



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, 2006 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
12 fertilizer), that supports the creation or retention of
13 Illinois coal-mining jobs, and that qualifies for financial
14 assistance from the Department before December 31, 2006.

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

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

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

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

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

1 independently verified in a manner as set forth by the
2 Department. An application shall include, but not be limited
3 to:

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

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

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

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

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

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

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

1 into the Energy Infrastructure Fund 80% of the net revenue
2 realized from the 6.25% general rate on the selling price of
3 Illinois-mined coal that was sold to an eligible business.

4 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03;
5 93-1064, eff. 1-13-05.)

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

8 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

9 Sec. 5.5. High Impact Business.

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

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

1 property and the job creation or job retention would
2 not occur without the tax credits and exemptions set
3 forth in subsection (b) of this Section. The terms
4 "placed in service" and "qualified property" have the
5 same meanings as described in subsection (h) of Section
6 201 of the Illinois Income Tax Act; or

7 (B) the business intends to establish a new
8 electric generating facility at a designated location
9 in Illinois. "New electric generating facility", for
10 purposes of this Section, means a newly-constructed
11 electric generation plant or a newly-constructed
12 generation capacity expansion at an existing electric
13 generation plant, including the transmission lines and
14 associated equipment that transfers electricity from
15 points of supply to points of delivery, and for which
16 such new foundation construction commenced not sooner
17 than July 1, 2001. Such facility shall be designed to
18 provide baseload electric generation and shall operate
19 on a continuous basis throughout the year; and (i)
20 shall have an aggregate rated generating capacity of at
21 least 1,000 megawatts for all new units at one site if
22 it uses natural gas as its primary fuel and foundation
23 construction of the facility is commenced on or before
24 December 31, 2004, or shall have an aggregate rated
25 generating capacity of at least 400 megawatts for all
26 new units at one site if it uses coal or gases derived
27 from coal as its primary fuel and shall support the
28 creation of at least 150 new Illinois coal mining jobs,
29 or, (ii) shall be ~~is (i)~~ funded through a federal
30 Department of Energy grant before July 1, 2006 and
31 shall support the creation of Illinois coal-mining
32 jobs, or (iii) shall use ~~2005, and (ii) uses~~ coal
33 gasification or integrated gasification-combined cycle
34 units that generate electricity or chemicals, or both,

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

11 (B-5) the business intends to establish a new
12 gasification facility at a designated location in
13 Illinois. As used in this Section, "new gasification
14 facility" means a newly constructed coal gasification
15 facility that generates chemical feedstocks or
16 transportation fuels derived from coal (which may
17 include, but are not limited to, methane, methanol, and
18 nitrogen fertilizer), that supports the creation or
19 retention of Illinois coal-mining jobs, and that
20 qualifies for financial assistance from the Department
21 before December 31, 2006; or

22 (C) the business intends to establish production
23 operations at a new coal mine, re-establish production
24 operations at a closed coal mine, or expand production
25 at an existing coal mine at a designated location in
26 Illinois not sooner than July 1, 2001; provided that
27 the production operations result in the creation of 150
28 new Illinois coal mining jobs as described in
29 subdivision (a)(3)(B) of this Section, and further
30 provided that the coal extracted from such mine is
31 utilized as the predominant source for a new electric
32 generating facility. The business must certify in
33 writing that the investments necessary to establish a
34 new, expanded, or reopened coal mine would not be

1 placed in service and the job creation would not occur
2 without the tax credits and exemptions set forth in
3 subsection (b-5) of this Section. The term "placed in
4 service" has the same meaning as described in
5 subsection (h) of Section 201 of the Illinois Income
6 Tax Act; or

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

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

32 (b) Businesses designated as High Impact Businesses
33 pursuant to subdivision (a) (3) (A) of this Section shall qualify
34 for the credits and exemptions described in the following Acts:

1 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
2 subsection (h) of Section 201 of the Illinois Income Tax Act,
3 and Section 1d of the Retailers' Occupation Tax Act; provided
4 that these credits and exemptions described in these Acts shall
5 not be authorized until the minimum investments set forth in
6 subdivision (a) (3) (A) of this Section have been placed in
7 service in qualified properties and, in the case of the
8 exemptions described in the Public Utilities Act and Section 1d
9 of the Retailers' Occupation Tax Act, the minimum full-time
10 equivalent jobs or full-time jobs set forth in subdivision
11 (a) (3) (A) of this Section have been created or retained.
12 Businesses designated as High Impact Businesses under this
13 Section shall also qualify for the exemption described in
14 Section 51 of the Retailers' Occupation Tax Act. The credit
15 provided in subsection (h) of Section 201 of the Illinois
16 Income Tax Act shall be applicable to investments in qualified
17 property as set forth in subdivision (a) (3) (A) of this Section.

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

34 (c) High Impact Businesses located in federally designated

1 foreign trade zones or sub-zones are also eligible for
2 additional credits, exemptions and deductions as described in
3 the following Acts: Section 9-221 and Section 9-222.1 of the
4 Public Utilities Act; and subsection (g) of Section 201, and
5 Section 203 of the Illinois Income Tax Act.

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

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

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

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

32 (h) Prior to designating a business, the Department shall
33 provide the members of the General Assembly and Commission on
34 Government Forecasting and Accountability with a report

1 setting forth the terms and conditions of the designation and
2 guarantees that have been received by the Department in
3 relation to the proposed business being designated.

4 (Source: P.A. 92-12, eff. 7-1-01; 93-1064, eff. 1-13-05;
5 93-1067, eff. 1-15-05; revised 1-25-05.)

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