

1 AN ACT concerning State government.

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

4 Section 5. The State Comptroller Act is amended by changing
5 Section 23.9 as follows:

6 (15 ILCS 405/23.9)

7 Sec. 23.9. Minority Contractor Opportunity Initiative. The
8 State Comptroller Minority Contractor Opportunity Initiative
9 is created to provide greater opportunities for minority-owned
10 businesses, women-owned ~~female-owned~~ businesses, businesses
11 owned by persons with disabilities, and small businesses with
12 20 or fewer employees in this State to participate in the State
13 procurement process. The initiative shall be administered by
14 the Comptroller. Under this initiative, the Comptroller is
15 responsible for the following: (i) outreach to minority-owned
16 businesses, women-owned ~~female-owned~~ businesses, businesses
17 owned by persons with disabilities, and small businesses
18 capable of providing services to the State; (ii) education of
19 minority-owned businesses, women-owned ~~female-owned~~
20 businesses, businesses owned by persons with disabilities, and
21 small businesses concerning State contracting and procurement;
22 (iii) notification of minority-owned businesses, women-owned
23 ~~female-owned~~ businesses, businesses owned by persons with

1 disabilities, and small businesses of State contracting
2 opportunities; and (iv) maintenance of an online database of
3 State contracts that identifies the contracts awarded to
4 minority-owned businesses, women-owned ~~female-owned~~
5 businesses, businesses owned by persons with disabilities, and
6 small businesses that includes the total amount paid by State
7 agencies to contractors and the percentage paid to
8 minority-owned businesses, women-owned ~~female-owned~~
9 businesses, businesses owned by persons with disabilities, and
10 small businesses.

11 The Comptroller shall work with the Business Enterprise
12 Council created under Section 5 of the Business Enterprise for
13 Minorities, Women ~~Females~~, and Persons with Disabilities Act to
14 fulfill the Comptroller's responsibilities under this Section.
15 The Comptroller may rely on the Business Enterprise Council's
16 identification of minority-owned businesses, women-owned
17 ~~female-owned~~ businesses, and businesses owned by persons with
18 disabilities.

19 The Comptroller shall annually prepare and submit a report
20 to the Governor and the General Assembly concerning the
21 progress of this initiative including the following
22 information for the preceding calendar year: (i) a statement of
23 the total amounts paid by each executive branch agency to
24 contractors since the previous report; (ii) the percentage of
25 the amounts that were paid to minority-owned businesses,
26 women-owned ~~female-owned~~ businesses, businesses owned by

1 persons with disabilities, and small businesses; (iii) the
2 successes achieved and the challenges faced by the Comptroller
3 in operating outreach programs for minorities, women, persons
4 with disabilities, and small businesses; (iv) the challenges
5 each executive branch agency may face in hiring qualified
6 minority, woman ~~female~~, and small business employees and
7 employees with disabilities and contracting with qualified
8 minority-owned businesses, women-owned ~~female-owned~~
9 businesses, businesses owned by persons with disabilities, and
10 small businesses; and (iv) any other information, findings,
11 conclusions, and recommendations for legislative or agency
12 action, as the Comptroller deems appropriate.

13 On and after the effective date of this amendatory Act of
14 the 97th General Assembly, any bidder or offeror awarded a
15 contract of \$1,000 or more under Section 20-10, 20-15, 20-25,
16 or 20-30 of the Illinois Procurement Code is required to pay a
17 fee of \$15 to cover expenses related to the administration of
18 this Section. The Comptroller shall deduct the fee from the
19 first check issued to the vendor under the contract and deposit
20 the fee into the Comptroller's Administrative Fund. Contracts
21 administered for statewide orders placed by agencies (commonly
22 referred to as "statewide master contracts") are exempt from
23 this fee.

24 (Source: P.A. 98-797, eff. 7-31-14; 99-143, eff. 7-27-15.)

25 (20 ILCS 605/605-525 rep.)

1 Section 10. The Department of Commerce and Economic
2 Opportunity Law of the Civil Administrative Code of Illinois is
3 amended by repealing Section 605-525.

4 Section 15. The Illinois Lottery Law is amended by changing
5 Section 9.1 as follows:

6 (20 ILCS 1605/9.1)

7 Sec. 9.1. Private manager and management agreement.

8 (a) As used in this Section:

9 "Offeror" means a person or group of persons that responds
10 to a request for qualifications under this Section.

11 "Request for qualifications" means all materials and
12 documents prepared by the Department to solicit the following
13 from offerors:

14 (1) Statements of qualifications.

15 (2) Proposals to enter into a management agreement,
16 including the identity of any prospective vendor or vendors
17 that the offeror intends to initially engage to assist the
18 offeror in performing its obligations under the management
19 agreement.

20 "Final offer" means the last proposal submitted by an
21 offeror in response to the request for qualifications,
22 including the identity of any prospective vendor or vendors
23 that the offeror intends to initially engage to assist the
24 offeror in performing its obligations under the management

1 agreement.

2 "Final offeror" means the offeror ultimately selected by
3 the Governor to be the private manager for the Lottery under
4 subsection (h) of this Section.

5 (b) By September 15, 2010, the Governor shall select a
6 private manager for the total management of the Lottery with
7 integrated functions, such as lottery game design, supply of
8 goods and services, and advertising and as specified in this
9 Section.

10 (c) Pursuant to the terms of this subsection, the
11 Department shall endeavor to expeditiously terminate the
12 existing contracts in support of the Lottery in effect on the
13 effective date of this amendatory Act of the 96th General
14 Assembly in connection with the selection of the private
15 manager. As part of its obligation to terminate these contracts
16 and select the private manager, the Department shall establish
17 a mutually agreeable timetable to transfer the functions of
18 existing contractors to the private manager so that existing
19 Lottery operations are not materially diminished or impaired
20 during the transition. To that end, the Department shall do the
21 following:

22 (1) where such contracts contain a provision
23 authorizing termination upon notice, the Department shall
24 provide notice of termination to occur upon the mutually
25 agreed timetable for transfer of functions;

26 (2) upon the expiration of any initial term or renewal

1 term of the current Lottery contracts, the Department shall
2 not renew such contract for a term extending beyond the
3 mutually agreed timetable for transfer of functions; or

4 (3) in the event any current contract provides for
5 termination of that contract upon the implementation of a
6 contract with the private manager, the Department shall
7 perform all necessary actions to terminate the contract on
8 the date that coincides with the mutually agreed timetable
9 for transfer of functions.

10 If the contracts to support the current operation of the
11 Lottery in effect on the effective date of this amendatory Act
12 of the 96th General Assembly are not subject to termination as
13 provided for in this subsection (c), then the Department may
14 include a provision in the contract with the private manager
15 specifying a mutually agreeable methodology for incorporation.

16 (c-5) The Department shall include provisions in the
17 management agreement whereby the private manager shall, for a
18 fee, and pursuant to a contract negotiated with the Department
19 (the "Employee Use Contract"), utilize the services of current
20 Department employees to assist in the administration and
21 operation of the Lottery. The Department shall be the employer
22 of all such bargaining unit employees assigned to perform such
23 work for the private manager, and such employees shall be State
24 employees, as defined by the Personnel Code. Department
25 employees shall operate under the same employment policies,
26 rules, regulations, and procedures, as other employees of the

1 Department. In addition, neither historical representation
2 rights under the Illinois Public Labor Relations Act, nor
3 existing collective bargaining agreements, shall be disturbed
4 by the management agreement with the private manager for the
5 management of the Lottery.

6 (d) The management agreement with the private manager shall
7 include all of the following:

8 (1) A term not to exceed 10 years, including any
9 renewals.

10 (2) A provision specifying that the Department:

11 (A) shall exercise actual control over all
12 significant business decisions;

13 (A-5) has the authority to direct or countermand
14 operating decisions by the private manager at any time;

15 (B) has ready access at any time to information
16 regarding Lottery operations;

17 (C) has the right to demand and receive information
18 from the private manager concerning any aspect of the
19 Lottery operations at any time; and

20 (D) retains ownership of all trade names,
21 trademarks, and intellectual property associated with
22 the Lottery.

23 (3) A provision imposing an affirmative duty on the
24 private manager to provide the Department with material
25 information and with any information the private manager
26 reasonably believes the Department would want to know to

1 enable the Department to conduct the Lottery.

2 (4) A provision requiring the private manager to
3 provide the Department with advance notice of any operating
4 decision that bears significantly on the public interest,
5 including, but not limited to, decisions on the kinds of
6 games to be offered to the public and decisions affecting
7 the relative risk and reward of the games being offered, so
8 the Department has a reasonable opportunity to evaluate and
9 countermand that decision.

10 (5) A provision providing for compensation of the
11 private manager that may consist of, among other things, a
12 fee for services and a performance based bonus as
13 consideration for managing the Lottery, including terms
14 that may provide the private manager with an increase in
15 compensation if Lottery revenues grow by a specified
16 percentage in a given year.

17 (6) (Blank).

18 (7) A provision requiring the deposit of all Lottery
19 proceeds to be deposited into the State Lottery Fund except
20 as otherwise provided in Section 20 of this Act.

21 (8) A provision requiring the private manager to locate
22 its principal office within the State.

23 (8-5) A provision encouraging that at least 20% of the
24 cost of contracts entered into for goods and services by
25 the private manager in connection with its management of
26 the Lottery, other than contracts with sales agents or

1 technical advisors, be awarded to businesses that are a
2 minority-owned ~~minority-owned~~ business, a women-owned
3 ~~female-owned~~ business, or a business owned by a person with
4 disability, as those terms are defined in the Business
5 Enterprise for Minorities, Women ~~Females~~, and Persons with
6 Disabilities Act.

7 (9) A requirement that so long as the private manager
8 complies with all the conditions of the agreement under the
9 oversight of the Department, the private manager shall have
10 the following duties and obligations with respect to the
11 management of the Lottery:

12 (A) The right to use equipment and other assets
13 used in the operation of the Lottery.

14 (B) The rights and obligations under contracts
15 with retailers and vendors.

16 (C) The implementation of a comprehensive security
17 program by the private manager.

18 (D) The implementation of a comprehensive system
19 of internal audits.

20 (E) The implementation of a program by the private
21 manager to curb compulsive gambling by persons playing
22 the Lottery.

23 (F) A system for determining (i) the type of
24 Lottery games, (ii) the method of selecting winning
25 tickets, (iii) the manner of payment of prizes to
26 holders of winning tickets, (iv) the frequency of

1 drawings of winning tickets, (v) the method to be used
2 in selling tickets, (vi) a system for verifying the
3 validity of tickets claimed to be winning tickets,
4 (vii) the basis upon which retailer commissions are
5 established by the manager, and (viii) minimum
6 payouts.

7 (10) A requirement that advertising and promotion must
8 be consistent with Section 7.8a of this Act.

9 (11) A requirement that the private manager market the
10 Lottery to those residents who are new, infrequent, or
11 lapsed players of the Lottery, especially those who are
12 most likely to make regular purchases on the Internet as
13 permitted by law.

14 (12) A code of ethics for the private manager's
15 officers and employees.

16 (13) A requirement that the Department monitor and
17 oversee the private manager's practices and take action
18 that the Department considers appropriate to ensure that
19 the private manager is in compliance with the terms of the
20 management agreement, while allowing the manager, unless
21 specifically prohibited by law or the management
22 agreement, to negotiate and sign its own contracts with
23 vendors.

24 (14) A provision requiring the private manager to
25 periodically file, at least on an annual basis, appropriate
26 financial statements in a form and manner acceptable to the

1 Department.

2 (15) Cash reserves requirements.

3 (16) Procedural requirements for obtaining the prior
4 approval of the Department when a management agreement or
5 an interest in a management agreement is sold, assigned,
6 transferred, or pledged as collateral to secure financing.

7 (17) Grounds for the termination of the management
8 agreement by the Department or the private manager.

9 (18) Procedures for amendment of the agreement.

10 (19) A provision requiring the private manager to
11 engage in an open and competitive bidding process for any
12 procurement having a cost in excess of \$50,000 that is not
13 a part of the private manager's final offer. The process
14 shall favor the selection of a vendor deemed to have
15 submitted a proposal that provides the Lottery with the
16 best overall value. The process shall not be subject to the
17 provisions of the Illinois Procurement Code, unless
18 specifically required by the management agreement.

19 (20) The transition of rights and obligations,
20 including any associated equipment or other assets used in
21 the operation of the Lottery, from the manager to any
22 successor manager of the lottery, including the
23 Department, following the termination of or foreclosure
24 upon the management agreement.

25 (21) Right of use of copyrights, trademarks, and
26 service marks held by the Department in the name of the

1 State. The agreement must provide that any use of them by
2 the manager shall only be for the purpose of fulfilling its
3 obligations under the management agreement during the term
4 of the agreement.

5 (22) The disclosure of any information requested by the
6 Department to enable it to comply with the reporting
7 requirements and information requests provided for under
8 subsection (p) of this Section.

9 (e) Notwithstanding any other law to the contrary, the
10 Department shall select a private manager through a competitive
11 request for qualifications process consistent with Section
12 20-35 of the Illinois Procurement Code, which shall take into
13 account:

14 (1) the offeror's ability to market the Lottery to
15 those residents who are new, infrequent, or lapsed players
16 of the Lottery, especially those who are most likely to
17 make regular purchases on the Internet;

18 (2) the offeror's ability to address the State's
19 concern with the social effects of gambling on those who
20 can least afford to do so;

21 (3) the offeror's ability to provide the most
22 successful management of the Lottery for the benefit of the
23 people of the State based on current and past business
24 practices or plans of the offeror; and

25 (4) the offeror's poor or inadequate past performance
26 in servicing, equipping, operating or managing a lottery on

1 behalf of Illinois, another State or foreign government and
2 attracting persons who are not currently regular players of
3 a lottery.

4 (f) The Department may retain the services of an advisor or
5 advisors with significant experience in financial services or
6 the management, operation, and procurement of goods, services,
7 and equipment for a government-run lottery to assist in the
8 preparation of the terms of the request for qualifications and
9 selection of the private manager. Any prospective advisor
10 seeking to provide services under this subsection (f) shall
11 disclose any material business or financial relationship
12 during the past 3 years with any potential offeror, or with a
13 contractor or subcontractor presently providing goods,
14 services, or equipment to the Department to support the
15 Lottery. The Department shall evaluate the material business or
16 financial relationship of each prospective advisor. The
17 Department shall not select any prospective advisor with a
18 substantial business or financial relationship that the
19 Department deems to impair the objectivity of the services to
20 be provided by the prospective advisor. During the course of
21 the advisor's engagement by the Department, and for a period of
22 one year thereafter, the advisor shall not enter into any
23 business or financial relationship with any offeror or any
24 vendor identified to assist an offeror in performing its
25 obligations under the management agreement. Any advisor
26 retained by the Department shall be disqualified from being an

1 offeror. The Department shall not include terms in the request
2 for qualifications that provide a material advantage whether
3 directly or indirectly to any potential offeror, or any
4 contractor or subcontractor presently providing goods,
5 services, or equipment to the Department to support the
6 Lottery, including terms contained in previous responses to
7 requests for proposals or qualifications submitted to
8 Illinois, another State or foreign government when those terms
9 are uniquely associated with a particular potential offeror,
10 contractor, or subcontractor. The request for proposals
11 offered by the Department on December 22, 2008 as
12 "LOT08GAMESYS" and reference number "22016176" is declared
13 void.

14 (g) The Department shall select at least 2 offerors as
15 finalists to potentially serve as the private manager no later
16 than August 9, 2010. Upon making preliminary selections, the
17 Department shall schedule a public hearing on the finalists'
18 proposals and provide public notice of the hearing at least 7
19 calendar days before the hearing. The notice must include all
20 of the following:

21 (1) The date, time, and place of the hearing.

22 (2) The subject matter of the hearing.

23 (3) A brief description of the management agreement to
24 be awarded.

25 (4) The identity of the offerors that have been
26 selected as finalists to serve as the private manager.

1 (5) The address and telephone number of the Department.

2 (h) At the public hearing, the Department shall (i) provide
3 sufficient time for each finalist to present and explain its
4 proposal to the Department and the Governor or the Governor's
5 designee, including an opportunity to respond to questions
6 posed by the Department, Governor, or designee and (ii) allow
7 the public and non-selected offerors to comment on the
8 presentations. The Governor or a designee shall attend the
9 public hearing. After the public hearing, the Department shall
10 have 14 calendar days to recommend to the Governor whether a
11 management agreement should be entered into with a particular
12 finalist. After reviewing the Department's recommendation, the
13 Governor may accept or reject the Department's recommendation,
14 and shall select a final offeror as the private manager by
15 publication of a notice in the Illinois Procurement Bulletin on
16 or before September 15, 2010. The Governor shall include in the
17 notice a detailed explanation and the reasons why the final
18 offeror is superior to other offerors and will provide
19 management services in a manner that best achieves the
20 objectives of this Section. The Governor shall also sign the
21 management agreement with the private manager.

22 (i) Any action to contest the private manager selected by
23 the Governor under this Section must be brought within 7
24 calendar days after the publication of the notice of the
25 designation of the private manager as provided in subsection
26 (h) of this Section.

1 (j) The Lottery shall remain, for so long as a private
2 manager manages the Lottery in accordance with provisions of
3 this Act, a Lottery conducted by the State, and the State shall
4 not be authorized to sell or transfer the Lottery to a third
5 party.

6 (k) Any tangible personal property used exclusively in
7 connection with the lottery that is owned by the Department and
8 leased to the private manager shall be owned by the Department
9 in the name of the State and shall be considered to be public
10 property devoted to an essential public and governmental
11 function.

12 (l) The Department may exercise any of its powers under
13 this Section or any other law as necessary or desirable for the
14 execution of the Department's powers under this Section.

15 (m) Neither this Section nor any management agreement
16 entered into under this Section prohibits the General Assembly
17 from authorizing forms of gambling that are not in direct
18 competition with the Lottery.

19 (n) The private manager shall be subject to a complete
20 investigation in the third, seventh, and tenth years of the
21 agreement (if the agreement is for a 10-year term) by the
22 Department in cooperation with the Auditor General to determine
23 whether the private manager has complied with this Section and
24 the management agreement. The private manager shall bear the
25 cost of an investigation or reinvestigation of the private
26 manager under this subsection.

1 (o) The powers conferred by this Section are in addition
2 and supplemental to the powers conferred by any other law. If
3 any other law or rule is inconsistent with this Section,
4 including, but not limited to, provisions of the Illinois
5 Procurement Code, then this Section controls as to any
6 management agreement entered into under this Section. This
7 Section and any rules adopted under this Section contain full
8 and complete authority for a management agreement between the
9 Department and a private manager. No law, procedure,
10 proceeding, publication, notice, consent, approval, order, or
11 act by the Department or any other officer, Department, agency,
12 or instrumentality of the State or any political subdivision is
13 required for the Department to enter into a management
14 agreement under this Section. This Section contains full and
15 complete authority for the Department to approve any contracts
16 entered into by a private manager with a vendor providing
17 goods, services, or both goods and services to the private
18 manager under the terms of the management agreement, including
19 subcontractors of such vendors.

20 Upon receipt of a written request from the Chief
21 Procurement Officer, the Department shall provide to the Chief
22 Procurement Officer a complete and un-redacted copy of the
23 management agreement or any contract that is subject to the
24 Department's approval authority under this subsection (o). The
25 Department shall provide a copy of the agreement or contract to
26 the Chief Procurement Officer in the time specified by the

1 Chief Procurement Officer in his or her written request, but no
2 later than 5 business days after the request is received by the
3 Department. The Chief Procurement Officer must retain any
4 portions of the management agreement or of any contract
5 designated by the Department as confidential, proprietary, or
6 trade secret information in complete confidence pursuant to
7 subsection (g) of Section 7 of the Freedom of Information Act.
8 The Department shall also provide the Chief Procurement Officer
9 with reasonable advance written notice of any contract that is
10 pending Department approval.

11 Notwithstanding any other provision of this Section to the
12 contrary, the Chief Procurement Officer shall adopt
13 administrative rules, including emergency rules, to establish
14 a procurement process to select a successor private manager if
15 a private management agreement has been terminated. The
16 selection process shall at a minimum take into account the
17 criteria set forth in items (1) through (4) of subsection (e)
18 of this Section and may include provisions consistent with
19 subsections (f), (g), (h), and (i) of this Section. The Chief
20 Procurement Officer shall also implement and administer the
21 adopted selection process upon the termination of a private
22 management agreement. The Department, after the Chief
23 Procurement Officer certifies that the procurement process has
24 been followed in accordance with the rules adopted under this
25 subsection (o), shall select a final offeror as the private
26 manager and sign the management agreement with the private

1 manager.

2 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, and
3 21.9, the Department shall distribute all proceeds of lottery
4 tickets and shares sold in the following priority and manner:

5 (1) The payment of prizes and retailer bonuses.

6 (2) The payment of costs incurred in the operation and
7 administration of the Lottery, including the payment of
8 sums due to the private manager under the management
9 agreement with the Department.

10 (3) On the last day of each month or as soon thereafter
11 as possible, the State Comptroller shall direct and the
12 State Treasurer shall transfer from the State Lottery Fund
13 to the Common School Fund an amount that is equal to the
14 proceeds transferred in the corresponding month of fiscal
15 year 2009, as adjusted for inflation, to the Common School
16 Fund.

17 (4) On or before the last day of each fiscal year,
18 deposit any remaining proceeds, subject to payments under
19 items (1), (2), and (3) into the Capital Projects Fund each
20 fiscal year.

