



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3239

Introduced 2/24/2011, by Rep. Chad Hays

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/1f

from Ch. 120, par. 440f

220 ILCS 5/9-222.1

from Ch. 111 2/3, par. 9-222.1

Amends the Retailers' Occupation Tax Act. Provides that the exemption for property used in an enterprise zone applies to businesses that make investments of at least \$20,000,000 and cause the creation of a minimum of 40 (instead of 200) full-time jobs in Illinois or make investments that cause the retention of a minimum of 500 (instead of 2,000) full-time jobs in Illinois. Amends the Public Utilities Act. Provides that the exemption for businesses located in an enterprise zone applies to businesses that (i) make investments of at least \$20,000,000 and cause the creation of a minimum of 40 (instead of 200) full-time equivalent jobs in Illinois, (ii) make investments of at least \$175,000,000 which cause the creation of a minimum of 30 (instead of 150) full-time equivalent jobs in Illinois, or (iii) make investments of at least \$100,000,000 which cause the retention of a minimum of 200 (instead of 1,000) full-time jobs in Illinois.

LRB097 10544 HLH 50884 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Retailers' Occupation Tax Act is amended by  
5 changing Section 1f as follows:

6 (35 ILCS 120/1f) (from Ch. 120, par. 440f)

7 Sec. 1f. Except for High Impact Businesses, the exemption  
8 stated in Sections 1d and 1e of this Act shall only apply to  
9 business enterprises which:

10 (1) either (i) make investments of at least \$20,000,000  
11 which cause the creation of a minimum of 40 ~~200~~ full-time  
12 equivalent jobs in Illinois or (ii) make investments which  
13 cause the retention of a minimum of 500 ~~2000~~ full-time jobs  
14 in Illinois or (iii) make investments of a minimum of  
15 \$40,000,000 and retain at least 90% of the jobs in place on  
16 the date on which the exemption is granted and for the  
17 duration of the exemption; and

18 (2) are located in an Enterprise Zone established  
19 pursuant to the Illinois Enterprise Zone Act; and

20 (3) are certified by the Department of Commerce and  
21 Economic Opportunity as complying with the requirements  
22 specified in clauses (1), (2) and (3).

23 Any business enterprise seeking to avail itself of the

1 exemptions stated in Sections 1d or 1e, or both, shall make  
2 application to the Department of Commerce and Economic  
3 Opportunity in such form and providing such information as may  
4 be prescribed by the Department of Commerce and Economic  
5 Opportunity. However, no business enterprise shall be  
6 required, as a condition for certification under clause (4) of  
7 this Section, to attest that its decision to invest under  
8 clause (1) of this Section and to locate under clause (2) of  
9 this Section is predicated upon the availability of the  
10 exemptions authorized by Sections 1d or 1e.

11 The Department of Commerce and Economic Opportunity shall  
12 determine whether the business enterprise meets the criteria  
13 prescribed in this Section. If the Department of Commerce and  
14 Economic Opportunity determines that such business enterprise  
15 meets the criteria, it shall issue a certificate of eligibility  
16 for exemption to the business enterprise in such form as is  
17 prescribed by the Department of Revenue. The Department of  
18 Commerce and Economic Opportunity shall act upon such  
19 certification requests within 60 days after receipt of the  
20 application, and shall file with the Department of Revenue a  
21 copy of each certificate of eligibility for exemption.

22 The Department of Commerce and Economic Opportunity shall  
23 have the power to promulgate rules and regulations to carry out  
24 the provisions of this Section including the power to define  
25 the amounts and types of eligible investments not specified in  
26 this Section which business enterprises must make in order to

1 receive the exemptions stated in Sections 1d and 1e of this  
2 Act; and to require that any business enterprise that is  
3 granted a tax exemption repay the exempted tax if the business  
4 enterprise fails to comply with the terms and conditions of the  
5 certification.

6 Such certificate of eligibility for exemption shall be  
7 presented by the business enterprise to its supplier when  
8 making the initial purchase of tangible personal property for  
9 which an exemption is granted by Section 1d or Section 1e, or  
10 both, together with a certification by the business enterprise  
11 that such tangible personal property is exempt from taxation  
12 under Section 1d or Section 1e and by indicating the exempt  
13 status of each subsequent purchase on the face of the purchase  
14 order.

15 The Department of Commerce and Economic Opportunity shall  
16 determine the period during which such exemption from the taxes  
17 imposed under this Act is in effect which shall not exceed 20  
18 years.

19 (Source: P.A. 94-793, eff. 5-19-06.)

