

1 AN ACT in relation to executive agencies.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code is amended by
6 changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a
12 newly-constructed electric generation plant or a newly
13 constructed generation capacity expansion at an existing
14 facility, including the transmission lines and associated
15 equipment that transfers electricity from points of supply to
16 points of delivery, and for which foundation construction
17 commenced not sooner than July 1, 2001, which is designed to
18 provide baseload electric generation operating on a continuous
19 basis throughout the year~~r~~ and:

20 (1) ~~which~~ has an aggregate rated generating capacity of
21 at least 400 megawatts for all new units at one site, uses
22 coal or gases derived from coal as its primary fuel source,
23 and supports the creation of at least 150 new Illinois coal
24 mining jobs; or

25 (2) is (i) funded through a federal Department of
26 Energy grant before July 1, 2005, and (ii) uses coal
27 gasification or integrated gasification-combined cycle
28 units that generate electricity or chemicals, or both, and
29 that supports the creation of Illinois coal-mining jobs.

30 "Eligible business" means an entity that proposes to
31 construct a new electric generating facility and that has
32 applied to the Department to receive financial assistance

1 pursuant to this Section. With respect to use and occupation
2 taxes, wherever there is a reference to taxes, that reference
3 means only those taxes paid on Illinois-mined coal used in a
4 new electric generating facility.

5 "Department" means the Illinois Department of Commerce and
6 Economic Opportunity ~~Community Affairs~~.

7 (b) The Department is authorized to provide financial
8 assistance to eligible businesses for new electric generating
9 facilities from funds appropriated by the General Assembly as
10 further provided in this Section.

11 An eligible business seeking qualification for financial
12 assistance for a new electric generating facility, for purposes
13 of this Section only, shall apply to the Department in the
14 manner specified by the Department. Any projections provided by
15 an eligible business as part of the application shall be
16 independently verified in a manner as set forth by the
17 Department. An application shall include, but not be limited
18 to:

19 (1) the projected or actual completion date of the new
20 electric generating facility for which financial
21 assistance is sought;

22 (2) copies of documentation deemed acceptable by the
23 Department establishing either (i) the total State
24 occupation and use taxes paid on Illinois-mined coal used
25 at the new electric generating facility for a minimum of 4
26 preceding calendar quarters or (ii) the projected amount of
27 State occupation and use taxes paid on Illinois-mined coal
28 used at the new electric generating facility in 4 calendar
29 year quarters after completion of the new electric
30 generating facility. Bond proceeds subject to this Section
31 shall not be allocated to an eligible business until the
32 eligible business has demonstrated the revenue stream
33 sufficient to service the debt on the bonds; and

34 (3) the actual or projected amount of capital
35 investment by the eligible business in the new electric
36 generating facility.

1 The Department shall determine the maximum amount of
2 financial assistance for eligible businesses in accordance
3 with this paragraph. The Department shall not provide financial
4 assistance from general obligation bond funds to any eligible
5 business unless it receives a written certification from the
6 Director of the Bureau of the Budget (now Governor's Office of
7 Management and Budget) that 80% of the State occupation and use
8 tax receipts for a minimum of the preceding 4 calendar quarters
9 for all eligible businesses or as included in projections on
10 approved applications by eligible businesses equal or exceed
11 110% of the maximum annual debt service required with respect
12 to general obligation bonds issued for that purpose. The
13 Department may provide financial assistance not to exceed the
14 amount of State general obligation debt calculated as above,
15 the amount of actual or projected capital investment in the
16 energy generation facility, or \$100,000,000, whichever is
17 less. Financial assistance received pursuant to this Section
18 may be used for capital facilities consisting of buildings,
19 structures, durable equipment, and land at the new electric
20 generating facility. Subject to the provisions of the agreement
21 covering the financial assistance, a portion of the financial
22 assistance may be required to be repaid to the State if certain
23 conditions for the governmental purpose of the assistance were
24 not met.

25 An eligible business shall file a monthly report with the
26 Illinois Department of Revenue stating the amount of
27 Illinois-mined coal purchased during the previous month for use
28 in the new electric generating facility, the purchase price of
29 that coal, the amount of State occupation and use taxes paid on
30 that purchase to the seller of the Illinois-mined coal, and
31 such other information as that Department may reasonably
32 require. In sales of Illinois-mined coal between related
33 parties, the purchase price of the coal must have been
34 determined in an arms-length transaction. The report shall be
35 filed with the Illinois Department of Revenue on or before the
36 20th day of each month on a form provided by that Department.

1 However, no report need be filed by an eligible business in a
2 month when it made no reportable purchases of coal in the
3 previous month. The Illinois Department of Revenue shall
4 provide a summary of such reports to the Governor's Office of
5 Management and Budget ~~Bureau of the Budget~~.

6 Upon granting financial assistance to an eligible
7 business, the Department shall certify the name of the eligible
8 business to the Illinois Department of Revenue. Beginning with
9 the receipt of the first report of State occupation and use
10 taxes paid by an eligible business and continuing for a 25-year
11 period, the Illinois Department of Revenue shall each month pay
12 into the Energy Infrastructure Fund 80% of the net revenue
13 realized from the 6.25% general rate on the selling price of
14 Illinois-mined coal that was sold to an eligible business.

15 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03; revised
16 8-23-03.)