21 (p) The Department shall be subject to the following
22 reporting and information request requirements:

23 (1) the Department shall submit written quarterly
24 reports to the Governor and the General Assembly on the
25 activities and actions of the private manager selected
26 under this Section;

1 (2) upon request of the Chief Procurement Officer, the
2 Department shall promptly produce information related to
3 the procurement activities of the Department and the
4 private manager requested by the Chief Procurement
5 Officer; the Chief Procurement Officer must retain
6 confidential, proprietary, or trade secret information
7 designated by the Department in complete confidence
8 pursuant to subsection (g) of Section 7 of the Freedom of
9 Information Act; and

10 (3) at least 30 days prior to the beginning of the
11 Department's fiscal year, the Department shall prepare an
12 annual written report on the activities of the private
13 manager selected under this Section and deliver that report
14 to the Governor and General Assembly.

15 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
16 99-933, eff. 1-27-17.)

17 Section 20. The Department of Transportation Law of the
18 Civil Administrative Code of Illinois is amended by changing
19 Sections 2705-585 and 2705-600 as follows:

20 (20 ILCS 2705/2705-585)

21 Sec. 2705-585. Diversity goals.

22 (a) To the extent permitted by any applicable federal law
23 or regulation, all State construction projects funded from
24 amounts (i) made available under the Governor's Fiscal Year

1 2009 supplemental budget or the American Recovery and
2 Reinvestment Act of 2009 and (ii) that are appropriated to the
3 Illinois Department of Transportation shall comply with the
4 Business Enterprise for Minorities, Women ~~Females~~, and Persons
5 with Disabilities Act.

6 (b) The Illinois Department of Transportation shall
7 appoint representatives to professional and artistic services
8 selection committees representative of the State's ethnic,
9 cultural, and geographic diversity, including, but not limited
10 to, at least one person from each of the following: an
11 association representing the interests of African American
12 business owners, an association representing the interests of
13 Latino business owners, and an association representing the
14 interests of women business owners. These committees shall
15 comply with all requirements of the Open Meetings Act.

16 (Source: P.A. 96-8, eff. 4-28-09.)

17 (20 ILCS 2705/2705-600)

18 (Section scheduled to be repealed on June 30, 2017)

19 Sec. 2705-600. Target market program. In order to remedy
20 particular incidents and patterns of egregious race or gender
21 discrimination, the chief procurement officer, in consultation
22 with the Department, shall have the power to implement a target
23 market program incorporating the following terms:

24 (0.5) Each fiscal year, the Department shall review any
25 and all evidence of discrimination related to

1 transportation construction projects. Evidence of
2 discrimination may include, but is not limited to: (i) the
3 determination of the Department's utilization of
4 minority-owned and women-owned ~~female-owned~~ firms in its
5 prime contracts and associated subcontracts; (ii) the
6 availability of minority-owned and women-owned
7 ~~female-owned~~ firms in the Department's geographic market
8 areas and specific construction industry markets; (iii)
9 any disparities between the utilization of minority-owned
10 and women-owned ~~female-owned~~ firms in the Department's
11 markets and the utilization of those firms on the
12 Department's prime contracts and subcontracts in those
13 markets; (iv) any disparities between the utilization of
14 minority-owned and women-owned ~~female-owned~~ firms in the
15 overall construction markets in which the Department
16 purchases and the utilization of those firms in the overall
17 construction economy in which the Department operates; (v)
18 evidence of discrimination in the rates at which
19 minority-owned and women-owned ~~female-owned~~ firms in the
20 Department's markets form businesses compared to similar
21 non-minority-owned and non-women-owned ~~non-female-owned~~
22 firms in the Department's markets and in the dollars earned
23 by such businesses; and (vi) quantitative and qualitative
24 anecdotal evidence of discrimination. If after reviewing
25 such evidence, the Department finds and the chief
26 procurement officer concurs in the findings that the

1 Department has a strong basis in evidence that it has a
2 compelling interest in remedying the identified
3 discrimination against a specific group, race, or gender,
4 and that the only remedy for such discrimination is a
5 narrowly tailored target market, the chief procurement
6 officer, in consultation with the Department, has the power
7 to establish and implement a target market program tailored
8 to address the specific findings of egregious
9 discrimination made by the Department, after a public
10 hearing at which minority, women ~~female~~, and general
11 contractor groups, community organizations, and other
12 interested parties shall have the opportunity to provide
13 comments.

14 (1) In January of each year, the Department and the
15 chief procurement officer shall report jointly to the
16 General Assembly the results of any evidentiary inquiries
17 or studies that establish the Department's compelling
18 interest in remedying egregious discrimination based upon
19 strong evidence of the need for a narrowly tailored target
20 market to remedy such discrimination and public hearings
21 held pursuant to this Section, and shall report the actions
22 to be taken to address the findings, including, if
23 warranted, the establishment and implementation of any
24 target market initiatives.

25 (2) The chief procurement officer shall work with the
26 officers and divisions of the Department to determine the

1 appropriate designation of contracts as target market
2 contracts. The chief procurement officer, in consultation
3 with the Department, shall determine appropriate contract
4 formation and bidding procedures for target market
5 contracts, including, but not limited to, the dividing of
6 procurements so designated into contract award units in
7 order to facilitate offers or bids from minority-owned
8 businesses and women-owned ~~female-owned~~ businesses and the
9 removal of bid bond requirements for minority-owned
10 businesses and women-owned ~~female-owned~~ businesses.
11 Minority-owned businesses and women-owned ~~female-owned~~
12 businesses shall remain eligible to seek the procurement
13 award of contracts that have not been designated as target
14 market contracts.

15 (3) The chief procurement officer may make
16 participation in the target market program dependent upon
17 submission to stricter compliance audits than are
18 generally applicable. No contract shall be eligible for
19 inclusion in the target market program unless the
20 Department determines that there are at least 3
21 minority-owned businesses or women-owned ~~female-owned~~
22 businesses interested in participating in that type of
23 contract. The Department, with the concurrence of the chief
24 procurement officer, may develop guidelines to regulate
25 the level of participation of individual minority-owned
26 businesses and women-owned ~~female-owned~~ businesses in the

1 target market program in order to prevent the domination of
2 the target market program by a small number of those
3 entities. The Department may require minority-owned
4 businesses and women-owned ~~female-owned~~ businesses to
5 participate in training programs offered by the Department
6 or other State agencies as a condition precedent to
7 participation in the target market program.

8 (4) Participation in the target market program shall be
9 limited to minority-owned businesses and women-owned
10 ~~female-owned~~ businesses and joint ventures consisting
11 exclusively of minority-owned businesses, women-owned
12 ~~female-owned~~ businesses, or both, that are certified as
13 disadvantaged businesses pursuant to the provisions of
14 Section 6(d) of the Business Enterprise for Minorities,
15 Women ~~Females~~, and Persons with Disabilities Act. A firm
16 awarded a target market contract may subcontract up to 50%
17 of the dollar value of the target market contract to
18 subcontractors who are not minority-owned businesses or
19 women-owned ~~female-owned~~ businesses.

20 (5) The Department may include in the target market
21 program contracts that are funded by the federal government
22 to the extent allowed by federal law and may vary the
23 standards of eligibility of the target market program to
24 the extent necessary to comply with the federal funding
25 requirements.

26 (6) If no satisfactory bid or response is received with

1 respect to a contract that has been designated as part of
2 the target market program, the chief procurement officer,
3 in consultation with the Department, may delete that
4 contract from the target market program. In addition, the
5 chief procurement officer, in consultation with the
6 Department, may thereupon designate and set aside for the
7 target market program additional contracts corresponding
8 in approximate value to the contract that was deleted from
9 the target market program, in keeping with the narrowly
10 tailored process used for selecting contracts suitable for
11 the program and to the extent feasible.

12 (7) The chief procurement officer, in consultation
13 with the Department, shall promulgate such rules as he or
14 she deems necessary to administer the target market
15 program.

16 If any part, sentence, or clause of this Section is for any
17 reason held invalid or to be unconstitutional, such decision
18 shall not affect the validity of the remaining portions of this
19 Section.

20 This Section is repealed on June 30, 2017.

21 (Source: P.A. 97-228, eff. 7-28-11; 98-670, eff. 6-27-14.)

22 Section 25. The Capital Development Board Act is amended by
23 changing Section 16 as follows:

24 (20 ILCS 3105/16) (from Ch. 127, par. 783b)

1 Sec. 16. (a) In addition to any other power granted in this
2 Act to adopt rules or regulations, the Board may adopt
3 regulations or rules relating to the issuance or renewal of the
4 prequalification of an architect, engineer or contractor or the
5 suspension or modification of the prequalification of any such
6 person or entity including, without limitation, an interim or
7 emergency suspension or modification without a hearing founded
8 on any one or more of the bases set forth in this Section.

9 (b) Among the bases for an interim or emergency suspension
10 or modification of prequalification are:

11 (1) A finding by the Board that the public interest,
12 safety or welfare requires a summary suspension or
13 modification of a prequalification without hearings.

14 (2) The occurrence of an event or series of events
15 which, in the Board's opinion, warrants a summary
16 suspension or modification of a prequalification without a
17 hearing including, without limitation, (i) the indictment
18 of the holder of the prequalification by a State or federal
19 agency or other branch of government for a crime; (ii) the
20 suspension or modification of a license or
21 prequalification by another State agency or federal agency
22 or other branch of government after hearings; (iii) a
23 material breach of a contract made between the Board and an
24 architect, engineer or contractor; and (iv) the failure to
25 comply with State law including, without limitation, the
26 Business Enterprise for Minorities, Women ~~Females~~, and

1 Persons with Disabilities Act, the prevailing wage
2 requirements, and the Steel Products Procurement Act.

3 (c) If a prequalification is suspended or modified by the
4 Board without hearings for any reason set forth in this Section
5 or in Section 10-65 of the Illinois Administrative Procedure
6 Act, as amended, the Board shall within 30 days of the issuance
7 of an order of suspension or modification of a prequalification
8 initiate proceedings for the suspension or modification of or
9 other action upon the prequalification.

10 (Source: P.A. 92-16, eff. 6-28-01.)

11 Section 30. The Illinois Health Information Exchange and
12 Technology Act is amended by changing Section 20 as follows:

13 (20 ILCS 3860/20)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 20. Powers and duties of the Illinois Health
16 Information Exchange Authority. The Authority has the
17 following powers, together with all powers incidental or
18 necessary to accomplish the purposes of this Act:

19 (1) The Authority shall create and administer the ILHIE
20 using information systems and processes that are secure,
21 are cost effective, and meet all other relevant privacy and
22 security requirements under State and federal law.

23 (2) The Authority shall establish and adopt standards
24 and requirements for the use of health information and the

1 requirements for participation in the ILHIE by persons or
2 entities including, but not limited to, health care
3 providers, payors, and local health information exchanges.

4 (3) The Authority shall establish minimum standards
5 for accessing the ILHIE to ensure that the appropriate
6 security and privacy protections apply to health
7 information, consistent with applicable federal and State
8 standards and laws. The Authority shall have the power to
9 suspend, limit, or terminate the right to participate in
10 the ILHIE for non-compliance or failure to act, with
11 respect to applicable standards and laws, in the best
12 interests of patients, users of the ILHIE, or the public.
13 The Authority may seek all remedies allowed by law to
14 address any violation of the terms of participation in the
15 ILHIE.

16 (4) The Authority shall identify barriers to the
17 adoption of electronic health records systems, including
18 researching the rates and patterns of dissemination and use
19 of electronic health record systems throughout the State.
20 The Authority shall make the results of the research
21 available on its website.

22 (5) The Authority shall prepare educational materials
23 and educate the general public on the benefits of
24 electronic health records, the ILHIE, and the safeguards
25 available to prevent unauthorized disclosure of health
26 information.

1 (6) The Authority may appoint or designate an
2 institutional review board in accordance with federal and
3 State law to review and approve requests for research in
4 order to ensure compliance with standards and patient
5 privacy and security protections as specified in paragraph
6 (3) of this Section.

7 (7) The Authority may enter into all contracts and
8 agreements necessary or incidental to the performance of
9 its powers under this Act. The Authority's expenditures of
10 private funds are exempt from the Illinois Procurement
11 Code, pursuant to Section 1-10 of that Act. Notwithstanding
12 this exception, the Authority shall comply with the
13 Business Enterprise for Minorities, Women ~~Females~~, and
14 Persons with Disabilities Act.

15 (8) The Authority may solicit and accept grants, loans,
16 contributions, or appropriations from any public or
17 private source and may expend those moneys, through
18 contracts, grants, loans, or agreements, on activities it
19 considers suitable to the performance of its duties under
20 this Act.

21 (9) The Authority may determine, charge, and collect
22 any fees, charges, costs, and expenses from any healthcare
23 provider or entity in connection with its duties under this
24 Act. Moneys collected under this paragraph (9) shall be
25 deposited into the Health Information Exchange Fund.

26 (10) The Authority may, under the direction of the

1 Executive Director, employ and discharge staff, including
2 administrative, technical, expert, professional, and legal
3 staff, as is necessary or convenient to carry out the
4 purposes of this Act. The Authority may establish and
5 administer standards of classification regarding
6 compensation, benefits, duties, performance, and tenure
7 for that staff and may enter into contracts of employment
8 with members of that staff for such periods and on such
9 terms as the Authority deems desirable. All employees of
10 the Authority are exempt from the Personnel Code as
11 provided by Section 4 of the Personnel Code.

12 (11) The Authority shall consult and coordinate with
13 the Department of Public Health to further the Authority's
14 collection of health information from health care
15 providers for public health purposes. The collection of
16 public health information shall include identifiable
17 information for use by the Authority or other State
18 agencies to comply with State and federal laws. Any
19 identifiable information so collected shall be privileged
20 and confidential in accordance with Sections 8-2101,
21 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
22 Procedure.

23 (12) All identified or deidentified health information
24 in the form of health data or medical records contained in,
25 stored in, submitted to, transferred by, or released from
26 the Illinois Health Information Exchange, and identified

1 or deidentified health information in the form of health
2 data and medical records of the Illinois Health Information
3 Exchange in the possession of the Illinois Health
4 Information Exchange Authority due to its administration
5 of the Illinois Health Information Exchange, shall be
6 exempt from inspection and copying under the Freedom of
7 Information Act. The terms "identified" and "deidentified"
8 shall be given the same meaning as in the Health Insurance
9 Portability and Accountability Act of 1996, Public Law
10 104-191, or any subsequent amendments thereto, and any
11 regulations promulgated thereunder.

12 (13) To address gaps in the adoption of, workforce
13 preparation for, and exchange of electronic health records
14 that result in regional and socioeconomic disparities in
15 the delivery of care, the Authority may evaluate such gaps
16 and provide resources as available, giving priority to
17 healthcare providers serving a significant percentage of
18 Medicaid or uninsured patients and in medically
19 underserved or rural areas.

20 (Source: P.A. 99-642, eff. 7-28-16.)

21 Section 35. The Illinois Global Partnership Act is amended
22 by changing Section 20 as follows:

23 (20 ILCS 3948/20)

24 Sec. 20. Board of directors. IGP shall be governed by a

1 board of directors. The IGP board of directors shall consist of
2 14 members. Five of the members shall be voting members
3 appointed by the Governor with the advice and consent of the
4 Senate. The Speaker and Minority Leader of the House of
5 Representatives, the President and Minority Leader of the
6 Senate, the Lieutenant Governor, the Director of Agriculture,
7 the Director of Commerce and Economic Opportunity, the
8 Chairperson of the Illinois Arts Council, and the Director of
9 the Illinois Finance Authority, or the designee of each, shall
10 be non-voting ex officio members.

11 Of the members appointed by the Governor, one member must
12 have a background in agriculture, one member must have a
13 background in manufacturing, and one member must have a
14 background in international business relations.

15 Of the initial members appointed by the Governor, 3 members
16 shall serve 4-year terms and 2 members shall serve 2-year terms
17 as designated by the Governor. Thereafter, members appointed by
18 the Governor shall serve 4-year terms. A vacancy among members
19 appointed by the Governor shall be filled by appointment by the
20 Governor for the remainder of the vacated term.

21 Members of the board shall receive no compensation but
22 shall be reimbursed for expenses incurred in the performance of
23 their duties.

24 The Governor shall designate the chairman of the board
25 until a successor is designated. The board shall meet at the
26 call of the chair.

1 No less than 90 days after a majority of the members of the
2 board of directors of the IGP is appointed by the Governor, the
3 board shall develop a policy adopted by resolution of the board
4 stating the board's plan for the use of services provided by
5 businesses owned by minorities, women ~~females~~, and persons with
6 disabilities, as defined under the Business Enterprise for
7 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
8 The board shall provide a copy of this resolution to the
9 Governor and the General Assembly upon its adoption.

10 On December 31 of each year, the board shall report to the
11 General Assembly and the Governor regarding the use of services
12 provided by businesses owned by minorities, women ~~females~~, and
13 persons with disabilities, as defined under the Business
14 Enterprise for Minorities, Women ~~Females~~, and Persons with
15 Disabilities Act.

16 (Source: P.A. 94-388, eff. 7-29-05.)

17 Section 40. The State Finance Act is amended by changing
18 Sections 8.32 and 45 as follows:

19 (30 ILCS 105/8.32) (from Ch. 127, par. 144.32)

20 Sec. 8.32. All moneys received by the Minority and Women
21 ~~Female~~ Business Enterprise Council, or by the Department of
22 Central Management Services on behalf of the Council or the
23 Department's ~~Minority and Female~~ Business Enterprise for
24 Minorities, Women, and Persons with Disabilities Division,

1 from grants, donations, seminar registration fees, and the sale
2 of directories, lists and other such information, shall be
3 deposited into the Minority and Female Business Enterprise Fund
4 in the State treasury. Expenses of the Council or the
5 Department's ~~Minority and Female~~ Business Enterprise for
6 Minorities, Women, and Persons with Disabilities Division may
7 be paid from this Fund.

8 (Source: P.A. 86-1482.)

9 (30 ILCS 105/45)

10 Sec. 45. Award of capital funds. Each award by grant or
11 loan of State funds of \$250,000 or more for capital
12 construction costs or professional services is conditioned
13 upon the recipient's written certification that the recipient
14 shall comply with the business enterprise program practices for
15 minority-owned businesses, women-owned ~~female-owned~~
16 businesses, and businesses owned by persons with disabilities
17 of the Business Enterprise for Minorities, Women ~~Females~~, and
18 Persons with Disabilities Act (30 ILCS 575/) and the equal
19 employment practices of Section 2-105 of the Illinois Human
20 Rights Act (775 ILCS 5/2-105). This Section, however, does not
21 apply to any grant or loan (i) for which a grant or loan
22 agreement was executed before the effective date of this
23 amendatory Act of the 96th General Assembly, (ii) for which
24 prior-incurred costs are being reimbursed, or (iii) for a
25 federally funded program under which the requirement of this

1 Section would contravene federal law. Each recipient shall
2 submit the written certification and business enterprise
3 program plan for minority-owned businesses, women-owned
4 ~~female-owned~~ businesses, and businesses owned by persons with
5 disabilities before signing the relevant grant or loan
6 agreement. Each grant or loan agreement shall include a
7 provision that the grant or loan recipient agrees to comply
8 with the provisions of the Business Enterprise for Minorities,
9 Women ~~Females~~, and Persons with Disabilities Act (30 ILCS 575/)
10 and the equal employment practices of Section 2-105 of the
11 Illinois Human Rights Act (775 ILCS 5/2-105).

12 Each business enterprise program plan shall apply only to
13 the State-funded portion of the relevant capital project and
14 must be in compliance with all certification and other
15 requirements of the Business Enterprise for Minorities, Women
16 ~~Females~~, and Persons with Disabilities Act.

17 (Source: P.A. 96-1064, eff. 7-16-10.)

18 Section 45. The General Obligation Bond Act is amended by
19 changing Sections 8 and 15.5 as follows:

20 (30 ILCS 330/8) (from Ch. 127, par. 658)

21 Sec. 8. Bond sale expenses.

22 (a) An amount not to exceed 0.5 percent of the principal
23 amount of the proceeds of sale of each bond sale is authorized
24 to be used to pay the reasonable costs of issuance and sale,

1 including, without limitation, underwriter's discounts and
2 fees, but excluding bond insurance, of State of Illinois
3 general obligation bonds authorized and sold pursuant to this
4 Act, provided that no salaries of State employees or other
5 State office operating expenses shall be paid out of
6 non-appropriated proceeds, provided further that the percent
7 shall be 1.0% for each sale of "Build America Bonds" or
8 "Qualified School Construction Bonds" as defined in
9 subsections (d) and (e) of Section 9, respectively. The
10 Governor's Office of Management and Budget shall compile a
11 summary of all costs of issuance on each sale (including both
12 costs paid out of proceeds and those paid out of appropriated
13 funds) and post that summary on its web site within 20 business
14 days after the issuance of the Bonds. The summary shall
15 include, as applicable, the respective percentages of
16 participation and compensation of each underwriter that is a
17 member of the underwriting syndicate, legal counsel, financial
18 advisors, and other professionals for the bond issue and an
19 identification of all costs of issuance paid to minority-owned
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
21 businesses, and businesses owned by persons with disabilities.
22 The terms "minority-owned ~~minority-owned~~ businesses",
23 "women-owned ~~female-owned~~ businesses", and "business owned by a
24 person with a disability" have the meanings given to those
25 terms in the Business Enterprise for Minorities, Women ~~Females~~,
26 and Persons with Disabilities Act. That posting shall be

1 maintained on the web site for a period of at least 30 days. In
2 addition, the Governor's Office of Management and Budget shall
3 provide a written copy of each summary of costs to the Speaker
4 and Minority Leader of the House of Representatives, the
5 President and Minority Leader of the Senate, and the Commission
6 on Government Forecasting and Accountability within 20
7 business days after each issuance of the Bonds. In addition,
8 the Governor's Office of Management and Budget shall provide
9 copies of all contracts under which any costs of issuance are
10 paid or to be paid to the Commission on Government Forecasting
11 and Accountability within 20 business days after the issuance
12 of Bonds for which those costs are paid or to be paid. Instead
13 of filing a second or subsequent copy of the same contract, the
14 Governor's Office of Management and Budget may file a statement
15 that specified costs are paid under specified contracts filed
16 earlier with the Commission.

