



Rep. Dan Reitz

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1 AMENDMENT TO SENATE BILL 1814

2 AMENDMENT NO. _____. Amend Senate Bill 1814 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois is
6 amended by 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 and:

20 (1) has an aggregate rated generating capacity of at
21 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

1 (2) is ~~(i)~~ funded through a federal Department of
2 Energy grant before July 1, 2007 and supports the creation
3 of Illinois coal-mining jobs; or 2005, and ~~(ii)~~

4 (3) uses coal gasification or integrated
5 gasification-combined cycle units that generate
6 electricity or chemicals, or both, and ~~that~~ supports the
7 creation of Illinois coal-mining jobs.

8 "New gasification facility" means a newly constructed coal
9 gasification facility that generates chemical feedstocks or
10 transportation fuels derived from coal (which may include, but
11 are not limited to, methane, methanol, and nitrogen fertilizer)
12 and that supports the creation or retention of Illinois
13 coal-mining jobs.

14 "New facility" means a new electric generating facility or
15 a new gasification facility.

16 "Eligible business" means an entity that proposes to
17 construct a new ~~electric generating~~ facility and that has
18 applied to the Department to receive financial assistance
19 pursuant to this Section. With respect to use and occupation
20 taxes, wherever there is a reference to taxes, that reference
21 means only those taxes paid on Illinois-mined coal used in a
22 new ~~electric generating~~ facility.

23 "Department" means the Illinois Department of Commerce and
24 Economic Opportunity.

25 (b) The Department is authorized to provide financial
26 assistance to eligible businesses for new ~~electric generating~~
27 facilities from funds appropriated by the General Assembly as
28 further provided in this Section.

29 An eligible business seeking qualification for financial
30 assistance for a new ~~electric generating~~ facility, for purposes
31 of this Section only, shall apply to the Department in the
32 manner specified by the Department. Any projections provided by
33 an eligible business as part of the application shall be
34 independently verified in a manner as set forth by the

1 Department. An application shall include, but not be limited
2 to:

3 (1) the projected or actual completion date of the new
4 ~~electric-generating~~ facility for which financial
5 assistance is sought;

6 (2) copies of documentation deemed acceptable by the
7 Department establishing either (i) the total State
8 occupation and use taxes paid on Illinois-mined coal used
9 at the new ~~electric-generating~~ facility for a minimum of 4
10 preceding calendar quarters or (ii) the projected amount of
11 State occupation and use taxes paid on Illinois-mined coal
12 used at the new ~~electric-generating~~ facility in 4 calendar
13 year quarters after completion of the new ~~electric~~
14 ~~generating~~ facility. Bond proceeds subject to this Section
15 shall not be allocated to an eligible business until the
16 eligible business has demonstrated the revenue stream
17 sufficient to service the debt on the bonds; and

18 (3) the actual or projected amount of capital
19 investment by the eligible business in the new ~~electric~~
20 ~~generating~~ facility.

21 The Department shall determine the maximum amount of
22 financial assistance for eligible businesses in accordance
23 with this paragraph. The Department shall not provide financial
24 assistance from general obligation bond funds to any eligible
25 business unless it receives a written certification from the
26 Director of the Bureau of the Budget (now Governor's Office of
27 Management and Budget) that 80% of the State occupation and use
28 tax receipts for a minimum of the preceding 4 calendar quarters
29 for all eligible businesses or as included in projections on
30 approved applications by eligible businesses equal or exceed
31 110% of the maximum annual debt service required with respect
32 to general obligation bonds issued for that purpose. The
33 Department may provide financial assistance not to exceed the
34 amount of State general obligation debt calculated as above,

1 the amount of actual or projected capital investment in the
2 ~~energy-generation~~ facility, or \$100,000,000, whichever is
3 less. Financial assistance received pursuant to this Section
4 may be used for capital facilities consisting of buildings,
5 structures, durable equipment, and land at the new ~~electric~~
6 ~~generating~~ facility. Subject to the provisions of the agreement
7 covering the financial assistance, a portion of the financial
8 assistance may be required to be repaid to the State if certain
9 conditions for the governmental purpose of the assistance were
10 not met.

11 An eligible business shall file a monthly report with the
12 Illinois Department of Revenue stating the amount of
13 Illinois-mined coal purchased during the previous month for use
14 in the new ~~electric-generating~~ facility, the purchase price of
15 that coal, the amount of State occupation and use taxes paid on
16 that purchase to the seller of the Illinois-mined coal, and
17 such other information as that Department may reasonably
18 require. In sales of Illinois-mined coal between related
19 parties, the purchase price of the coal must have been
20 determined in an arms-length transaction. The report shall be
21 filed with the Illinois Department of Revenue on or before the
22 20th day of each month on a form provided by that Department.
23 However, no report need be filed by an eligible business in a
24 month when it made no reportable purchases of coal in the
25 previous month. The Illinois Department of Revenue shall
26 provide a summary of such reports to the Governor's Office of
27 Management and Budget.

28 Upon granting financial assistance to an eligible
29 business, the Department shall certify the name of the eligible
30 business to the Illinois Department of Revenue. Beginning with
31 the receipt of the first report of State occupation and use
32 taxes paid by an eligible business and continuing for a 25-year
33 period, the Illinois Department of Revenue shall each month pay
34 into the Energy Infrastructure Fund 80% of the net revenue

1 realized from the 6.25% general rate on the selling price of
2 Illinois-mined coal that was sold to an eligible business.