17 Section 10. The Illinois Enterprise Zone Act is amended by
18 changing Section 5.5 as follows:

19 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

20 Sec. 5.5. High Impact Business.

21 (a) In order to respond to unique opportunities to assist
22 in the encouragement, development, growth and expansion of the
23 private sector through large scale investment and development
24 projects, the Department is authorized to receive and approve
25 applications for the designation of "High Impact Businesses" in
26 Illinois subject to the following conditions:

27 (1) such applications may be submitted at any time
28 during the year;

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

32 (3) (A) the business intends to make a minimum
33 investment of \$12,000,000 which will be placed in
34 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 jobs at a designated location in Illinois.
6 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" means 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 shall
27 have an aggregate rated generating capacity of at least
28 1,000 megawatts for all new units at one site if it
29 uses natural gas as its primary fuel and foundation
30 construction of the facility is commenced on or before
31 December 31, 2004, or shall have an aggregate rated
32 generating capacity of at least 400 megawatts for all
33 new units at one site if it uses coal or gases derived
34 from coal as its primary fuel and shall support the
35 creation of at least 150 new Illinois coal mining jobs or,
36 or, is (i) funded through a federal Department of

1 Energy grant before July 1, 2005, and (ii) uses coal
2 gasification or integrated gasification-combined cycle
3 units that generate electricity or chemicals, or both,
4 and shall support the creation of Illinois coal-mining
5 jobs. The business must certify in writing that the
6 investments necessary to establish a new electric
7 generating facility would not be placed in service and
8 the job creation in the case of a coal-fueled plant
9 would not occur without the tax credits and exemptions
10 set forth in subsection (b-5) of this Section. The term
11 "placed in service" has the same meaning as described
12 in subsection (h) of Section 201 of the Illinois Income
13 Tax Act; or

14 (C) the business intends to establish production
15 operations at a new coal mine, re-establish production
16 operations at a closed coal mine, or expand production
17 at an existing coal mine at a designated location in
18 Illinois not sooner than July 1, 2001; provided that
19 the production operations result in the creation of 150
20 new Illinois coal mining jobs as described in
21 subdivision (a)(3)(B) of this Section, and further
22 provided that the coal extracted from such mine is
23 utilized as the predominant source for a new electric
24 generating facility. The business must certify in
25 writing that the investments necessary to establish a
26 new, expanded, or reopened coal mine would not be
27 placed in service and the job creation would not occur
28 without the tax credits and exemptions set forth in
29 subsection (b-5) of this Section. The term "placed in
30 service" has the same meaning as described in
31 subsection (h) of Section 201 of the Illinois Income
32 Tax Act; or

33 (D) the business intends to construct new
34 transmission facilities or upgrade existing
35 transmission facilities at designated locations in
36 Illinois, for which construction commenced not sooner

1 than July 1, 2001. For the purposes of this Section,
2 "transmission facilities" means transmission lines
3 with a voltage rating of 115 kilovolts or above,
4 including associated equipment, that transfer
5 electricity from points of supply to points of delivery
6 and that transmit a majority of the electricity
7 generated by a new electric generating facility
8 designated as a High Impact Business in accordance with
9 this Section. The business must certify in writing that
10 the investments necessary to construct new
11 transmission facilities or upgrade existing
12 transmission facilities would not be placed in service
13 without the tax credits and exemptions set forth in
14 subsection (b-5) of this Section. The term "placed in
15 service" has the same meaning as described in
16 subsection (h) of Section 201 of the Illinois Income
17 Tax Act; and

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

22 (b) Businesses designated as High Impact Businesses
23 pursuant to subdivision (a) (3) (A) of this Section shall qualify
24 for the credits and exemptions described in the following Acts:
25 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
26 subsection (h) of Section 201 of the Illinois Income Tax Act,~~LT~~
27 and~~7~~ Section 1d of the Retailers' Occupation Tax Act,~~LT~~ provided
28 that these credits and exemptions described in these Acts shall
29 not be authorized until the minimum investments set forth in
30 subdivision (a) (3) (A) of this Section have been placed in
31 service in qualified properties and, in the case of the
32 exemptions described in the Public Utilities Act and Section 1d
33 of the Retailers' Occupation Tax Act, the minimum full-time
34 equivalent jobs or full-time jobs set forth in subdivision
35 (a) (3) (A) of this Section have been created or retained.
36 Businesses designated as High Impact Businesses under this

1 Section shall also qualify for the exemption described in
2 Section 51 of the Retailers' Occupation Tax Act. The credit
3 provided in subsection (h) of Section 201 of the Illinois
4 Income Tax Act shall be applicable to investments in qualified
5 property as 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)(C), and (a)(3)(D)
8 of this Section shall qualify for the credits and exemptions
9 described in the following Acts: Section 51 of the Retailers'
10 Occupation Tax Act, Section 9-222 and Section 9-222.1A of the
11 Public Utilities Act, and subsection (h) of Section 201 of the
12 Illinois Income Tax Act; however, the credits and exemptions
13 authorized under Section 9-222 and Section 9-222.1A of the
14 Public Utilities Act, and subsection (h) of Section 201 of the
15 Illinois Income Tax Act shall not be authorized until the new
16 electric generating facility, the new transmission facility,
17 or the new, expanded, or reopened coal mine is operational,
18 except that a new electric generating facility whose primary
19 fuel source is natural gas is eligible only for the exemption
20 under Section 51 of the Retailers' Occupation Tax Act.

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

27 (d) Existing Illinois businesses which apply for
28 designation as a High Impact Business must provide the
29 Department with the prospective plan for which 1,500 full-time
30 jobs would be eliminated in the event that the business is not
31 designated.

32 (e) New proposed facilities which apply for designation as
33 High Impact Business must provide the Department with proof of
34 alternative non-Illinois sites which would receive the
35 proposed investment and job creation in the event that the
36 business is not designated as a High Impact Business.

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

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

17 (h) Prior to designating a business, the Department shall
18 provide the members of the General Assembly and Illinois
19 Economic and Fiscal Commission with a report setting forth the
20 terms and conditions of the designation and guarantees that
21 have been received by the Department in relation to the
22 proposed business being designated.

23 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01; revised
24 3-7-02.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.