20 Section 10. The Public Utilities Act is amended by changing  
21 Section 9-222.1 as follows:

22 (220 ILCS 5/9-222.1) (from Ch. 111 2/3, par. 9-222.1)

23 Sec. 9-222.1. A business enterprise which is located within  
24 an area designated by a county or municipality as an enterprise

1 zone pursuant to the Illinois Enterprise Zone Act or located in  
2 a federally designated Foreign Trade Zone or Sub-Zone shall be  
3 exempt from the additional charges added to the business  
4 enterprise's utility bills as a pass-on of municipal and State  
5 utility taxes under Sections 9-221 and 9-222 of this Act, to  
6 the extent such charges are exempted by ordinance adopted in  
7 accordance with paragraph (e) of Section 8-11-2 of the Illinois  
8 Municipal Code in the case of municipal utility taxes, and to  
9 the extent such charges are exempted by the percentage  
10 specified by the Department of Commerce and Economic  
11 Opportunity in the case of State utility taxes, provided such  
12 business enterprise meets the following criteria:

13 (1) it (i) makes investments of at least \$20,000,000  
14 which cause the creation of a minimum of 40 ~~200~~ full-time  
15 equivalent jobs in Illinois; (ii) makes investments of at  
16 least \$175,000,000 which cause the creation of a minimum of  
17 30 ~~150~~ full-time equivalent jobs in Illinois; (iii) makes  
18 investments that cause the retention of a minimum of 300  
19 full-time equivalent jobs in the manufacturing sector, as  
20 defined by the North American Industry Classification  
21 System, in an area in Illinois in which the unemployment  
22 rate is above 9% and makes an application to the Department  
23 within 3 months after the effective date of this amendatory  
24 Act of the 96th General Assembly and certifies relocation  
25 of the 300 full-time equivalent jobs within 36 months after  
26 the application; (iv) makes investments of at least

1        \$100,000,000 which cause the retention of a minimum of 200  
2        ~~1,000~~ full-time jobs in Illinois; or (v) makes an  
3        application to the Department within 2 months after the  
4        effective date of this amendatory Act of the 96th General  
5        Assembly and makes investments that cause the retention of  
6        a minimum of 500 full-time equivalent jobs in 2009 and  
7        2010, 675 full-time jobs in Illinois in 2011, 850 full-time  
8        jobs in 2012, and 1,000 full-time jobs in 2013, in the  
9        manufacturing sector as defined by the North American  
10       Industry Classification System; and

11       (2) it is either (i) located in an Enterprise Zone  
12       established pursuant to the Illinois Enterprise Zone Act or  
13       (ii) located in a federally designated Foreign Trade Zone  
14       or Sub-Zone and is designated a High Impact Business by the  
15       Department of Commerce and Economic Opportunity; and

16       (3) it is certified by the Department of Commerce and  
17       Economic Opportunity as complying with the requirements  
18       specified in clauses (1) and (2) of this Section.

19       The Department of Commerce and Economic Opportunity shall  
20       determine the period during which such exemption from the  
21       charges imposed under Section 9-222 is in effect which shall  
22       not exceed 30 years or the certified term of the enterprise  
23       zone, whichever period is shorter, except that the exemption  
24       period for a business enterprise qualifying under item (iii) of  
25       clause (1) of this Section shall not exceed 30 years.

26       The Department of Commerce and Economic Opportunity shall

1 have the power to promulgate rules and regulations to carry out  
2 the provisions of this Section including procedures for  
3 complying with the requirements specified in clauses (1) and  
4 (2) of this Section and procedures for applying for the  
5 exemptions authorized under this Section; to define the amounts  
6 and types of eligible investments which business enterprises  
7 must make in order to receive State utility tax exemptions  
8 pursuant to Sections 9-222 and 9-222.1 of this Act; to approve  
9 such utility tax exemptions for business enterprises whose  
10 investments are not yet placed in service; and to require that  
11 business enterprises granted tax exemptions repay the exempted  
12 tax should the business enterprise fail to comply with the  
13 terms and conditions of the certification. However, no business  
14 enterprise shall be required, as a condition for certification  
15 under clause (3) of this Section, to attest that its decision  
16 to invest under clause (1) of this Section and to locate under  
17 clause (2) of this Section is predicated upon the availability  
18 of the exemptions authorized by this Section.

19 A business enterprise shall be exempt, in whole or in part,  
20 from the pass-on charges of municipal utility taxes imposed  
21 under Section 9-221, only if it meets the criteria specified in  
22 clauses (1) through (3) of this Section and the municipality  
23 has adopted an ordinance authorizing the exemption under  
24 paragraph (e) of Section 8-11-2 of the Illinois Municipal Code.  
25 Upon certification of the business enterprises by the  
26 Department of Commerce and Economic Opportunity, the

1 Department of Commerce and Economic Opportunity shall notify  
2 the Department of Revenue of such certification. The Department  
3 of Revenue shall notify the public utilities of the exemption  
4 status of business enterprises from the pass-on charges of  
5 State and municipal utility taxes. Such exemption status shall  
6 be effective within 3 months after certification of the  
7 business enterprise.

8 (Source: P.A. 96-716, eff. 8-25-09; 96-865, eff. 1-21-10.)