



# Laborers' International Union of North America

## Midwest Regional Office

John F. Penn, LIUNA Vice President and Midwest Regional Manager

### **HB 3174 (Sen. Joyce): High Impact Business Wind Program Improvements** **LIUNA Midwest Region Position: SUPPORT**

#### **Background:**

In 2009, Illinois established a tax incentive specifically for wind farms through the Department of Commerce & Economic Opportunity's High Impact Business (HIB) program. The program exempts the purchase of wind turbine components, transmission-related equipment, etc. from the sales tax, thus saving wind developers millions of dollars. The program was also amended at that time to require payment of prevailing wages on wind farms that utilize the HIB tax exemption.

#### **What HB 3174 Does (as amended by Senate Amendment #1):**

It amends the Enterprise Zone Act's HIB program for wind farm construction in three ways, two of which the Senate previously passed with overwhelming bi-partisan support in SB 1720:

- 1) **HB 3174 eliminates the disparity between enforcement of the Prevailing Wage Act and other program requirements.**
  - If a wind developer violates the terms of the HIB agreement, the law states that DCEO "shall revoke" the designation and its rules state that the Dept. of Revenue will "recover wrongfully exempted State taxes..."
    - **However, despite being a "term and condition" of the HIB agreement, the law currently prevents the loss of HIB status for Prevailing Wage violations. HB 3174 places Prevailing Wage enforcement on the same level as other program requirements.**
- 2) **HB 3174 clarifies that the HIB program applies to all "repowering" projects (i.e. when older wind turbines are replaced with newer ones), regardless of whether the wind farm increases in size or capacity.**
  - Wind turbines have an expected lifespan of about 20 years, so wind developers are beginning to replace the state's oldest turbines. Today's turbines, however, can generate more electricity than those that will be replaced, so repowered wind farms need fewer turbines to produce the same amount of power. Therefore, wind developers replace only some of the existing turbines and remove the others entirely.
    - Currently, to qualify for HIB tax incentives a repowered wind farm must "expand," i.e. increase the amount of electricity it produces. This requires the developer to find a buyer for that additional power, something that is not always easy to do. **HB 3174 gives developers greater flexibility in making decisions on whether and how to repower wind farms while still qualifying for HIB incentives.**
    - Prevailing Wage only applies to the towers that are replaced on repowered wind farms that use HIB incentives at this time. **HB 3174 clarifies that the Prevailing Wage Act also applies to the demolition of turbines that are not replaced since the entire wind farm is given HIB status, not portions of it.**
- 3) **It extends the program's tax incentives to the construction of a permanent structure on the wind farm.**

### **Why HB 3174 is Needed:**

- Current law allows wind developers to turn a blind eye to Prevailing Wage Act compliance and still save \$10 million to \$20 million in tax breaks.
  - **In April 2021, the Illinois Department of Labor required a wind contractor to pay \$800,000 in back wages and a \$110,000 fine for a Prevailing Wage violation on an HIB-covered wind farm.**
  - The vast majority of the back wages were sent out-of-state because the workers were not Illinois residents.
- **HB 3174 provides a financial incentive for wind developers to ensure that the contractors they hire comply with the law.**
- Illinois' first repowered wind farm was broken up into two separate packages: demolition of the old turbines and construction of the new ones. While the construction work (which required payment of Prevailing Wages) was performed by Illinois workers, the demolition work was performed by out-of-state workers.

### **HB 3174:**

- does not increase the penalties found in the Prevailing Wage Act (in fact, it doesn't change the Prevailing Wage law at all); and
- does not apply to any projects that have already been completed.