17 (b) The Director of the Governor's Office of Management and
18 Budget shall not, in connection with the issuance of Bonds,
19 contract with any underwriter, financial advisor, or attorney
20 unless that underwriter, financial advisor, or attorney
21 certifies that the underwriter, financial advisor, or attorney
22 has not and will not pay a contingent fee, whether directly or
23 indirectly, to a third party for having promoted the selection
24 of the underwriter, financial advisor, or attorney for that
25 contract. In the event that the Governor's Office of Management
26 and Budget determines that an underwriter, financial advisor,

1 or attorney has filed a false certification with respect to the
2 payment of contingent fees, the Governor's Office of Management
3 and Budget shall not contract with that underwriter, financial
4 advisor, or attorney, or with any firm employing any person who
5 signed false certifications, for a period of 2 calendar years,
6 beginning with the date the determination is made. The validity
7 of Bonds issued under such circumstances of violation pursuant
8 to this Section shall not be affected.

9 (Source: P.A. 96-828, eff. 12-2-09.)

10 (30 ILCS 330/15.5)

11 Sec. 15.5. Compliance with the Business Enterprise for
12 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
13 Notwithstanding any other provision of law, the Governor's
14 Office of Management and Budget shall comply with the Business
15 Enterprise for Minorities, Women ~~Females~~, and Persons with
16 Disabilities Act.

17 (Source: P.A. 93-839, eff. 7-30-04.)

18 Section 50. The Build Illinois Bond Act is amended by
19 changing Sections 5 and 8.3 as follows:

20 (30 ILCS 425/5) (from Ch. 127, par. 2805)

21 Sec. 5. Bond Sale Expenses.

22 (a) An amount not to exceed 0.5% of the principal amount of
23 the proceeds of the sale of each bond sale is authorized to be

1 used to pay reasonable costs of each issuance and sale of Bonds
2 authorized and sold pursuant to this Act, including, without
3 limitation, underwriter's discounts and fees, but excluding
4 bond insurance, advertising, printing, bond rating, travel of
5 outside vendors, security, delivery, legal and financial
6 advisory services, initial fees of trustees, registrars,
7 paying agents and other fiduciaries, initial costs of credit or
8 liquidity enhancement arrangements, initial fees of indexing
9 and remarketing agents, and initial costs of interest rate
10 swaps, guarantees or arrangements to limit interest rate risk,
11 as determined in the related Bond Sale Order, from the proceeds
12 of each Bond sale, provided that no salaries of State employees
13 or other State office operating expenses shall be paid out of
14 non-appropriated proceeds, and provided further that the
15 percent shall be 1.0% for each sale of "Build America Bonds" as
16 defined in subsection (c) of Section 6. The Governor's Office
17 of Management and Budget shall compile a summary of all costs
18 of issuance on each sale (including both costs paid out of
19 proceeds and those paid out of appropriated funds) and post
20 that summary on its web site within 20 business days after the
21 issuance of the bonds. That posting shall be maintained on the
22 web site for a period of at least 30 days. In addition, the
23 Governor's Office of Management and Budget shall provide a
24 written copy of each summary of costs to the Speaker and
25 Minority Leader of the House of Representatives, the President
26 and Minority Leader of the Senate, and the Commission on

1 Government Forecasting and Accountability within 20 business
2 days after each issuance of the bonds. This summary shall
3 include, as applicable, the respective percentage of
4 participation and compensation of each underwriter that is a
5 member of the underwriting syndicate, legal counsel, financial
6 advisors, and other professionals for the Bond issue, and an
7 identification of all costs of issuance paid to minority-owned
8 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
9 businesses, and businesses owned by persons with disabilities.
10 The terms "minority-owned ~~minority-owned~~ businesses",
11 "women-owned ~~female-owned~~ businesses", and "business owned by a
12 person with a disability" have the meanings given to those
13 terms in the Business Enterprise for Minorities, Women ~~Females~~,
14 and Persons with Disabilities Act. In addition, the Governor's
15 Office of Management and Budget shall provide copies of all
16 contracts under which any costs of issuance are paid or to be
17 paid to the Commission on Government Forecasting and
18 Accountability within 20 business days after the issuance of
19 Bonds for which those costs are paid or to be paid. Instead of
20 filing a second or subsequent copy of the same contract, the
21 Governor's Office of Management and Budget may file a statement
22 that specified costs are paid under specified contracts filed
23 earlier with the Commission.

24 (b) The Director of the Governor's Office of Management and
25 Budget shall not, in connection with the issuance of Bonds,
26 contract with any underwriter, financial advisor, or attorney

1 unless that underwriter, financial advisor, or attorney
2 certifies that the underwriter, financial advisor, or attorney
3 has not and will not pay a contingent fee, whether directly or
4 indirectly, to any third party for having promoted the
5 selection of the underwriter, financial advisor, or attorney
6 for that contract. In the event that the Governor's Office of
7 Management and Budget determines that an underwriter,
8 financial advisor, or attorney has filed a false certification
9 with respect to the payment of contingent fees, the Governor's
10 Office of Management and Budget shall not contract with that
11 underwriter, financial advisor, or attorney, or with any firm
12 employing any person who signed false certifications, for a
13 period of 2 calendar years, beginning with the date the
14 determination is made. The validity of Bonds issued under such
15 circumstances of violation pursuant to this Section shall not
16 be affected.

17 (Source: P.A. 96-828, eff. 12-2-09.)

18 (30 ILCS 425/8.3)

19 Sec. 8.3. Compliance with the Business Enterprise for
20 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
21 Notwithstanding any other provision of law, the Governor's
22 Office of Management and Budget shall comply with the Business
23 Enterprise for Minorities, Women ~~Females~~, and Persons with
24 Disabilities Act.

25 (Source: P.A. 93-839, eff. 7-30-04.)

1 Section 55. The Illinois Procurement Code is amended by
2 changing Sections 15-25, 30-30, 45-45, 45-57, and 45-65 as
3 follows:

4 (30 ILCS 500/15-25)

5 Sec. 15-25. Bulletin content.

6 (a) Invitations for bids. Notice of each and every contract
7 that is offered, including renegotiated contracts and change
8 orders, shall be published in the Bulletin. All businesses
9 listed on the Department of Transportation Disadvantaged
10 Business Enterprise Directory, the Department of Central
11 Management Services Business Enterprise Program, and the Chief
12 Procurement Office's Small Business Vendors Directory shall be
13 furnished written instructions and information on how to
14 register on each Procurement Bulletin maintained by the State.
15 Such information shall be provided to each business within 30
16 calendar days after the business' notice of certification. The
17 applicable chief procurement officer may provide by rule an
18 organized format for the publication of this information, but
19 in any case it must include at least the date first offered,
20 the date submission of offers is due, the location that offers
21 are to be submitted to, the purchasing State agency, the
22 responsible State purchasing officer, a brief purchase
23 description, the method of source selection, information of how
24 to obtain a comprehensive purchase description and any

1 disclosure and contract forms, and encouragement to potential
2 contractors to hire qualified veterans, as defined by Section
3 45-67 of this Code, and qualified Illinois minorities, women,
4 persons with disabilities, and residents discharged from any
5 Illinois adult correctional center.

6 (b) Contracts let. Notice of each and every contract that
7 is let, including renegotiated contracts and change orders,
8 shall be issued electronically to those bidders submitting
9 responses to the solicitations, inclusive of the unsuccessful
10 bidders, immediately upon contract let. Failure of any chief
11 procurement officer to give such notice shall result in tolling
12 the time for filing a bid protest up to 7 calendar days.

13 For purposes of this subsection (b), "contracts let" means
14 a construction agency's act of advertising an invitation for
15 bids for one or more construction projects.

16 (b-5) Contracts awarded. Notice of each and every contract
17 that is awarded, including renegotiated contracts and change
18 orders, shall be issued electronically to the successful
19 responsible bidder, offeror, or contractor and published in the
20 next available subsequent Bulletin. The applicable chief
21 procurement officer may provide by rule an organized format for
22 the publication of this information, but in any case it must
23 include at least all of the information specified in subsection
24 (a) as well as the name of the successful responsible bidder,
25 offeror, the contract price, the number of unsuccessful bidders
26 or offerors and any other disclosure specified in any Section

1 of this Code. This notice must be posted in the online
2 electronic Bulletin prior to execution of the contract.

3 For purposes of this subsection (b-5), "contract award"
4 means the determination that a particular bidder or offeror has
5 been selected from among other bidders or offerors to receive a
6 contract, subject to the successful completion of final
7 negotiations. "Contract award" is evidenced by the posting of a
8 Notice of Award or a Notice of Intent to Award to the
9 respective volume of the Illinois Procurement Bulletin.

10 (c) Emergency purchase disclosure. Any chief procurement
11 officer or State purchasing officer exercising emergency
12 purchase authority under this Code shall publish a written
13 description and reasons and the total cost, if known, or an
14 estimate if unknown and the name of the responsible chief
15 procurement officer and State purchasing officer, and the
16 business or person contracted with for all emergency purchases
17 in the next timely, practicable Bulletin. This notice must be
18 posted in the online electronic Bulletin no later than 5
19 calendar days after the contract is awarded. Notice of a
20 hearing to extend an emergency contract must be posted in the
21 online electronic Procurement Bulletin no later than 14
22 calendar days prior to the hearing.

23 (c-5) Business Enterprise Program report. Each purchasing
24 agency shall, with the assistance of the applicable chief
25 procurement officer, post in the online electronic Bulletin a
26 copy of its annual report of utilization of businesses owned by

1 minorities, women ~~females~~, and persons with disabilities as
2 submitted to the Business Enterprise Council for Minorities,
3 Women ~~Females~~, and Persons with Disabilities pursuant to
4 Section 6(c) of the Business Enterprise for Minorities, Women
5 ~~Females~~, and Persons with Disabilities Act within 10 calendar
6 days after its submission of its report to the Council.

7 (c-10) Renewals. Notice of each contract renewal shall be
8 posted in the online electronic Bulletin within 14 calendar
9 days of the determination to renew the contract and the next
10 available subsequent Bulletin. The notice shall include at
11 least all of the information required in subsection (b).

12 (c-15) Sole source procurements. Before entering into a
13 sole source contract, a chief procurement officer exercising
14 sole source procurement authority under this Code shall publish
15 a written description of intent to enter into a sole source
16 contract along with a description of the item to be procured
17 and the intended sole source contractor. This notice must be
18 posted in the online electronic Procurement Bulletin before a
19 sole source contract is awarded and at least 14 calendar days
20 before the hearing required by Section 20-25.

21 (d) Other required disclosure. The applicable chief
22 procurement officer shall provide by rule for the organized
23 publication of all other disclosure required in other Sections
24 of this Code in a timely manner.

25 (e) The changes to subsections (b), (c), (c-5), (c-10), and
26 (c-15) of this Section made by this amendatory Act of the 96th

1 General Assembly apply to reports submitted, offers made, and
2 notices on contracts executed on or after its effective date.

3 (f) Each chief procurement officer shall, in consultation
4 with the agencies under his or her jurisdiction, provide the
5 Procurement Policy Board with the information and resources
6 necessary, and in a manner, to effectuate the purpose of this
7 amendatory Act of the 96th General Assembly.

8 (Source: P.A. 97-895, eff. 8-3-12; 98-1038, eff. 8-25-14;
9 98-1076, eff. 1-1-15.)

10 (30 ILCS 500/30-30)

11 Sec. 30-30. Design-bid-build construction.

12 (a) The provisions of this subsection are operative through
13 December 31, 2019.

14 For building construction contracts in excess of \$250,000,
15 separate specifications may be prepared for all equipment,
16 labor, and materials in connection with the following 5
17 subdivisions of the work to be performed:

18 (1) plumbing;

19 (2) heating, piping, refrigeration, and automatic
20 temperature control systems, including the testing and
21 balancing of those systems;

22 (3) ventilating and distribution systems for
23 conditioned air, including the testing and balancing of
24 those systems;

25 (4) electric wiring; and

1 (5) general contract work.

2 The specifications may be so drawn as to permit separate
3 and independent bidding upon each of the 5 subdivisions of
4 work. All contracts awarded for any part thereof may award the
5 5 subdivisions of work separately to responsible and reliable
6 persons, firms, or corporations engaged in these classes of
7 work. The contracts, at the discretion of the construction
8 agency, may be assigned to the successful bidder on the general
9 contract work or to the successful bidder on the subdivision of
10 work designated by the construction agency before the bidding
11 as the prime subdivision of work, provided that all payments
12 will be made directly to the contractors for the 5 subdivisions
13 of work upon compliance with the conditions of the contract.

14 Beginning on the effective date of this amendatory Act of
15 the 99th General Assembly and through December 31, 2019, for
16 single prime projects: (i) the bid of the successful low bidder
17 shall identify the name of the subcontractor, if any, and the
18 bid proposal costs for each of the 5 subdivisions of work set
19 forth in this Section; (ii) the contract entered into with the
20 successful bidder shall provide that no identified
21 subcontractor may be terminated without the written consent of
22 the Capital Development Board; (iii) the contract shall comply
23 with the disadvantaged business practices of the Business
24 Enterprise for Minorities, Women ~~Females~~, and Persons with
25 Disabilities Act and the equal employment practices of Section
26 2-105 of the Illinois Human Rights Act; (iv) the Capital

1 Development Board shall submit a quarterly report to the
2 Procurement Policy Board with information on the general scope,
3 project budget, and established Business Enterprise Program
4 goals for any single prime procurement bid in the previous 3
5 months with a total construction cost valued at \$10,000,000 or
6 less; and (v) the Capital Development Board shall submit an
7 annual report to the General Assembly and Governor on the
8 bidding, award, and performance of all single prime projects.

9 For building construction projects with a total
10 construction cost valued at \$5,000,000 or less, the Capital
11 Development Board shall not use the single prime procurement
12 delivery method for more than 50% of the total number of
13 projects bid for each fiscal year. Any project with a total
14 construction cost valued greater than \$5,000,000 may be bid
15 using single prime at the discretion of the Executive Director
16 of the Capital Development Board.

17 Beginning on the effective date of this amendatory Act of
18 the 99th General Assembly and through December 31, 2017, the
19 Capital Development Board shall, on a weekly basis: review the
20 projects that have been designed, and approved to bid; and, for
21 every fifth determination to use the single prime procurement
22 delivery method for a project under \$10,000,000, submit to the
23 Procurement Policy Board a written notice of its intent to use
24 the single prime method on the project. The notice shall
25 include the reasons for using the single prime method and an
26 explanation of why the use of that method is in the best

1 interest of the State. The Capital Development Board shall post
2 the notice on its online procurement webpage and on the online
3 Procurement Bulletin at least 3 business days following
4 submission. The Procurement Policy Board shall review and
5 provide its decision on the use of the single prime method for
6 every fifth use of the single prime procurement delivery method
7 for a project under \$10,000,000 within 7 business days of
8 receipt of the notice from the Capital Development Board.
9 Approval by the Procurement Policy Board shall not be
10 unreasonably withheld and shall be provided unless the
11 Procurement Policy Board finds that the use of the single prime
12 method is not in the best interest of the State. Any decision
13 by the Procurement Policy Board to disapprove the use of the
14 single prime method shall be made in writing to the Capital
15 Development Board, posted on the online Procurement Bulletin,
16 and shall state the reasons why the single prime method was
17 disapproved and why it is not in the best interest of the
18 State.

19 (b) The provisions of this subsection are operative on and
20 after January 1, 2020. For building construction contracts in
21 excess of \$250,000, separate specifications shall be prepared
22 for all equipment, labor, and materials in connection with the
23 following 5 subdivisions of the work to be performed:

24 (1) plumbing;

25 (2) heating, piping, refrigeration, and automatic
26 temperature control systems, including the testing and

1 balancing of those systems;

2 (3) ventilating and distribution systems for
3 conditioned air, including the testing and balancing of
4 those systems;

5 (4) electric wiring; and

6 (5) general contract work.

7 The specifications must be so drawn as to permit separate
8 and independent bidding upon each of the 5 subdivisions of
9 work. All contracts awarded for any part thereof shall award
10 the 5 subdivisions of work separately to responsible and
11 reliable persons, firms, or corporations engaged in these
12 classes of work. The contracts, at the discretion of the
13 construction agency, may be assigned to the successful bidder
14 on the general contract work or to the successful bidder on the
15 subdivision of work designated by the construction agency
16 before the bidding as the prime subdivision of work, provided
17 that all payments will be made directly to the contractors for
18 the 5 subdivisions of work upon compliance with the conditions
19 of the contract.

20 (Source: P.A. 98-431, eff. 8-16-13; 98-1076, eff. 1-1-15;
21 99-257, eff. 8-4-15.)

22 (30 ILCS 500/45-45)

23 Sec. 45-45. Small businesses.

24 (a) Set-asides. Each chief procurement officer has
25 authority to designate as small business set-asides a fair

1 proportion of construction, supply, and service contracts for
2 award to small businesses in Illinois. Advertisements for bids
3 or offers for those contracts shall specify designation as
4 small business set-asides. In awarding the contracts, only bids
5 or offers from qualified small businesses shall be considered.

6 (b) Small business. "Small business" means a business that
7 is independently owned and operated and that is not dominant in
8 its field of operation. The chief procurement officer shall
9 establish a detailed definition by rule, using in addition to
10 the foregoing criteria other criteria, including the number of
11 employees and the dollar volume of business. When computing the
12 size status of a potential contractor, annual sales and
13 receipts of the potential contractor and all of its affiliates
14 shall be included. The maximum number of employees and the
15 maximum dollar volume that a small business may have under the
16 rules promulgated by the chief procurement officer may vary
17 from industry to industry to the extent necessary to reflect
18 differing characteristics of those industries, subject to the
19 following limitations:

20 (1) No wholesale business is a small business if its
21 annual sales for its most recently completed fiscal year
22 exceed \$13,000,000.

23 (2) No retail business or business selling services is
24 a small business if its annual sales and receipts exceed
25 \$8,000,000.

26 (3) No manufacturing business is a small business if it

1 employs more than 250 persons.

2 (4) No construction business is a small business if its
3 annual sales and receipts exceed \$14,000,000.

4 (c) Fair proportion. For the purpose of subsection (a), for
5 State agencies of the executive branch, a fair proportion of
6 construction contracts shall be no less than 25% nor more than
7 40% of the annual total contracts for construction.

8 (d) Withdrawal of designation. A small business set-aside
9 designation may be withdrawn by the purchasing agency when
10 deemed in the best interests of the State. Upon withdrawal, all
11 bids or offers shall be rejected, and the bidders or offerors
12 shall be notified of the reason for rejection. The contract
13 shall then be awarded in accordance with this Code without the
14 designation of small business set-aside.

15 (e) Small business specialist. The chief procurement
16 officer shall designate a State purchasing officer who will be
17 responsible for engaging an experienced contract negotiator to
18 serve as its small business specialist, whose duties shall
19 include:

20 (1) Compiling and maintaining a comprehensive list of
21 potential small contractors. In this duty, he or she shall
22 cooperate with the Federal Small Business Administration
23 in locating potential sources for various products and
24 services.

25 (2) Assisting small businesses in complying with the
26 procedures for bidding on State contracts.

1 (3) Examining requests from State agencies for the
2 purchase of property or services to help determine which
3 invitations to bid are to be designated small business
4 set-asides.

5 (4) Making recommendations to the chief procurement
6 officer for the simplification of specifications and terms
7 in order to increase the opportunities for small business
8 participation.

9 (5) Assisting in investigations by purchasing agencies
10 to determine the responsibility of bidders or offerors on
11 small business set-asides.

12 (f) Small business annual report. The State purchasing
13 officer designated under subsection (e) shall annually before
14 December 1 report in writing to the General Assembly concerning
15 the awarding of contracts to small businesses. The report shall
16 include the total value of awards made in the preceding fiscal
17 year under the designation of small business set-aside. The
18 report shall also include the total value of awards made to
19 businesses owned by minorities, women ~~females~~, and persons with
20 disabilities, as defined in the Business Enterprise for
21 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
22 in the preceding fiscal year under the designation of small
23 business set-aside.

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report as required by
26 Section 3.1 of the General Assembly Organization Act.

1 (Source: P.A. 98-1076, eff. 1-1-15.)

2 (30 ILCS 500/45-57)

3 Sec. 45-57. Veterans.

4 (a) Set-aside goal. It is the goal of the State to promote
5 and encourage the continued economic development of small
6 businesses owned and controlled by qualified veterans and that
7 qualified service-disabled veteran-owned small businesses
8 (referred to as SDVOSB) and veteran-owned small businesses
9 (referred to as VOSB) participate in the State's procurement
10 process as both prime contractors and subcontractors. Not less
11 than 3% of the total dollar amount of State contracts, as
12 defined by the Director of Central Management Services, shall
13 be established as a goal to be awarded to SDVOSB and VOSB. That
14 portion of a contract under which the contractor subcontracts
15 with a SDVOSB or VOSB may be counted toward the goal of this
16 subsection. The Department of Central Management Services
17 shall adopt rules to implement compliance with this subsection
18 by all State agencies.