3 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03;
4 93-1064, eff. 1-13-05.)

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

7 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

8 Sec. 5.5. High Impact Business.

9 (a) In order to respond to unique opportunities to assist
10 in the encouragement, development, growth and expansion of the
11 private sector through large scale investment and development
12 projects, the Department is authorized to receive and approve
13 applications for the designation of "High Impact Businesses" in
14 Illinois subject to the following conditions:

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

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

20 (3) the business intends to do one or more of the
21 following:

22 (A) the business intends to make a minimum
23 investment of \$12,000,000 which will be placed in
24 service in qualified property and intends to create 500
25 full-time equivalent jobs at a designated location in
26 Illinois or intends to make a minimum investment of
27 \$30,000,000 which will be placed in service in
28 qualified property and intends to retain 1,500
29 full-time jobs at a designated location in Illinois.
30 The business must certify in writing that the
31 investments would not be placed in service in qualified
32 property and the job creation or job retention would

1 not occur without the tax credits and exemptions set
2 forth in subsection (b) of this Section. The terms
3 "placed in service" and "qualified property" have the
4 same meanings as described in subsection (h) of Section
5 201 of the Illinois Income Tax Act; or

6 (B) the business intends to establish a new
7 electric generating facility at a designated location
8 in Illinois. "New electric generating facility", for
9 purposes of this Section, means a newly-constructed
10 electric generation plant or a newly-constructed
11 generation capacity expansion at an existing electric
12 generation plant, including the transmission lines and
13 associated equipment that transfers electricity from
14 points of supply to points of delivery, and for which
15 such new foundation construction commenced not sooner
16 than July 1, 2001. Such facility shall be designed to
17 provide baseload electric generation and shall operate
18 on a continuous basis throughout the year; and (i)
19 shall have an aggregate rated generating capacity of at
20 least 1,000 megawatts for all new units at one site if
21 it uses natural gas as its primary fuel and foundation
22 construction of the facility is commenced on or before
23 December 31, 2004, or shall have an aggregate rated
24 generating capacity of at least 400 megawatts for all
25 new units at one site if it uses coal or gases derived
26 from coal as its primary fuel and shall support the
27 creation of at least 150 new Illinois coal mining jobs,
28 or, (ii) shall be ~~is (i)~~ funded through a federal
29 Department of Energy grant before July 1, 2007 and
30 shall support the creation of Illinois coal-mining
31 jobs, or (iii) shall use ~~2005, and (ii) uses~~ coal
32 gasification or integrated gasification-combined cycle
33 units that generate electricity or chemicals, or both,
34 and shall support the creation of Illinois coal-mining

1 jobs. The business must certify in writing that the
2 investments necessary to establish a new electric
3 generating facility would not be placed in service and
4 the job creation in the case of a coal-fueled plant
5 would not occur without the tax credits and exemptions
6 set forth in subsection (b-5) of this Section. The term
7 "placed in service" has the same meaning as described
8 in subsection (h) of Section 201 of the Illinois Income
9 Tax Act; or

10 (B-5) the business intends to establish a new
11 gasification facility at a designated location in
12 Illinois. As used in this Section, "new gasification
13 facility" means a newly constructed coal gasification
14 facility that generates chemical feedstocks or
15 transportation fuels derived from coal (which may
16 include, but are not limited to, methane, methanol, and
17 nitrogen fertilizer) and that supports the creation or
18 retention of Illinois coal-mining jobs; or

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

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

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

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

29 (b) Businesses designated as High Impact Businesses
30 pursuant to subdivision (a) (3) (A) of this Section shall qualify
31 for the credits and exemptions described in the following Acts:
32 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
33 subsection (h) of Section 201 of the Illinois Income Tax Act,
34 and Section 1d of the Retailers' Occupation Tax Act; provided

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

15 (b-5) Businesses designated as High Impact Businesses
16 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
17 and (a) (3) (D) of this Section shall qualify for the credits and
18 exemptions described in the following Acts: Section 51 of the
19 Retailers' Occupation Tax Act, Section 9-222 and Section
20 9-222.1A of the Public Utilities Act, and subsection (h) of
21 Section 201 of the Illinois Income Tax Act; however, the
22 credits and exemptions authorized under Section 9-222 and
23 Section 9-222.1A of the Public Utilities Act, and subsection
24 (h) of Section 201 of the Illinois Income Tax Act shall not be
25 authorized until the new electric generating facility, the new
26 gasification facility, the new transmission facility, or the
27 new, expanded, or reopened coal mine is operational, except
28 that a new electric generating facility whose primary fuel
29 source is natural gas is eligible only for the exemption under
30 Section 51 of the Retailers' Occupation Tax Act.

31 (c) High Impact Businesses located in federally designated
32 foreign trade zones or sub-zones are also eligible for
33 additional credits, exemptions and deductions as described in
34 the following Acts: Section 9-221 and Section 9-222.1 of the

1 Public Utilities Act; and subsection (g) of Section 201, and
2 Section 203 of the Illinois Income Tax Act.

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

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

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

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

29 (h) Prior to designating a business, the Department shall
30 provide the members of the General Assembly and Commission on
31 Government Forecasting and Accountability with a report
32 setting forth the terms and conditions of the designation and
33 guarantees that have been received by the Department in
34 relation to the proposed business being designated.

1 (Source: P.A. 92-12, eff. 7-1-01; 93-1064, eff. 1-13-05;
2 93-1067, eff. 1-15-05; revised 1-25-05.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".