



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 619

2 AMENDMENT NO. _____. Amend Senate Bill 619 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 funded through a federal Department of Energy
2 grant before July 1, 2006 and supports the creation of
3 Illinois coal-mining jobs; or

4 (3) uses coal gasification or integrated
5 gasification-combined cycle units that generate
6 electricity or chemicals, or both, and 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, 2007. ~~2006.~~
15 ~~A new gasification facility does not include a pilot project~~
16 ~~located within Jefferson County or within a county adjacent to~~
17 ~~Jefferson County for synthetic natural gas from coal.~~

18 "New facility" means a new electric generating facility or
19 a new gasification facility. ~~A new facility does not include a~~
20 ~~pilot project located within Jefferson County or within a~~
21 ~~county adjacent to Jefferson County for synthetic natural gas~~
22 ~~from coal.~~

23 "Eligible business" means an entity that proposes to
24 construct a new facility and that has applied to the Department
25 to receive financial assistance pursuant to this Section. With
26 respect to use and occupation taxes, wherever there is a
27 reference to taxes, that reference means only those taxes paid
28 on Illinois-mined coal used in a new facility.

29 "Department" means the Illinois Department of Commerce and
30 Economic Opportunity.

31 (b) The Department is authorized to provide financial
32 assistance to eligible businesses for new facilities from funds
33 appropriated by the General Assembly as further provided in
34 this Section.

1 An eligible business seeking qualification for financial
2 assistance for a new facility, for purposes of this Section
3 only, shall apply to the Department in the manner specified by
4 the Department. Any projections provided by an eligible
5 business as part of the application shall be independently
6 verified in a manner as set forth by the Department. An
7 application shall include, but not be limited to:

8 (1) the projected or actual completion date of the new
9 facility for which financial assistance is sought;

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

21 (3) the actual or projected amount of capital
22 investment by the eligible business in the new facility.

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

1 Department may provide financial assistance not to exceed the
2 amount of State general obligation debt calculated as above,
3 the amount of actual or projected capital investment in the
4 facility, or \$100,000,000, whichever is less. Financial
5 assistance received pursuant to this Section may be used for
6 capital facilities consisting of buildings, structures,
7 durable equipment, and land at the new facility. Subject to the
8 provisions of the agreement covering the financial assistance,
9 a portion of the financial assistance may be required to be
10 repaid to the State if certain conditions for the governmental
11 purpose of the assistance were 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 facility, the purchase price of that coal, the
16 amount of State occupation and use taxes paid on that purchase
17 to the seller of the Illinois-mined coal, and such other
18 information as that Department may reasonably require. In sales
19 of Illinois-mined coal between related parties, the purchase
20 price of the coal must have been determined in an arms-length
21 transaction. The report shall be filed with the Illinois
22 Department of Revenue on or before the 20th day of each month
23 on a form provided by that Department. However, no report need
24 be filed by an eligible business in a month when it made no
25 reportable purchases of coal in the previous month. The
26 Illinois Department of Revenue shall provide a summary of such
27 reports to the Governor's Office of 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. 93-167, eff. 7-10-03; 93-1064, eff. 1-13-05;
4 94-65, eff. 6-21-05.)

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 funded through a federal Department of
29 Energy grant before July 1, 2006 and shall support the
30 creation of Illinois coal-mining jobs, or (iii) shall
31 use coal gasification or integrated
32 gasification-combined cycle units that generate
33 electricity or chemicals, or both, and shall support
34 the creation of Illinois coal-mining jobs. The

1 business must certify in writing that the investments
2 necessary to establish a new electric generating
3 facility would not be placed in service and the job
4 creation in the case of a coal-fueled plant would not
5 occur without the tax credits and exemptions set forth
6 in subsection (b-5) of this Section. The term "placed
7 in service" has the same meaning as described in
8 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), that supports the creation or
18 retention of Illinois coal-mining jobs, and that
19 qualifies for financial assistance from the Department
20 before December 31, 2007 ~~2006~~. ~~A new gasification~~
21 ~~facility does not include a pilot project located~~
22 ~~within Jefferson County or within a county adjacent to~~
23 ~~Jefferson County for synthetic natural gas from coal;~~
24 or

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

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

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

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

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

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

1 source is natural gas is eligible only for the exemption under
2 Section 51 of the Retailers' Occupation Tax Act.

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

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

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

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

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

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

7 (Source: P.A. 93-1064, eff. 1-13-05; 93-1067, eff. 1-15-05;
8 94-65, eff. 6-21-05.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."