19 (b) Fiscal year reports. By each September 1, each chief
20 procurement officer shall report to the Department of Central
21 Management Services on all of the following for the immediately
22 preceding fiscal year, and by each March 1 the Department of
23 Central Management Services shall compile and report that
24 information to the General Assembly:

25 (1) The total number of VOSB, and the number of SDVOSB,

1 who submitted bids for contracts under this Code.

2 (2) The total number of VOSB, and the number of SDVOSB,
3 who entered into contracts with the State under this Code
4 and the total value of those contracts.

5 (c) Yearly review and recommendations. Each year, each
6 chief procurement officer shall review the progress of all
7 State agencies under its jurisdiction in meeting the goal
8 described in subsection (a), with input from statewide
9 veterans' service organizations and from the business
10 community, including businesses owned by qualified veterans,
11 and shall make recommendations to be included in the Department
12 of Central Management Services' report to the General Assembly
13 regarding continuation, increases, or decreases of the
14 percentage goal. The recommendations shall be based upon the
15 number of businesses that are owned by qualified veterans and
16 on the continued need to encourage and promote businesses owned
17 by qualified veterans.

18 (d) Governor's recommendations. To assist the State in
19 reaching the goal described in subsection (a), the Governor
20 shall recommend to the General Assembly changes in programs to
21 assist businesses owned by qualified veterans.

22 (e) Definitions. As used in this Section:

23 "Armed forces of the United States" means the United States
24 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in
25 active duty as defined under 38 U.S.C. Section 101. Service in
26 the Merchant Marine that constitutes active duty under Section

1 401 of federal Public Act 95-202 shall also be considered
2 service in the armed forces for purposes of this Section.

3 "Certification" means a determination made by the Illinois
4 Department of Veterans' Affairs and the Department of Central
5 Management Services that a business entity is a qualified
6 service-disabled veteran-owned small business or a qualified
7 veteran-owned small business for whatever purpose. A SDVOSB or
8 VOSB owned and controlled by women ~~females~~, minorities, or
9 persons with disabilities, as those terms are defined in
10 Section 2 of the Business Enterprise for Minorities, Women
11 ~~Females~~, and Persons with Disabilities Act, may also select and
12 designate whether that business is to be certified as a
13 "women-owned ~~female-owned~~ business", "minority-owned
14 business", or "business owned by a person with a disability",
15 as defined in Section 2 of the Business Enterprise for
16 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

17 "Control" means the exclusive, ultimate, majority, or sole
18 control of the business, including but not limited to capital
19 investment and all other financial matters, property,
20 acquisitions, contract negotiations, legal matters,
21 officer-director-employee selection and comprehensive hiring,
22 operation responsibilities, cost-control matters, income and
23 dividend matters, financial transactions, and rights of other
24 shareholders or joint partners. Control shall be real,
25 substantial, and continuing, not pro forma. Control shall
26 include the power to direct or cause the direction of the

1 management and policies of the business and to make the
2 day-to-day as well as major decisions in matters of policy,
3 management, and operations. Control shall be exemplified by
4 possessing the requisite knowledge and expertise to run the
5 particular business, and control shall not include simple
6 majority or absentee ownership.

7 "Qualified service-disabled veteran" means a veteran who
8 has been found to have 10% or more service-connected disability
9 by the United States Department of Veterans Affairs or the
10 United States Department of Defense.

11 "Qualified service-disabled veteran-owned small business"
12 or "SDVOSB" means a small business (i) that is at least 51%
13 owned by one or more qualified service-disabled veterans living
14 in Illinois or, in the case of a corporation, at least 51% of
15 the stock of which is owned by one or more qualified
16 service-disabled veterans living in Illinois; (ii) that has its
17 home office in Illinois; and (iii) for which items (i) and (ii)
18 are factually verified annually by the Department of Central
19 Management Services.

20 "Qualified veteran-owned small business" or "VOSB" means a
21 small business (i) that is at least 51% owned by one or more
22 qualified veterans living in Illinois or, in the case of a
23 corporation, at least 51% of the stock of which is owned by one
24 or more qualified veterans living in Illinois; (ii) that has
25 its home office in Illinois; and (iii) for which items (i) and
26 (ii) are factually verified annually by the Department of

1 Central Management Services.

2 "Service-connected disability" means a disability incurred
3 in the line of duty in the active military, naval, or air
4 service as described in 38 U.S.C. 101(16).

5 "Small business" means a business that has annual gross
6 sales of less than \$75,000,000 as evidenced by the federal
7 income tax return of the business. A firm with gross sales in
8 excess of this cap may apply to the Department of Central
9 Management Services for certification for a particular
10 contract if the firm can demonstrate that the contract would
11 have significant impact on SDVOSB or VOSB as suppliers or
12 subcontractors or in employment of veterans or
13 service-disabled veterans.

14 "State agency" has the same meaning as in Section 2 of the
15 Business Enterprise for Minorities, Women ~~Females~~, and Persons
16 with Disabilities Act.

17 "Time of hostilities with a foreign country" means any
18 period of time in the past, present, or future during which a
19 declaration of war by the United States Congress has been or is
20 in effect or during which an emergency condition has been or is
21 in effect that is recognized by the issuance of a Presidential
22 proclamation or a Presidential executive order and in which the
23 armed forces expeditionary medal or other campaign service
24 medals are awarded according to Presidential executive order.

25 "Veteran" means a person who (i) has been a member of the
26 armed forces of the United States or, while a citizen of the

1 United States, was a member of the armed forces of allies of
2 the United States in time of hostilities with a foreign country
3 and (ii) has served under one or more of the following
4 conditions: (a) the veteran served a total of at least 6
5 months; (b) the veteran served for the duration of hostilities
6 regardless of the length of the engagement; (c) the veteran was
7 discharged on the basis of hardship; or (d) the veteran was
8 released from active duty because of a service connected
9 disability and was discharged under honorable conditions.

10 (f) Certification program. The Illinois Department of
11 Veterans' Affairs and the Department of Central Management
12 Services shall work together to devise a certification
13 procedure to assure that businesses taking advantage of this
14 Section are legitimately classified as qualified
15 service-disabled veteran-owned small businesses or qualified
16 veteran-owned small businesses.

17 (g) Penalties.

18 (1) Administrative penalties. The chief procurement
19 officers appointed pursuant to Section 10-20 shall suspend
20 any person who commits a violation of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 2012 relating to this Section from bidding on, or
23 participating as a contractor, subcontractor, or supplier
24 in, any State contract or project for a period of not less
25 than 3 years, and, if the person is certified as a
26 service-disabled veteran-owned small business or a

1 veteran-owned small business, then the Department shall
2 revoke the business's certification for a period of not
3 less than 3 years. An additional or subsequent violation
4 shall extend the periods of suspension and revocation for a
5 period of not less than 5 years. The suspension and
6 revocation shall apply to the principals of the business
7 and any subsequent business formed or financed by, or
8 affiliated with, those principals.

9 (2) Reports of violations. Each State agency shall
10 report any alleged violation of Section 17-10.3 or
11 subsection (d) of Section 33E-6 of the Criminal Code of
12 2012 relating to this Section to the chief procurement
13 officers appointed pursuant to Section 10-20. The chief
14 procurement officers appointed pursuant to Section 10-20
15 shall subsequently report all such alleged violations to
16 the Attorney General, who shall determine whether to bring
17 a civil action against any person for the violation.

18 (3) List of suspended persons. The chief procurement
19 officers appointed pursuant to Section 10-20 shall monitor
20 the status of all reported violations of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 1961 or the Criminal Code of 2012 relating to this Section
23 and shall maintain and make available to all State agencies
24 a central listing of all persons that committed violations
25 resulting in suspension.

26 (4) Use of suspended persons. During the period of a

1 person's suspension under paragraph (1) of this
2 subsection, a State agency shall not enter into any
3 contract with that person or with any contractor using the
4 services of that person as a subcontractor.

5 (5) Duty to check list. Each State agency shall check
6 the central listing provided by the chief procurement
7 officers appointed pursuant to Section 10-20 under
8 paragraph (3) of this subsection to verify that a person
9 being awarded a contract by that State agency, or to be
10 used as a subcontractor or supplier on a contract being
11 awarded by that State agency, is not under suspension
12 pursuant to paragraph (1) of this subsection.

13 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;
14 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

15 (30 ILCS 500/45-65)

16 Sec. 45-65. Additional preferences. This Code is subject to
17 applicable provisions of:

18 (1) the Public Purchases in Other States Act;

19 (2) the Illinois Mined Coal Act;

20 (3) the Steel Products Procurement Act;

21 (4) the Veterans Preference Act;

22 (5) the Business Enterprise for Minorities, Women
23 ~~Females~~, and Persons with Disabilities Act; and

24 (6) the Procurement of Domestic Products Act.

25 (Source: P.A. 93-954, eff. 1-1-05.)

1 Section 60. The Design-Build Procurement Act is amended by
2 changing Sections 5, 15, 30, and 46 as follows:

3 (30 ILCS 537/5)

4 (Section scheduled to be repealed on July 1, 2019)

5 Sec. 5. Legislative policy. It is the intent of the
6 General Assembly that the Capital Development Board be allowed
7 to use the design-build delivery method for public projects if
8 it is shown to be in the State's best interest for that
9 particular project. It shall be the policy of the Capital
10 Development Board in the procurement of design-build services
11 to publicly announce all requirements for design-build
12 services and to procure these services on the basis of
13 demonstrated competence and qualifications and with due regard
14 for the principles of competitive selection.

15 The Capital Development Board shall, prior to issuing
16 requests for proposals, promulgate and publish procedures for
17 the solicitation and award of contracts pursuant to this Act.

18 The Capital Development Board shall, for each public
19 project or projects permitted under this Act, make a written
20 determination, including a description as to the particular
21 advantages of the design-build procurement method, that it is
22 in the best interests of this State to enter into a
23 design-build contract for the project or projects. In making
24 that determination, the following factors shall be considered:

1 (1) The probability that the design-build procurement
2 method will be in the best interests of the State by
3 providing a material savings of time or cost over the
4 design-bid-build or other delivery system.

5 (2) The type and size of the project and its
6 suitability to the design-build procurement method.

7 (3) The ability of the State construction agency to
8 define and provide comprehensive scope and performance
9 criteria for the project.

10 No State construction agency may use a design-build
11 procurement method unless the agency determines in writing that
12 the project will comply with the disadvantaged business and
13 equal employment practices of the State as established in the
14 Business Enterprise for Minorities, Women ~~Females~~, and Persons
15 with Disabilities Act and Section 2-105 of the Illinois Human
16 Rights Act.

17 The Capital Development Board shall within 15 days after
18 the initial determination provide an advisory copy to the
19 Procurement Policy Board and maintain the full record of
20 determination for 5 years.

21 (Source: P.A. 94-716, eff. 12-13-05.)

22 (30 ILCS 537/15)

23 (Section scheduled to be repealed on July 1, 2019)

24 Sec. 15. Solicitation of proposals.

25 (a) When the State construction agency elects to use the

1 design-build delivery method, it must issue a notice of intent
2 to receive requests for proposals for the project at least 14
3 days before issuing the request for the proposal. The State
4 construction agency must publish the advance notice in the
5 official procurement bulletin of the State or the professional
6 services bulletin of the State construction agency, if any. The
7 agency is encouraged to use publication of the notice in
8 related construction industry service publications. A brief
9 description of the proposed procurement must be included in the
10 notice. The State construction agency must provide a copy of
11 the request for proposal to any party requesting a copy.

12 (b) The request for proposal shall be prepared for each
13 project and must contain, without limitation, the following
14 information:

15 (1) The name of the State construction agency.

16 (2) A preliminary schedule for the completion of the
17 contract.

18 (3) The proposed budget for the project, the source of
19 funds, and the currently available funds at the time the
20 request for proposal is submitted.

21 (4) Prequalification criteria for design-build
22 entities wishing to submit proposals. The State
23 construction agency shall include, at a minimum, its normal
24 prequalification, licensing, registration, and other
25 requirements, but nothing contained herein precludes the
26 use of additional prequalification criteria by the State

1 construction agency.

2 (5) Material requirements of the contract, including
3 but not limited to, the proposed terms and conditions,
4 required performance and payment bonds, insurance, and the
5 entity's plan to comply with the utilization goals for
6 business enterprises established in the Business
7 Enterprise for Minorities, Women ~~Females~~, and Persons with
8 Disabilities Act, and with Section 2-105 of the Illinois
9 Human Rights Act.

10 (6) The performance criteria.

11 (7) The evaluation criteria for each phase of the
12 solicitation.

13 (8) The number of entities that will be considered for
14 the technical and cost evaluation phase.

15 (c) The State construction agency may include any other
16 relevant information that it chooses to supply. The
17 design-build entity shall be entitled to rely upon the accuracy
18 of this documentation in the development of its proposal.

19 (d) The date that proposals are due must be at least 21
20 calendar days after the date of the issuance of the request for
21 proposal. In the event the cost of the project is estimated to
22 exceed \$10 million, then the proposal due date must be at least
23 28 calendar days after the date of the issuance of the request
24 for proposal. The State construction agency shall include in
25 the request for proposal a minimum of 30 days to develop the
26 Phase II submissions after the selection of entities from the

1 Phase I evaluation is completed.

2 (Source: P.A. 94-716, eff. 12-13-05.)

3 (30 ILCS 537/30)

4 (Section scheduled to be repealed on July 1, 2019)

5 Sec. 30. Procedures for Selection.

6 (a) The State construction agency must use a two-phase
7 procedure for the selection of the successful design-build
8 entity. Phase I of the procedure will evaluate and shortlist
9 the design-build entities based on qualifications, and Phase II
10 will evaluate the technical and cost proposals.

11 (b) The State construction agency shall include in the
12 request for proposal the evaluating factors to be used in Phase
13 I. These factors are in addition to any prequalification
14 requirements of design-build entities that the agency has set
15 forth. Each request for proposal shall establish the relative
16 importance assigned to each evaluation factor and subfactor,
17 including any weighting of criteria to be employed by the State
18 construction agency. The State construction agency must
19 maintain a record of the evaluation scoring to be disclosed in
20 event of a protest regarding the solicitation.

21 The State construction agency shall include the following
22 criteria in every Phase I evaluation of design-build entities:
23 (1) experience of personnel; (2) successful experience with
24 similar project types; (3) financial capability; (4)
25 timeliness of past performance; (5) experience with similarly

1 sized projects; (6) successful reference checks of the firm;
2 (7) commitment to assign personnel for the duration of the
3 project and qualifications of the entity's consultants; and (8)
4 ability or past performance in meeting or exhausting good faith
5 efforts to meet the utilization goals for business enterprises
6 established in the Business Enterprise for Minorities, Women
7 ~~Females~~, and Persons with Disabilities Act and with Section
8 2-105 of the Illinois Human Rights Act. The State construction
9 agency may include any additional relevant criteria in Phase I
10 that it deems necessary for a proper qualification review.

11 The State construction agency may not consider any
12 design-build entity for evaluation or award if the entity has
13 any pecuniary interest in the project or has other
14 relationships or circumstances, including but not limited to,
15 long-term leasehold, mutual performance, or development
16 contracts with the State construction agency, that may give the
17 design-build entity a financial or tangible advantage over
18 other design-build entities in the preparation, evaluation, or
19 performance of the design-build contract or that create the
20 appearance of impropriety. No proposal shall be considered that
21 does not include an entity's plan to comply with the
22 requirements established in the Business Enterprise for
23 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
24 for both the design and construction areas of performance, and
25 with Section 2-105 of the Illinois Human Rights Act.

26 Upon completion of the qualifications evaluation, the

1 State construction agency shall create a shortlist of the most
2 highly qualified design-build entities. The State construction
3 agency, in its discretion, is not required to shortlist the
4 maximum number of entities as identified for Phase II
5 evaluation, provided however, no less than 2 design-build
6 entities nor more than 6 are selected to submit Phase II
7 proposals.

8 The State construction agency shall notify the entities
9 selected for the shortlist in writing. This notification shall
10 commence the period for the preparation of the Phase II
11 technical and cost evaluations. The State construction agency
12 must allow sufficient time for the shortlist entities to
13 prepare their Phase II submittals considering the scope and
14 detail requested by the State agency.

15 (c) The State construction agency shall include in the
16 request for proposal the evaluating factors to be used in the
17 technical and cost submission components of Phase II. Each
18 request for proposal shall establish, for both the technical
19 and cost submission components of Phase II, the relative
20 importance assigned to each evaluation factor and subfactor,
21 including any weighting of criteria to be employed by the State
22 construction agency. The State construction agency must
23 maintain a record of the evaluation scoring to be disclosed in
24 event of a protest regarding the solicitation.

25 The State construction agency shall include the following
26 criteria in every Phase II technical evaluation of design-build

1 entities: (1) compliance with objectives of the project; (2)
2 compliance of proposed services to the request for proposal
3 requirements; (3) quality of products or materials proposed;
4 (4) quality of design parameters; (5) design concepts; (6)
5 innovation in meeting the scope and performance criteria; and
6 (7) constructability of the proposed project. The State
7 construction agency may include any additional relevant
8 technical evaluation factors it deems necessary for proper
9 selection.

10 The State construction agency shall include the following
11 criteria in every Phase II cost evaluation: the total project
12 cost, the construction costs, and the time of completion. The
13 State construction agency may include any additional relevant
14 technical evaluation factors it deems necessary for proper
15 selection. The total project cost criteria weighing factor
16 shall be 25%.

17 The State construction agency shall directly employ or
18 retain a licensed design professional to evaluate the technical
19 and cost submissions to determine if the technical submissions
20 are in accordance with generally accepted industry standards.

21 Upon completion of the technical submissions and cost
22 submissions evaluation, the State construction agency may
23 award the design-build contract to the highest overall ranked
24 entity.

25 (Source: P.A. 96-21, eff. 6-30-09.)

1 (30 ILCS 537/46)

2 (Section scheduled to be repealed on July 1, 2019)

3 Sec. 46. Reports and evaluation. At the end of every 6
4 month period following the contract award, and again prior to
5 final contract payout and closure, a selected design-build
6 entity shall detail, in a written report submitted to the State
7 agency, its efforts and success in implementing the entity's
8 plan to comply with the utilization goals for business
9 enterprises established in the Business Enterprise for
10 Minorities, Women ~~Females~~, and Persons with Disabilities Act
11 and the provisions of Section 2-105 of the Illinois Human
12 Rights Act. If the entity's performance in implementing the
13 plan falls short of the performance measures and outcomes set
14 forth in the plans submitted by the entity during the proposal
15 process, the entity shall, in a detailed written report, inform
16 the General Assembly and the Governor whether and to what
17 degree each design-build contract authorized under this Act
18 promoted the utilization goals for business enterprises
19 established in the Business Enterprise for Minorities, Women
20 ~~Females~~, and Persons with Disabilities Act and the provisions
21 of Section 2-105 of the Illinois Human Rights Act.

22 (Source: P.A. 94-716, eff. 12-13-05.)

23 Section 65. The Project Labor Agreements Act is amended by
24 changing Sections 25 and 37 as follows:

1 (30 ILCS 571/25)

2 Sec. 25. Contents of agreement. Pursuant to this Act, any
3 project labor agreement shall:

4 (a) Set forth effective, immediate, and mutually
5 binding procedures for resolving jurisdictional labor
6 disputes and grievances arising before the completion of
7 work.

8 (b) Contain guarantees against strikes, lockouts, or
9 similar actions.

10 (c) Ensure a reliable source of skilled and experienced
11 labor.

12 (d) For minorities and women ~~females~~ as defined under
13 the Business Enterprise for Minorities, Women ~~Females~~, and
14 Persons with Disabilities Act, set forth goals for
15 apprenticeship hours to be performed by minorities and
16 women ~~females~~ and set forth goals for total hours to be
17 performed by underrepresented minorities and women
18 ~~females~~.

19 (e) Permit the selection of the lowest qualified
20 responsible bidder, without regard to union or non-union
21 status at other construction sites.

22 (f) Bind all contractors and subcontractors on the
23 public works project through the inclusion of appropriate
24 bid specifications in all relevant bid documents.

25 (g) Include such other terms as the parties deem
26 appropriate.

1 (Source: P.A. 97-199, eff. 7-27-11.)

2 (30 ILCS 571/37)

3 Sec. 37. Quarterly report; annual report. A State
4 department, agency, authority, board, or instrumentality that
5 has a project labor agreement in connection with a public works
6 project shall prepare a quarterly report that includes
7 workforce participation under the agreement by minorities and
8 women ~~females~~ as defined under the Business Enterprise for
9 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
10 These reports shall be submitted to the Illinois Department of
11 Labor. The Illinois Department of Labor shall submit to the
12 General Assembly and the Governor an annual report that details
13 the number of minorities and women ~~females~~ employed under all
14 public labor agreements within the State.

15 (Source: P.A. 97-199, eff. 7-27-11.)

16 Section 70. The Business Enterprise for Minorities,
17 Females, and Persons with Disabilities Act is amended by
18 changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, and
19 8f and by adding Sections 8g, 8h, and 8i as follows:

20 (30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

21 (Section scheduled to be repealed on June 30, 2020)

22 Sec. 0.01. Short title. This Act may be cited as the
23 Business Enterprise for Minorities, Women ~~Females~~, and Persons

1 with Disabilities Act.

2 (Source: P.A. 88-597, eff. 8-28-94.)

