations, energy storage
18 facilities, and other equipment related to the
19 generation and storage of electricity from
20 photovoltaic cells; or

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

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

1 (F) applies only to businesses that submit an
2 application to the Department within 60 days after
3 July 25, 2013 (the effective date of Public Act
4 98-109); or

5 (G) the business intends to establish a new
6 cultured cell material food production facility at a
7 designated location in Illinois. As used in this
8 paragraph (G):

9 "Cultured cell material food production facility"
10 means a facility (i) at which cultured animal cell
11 food is developed using animal cell culture
12 technology, (ii) at which production processes occur
13 that include the establishment of cell lines and cell
14 banks, manufacturing controls, and all components and
15 inputs, and (iii) that complies with all existing
16 registrations, inspections, licensing, and approvals
17 from all applicable and participating State and
18 federal food agencies, including the Department of
19 Agriculture, the Department of Public Health, and the
20 United States Food and Drug Administration, to ensure
21 that all food production is safe and lawful under
22 provisions of the Federal Food, Drug and Cosmetic Act
23 related to the development, production, and storage of
24 cultured animal cell food.

25 "New cultured cell material food production
26 facility" means a newly constructed cultured cell

1 material food production facility that is placed in
2 service on or after June 7, 2023 (the effective date of
3 Public Act 103-9) ~~this amendatory Act of the 103rd~~
4 ~~General Assembly~~ or a newly constructed expansion of
5 an existing cultured cell material food production
6 facility, in a controlled environment, when the
7 improvements are placed in service on or after June 7,
8 2023 (the effective date of Public Act 103-9) ~~this~~
9 ~~amendatory Act of the 103rd General Assembly; or and~~

10 (H) ~~(G)~~ the business is an existing or planned
11 grocery store, as that term is defined in Section 5 of
12 the Grocery Initiative Act, and receives financial
13 support under that Act within the 10 years before
14 submitting its application under this Act; or ~~and~~

15 (I) the business intends to establish a new
16 battery energy storage solution facility at a
17 designated location in Illinois. As used in this
18 paragraph (I):

19 "New battery energy storage solution facility"
20 means a newly constructed battery energy storage
21 facility, a newly constructed expansion of an existing
22 battery energy storage facility, or the replacement of
23 an existing battery energy storage facility that
24 stores electricity using battery devices and other
25 means, and such facility shall be deemed to include
26 any permanent structures associated with the battery

1 energy storage facility and all associated
2 transmission lines, substations, and other equipment
3 related to the storage and transmission of electric
4 power that has a capacity of not less than 100 megawatt
5 and storage capability of not less than 200 megawatt
6 hours of energy; and

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

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

1 qualify for the exemption described in Section 51 of the
2 Retailers' Occupation Tax Act. The credit provided in
3 subsection (h) of Section 201 of the Illinois Income Tax Act
4 shall be applicable to investments in qualified property as
5 set forth in subdivision (a) (3) (A) of this Section.

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

25 (b-6) Businesses designated as High Impact Businesses
26 pursuant to subdivision (a) (3) (E) or (a) (3) (E-5) of this

1 Section shall qualify for the exemptions described in Section
2 51 of the Retailers' Occupation Tax Act; any business so
3 designated as a High Impact Business being, for purposes of
4 this Section, a "Wind Energy Business".

5 (b-7) Beginning on January 1, 2021, businesses designated
6 as High Impact Businesses by the Department shall qualify for
7 the High Impact Business construction jobs credit under
8 subsection (h-5) of Section 201 of the Illinois Income Tax Act
9 if the business meets the criteria set forth in subsection (i)
10 of this Section. The total aggregate amount of credits awarded
11 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9)
12 shall not exceed \$20,000,000 in any State fiscal year.

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

19 (d) Except for businesses contemplated under subdivision
20 (a) (3) (E), (a) (3) (E-5), ~~or~~ (a) (3) (G), or (a) (3) (H) of this
21 Section, existing Illinois businesses which apply for
22 designation as a High Impact Business must provide the
23 Department with the prospective plan for which 1,500 full-time
24 retained jobs would be eliminated in the event that the
25 business is not designated.

26 (e) Except for new businesses contemplated under

1 subdivision (a) (3) (E), ~~or~~ subdivision (a) (3) (G), or
2 subdivision (a) (3) (H) of this Section, new proposed facilities
3 which apply for designation as High Impact Business must
4 provide the Department with proof of alternative non-Illinois
5 sites which would receive the proposed investment and job
6 creation in the event that the business is not designated as a
7 High Impact Business.

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

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

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
22 of High Impact Business construction jobs credits that are
23 claimed pursuant to subsection (h-5) of Section 201 of the
24 Illinois Income Tax Act in each taxable year. Any business
25 entity that receives a High Impact Business construction jobs
26 credit shall maintain a certified payroll pursuant to

1 subsection (j) of this 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 Public Act 101-9) shall not exceed \$20,000,000 in any State
10 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 American Community Survey;

4 (2) 35% or more of the families with children in the
5 area are living below 130% of the poverty line, according
6 to the latest American Community Survey;

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
17 and executing a High Impact Business construction ~~Construction~~
18 jobs project, as defined under subsection (i) of this Section,
19 for a business that is entitled to a credit pursuant to
20 subsection (i) of this 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 June 5, 2019 (the
23 effective date of Public Act 101-9) on a contract or
24 subcontract for a High Impact Business construction jobs
25 project ~~Construction Jobs Project~~, records for all
26 laborers and other workers employed by the contractor or

1 subcontractor 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;

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

15 (K) the worker's race and ethnicity; and

16 (L) the worker's gender;

17 (2) no later than the 15th day of each calendar month,

18 provide a certified payroll for the immediately preceding

19 month to the taxpayer in charge of the High Impact

20 Business construction jobs project; within 5 business days

21 after receiving the certified payroll, the taxpayer shall

22 file the certified payroll with the Department of Labor

23 and the Department of Commerce and Economic Opportunity; a

24 certified payroll must be filed for only those calendar

25 months during which construction on a High Impact Business

26 construction jobs project has occurred; the certified

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

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

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

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

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

1 Class A misdemeanor.

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

8 The records submitted in accordance with this subsection
9 shall be considered public records, except an employee's
10 address, telephone number, and social security number, and
11 made available in accordance with the Freedom of Information
12 Act. The Department of Labor shall share the information with
13 the Department in order to comply with the awarding of a High
14 Impact Business construction jobs credit. A contractor,
15 subcontractor, or public body may retain records required
16 under this Section in 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 (l) The changes made to this Section by Public Act
26 102-1125 ~~this amendatory Act of the 102nd General Assembly,~~

1 other than the changes in subsection (a), apply to High Impact
2 Businesses ~~high impact businesses~~ that submit applications on
3 or after February 3, 2023 (the effective date of Public Act
4 102-1125) ~~this amendatory Act of the 102nd General Assembly.~~

5 (Source: P.A. 102-108, eff. 1-1-22; 102-558, eff. 8-20-21;
6 102-605, eff. 8-27-21; 102-662, eff. 9-15-21; 102-673, eff.
7 11-30-21; 102-813, eff. 5-13-22; 102-1125, eff. 2-3-23; 103-9,
8 eff. 6-7-23; 103-561, eff. 1-1-24; revised 9-27-23.)