3 (30 ILCS 575/1) (from Ch. 127, par. 132.601)

4 (Section scheduled to be repealed on June 30, 2020)

5 Sec. 1. Purpose. The State of Illinois declares that it is
6 the public policy of the State to promote and encourage the
7 continuing economic development of minority-owned ~~minority~~ and
8 women-owned ~~female-owned~~ and operated businesses and that
9 minority-owned ~~minority~~ and women-owned ~~female-owned~~ and
10 operated businesses participate in the State's procurement
11 process as both prime and subcontractors. The State of Illinois
12 has observed that the goals established in this Act have served
13 to increase the participation of minority and women ~~female~~
14 businesses in contracts awarded by the State. The State hereby
15 declares that the adoption of this amendatory Act of 1989 shall
16 serve the State's continuing interest in promoting open access
17 in the awarding of State contracts to disadvantaged small
18 business enterprises victimized by discriminatory practices.
19 Furthermore, after reviewing evidence of the high level of
20 attainment of the 10% minimum goals established under this Act,
21 and, after considering evidence that minority and women ~~female~~
22 businesses, as established in 1982, constituted and continue to
23 constitute more than 10% of the businesses operating in this
24 State, the State declares that the continuation of such 10%
25 minimum goals under this amendatory Act of 1989 is a narrowly

1 tailored means of promoting open access and thus the further
2 growth and development of minority and women ~~female~~ businesses.

3 The State of Illinois further declares that it is the
4 public policy of this State to promote and encourage the
5 continuous economic development of businesses owned by persons
6 with disabilities and a 2% contracting goal is a narrowly
7 tailored means of promoting open access and thus the further
8 growth and development of those businesses.

9 (Source: P.A. 88-597, eff. 8-28-94.)

10 (30 ILCS 575/2)

11 (Section scheduled to be repealed on June 30, 2020)

12 Sec. 2. Definitions.

13 (A) For the purpose of this Act, the following terms shall
14 have the following definitions:

15 (1) "Minority person" shall mean a person who is a
16 citizen or lawful permanent resident of the United States
17 and who is any of the following:

18 (a) American Indian or Alaska Native (a person
19 having origins in any of the original peoples of North
20 and South America, including Central America, and who
21 maintains tribal affiliation or community attachment).

22 (b) Asian (a person having origins in any of the
23 original peoples of the Far East, Southeast Asia, or
24 the Indian subcontinent, including, but not limited
25 to, Cambodia, China, India, Japan, Korea, Malaysia,

1 Pakistan, the Philippine Islands, Thailand, and
2 Vietnam).

3 (c) Black or African American (a person having
4 origins in any of the black racial groups of Africa).
5 Terms such as "Haitian" or "Negro" can be used in
6 addition to "Black or African American".

7 (d) Hispanic or Latino (a person of Cuban, Mexican,
8 Puerto Rican, South or Central American, or other
9 Spanish culture or origin, regardless of race).

10 (e) Native Hawaiian or Other Pacific Islander (a
11 person having origins in any of the original peoples of
12 Hawaii, Guam, Samoa, or other Pacific Islands).

13 (2) "Woman ~~Female~~" shall mean a person who is a citizen
14 or lawful permanent resident of the United States and who
15 is of the female gender.

16 (2.05) "Person with a disability" means a person who is
17 a citizen or lawful resident of the United States and is a
18 person qualifying as a person with a disability under
19 subdivision (2.1) of this subsection (A).

20 (2.1) "Person with a disability" means a person with a
21 severe physical or mental disability that:

22 (a) results from:

23 amputation,

24 arthritis,

25 autism,

26 blindness,

1 burn injury,
2 cancer,
3 cerebral palsy,
4 Crohn's disease,
5 cystic fibrosis,
6 deafness,
7 head injury,
8 heart disease,
9 hemiplegia,
10 hemophilia,
11 respiratory or pulmonary dysfunction,
12 an intellectual disability,
13 mental illness,
14 multiple sclerosis,
15 muscular dystrophy,
16 musculoskeletal disorders,
17 neurological disorders, including stroke and
18 epilepsy,
19 paraplegia,
20 quadriplegia and other spinal cord conditions,
21 sickle cell anemia,
22 ulcerative colitis,
23 specific learning disabilities, or
24 end stage renal failure disease; and
25 (b) substantially limits one or more of the
26 person's major life activities.

1 Another disability or combination of disabilities may
2 also be considered as a severe disability for the purposes
3 of item (a) of this subdivision (2.1) if it is determined
4 by an evaluation of rehabilitation potential to cause a
5 comparable degree of substantial functional limitation
6 similar to the specific list of disabilities listed in item
7 (a) of this subdivision (2.1).

8 (3) "Minority-owned ~~Minority-owned~~ business" means a
9 business which is at least 51% owned by one or more
10 minority persons, or in the case of a corporation, at least
11 51% of the stock in which is owned by one or more minority
12 persons; and the management and daily business operations
13 of which are controlled by one or more of the minority
14 individuals who own it.

15 (4) "Women-owned ~~Female-owned~~ business" means a
16 business which is at least 51% owned by one or more women
17 ~~females~~, or, in the case of a corporation, at least 51% of
18 the stock in which is owned by one or more women ~~females~~;
19 and the management and daily business operations of which
20 are controlled by one or more of the women ~~females~~ who own
21 it.

22 (4.1) "Business owned by a person with a disability"
23 means a business that is at least 51% owned by one or more
24 persons with a disability and the management and daily
25 business operations of which are controlled by one or more
26 of the persons with disabilities who own it. A

1 not-for-profit agency for persons with disabilities that
2 is exempt from taxation under Section 501 of the Internal
3 Revenue Code of 1986 is also considered a "business owned
4 by a person with a disability".

5 (4.2) "Council" means the Business Enterprise Council
6 for Minorities, Women ~~Females~~, and Persons with
7 Disabilities created under Section 5 of this Act.

8 (5) "State contracts" means all contracts entered into
9 by the State, any agency or department thereof, or any
10 public institution of higher education, including
11 community college districts, regardless of the source of
12 the funds with which the contracts are paid, which are not
13 subject to federal reimbursement. "State contracts" does
14 not include contracts awarded by a retirement system,
15 pension fund, or investment board subject to Section
16 1-109.1 of the Illinois Pension Code. This definition shall
17 control over any existing definition under this Act or
18 applicable administrative rule.

19 "State construction contracts" means all State
20 contracts entered into by a State agency or public
21 institution of higher education for the repair,
22 remodeling, renovation or construction of a building or
23 structure, or for the construction or maintenance of a
24 highway defined in Article 2 of the Illinois Highway Code.

25 (6) "State agencies" shall mean all departments,
26 officers, boards, commissions, institutions and bodies

1 politic and corporate of the State, but does not include
2 the Board of Trustees of the University of Illinois, the
3 Board of Trustees of Southern Illinois University, the
4 Board of Trustees of Chicago State University, the Board of
5 Trustees of Eastern Illinois University, the Board of
6 Trustees of Governors State University, the Board of
7 Trustees of Illinois State University, the Board of
8 Trustees of Northeastern Illinois University, the Board of
9 Trustees of Northern Illinois University, the Board of
10 Trustees of Western Illinois University, municipalities or
11 other local governmental units, or other State
12 constitutional officers.

13 (7) "Public institutions of higher education" means
14 the University of Illinois, Southern Illinois University,
15 Chicago State University, Eastern Illinois University,
16 Governors State University, Illinois State University,
17 Northeastern Illinois University, Northern Illinois
18 University, Western Illinois University, the public
19 community colleges of the State, and any other public
20 universities, colleges, and community colleges now or
21 hereafter established or authorized by the General
22 Assembly.

23 (8) "Certification" means a determination made by the
24 Council or by one delegated authority from the Council to
25 make certifications, or by a State agency with statutory
26 authority to make such a certification, that a business

1 entity is a business owned by a minority, woman ~~female~~, or
2 person with a disability for whatever purpose. A business
3 owned and controlled by women ~~females~~ shall be certified as
4 a "woman-owned ~~female-owned~~ business". A business owned and
5 controlled by women ~~females~~ who are also minorities shall
6 be certified as both a "women-owned ~~female-owned~~ business"
7 and a "minority-owned ~~minority-owned~~ business".

8 (9) "Control" means the exclusive or ultimate and sole
9 control of the business including, but not limited to,
10 capital investment and all other financial matters,
11 property, acquisitions, contract negotiations, legal
12 matters, officer-director-employee selection and
13 comprehensive hiring, operating responsibilities,
14 cost-control matters, income and dividend matters,
15 financial transactions and rights of other shareholders or
16 joint partners. Control shall be real, substantial and
17 continuing, not pro forma. Control shall include the power
18 to direct or cause the direction of the management and
19 policies of the business and to make the day-to-day as well
20 as major decisions in matters of policy, management and
21 operations. Control shall be exemplified by possessing the
22 requisite knowledge and expertise to run the particular
23 business and control shall not include simple majority or
24 absentee ownership.

25 (10) "Business" means a business that has annual gross
26 sales of less than \$75,000,000 as evidenced by the federal

1 income tax return of the business. A firm with gross sales
2 in excess of this cap may apply to the Council for
3 certification for a particular contract if the firm can
4 demonstrate that the contract would have significant
5 impact on businesses owned by minorities, women ~~females~~, or
6 persons with disabilities as suppliers or subcontractors
7 or in employment of minorities, women ~~females~~, or persons
8 with disabilities.

9 (11) "Utilization plan" means a form and additional
10 documentations included in all bids or proposals that
11 demonstrates a vendor's proposed utilization of vendors
12 certified by the Business Enterprise Program to meet the
13 targeted goal. The utilization plan shall demonstrate that
14 the Vendor has either: (1) met the entire contract goal or
15 (2) requested a full or partial waiver and made good faith
16 efforts towards meeting the goal.

17 (12) "Business Enterprise Program" means the Business
18 Enterprise Program of the Department of Central Management
19 Services.

20 (B) When a business is owned at least 51% by any
21 combination of minority persons, women ~~females~~, or persons with
22 disabilities, even though none of the 3 classes alone holds at
23 least a 51% interest, the ownership requirement for purposes of
24 this Act is considered to be met. The certification category
25 for the business is that of the class holding the largest
26 ownership interest in the business. If 2 or more classes have

1 equal ownership interests, the certification category shall be
2 determined by the business.

3 (Source: P.A. 98-95, eff. 7-17-13; 99-143, eff. 7-27-15;
4 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

5 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

6 (Section scheduled to be repealed on June 30, 2020)

7 Sec. 4. Award of State contracts.

8 (a) Except as provided in subsections (b) and (c), not less
9 than 20% of the total dollar amount of State contracts, as
10 defined by the Secretary of the Council and approved by the
11 Council, shall be established as an aspirational goal to be
12 awarded to businesses owned by minorities, women ~~females~~, and
13 persons with disabilities; provided, however, that of the total
14 amount of all State contracts awarded to businesses owned by
15 minorities, women ~~females~~, and persons with disabilities
16 pursuant to this Section, contracts representing at least 11%
17 shall be awarded to businesses owned by minorities, contracts
18 representing at least 7% shall be awarded to women-owned
19 ~~female-owned~~ businesses, and contracts representing at least
20 2% shall be awarded to businesses owned by persons with
21 disabilities.

22 The above percentage relates to the total dollar amount of
23 State contracts during each State fiscal year, calculated by
24 examining independently each type of contract for each agency
25 or public institutions of higher education which lets such

1 contracts. Only that percentage of arrangements which
2 represents the participation of businesses owned by
3 minorities, women ~~females~~, and persons with disabilities on
4 such contracts shall be included.

5 (b) In the case of State construction contracts, the
6 provisions of subsection (a) requiring a portion of State
7 contracts to be awarded to businesses owned and controlled by
8 persons with disabilities do not apply. The following
9 aspirational goals are established for State construction
10 contracts: not less than 20% of the total dollar amount of
11 State construction contracts is established as a goal to be
12 awarded to minority-owned ~~minority~~ and women-owned ~~female~~
13 ~~owned businesses, and contracts representing 50% of the amount~~
14 ~~of all State construction contracts awarded to minority and~~
15 ~~female owned businesses shall be awarded to female owned~~
16 ~~businesses.~~

17 (c) In the case of all work undertaken by the University of
18 Illinois related to the planning, organization, and staging of
19 the games, the University of Illinois shall establish a goal of
20 awarding not less than 25% of the annual dollar value of all
21 contracts, purchase orders, and other agreements (collectively
22 referred to as "the contracts") to minority-owned businesses or
23 businesses owned by a person with a disability and 5% of the
24 annual dollar value the contracts to women-owned ~~female-owned~~
25 businesses. For purposes of this subsection, the term "games"
26 has the meaning set forth in the Olympic Games and Paralympic

1 Games (2016) Law.

2 (d) Within one year after April 28, 2009 (the effective
3 date of Public Act 96-8), the Department of Central Management
4 Services shall conduct a social scientific study that measures
5 the impact of discrimination on minority and women ~~female~~
6 business development in Illinois. Within 18 months after April
7 28, 2009 (the effective date of Public Act 96-8), the
8 Department shall issue a report of its findings and any
9 recommendations on whether to adjust the goals for minority and
10 women ~~female~~ participation established in this Act. Copies of
11 this report and the social scientific study shall be filed with
12 the Governor and the General Assembly.

13 (e) Except as permitted under this Act or as otherwise
14 mandated by federal law or regulation, those who submit bids or
15 proposals for State ~~construction~~ contracts subject to the
16 provisions of this Act, whose bids or proposals are successful
17 and include a utilization plan but that fail to meet the goals
18 set forth in subsection (b) of this Section, shall be notified
19 of that deficiency and shall be afforded a period not to exceed
20 10 calendar days from the date of notification to cure that
21 deficiency in the bid or proposal. The deficiency in the bid or
22 proposal may only be cured by contracting with additional
23 subcontractors who are owned by minorities or women ~~females~~,
24 but in no case shall an identified subcontractor with a
25 certification made pursuant to this Act be terminated from the
26 contract without the written consent of the State agency or

1 public institution of higher education entering into the
2 contract.

3 (f) Non-construction solicitations that include Business
4 Enterprise Program participation goals shall require bidders
5 and offerors to include utilization plans. Utilization plans
6 are due at the time of bid or offer submission. Failure to
7 complete and include a utilization plan, including
8 documentation demonstrating good faith effort when requesting
9 a waiver, shall render the bid or offer non-responsive.

10 (Source: P.A. 99-462, eff. 8-25-15; 99-514, eff. 6-30-16.)

11 (30 ILCS 575/4f)

12 (Section scheduled to be repealed on June 30, 2020)

13 Sec. 4f. Award of State contracts.

14 (1) It is hereby declared to be the public policy of the
15 State of Illinois to promote and encourage each State agency
16 and public institution of higher education to use businesses
17 owned by minorities, women ~~females~~, and persons with
18 disabilities in the area of goods and services, including, but
19 not limited to, insurance services, investment management
20 services, information technology services, accounting
21 services, architectural and engineering services, and legal
22 services. Furthermore, each State agency and public
23 institution of higher education shall utilize such firms to the
24 greatest extent feasible within the bounds of financial and
25 fiduciary prudence, and take affirmative steps to remove any

1 barriers to the full participation of such firms in the
2 procurement and contracting opportunities afforded.

3 (a) When a State agency or public institution of higher
4 education, other than a community college, awards a
5 contract for insurance services, for each State agency or
6 public institution of higher education, it shall be the
7 aspirational goal to use insurance brokers owned by
8 minorities, women ~~females~~, and persons with disabilities
9 as defined by this Act, for not less than 20% of the total
10 annual premiums or fees.

11 (b) When a State agency or public institution of higher
12 education, other than a community college, awards a
13 contract for investment services, for each State agency or
14 public institution of higher education, it shall be the
15 aspirational goal to use emerging investment managers
16 owned by minorities, women ~~females~~, and persons with
17 disabilities as defined by this Act, for not less than 20%
18 of the total funds under management. Furthermore, it is the
19 aspirational goal that not less than 20% of the direct
20 asset managers of the State funds be minorities, women
21 ~~females~~, and persons with disabilities.

22 (c) When a State agency or public institution of higher
23 education, other than a community college, awards
24 contracts for information technology services, accounting
25 services, architectural and engineering services, and
26 legal services, for each State agency and public

1 institution of higher education, it shall be the
2 aspirational goal to use such firms owned by minorities,
3 women ~~females~~, and persons with disabilities as defined by
4 this Act and lawyers who are minorities, women ~~females~~, and
5 persons with disabilities as defined by this Act, for not
6 less than 20% of the total dollar amount of State
7 contracts.

8 (d) When a community college awards a contract for
9 insurance services, investment services, information
10 technology services, accounting services, architectural
11 and engineering services, and legal services, it shall be
12 the aspirational goal of each community college to use
13 businesses owned by minorities, women ~~females~~, and persons
14 with disabilities as defined in this Act for not less than
15 20% of the total amount spent on contracts for these
16 services collectively. When a community college awards
17 contracts for investment services, contracts awarded to
18 investment managers who are not emerging investment
19 managers as defined in this Act shall not be considered
20 businesses owned by minorities, women ~~females~~, or persons
21 with disabilities for the purposes of this Section.

22 (2) As used in this Section:

23 "Accounting services" means the measurement,
24 processing and communication of financial information
25 about economic entities including, but is not limited to,
26 financial accounting, management accounting, auditing,

1 cost containment and auditing services, taxation and
2 accounting information systems.

3 "Architectural and engineering services" means
4 professional services of an architectural or engineering
5 nature, or incidental services, that members of the
6 architectural and engineering professions, and individuals
7 in their employ, may logically or justifiably perform,
8 including studies, investigations, surveying and mapping,
9 tests, evaluations, consultations, comprehensive planning,
10 program management, conceptual designs, plans and
11 specifications, value engineering, construction phase
12 services, soils engineering, drawing reviews, preparation
13 of operating and maintenance manuals, and other related
14 services.

15 "Emerging investment manager" means an investment
16 manager or claims consultant having assets under
17 management below \$10 billion or otherwise adjudicating
18 claims.

19 "Information technology services" means, but is not
20 limited to, specialized technology-oriented solutions by
21 combining the processes and functions of software,
22 hardware, networks, telecommunications, web designers,
23 cloud developing resellers, and electronics.

24 "Insurance broker" means an insurance brokerage firm,
25 claims administrator, or both, that procures, places all
26 lines of insurance, or administers claims with annual

1 premiums or fees of at least \$5,000,000 but not more than
2 \$10,000,000.

3 "Legal services" means work performed by a lawyer
4 including, but not limited to, contracts in anticipation of
5 litigation, enforcement actions, or investigations.

6 (3) Each State agency and public institution of higher
7 education shall adopt policies that identify its plan and
8 implementation procedures for increasing the use of service
9 firms owned by minorities, women ~~females~~, and persons with
10 disabilities.

11 (4) Except as provided in subsection (5), the Council shall
12 file no later than March 1 of each year an annual report to the
13 Governor and the General Assembly. The report filed with the
14 General Assembly shall be filed as required in Section 3.1 of
15 the General Assembly Organization Act. This report shall: (i)
16 identify the service firms used by each State agency and public
17 institution of higher education, (ii) identify the actions it
18 has undertaken to increase the use of service firms owned by
19 minorities, women ~~females~~, and persons with disabilities,
20 including encouraging non-minority-owned ~~non-minority-owned~~
21 firms to use other service firms owned by minorities, women
22 ~~females~~, and persons with disabilities as subcontractors when
23 the opportunities arise, (iii) state any recommendations made
24 by the Council to each State agency and public institution of
25 higher education to increase participation by the use of
26 service firms owned by minorities, women ~~females~~, and persons

1 with disabilities, and (iv) include the following:

2 (A) For insurance services: the names of the insurance
3 brokers or claims consultants used, the total of risk
4 managed by each State agency and public institution of
5 higher education by insurance brokers, the total
6 commissions, fees paid, or both, the lines or insurance
7 policies placed, and the amount of premiums placed; and the
8 percentage of the risk managed by insurance brokers, the
9 percentage of total commission, fees paid, or both, the
10 lines or insurance policies placed, and the amount of
11 premiums placed with each by the insurance brokers owned by
12 minorities, women ~~females~~, and persons with disabilities
13 by each State agency and public institution of higher
14 education.

15 (B) For investment management services: the names of
16 the investment managers used, the total funds under
17 management of investment managers; the total commissions,
18 fees paid, or both; the total and percentage of funds under
19 management of emerging investment managers owned by
20 minorities, women ~~females~~, and persons with disabilities,
21 including the total and percentage of total commissions,
22 fees paid, or both by each State agency and public
23 institution of higher education.

24 (C) The names of service firms, the percentage and
25 total dollar amount paid for professional services by
26 category by each State agency and public institution of

1 higher education.

2 (D) The names of service firms, the percentage and
3 total dollar amount paid for services by category to firms
4 owned by minorities, women ~~females~~, and persons with
5 disabilities by each State agency and public institution of
6 higher education.

7 (E) The total number of contracts awarded for services
8 by category and the total number of contracts awarded to
9 firms owned by minorities, women ~~females~~, and persons with
10 disabilities by each State agency and public institution of
11 higher education.

12 (5) For community college districts, the Business
13 Enterprise Council shall only report the following information
14 for each community college district: (i) the name of the
15 community colleges in the district, (ii) the name and contact
16 information of a person at each community college appointed to
17 be the single point of contact for vendors owned by minorities,
18 women ~~females~~, or persons with disabilities, (iii) the policy
19 of the community college district concerning certified
20 vendors, (iv) the certifications recognized by the community
21 college district for determining whether a business is owned or
22 controlled by a minority, woman ~~female~~, or person with a
23 disability, (v) outreach efforts conducted by the community
24 college district to increase the use of certified vendors, (vi)
25 the total expenditures by the community college district in the
26 prior fiscal year in the divisions of work specified in

1 paragraphs (a), (b), and (c) of subsection (1) of this Section
2 and the amount paid to certified vendors in those divisions of
3 work, and (vii) the total number of contracts entered into for
4 the divisions of work specified in paragraphs (a), (b), and (c)
5 of subsection (1) of this Section and the total number of
6 contracts awarded to certified vendors providing these
7 services to the community college district. The Business
8 Enterprise Council shall not make any utilization reports under
9 this Act for community college districts for Fiscal Year 2015
10 and Fiscal Year 2016, but shall make the report required by
11 this subsection for Fiscal Year 2017 and for each fiscal year
12 thereafter. The Business Enterprise Council shall report the
13 information in items (i), (ii), (iii), and (iv) of this
14 subsection beginning in September of 2016. The Business
15 Enterprise Council may collect the data needed to make its
16 report from the Illinois Community College Board.

17 (6) The status of the utilization of services shall be
18 discussed at each of the regularly scheduled Business
19 Enterprise Council meetings. Time shall be allotted for the
20 Council to receive, review, and discuss the progress of the use
21 of service firms owned by minorities, women ~~females~~, and
22 persons with disabilities by each State agency and public
23 institution of higher education; and any evidence regarding
24 past or present racial, ethnic, or gender-based discrimination
25 which directly impacts a State agency or public institution of
26 higher education contracting with such firms. If after

1 reviewing such evidence the Council finds that there is or has
2 been such discrimination against a specific group, race or sex,
3 the Council shall establish sheltered markets or adjust
4 existing sheltered markets tailored to address the Council's
5 specific findings for the divisions of work specified in
6 paragraphs (a), (b), and (c) of subsection (1) of this Section.
7 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

8 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 5. Business Enterprise Council.

11 (1) To help implement, monitor and enforce the goals of
12 this Act, there is created the Business Enterprise Council for
13 Minorities, Women ~~Females~~, and Persons with Disabilities,
14 hereinafter referred to as the Council, composed of the
15 Secretary of Human Services and the Directors of the Department
16 of Human Rights, the Department of Commerce and Economic
17 Opportunity, the Department of Central Management Services,
18 the Department of Transportation and the Capital Development
19 Board, or their duly appointed representatives. Ten
20 individuals representing businesses that are minority-owned
21 ~~minority~~ or women-owned ~~female-owned~~ or owned by persons with
22 disabilities, 2 individuals representing the business
23 community, and a representative of public institutions of
24 higher education shall be appointed by the Governor. These
25 members shall serve 2 year terms and shall be eligible for

1 reappointment. Any vacancy occurring on the Council shall also
2 be filled by the Governor. Any member appointed to fill a
3 vacancy occurring prior to the expiration of the term for which
4 his predecessor was appointed shall be appointed for the
5 remainder of such term. Members of the Council shall serve
6 without compensation but shall be reimbursed for any ordinary
7 and necessary expenses incurred in the performance of their
8 duties.

9 The Director of the Department of Central Management
10 Services shall serve as the Council chairperson and shall
11 select, subject to approval of the council, a Secretary
12 responsible for the operation of the program who shall serve as
13 the Division Manager of the Business Enterprise for Minorities,
14 Women ~~Females~~, and Persons with Disabilities Division of the
15 Department of Central Management Services.

16 The Director of each State agency and the chief executive
17 officer of each public institutions of higher education shall
18 appoint a liaison to the Council. The liaison shall be
19 responsible for submitting to the Council any reports and
20 documents necessary under this Act.

21 (2) The Council's authority and responsibility shall be to:

22 (a) Devise a certification procedure to assure that
23 businesses taking advantage of this Act are legitimately
24 classified as businesses owned by minorities, women
25 ~~females~~, or persons with disabilities.

26 (b) Maintain a list of all businesses legitimately

1 classified as businesses owned by minorities, women
2 ~~females~~, or persons with disabilities to provide to State
3 agencies and public institutions of higher education.

4 (c) Review rules and regulations for the
5 implementation of the program for businesses owned by
6 minorities, women ~~females~~, and persons with disabilities.

7 (d) Review compliance plans submitted by each State
8 agency and public institutions of higher education
9 pursuant to this Act.

10 (e) Make annual reports as provided in Section 8f to
11 the Governor and the General Assembly on the status of the
12 program.

13 (f) Serve as a central clearinghouse for information on
14 State contracts, including the maintenance of a list of all
15 pending State contracts upon which businesses owned by
16 minorities, women ~~females~~, and persons with disabilities
17 may bid. At the Council's discretion, maintenance of the
18 list may include 24-hour electronic access to the list
19 along with the bid and application information.

20 (g) Establish a toll free telephone number to
21 facilitate information requests concerning the
22 certification process and pending contracts.

23 (3) No premium bond rate of a surety company for a bond
24 required of a business owned by a minority, woman ~~female~~, or
25 person with a disability bidding for a State contract shall be
26 higher than the lowest rate charged by that surety company for

1 a similar bond in the same classification of work that would be
2 written for a business not owned by a minority, woman ~~female~~,
3 or person with a disability.

4 (4) Any Council member who has direct financial or personal
5 interest in any measure pending before the Council shall
6 disclose this fact to the Council and refrain from
7 participating in the determination upon such measure.

8 (5) The Secretary shall have the following duties and
9 responsibilities:

10 (a) To be responsible for the day-to-day operation of
11 the Council.

12 (b) To serve as a coordinator for all of the State's
13 programs for businesses owned by minorities, women
14 ~~females~~, and persons with disabilities and as the
15 information and referral center for all State initiatives
16 for businesses owned by minorities, women ~~females~~, and
17 persons with disabilities.

18 (c) To establish an enforcement procedure whereby the
19 Council may recommend to the appropriate State legal
20 officer that the State exercise its legal remedies which
21 shall include (1) termination of the contract involved, (2)
22 prohibition of participation by the respondent in public
23 contracts for a period not to exceed 3 years ~~one year~~, (3)
24 imposition of a penalty not to exceed any profit acquired
25 as a result of violation, or (4) any combination thereof.
26 Such procedures shall require prior approval by Council.

1 (d) To devise appropriate policies, regulations and
2 procedures for including participation by businesses owned
3 by minorities, women ~~females~~, and persons with
4 disabilities as prime contractors including, but not
5 limited to, (i) encouraging the inclusions of qualified
6 businesses owned by minorities, women ~~females~~, and persons
7 with disabilities on solicitation lists, (ii)
8 investigating the potential of blanket bonding programs
9 for small construction jobs, (iii) investigating and
10 making recommendations concerning the use of the sheltered
11 market process.

12 (e) To devise procedures for the waiver of the
13 participation goals in appropriate circumstances.

14 (f) To accept donations and, with the approval of the
15 Council or the Director of Central Management Services,
16 grants related to the purposes of this Act; to conduct
17 seminars related to the purpose of this Act and to charge
18 reasonable registration fees; and to sell directories,
19 vendor lists and other such information to interested
20 parties, except that forms necessary to become eligible for
21 the program shall be provided free of charge to a business
22 or individual applying for the program.

23 (Source: P.A. 99-462, eff. 8-25-15.)

24 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

25 (Section scheduled to be repealed on June 30, 2020)

1 Sec. 6. Agency compliance plans. Each State agency and
2 public institutions of higher education under the jurisdiction
3 of this Act shall file with the Council an annual compliance
4 plan which shall outline the goals of the State agency or
5 public institutions of higher education for contracting with
6 businesses owned by minorities, women ~~females~~, and persons with
7 disabilities for the then current fiscal year, the manner in
8 which the agency intends to reach these goals and a timetable
9 for reaching these goals. The Council shall review and approve
10 the plan of each State agency and public institutions of higher
11 education and may reject any plan that does not comply with
12 this Act or any rules or regulations promulgated pursuant to
13 this Act.

14 (a) The compliance plan shall also include, but not be
15 limited to, (1) a policy statement, signed by the State agency
16 or public institution of higher education head, expressing a
17 commitment to encourage the use of businesses owned by
18 minorities, women ~~females~~, and persons with disabilities, (2)
19 the designation of the liaison officer provided for in Section
20 5 of this Act, (3) procedures to distribute to potential
21 contractors and vendors the list of all businesses legitimately
22 classified as businesses owned by minorities, women ~~females~~,
23 and persons with disabilities and so certified under this Act,
24 (4) procedures to set separate contract goals on specific prime
25 contracts and purchase orders with subcontracting
26 possibilities based upon the type of work or services and

1 subcontractor availability, (5) procedures to assure that
2 contractors and vendors make good faith efforts to meet
3 contract goals, (6) procedures for contract goal exemption,
4 modification and waiver, and (7) the delineation of separate
5 contract goals for businesses owned by minorities, women
6 ~~females~~, and persons with disabilities.

7 (b) Approval of the compliance plans shall include such
8 delegation of responsibilities to the requesting State agency
9 or public institution of higher education as the Council deems
10 necessary and appropriate to fulfill the purpose of this Act.
11 Such responsibilities may include, but need not be limited to
12 those outlined in subsections (1), (2) and (3) of Section 7, and
13 ~~and~~ paragraph (a) of Section 8, and Section 8a of this Act.

14 (c) Each State agency and public institution of higher
15 education under the jurisdiction of this Act shall file with
16 the Council an annual report of its utilization of businesses
17 owned by minorities, women ~~females~~, and persons with
18 disabilities during the preceding fiscal year including lapse
19 period spending and a mid-fiscal year report of its utilization
20 to date for the then current fiscal year. The reports shall
21 include a self-evaluation of the efforts of the State agency or
22 public institution of higher education to meet its goals under
23 the Act.

24 (d) Notwithstanding any provisions to the contrary in this
25 Act, any State agency or public institution of higher education
26 which administers a construction program, for which federal law

1 or regulations establish standards and procedures for the
2 utilization of minority-owned and women-owned businesses and
3 disadvantaged businesses ~~minority, disadvantaged, and~~
4 ~~female-owned business~~, shall implement a disadvantaged
5 business enterprise program to include minority-owned and
6 women-owned businesses and disadvantaged businesses ~~minority,~~
7 ~~disadvantaged and female-owned businesses~~, using the federal
8 standards and procedures for the establishment of goals and
9 utilization procedures for the State-funded, as well as the
10 federally assisted, portions of the program. In such cases,
11 these goals shall not exceed those established pursuant to the
12 relevant federal statutes or regulations. Notwithstanding the
13 provisions of Section 8b, the Illinois Department of
14 Transportation is authorized to establish sheltered markets
15 for the State-funded portions of the program consistent with
16 federal law and regulations. Additionally, a compliance plan
17 which is filed by such State agency or public institution of
18 higher education pursuant to this Act, which incorporates
19 equivalent terms and conditions of its federally-approved
20 compliance plan, shall be deemed approved under this Act.

21 (Source: P.A. 99-462, eff. 8-25-15.)

22 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

23 (Section scheduled to be repealed on June 30, 2020)

24 Sec. 6a. Notice of contracts to Council. Except in case of
25 emergency as defined in the Illinois Procurement Code, or as

1 authorized by rule promulgated by the Department of Central
2 Management Services, each agency and public institution of
3 higher education under the jurisdiction of this Act shall
4 notify the Secretary of the Council of proposed contracts for
5 professional and artistic services and provide the information
6 in the form and detail as required by rule promulgated by the
7 Department of Central Management Services. Notification may be
8 made through direct written communication to the Secretary to
9 be received at least 14 days before execution of the contract
10 (or the solicitation response date, if applicable) ~~or by~~
11 ~~advertising in the official State newspaper for at least 3~~
12 ~~days, the last of which must be at least 10 days after the~~
13 ~~first publication.~~ The agency or public institution of higher
14 education must consider any vendor referred by the Secretary
15 before execution of the contract. The provisions of this
16 Section shall not apply to any State agency or public
17 institution of higher education that has awarded contracts for
18 professional and artistic services to businesses owned by
19 minorities, women ~~females~~, and persons with disabilities
20 totaling ~~totalling~~ in the aggregate \$40,000,000 or more during
21 the preceding fiscal year.

22 (Source: P.A. 99-462, eff. 8-25-15.)

23 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

24 (Section scheduled to be repealed on June 30, 2020)

25 Sec. 7. Exemptions; and ~~and~~ waivers; publication of data.

1 (1) Individual contract exemptions. The Council, on its own
2 initiative or at the request of the affected agency, public
3 institution of higher education, or recipient of a grant or
4 loan of State funds of \$250,000 or more complying with Section
5 45 of the State Finance Act, may permit an individual contract
6 or contract package, (related contracts being bid or awarded
7 simultaneously for the same project or improvements) be made
8 wholly or partially exempt from State contracting goals for
9 businesses owned by minorities, women ~~females~~, and persons with
10 disabilities prior to the advertisement for bids or
11 solicitation of proposals whenever there has been a
12 determination, reduced to writing and based on the best
13 information available at the time of the determination, that
14 there is an insufficient number of businesses owned by
15 minorities, women ~~females~~, and persons with disabilities to
16 ensure adequate competition and an expectation of reasonable
17 prices on bids or proposals solicited for the individual
18 contract or contract package in question.

19 (2) Class exemptions.

20 (a) Creation. The Council, on its own initiative or at
21 the request of the affected agency or public institution of
22 higher education, may permit an entire class of contracts
23 be made exempt from State contracting goals for businesses
24 owned by minorities, women ~~females~~, and persons with
25 disabilities whenever there has been a determination,
26 reduced to writing and based on the best information

1 available at the time of the determination, that there is
2 an insufficient number of qualified businesses owned by
3 minorities, women ~~females~~, and persons with disabilities
4 to ensure adequate competition and an expectation of
5 reasonable prices on bids or proposals within that class.

6 (b) Limitation. Any such class exemption shall not be
7 permitted for a period of more than one year at a time.

8 (3) Waivers. Where a particular contract requires a
9 contractor to meet a goal established pursuant to this Act, the
10 contractor shall have the right to request a waiver from such
11 requirements. The Council shall grant the waiver where the
12 contractor demonstrates that there has been made a good faith
13 effort to comply with the goals for participation by businesses
14 owned by minorities, women ~~females~~, and persons with
15 disabilities.

16 (4) Conflict with other laws. In the event that any State
17 contract, which otherwise would be subject to the provisions of
18 this Act, is or becomes subject to federal laws or regulations
19 which conflict with the provisions of this Act or actions of
20 the State taken pursuant hereto, the provisions of the federal
21 laws or regulations shall apply and the contract shall be
22 interpreted and enforced accordingly.

23 (5) Each chief procurement officer, as defined in the
24 Illinois Procurement Code, shall maintain on his or her
25 official Internet website a database of waivers granted under
26 this Section with respect to contracts under his or her

1 jurisdiction. The database, which shall be updated
2 periodically as necessary, shall be searchable by contractor
3 name and by contracting State agency.

4 (6) Each chief procurement officer, as defined by the
5 Illinois Procurement Code, shall maintain on its website a list
6 of all firms that have been prohibited from bidding, offering,
7 or entering into a contract with the State of Illinois as a
8 result of violations of this Act.

9 Each public notice required by law of the award of a State
10 contract shall include for each bid or offer submitted for that
11 contract the following: (i) the bidder's or offeror's name,
12 (ii) the bid amount, (iii) the name or names of the certified
13 firms identified in the bidder's or offeror's submitted
14 utilization plan, and (iv) ~~(iii)~~ the bid's amount and
15 percentage of the contract awarded to businesses owned by
16 minorities, women, and persons with disabilities identified in
17 the ~~of disadvantaged business~~ utilization plan , and ~~(iv) the~~
18 bid's percentage of business enterprise program utilization
19 plan.

20 (Source: P.A. 99-462, eff. 8-25-15.)

21 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

22 (Section scheduled to be repealed on June 30, 2020)

23 Sec. 8. Enforcement.

24 (1) The Council shall make such findings, recommendations
25 and proposals to the Governor as are necessary and appropriate

1 to enforce this Act. If, as a result of its monitoring
2 activities, the Council determines that its goals and policies
3 are not being met by any State agency or public institution of
4 higher education, the Council may recommend any or all of the
5 following actions:

6 (a) Establish enforcement procedures whereby the
7 Council may recommend to the appropriate State agency,
8 public institutions of higher education, or law
9 enforcement officer that legal or administrative remedies
10 be initiated for violations of contract provisions or rules
11 issued hereunder or by a contracting State agency or public
12 institutions of higher education. State agencies and
13 public institutions of higher education shall be
14 authorized to adopt remedies for such violations which
15 shall include (1) termination of the contract involved, (2)
16 prohibition of participation of the respondents in public
17 contracts for a period not to exceed one year, (3)
18 imposition of a penalty not to exceed any profit acquired
19 as a result of violation, or (4) any combination thereof.

20 (b) If the Council concludes that a compliance plan
21 submitted under Section 6 is unlikely to produce the
22 participation goals for businesses owned by minorities,
23 women ~~females~~, and persons with disabilities within the
24 then current fiscal year, the Council may recommend that
25 the State agency or public institution of higher education
26 revise its plan to provide additional opportunities for

1 participation by businesses owned by minorities, women
2 ~~females~~, and persons with disabilities. Such recommended
3 revisions may include, but shall not be limited to, the
4 following:

5 (i) assurances of stronger and better focused
6 solicitation efforts to obtain more businesses owned
7 by minorities, women ~~females~~, and persons with
8 disabilities as potential sources of supply;

9 (ii) division of job or project requirements, when
10 economically feasible, into tasks or quantities to
11 permit participation of businesses owned by
12 minorities, women ~~females~~, and persons with
13 disabilities;

14 (iii) elimination of extended experience or
15 capitalization requirements, when programmatically
16 feasible, to permit participation of businesses owned
17 by minorities, women ~~females~~, and persons with
18 disabilities;

19 (iv) identification of specific proposed contracts
20 as particularly attractive or appropriate for
21 participation by businesses owned by minorities, women
22 ~~females~~, and persons with disabilities, such
23 identification to result from and be coupled with the
24 efforts of subparagraphs (i) through (iii);

25 (v) implementation of those regulations
26 established for the use of the sheltered market

1 process.

2 (2) State agencies and public institutions of higher
3 education shall review a vendor's compliance with its
4 utilization plan and the terms of its contract. Without
5 limitation, a vendor's failure to comply with its contractual
6 commitments as contained in the utilization plan; failure to
7 cooperate in providing information regarding its compliance
8 with its utilization plan; or the provision of false or
9 misleading information or statements concerning compliance,
10 certification status, or eligibility of the Business
11 Enterprise Program-certified vendor, good faith efforts, or
12 any other material fact or representation shall constitute a
13 material breach of the contract and entitle the State agency or
14 public institution of higher education to declare a default,
15 terminate the contract, or exercise those remedies provided for
16 in the contract, at law, or in equity.

17 (3) A vendor shall be in breach of the contract and may be
18 subject to penalties for failure to meet contract goals
19 established under this Act, unless the vendor can show that it
20 made good faith efforts to meet the contract goals.

21 (Source: P.A. 99-462, eff. 8-25-15.)

22 (30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

23 (Section scheduled to be repealed on June 30, 2020)

24 Sec. 8a. Advance and progress payments. Any contract
25 awarded to a business owned by a minority, woman ~~female~~, or

1 person with a disability pursuant to this Act may contain a
2 provision for advance or progress payments, or both, except
3 that a State construction contract awarded to a minority-owned
4 ~~minority~~ or women-owned ~~female-owned~~ business pursuant to this
5 Act may contain a provision for progress payments but may not
6 contain a provision for advance payments.

7 (Source: P.A. 88-597, eff. 8-28-94.)

8 (30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 8b. Scheduled council meetings; sheltered market. The
11 Council shall conduct regular meetings to carry out its
12 responsibilities under this Act. At each of the regularly
13 scheduled meetings, time shall be allocated for the Council to
14 receive, review and discuss any evidence regarding past or
15 present racial, ethnic or gender based discrimination which
16 directly impacts State contracting with businesses owned by
17 minorities, women ~~females~~, and persons with disabilities. If
18 after reviewing such evidence the Council finds that there is
19 or has been such discrimination against a specific group, race
20 or sex, the Council shall establish sheltered markets or adjust
21 existing sheltered markets tailored to address the Council's
22 specific findings.

23 "Sheltered market" shall mean a procurement procedure
24 whereby certain contracts are selected and specifically set
25 aside for businesses owned by minorities, women ~~females~~, and

1 persons with disabilities on a competitive bid or negotiated
2 basis.

3 As part of the annual report which the Council must file
4 pursuant to paragraph (e) of subsection (2) of Section 5, the
5 Council shall report on any findings made pursuant to this
6 Section.

7 (Source: P.A. 88-597, eff. 8-28-94.)

8 (30 ILCS 575/8f)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 8f. Annual report. The Council shall file no later
11 than March 1 of each year, an annual report that shall detail
12 the level of achievement toward the goals specified in this Act
13 over the 3 most recent fiscal years. The annual report shall
14 include, but need not be limited to the following:

15 (1) a summary detailing expenditures subject to the
16 goals, the actual goals specified, and the goals attained
17 by each State agency and public institution of higher
18 education;

19 (2) a summary of the number of contracts awarded and
20 the average contract amount by each State agency and public
21 institution of higher education;

22 (3) an analysis of the level of overall goal
23 achievement concerning purchases from minority-owned
24 ~~minority~~ businesses, women-owned ~~female-owned~~ businesses,
25 and businesses owned by persons with disabilities;

1 (4) an analysis of the number of businesses owned by
2 minorities, women ~~females~~, and persons with disabilities
3 that are certified under the program as well as the number
4 of those businesses that received State procurement
5 contracts; and

6 (5) a summary of the number of contracts awarded to
7 businesses with annual gross sales of less than \$1,000,000;
8 of \$1,000,000 or more, but less than \$5,000,000; of
9 \$5,000,000 or more, but less than \$10,000,000; and of
10 \$10,000,000 or more.

11 (Source: P.A. 99-462, eff. 8-25-15.)

12 (30 ILCS 575/8g new)

13 Sec. 8g. Business Enterprise Program Council reports.

14 (a) The Department of Central Management Services shall
15 provide a report to the Council identifying all State agency
16 non-construction solicitations that exceed \$20,000,000 and
17 that have less than a 20% established goal prior to
18 publication.

19 (b) The Department of Central Management Services shall
20 provide a report to the Council identifying all State agency
21 non-construction awards that exceed \$20,000,000. The report
22 shall contain the following: (i) the name of the awardee; (ii)
23 the total bid amount; (iii) the established Business Enterprise
24 Program goal; (iv) the dollar amount and percentage of
25 participation by businesses owned by minorities, women, and

1 persons with disabilities; and (v) the names of the certified
2 firms identified in the utilization plan.

3 (30 ILCS 575/8h new)

4 Sec. 8h. Encouragement for telecom and communications
5 entities to submit supplier diversity reports.

6 (1) The following entities that do business in Illinois or
7 serve Illinois customers shall be subject to this Section:

8 (i) all local exchange telecommunications carriers
9 with at least 35,000 subscriber access lines;

10 (ii) cable and video providers, as defined in Section
11 21-201 of the Public Utilities Act;

12 (iii) interconnected VoIP providers, as defined in
13 Section 13-235 of the Public Utilities Act;

14 (iv) wireless service providers;

15 (v) broadband internet access services providers; and

16 (vi) any other entity that provides messaging, voice,
17 or video services via the Internet or a social media
18 platform.

19 (2) Each entity subject to this Section may submit to the
20 Illinois Commerce Commission and the Business Enterprise
21 Council an annual report by April 15, 2018, and every April 15
22 thereafter, which provides, for the previous calendar year,
23 information and data on diversity goals, and progress toward
24 achieving those goals, by certified businesses owned by
25 minorities, women, persons with disabilities, and

1 service-disabled veterans, provided that if the entity does not
2 track such information and data for businesses owned by
3 service-disabled veterans, the entity may provide information
4 and data for businesses owned by veterans.

5 The diversity report shall include the following:

6 (i) Overall annual spending on all such certified
7 businesses.

8 (ii) A narrative description of the entity's supplier
9 diversity goals and plans for meeting those goals.

10 (iii) The entity's best estimate of its annual spending
11 in professional services and spending with certified
12 businesses owned by minorities, women, persons with
13 disabilities, and service-disabled veterans (or veterans,
14 if the reporting entity does not track spending with
15 service-disabled veterans), including, but not limited to,
16 the following professional services categories:
17 accounting; architecture and engineering; consulting;
18 information technology; insurance; financial, legal, and
19 marketing services; and other professional services. The
20 diversity report shall also include the entity's overall
21 annual spending in the listed professional service
22 categories. For the diversity reports due on April 15, 2018
23 and April 15, 2019, the information on annual spending with
24 certified businesses for professional services required by
25 this Section may be provided for all professional services
26 on an aggregated basis.

1 (iv) Beginning with the diversity report due on April
2 15, 2020, the total number and percentage of women and
3 minorities that provided services for each construction
4 project in the State.

5 An entity subject to this Section which is part of an
6 affiliated group of entities may provide information for the
7 affiliated group as a whole.

8 (3) Any entity that is subject to this Section that does
9 not submit a report shall be reported by the Business
10 Enterprise Council to each chief procurement officer. Upon
11 receiving a report from the Business Enterprise Council, the
12 chief procurement officer may prohibit any entities that do not
13 submit a report from bidding on State contracts for a period of
14 one year beginning the first day of the following fiscal year
15 and post on its respective bulletin the names of all entities
16 that fail to comply with the provisions of this Section.

17 (4) A vendor may appeal any of the actions taken pursuant
18 to this Section in the same manner as a vendor denied
19 certification, by following the appeal procedures in the
20 administrative rules created pursuant to this Act.

21 (30 ILCS 575/8i new)

22 Sec. 8i. Renewals. State agencies and public institutions
23 of higher education shall:

24 (a) review all existing contracts prior to the time of
25 renewal to determine if the contract goal is being met by

1 the prime vendor;

2 (b) review all existing contracts prior to the time of
3 renewal to determine if the contract goal should be
4 increased based upon market conditions and availability of
5 firms certified pursuant to this Act;

6 (c) review existing contracts with no contract goal to
7 determine if a goal can be established; if it is determined
8 that a contract goal can be established, the State agency
9 or public institution of higher education shall encourage
10 the prime vendor to amend the contract to include the
11 contract goal; a prime contractor shall be required to
12 complete a utilization plan to demonstrate how it intends
13 to meet the contract goal; and

14 (d) review renewals at least 6 months prior to renewal
15 to allow adequate time to rebid if it is determined that
16 the prime contractor has not demonstrated good faith
17 efforts towards meeting the contract goal.

18 All renewals shall be subject to any amendments made to
19 this Act, or amendments made to any administrative rules
20 adopted under this Act, that become effective prior to the date
21 of renewal.

22 The requirements of this Section shall not apply to
23 construction and construction-related services procurements.

24 This Section is operative on and after January 1, 2018.

25 Section 75. The Film Production Services Tax Credit Act of

1 2008 is amended by changing Sections 30 and 45 as follows:

2 (35 ILCS 16/30)

3 Sec. 30. Review of application for accredited production
4 certificate.

5 (a) In determining whether to issue an accredited
6 production certificate, the Department must determine that a
7 preponderance of the following conditions exist:

8 (1) The applicant's production intends to make the
9 expenditure in the State required for certification.

10 (2) The applicant's production is economically sound
11 and will benefit the people of the State of Illinois by
12 increasing opportunities for employment and strengthen the
13 economy of Illinois.

14 (3) The applicant has filed a diversity plan with the
15 Department outlining specific goals (i) for hiring
16 minority persons and women ~~females~~, as defined in the
17 Business Enterprise for Minorities, Women ~~Females~~, and
18 Persons with Disabilities Act, and (ii) for using vendors
19 receiving certification under the Business Enterprise for
20 Minorities, Women ~~Females~~, and Persons with Disabilities
21 Act; the Department has approved the plan as meeting the
22 requirements established by the Department; and the
23 Department has verified that the applicant has met or made
24 good-faith efforts in achieving those goals. The
25 Department must adopt any rules that are necessary to

1 ensure compliance with the provisions of this item (3) and
2 that are necessary to require that the applicant's plan
3 reflects the diversity of this State.

4 (4) The applicant's production application indicates
5 whether the applicant intends to participate in training,
6 education, and recruitment programs that are organized in
7 cooperation with Illinois colleges and universities, labor
8 organizations, and the motion picture industry and are
9 designed to promote and encourage the training and hiring
10 of Illinois residents who represent the diversity of the
11 Illinois population.

12 (5) That, if not for the credit, the applicant's
13 production would not occur in Illinois, which may be
14 demonstrated by any means including, but not limited to,
15 evidence that the applicant has multi-state or
16 international location options and could reasonably and
17 efficiently locate outside of the State, or demonstration
18 that at least one other state or nation is being considered
19 for the production, or evidence that the receipt of the
20 credit is a major factor in the applicant's decision and
21 that without the credit the applicant likely would not
22 create or retain jobs in Illinois, or demonstration that
23 receiving the credit is essential to the applicant's
24 decision to create or retain new jobs in the State.

25 (6) Awarding the credit will result in an overall
26 positive impact to the State, as determined by the

1 Department using the best available data.

2 (b) If any of the provisions in this Section conflict with
3 any existing collective bargaining agreements, the terms and
4 conditions of those collective bargaining agreements shall
5 control.

6 (Source: P.A. 95-720, eff. 5-27-08.)

7 (35 ILCS 16/45)

8 Sec. 45. Evaluation of tax credit program; reports to the
9 General Assembly.

10 (a) The Department shall evaluate the tax credit program.
11 The evaluation must include an assessment of the effectiveness
12 of the program in creating and retaining new jobs in Illinois
13 and of the revenue impact of the program, and may include a
14 review of the practices and experiences of other states or
15 nations with similar programs. Upon completion of this
16 evaluation, the Department shall determine the overall success
17 of the program, and may make a recommendation to extend,
18 modify, or not extend the program based on this evaluation.

19 (b) At the end of each fiscal quarter, the Department must
20 submit to the General Assembly a report that includes, without
21 limitation, the following information:

22 (1) the economic impact of the tax credit program,
23 including the number of jobs created and retained,
24 including whether the job positions are entry level,
25 management, talent-related, vendor-related, or

1 production-related;

2 (2) the amount of film production spending brought to
3 Illinois, including the amount of spending and type of
4 Illinois vendors hired in connection with an accredited
5 production; and

6 (3) an overall picture of whether the human
7 infrastructure of the motion picture industry in Illinois
8 reflects the geographical, racial and ethnic, gender, and
9 income-level diversity of the State of Illinois.

10 (c) At the end of each fiscal year, the Department must
11 submit to the General Assembly a report that includes, without
12 limitation, the following information:

13 (1) an identification of each vendor that provided
14 goods or services that were included in an accredited
15 production's Illinois production spending;

16 (2) the amount paid to each identified vendor by the
17 accredited production;

18 (3) for each identified vendor, a statement as to
19 whether the vendor is a minority-owned ~~minority-owned~~
20 business or a women-owned ~~female-owned~~ business, as defined
21 under Section 2 of the Business Enterprise for Minorities,
22 Women ~~Females~~, and Persons with Disabilities Act; and

23 (4) a description of any steps taken by the Department
24 to encourage accredited productions to use vendors who are
25 a minority-owned ~~minority-owned~~ business or a women-owned
26 ~~female-owned~~ business.

1 (Source: P.A. 95-720, eff. 5-27-08.)

2 Section 80. The Live Theater Production Tax Credit Act is
3 amended by changing Sections 10-30 and 10-50 as follows:

4 (35 ILCS 17/10-30)

5 Sec. 10-30. Review of application for accredited theater
6 production certificate.

7 (a) The Department shall issue an accredited theater
8 production certificate to an applicant if it finds that by a
9 preponderance the following conditions exist:

10 (1) the applicant intends to make the expenditure in
11 the State required for certification of the accredited
12 theater production;

13 (2) the applicant's accredited theater production is
14 economically sound and will benefit the people of the State
15 of Illinois by increasing opportunities for employment and
16 will strengthen the economy of Illinois;

17 (3) the following requirements related to the
18 implementation of a diversity plan have been met: (i) the
19 applicant has filed with the Department a diversity plan
20 outlining specific goals for hiring Illinois labor
21 expenditure eligible minority persons and women ~~females~~,
22 as defined in the Business Enterprise for Minorities, Women
23 ~~Females~~, and Persons with Disabilities Act, and for using
24 vendors receiving certification under the Business

1 Enterprise for Minorities, Women ~~Females~~, and Persons with
2 Disabilities Act; (ii) the Department has approved the plan
3 as meeting the requirements established by the Department
4 and verified that the applicant has met or made good faith
5 efforts in achieving those goals; and (iii) the Department
6 has adopted any rules that are necessary to ensure
7 compliance with the provisions set forth in this paragraph
8 and necessary to require that the applicant's plan reflects
9 the diversity of the population of this State;

10 (4) the applicant's accredited theater production
11 application indicates whether the applicant intends to
12 participate in training, education, and recruitment
13 programs that are organized in cooperation with Illinois
14 colleges and universities, labor organizations, and the
15 holders of accredited theater production certificates and
16 are designed to promote and encourage the training and
17 hiring of Illinois residents who represent the diversity of
18 Illinois;

19 (5) if not for the tax credit award, the applicant's
20 accredited theater production would not occur in Illinois,
21 which may be demonstrated by any means, including, but not
22 limited to, evidence that: (i) the applicant, presenter,
23 owner, or licensee of the production rights has other state
24 or international location options at which to present the
25 production and could reasonably and efficiently locate
26 outside of the State, (ii) at least one other state or

1 nation could be considered for the production, (iii) the
2 receipt of the tax award credit is a major factor in the
3 decision of the applicant, presenter, production owner or
4 licensee as to where the production will be presented and
5 that without the tax credit award the applicant likely
6 would not create or retain jobs in Illinois, or (iv)
7 receipt of the tax credit award is essential to the
8 applicant's decision to create or retain new jobs in the
9 State; and

10 (6) the tax credit award will result in an overall
11 positive impact to the State, as determined by the
12 Department using the best available data.

13 (b) If any of the provisions in this Section conflict with
14 any existing collective bargaining agreements, the terms and
15 conditions of those collective bargaining agreements shall
16 control.

17 (c) The Department shall act expeditiously regarding
18 approval of applications for accredited theater production
19 certificates so as to accommodate the pre-production work,
20 booking, commencement of ticket sales, determination of
21 performance dates, load in, and other matters relating to the
22 live theater productions for which approval is sought.

23 (Source: P.A. 97-636, eff. 6-1-12.)

24 (35 ILCS 17/10-50)

25 Sec. 10-50. Live theater tax credit award program

1 evaluation and reports.

2 (a) The Department's live theater tax credit award
3 evaluation must include:

4 (i) an assessment of the effectiveness of the program
5 in creating and retaining new jobs in Illinois;

6 (ii) an assessment of the revenue impact of the
7 program;

8 (iii) in the discretion of the Department, a review of
9 the practices and experiences of other states or nations
10 with similar programs; and

11 (iv) an assessment of the overall success of the
12 program. The Department may make a recommendation to
13 extend, modify, or not extend the program based on the
14 evaluation.

15 (b) At the end of each fiscal quarter, the Department shall
16 submit to the General Assembly a report that includes, without
17 limitation:

18 (i) an assessment of the economic impact of the
19 program, including the number of jobs created and retained,
20 and whether the job positions are entry level, management,
21 vendor, or production related;

22 (ii) the amount of accredited theater production
23 spending brought to Illinois, including the amount of
24 spending and type of Illinois vendors hired in connection
25 with an accredited theater production; and

26 (iii) a determination of whether those receiving

1 qualifying Illinois labor expenditure salaries or wages
2 reflect the geographical, racial and ethnic, gender, and
3 income level diversity of the State of Illinois.

4 (c) At the end of each fiscal year, the Department shall
5 submit to the General Assembly a report that includes, without
6 limitation:

7 (i) the identification of each vendor that provided
8 goods or services that were included in an accredited
9 theater production's Illinois production spending;

10 (ii) a statement of the amount paid to each identified
11 vendor by the accredited theater production and whether the
12 vendor is a minority-owned ~~minority~~ or women-owned ~~female~~
13 ~~owned~~ business as defined in Section 2 of the Business
14 Enterprise for Minorities, Women ~~Females~~, and Persons with
15 Disabilities Act; and

16 (iii) a description of the steps taken by the
17 Department to encourage accredited theater productions to
18 use vendors who are minority-owned ~~minority~~ or women-owned
19 ~~female-owned~~ businesses.

20 (Source: P.A. 97-636, eff. 6-1-12.)

21 Section 85. The Illinois Pension Code is amended by
22 changing Sections 1-109.1 and 1-113.21 as follows:

23 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

24 Sec. 1-109.1. Allocation and delegation of fiduciary

1 duties.

2 (1) Subject to the provisions of Section 22A-113 of this
3 Code and subsections (2) and (3) of this Section, the board of
4 trustees of a retirement system or pension fund established
5 under this Code may:

6 (a) Appoint one or more investment managers as
7 fiduciaries to manage (including the power to acquire and
8 dispose of) any assets of the retirement system or pension
9 fund; and

10 (b) Allocate duties among themselves and designate
11 others as fiduciaries to carry out specific fiduciary
12 activities other than the management of the assets of the
13 retirement system or pension fund.

14 (2) The board of trustees of a pension fund established
15 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
16 transfer its investment authority, nor transfer the assets of
17 the fund to any other person or entity for the purpose of
18 consolidating or merging its assets and management with any
19 other pension fund or public investment authority, unless the
20 board resolution authorizing such transfer is submitted for
21 approval to the contributors and pensioners of the fund at
22 elections held not less than 30 days after the adoption of such
23 resolution by the board, and such resolution is approved by a
24 majority of the votes cast on the question in both the
25 contributors election and the pensioners election. The
26 election procedures and qualifications governing the election

1 of trustees shall govern the submission of resolutions for
2 approval under this paragraph, insofar as they may be made
3 applicable.

4 (3) Pursuant to subsections (h) and (i) of Section 6 of
5 Article VII of the Illinois Constitution, the investment
6 authority of boards of trustees of retirement systems and
7 pension funds established under this Code is declared to be a
8 subject of exclusive State jurisdiction, and the concurrent
9 exercise by a home rule unit of any power affecting such
10 investment authority is hereby specifically denied and
11 preempted.

12 (4) For the purposes of this Code, "emerging investment
13 manager" means a qualified investment adviser that manages an
14 investment portfolio of at least \$10,000,000 but less than
15 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~
16 business", "women-owned ~~female-owned~~ business" or "business
17 owned by a person with a disability" as those terms are defined
18 in the Business Enterprise for Minorities, Women ~~Females~~, and
19 Persons with Disabilities Act.

20 It is hereby declared to be the public policy of the State
21 of Illinois to encourage the trustees of public employee
22 retirement systems, pension funds, and investment boards to use
23 emerging investment managers in managing their system's
24 assets, encompassing all asset classes, and increase the
25 racial, ethnic, and gender diversity of its fiduciaries, to the
26 greatest extent feasible within the bounds of financial and

1 fiduciary prudence, and to take affirmative steps to remove any
2 barriers to the full participation in investment opportunities
3 afforded by those retirement systems, pension funds, and
4 investment boards.

5 On or before January 1, 2010, a retirement system, pension
6 fund, or investment board subject to this Code, except those
7 whose investments are restricted by Section 1-113.2 of this
8 Code, shall adopt a policy that sets forth goals for
9 utilization of emerging investment managers. This policy shall
10 include quantifiable goals for the management of assets in
11 specific asset classes by emerging investment managers. The
12 retirement system, pension fund, or investment board shall
13 establish 3 separate goals for: (i) emerging investment
14 managers that are minority-owned ~~minority-owned~~ businesses;
15 (ii) emerging investment managers that are women-owned ~~female~~
16 ~~owned~~ businesses; and (iii) emerging investment managers that
17 are businesses owned by a person with a disability. The goals
18 established shall be based on the percentage of total dollar
19 amount of investment service contracts let to minority-owned
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
21 businesses, and businesses owned by a person with a disability,
22 as those terms are defined in the Business Enterprise for
23 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
24 The retirement system, pension fund, or investment board shall
25 annually review the goals established under this subsection.

26 If in any case an emerging investment manager meets the

1 criteria established by a board for a specific search and meets
2 the criteria established by a consultant for that search, then
3 that emerging investment manager shall receive an invitation by
4 the board of trustees, or an investment committee of the board
5 of trustees, to present his or her firm for final consideration
6 of a contract. In the case where multiple emerging investment
7 managers meet the criteria of this Section, the staff may
8 choose the most qualified firm or firms to present to the
9 board.

10 The use of an emerging investment manager does not
11 constitute a transfer of investment authority for the purposes
12 of subsection (2) of this Section.

13 (5) Each retirement system, pension fund, or investment
14 board subject to this Code, except those whose investments are
15 restricted by Section 1-113.2 of this Code, shall establish a
16 policy that sets forth goals for increasing the racial, ethnic,
17 and gender diversity of its fiduciaries, including its
18 consultants and senior staff. Each system, fund, and investment
19 board shall annually review the goals established under this
20 subsection.

21 (6) On or before January 1, 2010, a retirement system,
22 pension fund, or investment board subject to this Code, except
23 those whose investments are restricted by Section 1-113.2 of
24 this Code, shall adopt a policy that sets forth goals for
25 utilization of businesses owned by minorities, women ~~females~~,
26 and persons with disabilities for all contracts and services.

1 The goals established shall be based on the percentage of total
2 dollar amount of all contracts let to minority-owned ~~minority~~
3 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
4 businesses owned by a person with a disability, as those terms
5 are defined in the Business Enterprise for Minorities, Women
6 ~~Females~~, and Persons with Disabilities Act. The retirement
7 system, pension fund, or investment board shall annually review
8 the goals established under this subsection.

9 (7) On or before January 1, 2010, a retirement system,
10 pension fund, or investment board subject to this Code, except
11 those whose investments are restricted by Section 1-113.2 of
12 this Code, shall adopt a policy that sets forth goals for
13 increasing the utilization of minority broker-dealers. For the
14 purposes of this Code, "minority broker-dealer" means a
15 qualified broker-dealer who meets the definition of
16 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
17 ~~owned~~ business", or "business owned by a person with a
18 disability", as those terms are defined in the Business
19 Enterprise for Minorities, Women ~~Females~~, and Persons with
20 Disabilities Act. The retirement system, pension fund, or
21 investment board shall annually review the goals established
22 under this Section.

23 (8) Each retirement system, pension fund, and investment
24 board subject to this Code, except those whose investments are
25 restricted by Section 1-113.2 of this Code, shall submit a
26 report to the Governor and the General Assembly by January 1 of

1 each year that includes the following: (i) the policy adopted
2 under subsection (4) of this Section, including the names and
3 addresses of the emerging investment managers used, percentage
4 of the assets under the investment control of emerging
5 investment managers for the 3 separate goals, and the actions
6 it has undertaken to increase the use of emerging investment
7 managers, including encouraging other investment managers to
8 use emerging investment managers as subcontractors when the
9 opportunity arises; (ii) the policy adopted under subsection
10 (5) of this Section; (iii) the policy adopted under subsection
11 (6) of this Section; (iv) the policy adopted under subsection
12 (7) of this Section, including specific actions undertaken to
13 increase the use of minority broker-dealers; and (v) the policy
14 adopted under subsection (9) of this Section.

15 (9) On or before February 1, 2015, a retirement system,
16 pension fund, or investment board subject to this Code, except
17 those whose investments are restricted by Section 1-113.2 of
18 this Code, shall adopt a policy that sets forth goals for
19 increasing the utilization of minority investment managers.
20 For the purposes of this Code, "minority investment manager"
21 means a qualified investment manager that manages an investment
22 portfolio and meets the definition of "minority-owned ~~minority~~
23 ~~owned~~ business", "women-owned ~~female-owned~~ business", or
24 "business owned by a person with a disability", as those terms
25 are defined in the Business Enterprise for Minorities, Women
26 ~~Females~~, and Persons with Disabilities Act.

1 It is hereby declared to be the public policy of the State
2 of Illinois to encourage the trustees of public employee
3 retirement systems, pension funds, and investment boards to use
4 minority investment managers in managing their systems'
5 assets, encompassing all asset classes, and to increase the
6 racial, ethnic, and gender diversity of their fiduciaries, to
7 the greatest extent feasible within the bounds of financial and
8 fiduciary prudence, and to take affirmative steps to remove any
9 barriers to the full participation in investment opportunities
10 afforded by those retirement systems, pension funds, and
11 investment boards.

12 The retirement system, pension fund, or investment board
13 shall establish 3 separate goals for: (i) minority investment
14 managers that are minority-owned ~~minority-owned~~ businesses;
15 (ii) minority investment managers that are women-owned ~~female~~
16 ~~owned~~ businesses; and (iii) minority investment managers that
17 are businesses owned by a person with a disability. The
18 retirement system, pension fund, or investment board shall
19 annually review the goals established under this Section.

20 If in any case a minority investment manager meets the
21 criteria established by a board for a specific search and meets
22 the criteria established by a consultant for that search, then
23 that minority investment manager shall receive an invitation by
24 the board of trustees, or an investment committee of the board
25 of trustees, to present his or her firm for final consideration
26 of a contract. In the case where multiple minority investment

1 managers meet the criteria of this Section, the staff may
2 choose the most qualified firm or firms to present to the
3 board.

4 The use of a minority investment manager does not
5 constitute a transfer of investment authority for the purposes
6 of subsection (2) of this Section.

7 (10) Beginning January 1, 2016, it shall be the
8 aspirational goal for a retirement system, pension fund, or
9 investment board subject to this Code to use emerging
10 investment managers for not less than 20% of the total funds
11 under management. Furthermore, it shall be the aspirational
12 goal that not less than 20% of investment advisors be
13 minorities, women ~~females~~, and persons with disabilities as
14 those terms are defined in the Business Enterprise for
15 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
16 It shall be the aspirational goal to utilize businesses owned
17 by minorities, women ~~females~~, and persons with disabilities for
18 not less than 20% of contracts awarded for "information
19 technology services", "accounting services", "insurance
20 brokers", "architectural and engineering services", and "legal
21 services" as those terms are defined in the Act.

22 (Source: P.A. 98-1022, eff. 1-1-15; 99-462, eff. 8-25-15.)

23 (40 ILCS 5/1-113.21)

24 Sec. 1-113.21. Contracts for services.

25 (a) Beginning January 1, 2015, no contract, oral or

1 written, for investment services, consulting services, or
2 commitment to a private market fund shall be awarded by a
3 retirement system, pension fund, or investment board
4 established under this Code unless the investment advisor,
5 consultant, or private market fund first discloses:

6 (1) the number of its investment and senior staff and
7 the percentage of its investment and senior staff who are
8 (i) a minority person, (ii) a woman ~~female~~, and (iii) a
9 person with a disability; and

10 (2) the number of contracts, oral or written, for
11 investment services, consulting services, and professional
12 and artistic services that the investment advisor,
13 consultant, or private market fund has with (i) a
14 minority-owned ~~minority-owned~~ business, (ii) a women-owned
15 ~~female-owned~~ business, or (iii) a business owned by a
16 person with a disability; and

17 (3) the number of contracts, oral or written, for
18 investment services, consulting services, and professional
19 and artistic services the investment advisor, consultant,
20 or private market fund has with a business other than (i) a
21 minority-owned ~~minority-owned~~ business, (ii) a women-owned
22 ~~female-owned~~ business or (iii) a business owned by a person
23 with a disability, if more than 50% of services performed
24 pursuant to the contract are performed by (i) a minority
25 person, (ii) a woman ~~female~~, and (iii) a person with a
26 disability.

1 (b) The disclosures required by this Section shall be
2 considered, within the bounds of financial and fiduciary
3 prudence, prior to the awarding of a contract, oral or written,
4 for investment services, consulting services, or commitment to
5 a private market fund.

6 (c) For the purposes of this Section, the terms "minority
7 person", "woman ~~female~~", "person with a disability",
8 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
9 ~~owned~~ business", and "business owned by a person with a
10 disability" have the same meaning as those terms have in the
11 Business Enterprise for Minorities, Women ~~Females~~, and Persons
12 with Disabilities Act.

13 (d) For purposes of this Section, the term "private market
14 fund" means any private equity fund, private equity fund of
15 funds, venture capital fund, hedge fund, hedge fund of funds,
16 real estate fund, or other investment vehicle that is not
17 publicly traded.

18 (Source: P.A. 98-1022, eff. 1-1-15.)

19 Section 90. The Counties Code is amended by changing
20 Section 5-1134 as follows:

21 (55 ILCS 5/5-1134)

22 Sec. 5-1134. Project labor agreements.

23 (a) Any sports, arts, or entertainment facilities that
24 receive revenue from a tax imposed under subsection (b) of

1 Section 5-1030 of this Code shall be considered to be public
2 works within the meaning of the Prevailing Wage Act. The county
3 authorities responsible for the construction, renovation,
4 modification, or alteration of the sports, arts, or
5 entertainment facilities shall enter into project labor
6 agreements with labor organizations as defined in the National
7 Labor Relations Act to assure that no labor dispute interrupts
8 or interferes with the construction, renovation, modification,
9 or alteration of the projects.

10 (b) The project labor agreements must include the
11 following:

12 (1) provisions establishing the minimum hourly wage
13 for each class of labor organization employees;

14 (2) provisions establishing the benefits and other
15 compensation for such class of labor organization; and

16 (3) provisions establishing that no strike or disputes
17 will be engaged in by the labor organization employees.

18 The county, taxing bodies, municipalities, and the labor
19 organizations shall have the authority to include other terms
20 and conditions as they deem necessary.

21 (c) The project labor agreement shall be filed with the
22 Director of the Illinois Department of Labor in accordance with
23 procedures established by the Department. At a minimum, the
24 project labor agreement must provide the names, addresses, and
25 occupations of the owner of the facilities and the individuals
26 representing the labor organization employees participating in

1 the project labor agreement. The agreement must also specify
2 the terms and conditions required in subsection (b) of this
3 Section.

4 (d) In any agreement for the construction or rehabilitation
5 of a facility using revenue generated under subsection (b) of
6 Section 5-1030 of this Code, in connection with the
7 prequalification of general contractors for construction or
8 rehabilitation of the facility, it shall be required that a
9 commitment will be submitted detailing how the general
10 contractor will expend 15% or more of the aggregate dollar
11 value of the project as a whole with one or more minority-owned
12 businesses, women-owned ~~female-owned~~ businesses, or businesses
13 owned by a person with a disability, as these terms are defined
14 in Section 2 of the Business Enterprise for Minorities, Women
15 ~~Females~~, and Persons with Disabilities Act.

16 (Source: P.A. 98-313, eff. 8-12-13; 98-756, eff. 7-16-14.)

17 Section 95. The River Edge Redevelopment Zone Act is
18 amended by changing Section 10-5.3 as follows:

19 (65 ILCS 115/10-5.3)

20 Sec. 10-5.3. Certification of River Edge Redevelopment
21 Zones.

22 (a) Approval of designated River Edge Redevelopment Zones
23 shall be made by the Department by certification of the
24 designating ordinance. The Department shall promptly issue a

1 certificate for each zone upon its approval. The certificate
2 shall be signed by the Director of the Department, shall make
3 specific reference to the designating ordinance, which shall be
4 attached thereto, and shall be filed in the office of the
5 Secretary of State. A certified copy of the River Edge
6 Redevelopment Zone Certificate, or a duplicate original
7 thereof, shall be recorded in the office of the recorder of
8 deeds of the county in which the River Edge Redevelopment Zone
9 lies.

10 (b) A River Edge Redevelopment Zone shall be effective upon
11 its certification. The Department shall transmit a copy of the
12 certification to the Department of Revenue, and to the
13 designating municipality. Upon certification of a River Edge
14 Redevelopment Zone, the terms and provisions of the designating
15 ordinance shall be in effect, and may not be amended or
16 repealed except in accordance with Section 10-5.4.

17 (c) A River Edge Redevelopment Zone shall be in effect for
18 the period stated in the certificate, which shall in no event
19 exceed 30 calendar years. Zones shall terminate at midnight of
20 December 31 of the final calendar year of the certified term,
21 except as provided in Section 10-5.4.

22 (d) In calendar years 2006 and 2007, the Department may
23 certify one pilot River Edge Redevelopment Zone in the City of
24 East St. Louis, one pilot River Edge Redevelopment Zone in the
25 City of Rockford, and one pilot River Edge Redevelopment Zone
26 in the City of Aurora.

1 In calendar year 2009, the Department may certify one pilot
2 River Edge Redevelopment Zone in the City of Elgin.

3 On or after the effective date of this amendatory Act of
4 the 97th General Assembly, the Department may certify one
5 additional pilot River Edge Redevelopment Zone in the City of
6 Peoria.

7 Thereafter the Department may not certify any additional
8 River Edge Redevelopment Zones, but may amend and rescind
9 certifications of existing River Edge Redevelopment Zones in
10 accordance with Section 10-5.4, except that no River Edge
11 Redevelopment Zone may be extended on or after the effective
12 date of this amendatory Act of the 97th General Assembly. Each
13 River Edge Redevelopment Zone in existence on the effective
14 date of this amendatory Act of the 97th General Assembly shall
15 continue until its scheduled termination under this Act, unless
16 the Zone is decertified sooner. At the time of its term
17 expiration each River Edge Redevelopment Zone will become an
18 open enterprise zone, available for the previously designated
19 area or a different area to compete for designation as an
20 enterprise zone. No preference for designation as a Zone will
21 be given to the previously designated area.

22 (e) A municipality in which a River Edge Redevelopment Zone
23 has been certified must submit to the Department, within 60
24 days after the certification, a plan for encouraging the
25 participation by minority persons, women ~~females~~, persons with
26 disabilities, and veterans in the zone. The Department may

1 assist the municipality in developing and implementing the
2 plan. The terms "minority person", "woman ~~female~~", and "person
3 with a disability" have the meanings set forth under Section 2
4 of the Business Enterprise for Minorities, Women ~~Females~~, and
5 Persons with Disabilities Act. "Veteran" means an Illinois
6 resident who is a veteran as defined in subsection (h) of
7 Section 1491 of Title 10 of the United States Code.

8 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;
9 97-905, eff. 8-7-12.)

10 Section 100. The Metropolitan Pier and Exposition
11 Authority Act is amended by changing Sections 10.2 and 23.1 as
12 follows:

13 (70 ILCS 210/10.2)

14 Sec. 10.2. Bonding disclosure.

15 (a) Truth in borrowing disclosure. Within 60 business days
16 after the issuance of any bonds under this Act, the Authority
17 shall disclose the total principal and interest payments to be
18 paid on the bonds over the full stated term of the bonds. The
19 disclosure also shall include principal and interest payments
20 to be made by each fiscal year over the full stated term of the
21 bonds and total principal and interest payments to be made by
22 each fiscal year on all other outstanding bonds issued under
23 this Act over the full stated terms of those bonds. These
24 disclosures shall be calculated assuming bonds are not redeemed

1 or refunded prior to their stated maturities. Amounts included
2 in these disclosures as payment of interest on variable rate
3 bonds shall be computed at an interest rate equal to the rate
4 at which the variable rate bonds are first set upon issuance,
5 plus 2.5%, after taking into account any credits permitted in
6 the related indenture or other instrument against the amount of
7 such interest for each fiscal year.

8 (b) Bond sale expenses disclosure. Within 60 business days
9 after the issuance of any bonds under this Act, the Authority
10 shall disclose all costs of issuance on each sale of bonds
11 under this Act. The disclosure shall include, as applicable,
12 the respective percentages of participation and compensation
13 of each underwriter that is a member of the underwriting
14 syndicate, legal counsel, financial advisors, and other
15 professionals for the bond issue and an identification of all
16 costs of issuance paid to minority-owned ~~minority-owned~~
17 businesses, women-owned ~~female-owned~~ businesses, and
18 businesses owned by persons with disabilities. The terms
19 "minority-owned ~~minority-owned~~ businesses", "women-owned
20 ~~female-owned~~ businesses", and "business owned by a person with
21 a disability" have the meanings given to those terms in the
22 Business Enterprise for Minorities, Women ~~Females~~, and Persons
23 with Disabilities Act. In addition, the Authority shall provide
24 copies of all contracts under which any costs of issuance are
25 paid or to be paid to the Commission on Government Forecasting
26 and Accountability within 60 business days after the issuance

1 of bonds for which those costs are paid or to be paid. Instead
2 of filing a second or subsequent copy of the same contract, the
3 Authority may file a statement that specified costs are paid
4 under specified contracts filed earlier with the Commission.

5 (c) The disclosures required in this Section shall be
6 published by posting the disclosures for no less than 30 days
7 on the website of the Authority and shall be available to the
8 public upon request. The Authority shall also provide the
9 disclosures to the Governor's Office of Management and Budget,
10 the Commission on Government Forecasting and Accountability,
11 and the General Assembly.

12 (Source: P.A. 96-898, eff. 5-27-10.)

13 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

14 Sec. 23.1. Affirmative action.

15 (a) The Authority shall, within 90 days after the effective
16 date of this amendatory Act of 1984, establish and maintain an
17 affirmative action program designed to promote equal
18 employment opportunity and eliminate the effects of past
19 discrimination. Such program shall include a plan, including
20 timetables where appropriate, which shall specify goals and
21 methods for increasing participation by women and minorities in
22 employment, including employment related to the planning,
23 organization, and staging of the games, by the Authority and by
24 parties which contract with the Authority. The Authority shall
25 submit a detailed plan with the General Assembly prior to

1 September 1 of each year. Such program shall also establish
2 procedures and sanctions ~~(including debarment)~~, which the
3 Authority shall enforce to ensure compliance with the plan
4 established pursuant to this Section and with State and federal
5 laws and regulations relating to the employment of women and
6 minorities. A determination by the Authority as to whether a
7 party to a contract with the Authority has achieved the goals
8 or employed the methods for increasing participation by women
9 and minorities shall be determined in accordance with the terms
10 of such contracts or the applicable provisions of rules and
11 regulations of the Authority existing at the time such contract
12 was executed, including any provisions for consideration of
13 good faith efforts at compliance which the Authority may
14 reasonably adopt.

15 (b) The Authority shall adopt and maintain minority-owned
16 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
17 procurement programs under the affirmative action program
18 described in subsection (a) for any and all work, including all
19 contracting related to the planning, organization, and staging
20 of the games, undertaken by the Authority. That work shall
21 include, but is not limited to, the purchase of professional
22 services, construction services, supplies, materials, and
23 equipment. The programs shall establish goals of awarding not
24 less than 25% of the annual dollar value of all contracts,
25 purchase orders, or other agreements (collectively referred to
26 as "contracts") to minority-owned ~~minority-owned~~ businesses

1 and 5% of the annual dollar value of all contracts to
2 women-owned ~~female-owned~~ businesses. Without limiting the
3 generality of the foregoing, the programs shall require in
4 connection with the prequalification or consideration of
5 vendors for professional service contracts, construction
6 contracts, and contracts for supplies, materials, equipment,
7 and services that each proposer or bidder submit as part of his
8 or her proposal or bid a commitment detailing how he or she
9 will expend 25% or more of the dollar value of his or her
10 contracts with one or more minority-owned ~~minority-owned~~
11 businesses and 5% or more of the dollar value with one or more
12 women-owned ~~female-owned~~ businesses. Bids or proposals that do
13 not include such detailed commitments are not responsive and
14 shall be rejected unless the Authority deems it appropriate to
15 grant a waiver of these requirements. In addition the Authority
16 may, in connection with the selection of providers of
17 professional services, reserve the right to select a
18 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business
19 or businesses to fulfill the commitment to minority and woman
20 ~~female~~ business participation. The commitment to minority and
21 woman ~~female~~ business participation may be met by the
22 contractor or professional service provider's status as a
23 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business,
24 by joint venture or by subcontracting a portion of the work
25 with or purchasing materials for the work from one or more such
26 businesses, or by any combination thereof. Each contract shall

1 require the contractor or provider to submit a certified
2 monthly report detailing the status of that contractor or
3 provider's compliance with the Authority's minority-owned
4 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
5 procurement program. The Authority, after reviewing the
6 monthly reports of the contractors and providers, shall compile
7 a comprehensive report regarding compliance with this
8 procurement program and file it quarterly with the General
9 Assembly. If, in connection with a particular contract, the
10 Authority determines that it is impracticable or excessively
11 costly to obtain minority-owned ~~minority~~ or women-owned ~~female~~
12 ~~owned~~ businesses to perform sufficient work to fulfill the
13 commitment required by this subsection, the Authority shall
14 reduce or waive the commitment in the contract, as may be
15 appropriate. The Authority shall establish rules and
16 regulations setting forth the standards to be used in
17 determining whether or not a reduction or waiver is
18 appropriate. The terms "minority-owned ~~minority-owned~~
19 business" and "women-owned ~~female-owned~~ business" have the
20 meanings given to those terms in the Business Enterprise for
21 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

22 (c) The Authority shall adopt and maintain an affirmative
23 action program in connection with the hiring of minorities and
24 women on the Expansion Project and on any and all construction
25 projects, including all contracting related to the planning,
26 organization, and staging of the games, undertaken by the

1 Authority. The program shall be designed to promote equal
2 employment opportunity and shall specify the goals and methods
3 for increasing the participation of minorities and women in a
4 representative mix of job classifications required to perform
5 the respective contracts awarded by the Authority.

6 (d) In connection with the Expansion Project, the Authority
7 shall incorporate the following elements into its
8 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business
9 procurement programs to the extent feasible: (1) a major
10 contractors program that permits minority-owned ~~minority-owned~~
11 businesses and women-owned ~~female-owned~~ businesses to bear
12 significant responsibility and risk for a portion of the
13 project; (2) a mentor/protege program that provides financial,
14 technical, managerial, equipment, and personnel support to
15 minority-owned ~~minority-owned~~ businesses and women-owned
16 ~~female-owned~~ businesses; (3) an emerging firms program that
17 includes minority-owned ~~minority-owned~~ businesses and
18 women-owned ~~female-owned~~ businesses that would not otherwise
19 qualify for the project due to inexperience or limited
20 resources; (4) a small projects program that includes
21 participation by smaller minority-owned ~~minority-owned~~
22 businesses and women-owned ~~female-owned~~ businesses on jobs
23 where the total dollar value is \$5,000,000 or less; and (5) a
24 set-aside program that will identify contracts requiring the
25 expenditure of funds less than \$50,000 for bids to be submitted
26 solely by minority-owned ~~minority-owned~~ businesses and

1 women-owned ~~female-owned~~ businesses.

2 (e) The Authority is authorized to enter into agreements
3 with contractors' associations, labor unions, and the
4 contractors working on the Expansion Project to establish an
5 Apprenticeship Preparedness Training Program to provide for an
6 increase in the number of minority and women ~~female~~ journeymen
7 and apprentices in the building trades and to enter into
8 agreements with Community College District 508 to provide
9 readiness training. The Authority is further authorized to
10 enter into contracts with public and private educational
11 institutions and persons in the hospitality industry to provide
12 training for employment in the hospitality industry.

13 (f) McCormick Place Advisory Board. There is created a
14 McCormick Place Advisory Board composed as follows: 2 members
15 shall be appointed by the Mayor of Chicago; 2 members shall be
16 appointed by the Governor; 2 members shall be State Senators
17 appointed by the President of the Senate; 2 members shall be
18 State Senators appointed by the Minority Leader of the Senate;
19 2 members shall be State Representatives appointed by the
20 Speaker of the House of Representatives; and 2 members shall be
21 State Representatives appointed by the Minority Leader of the
22 House of Representatives. The terms of all previously appointed
23 members of the Advisory Board expire on the effective date of
24 this amendatory Act of the 92nd General Assembly. A State
25 Senator or State Representative member may appoint a designee
26 to serve on the McCormick Place Advisory Board in his or her

1 absence.

2 A "member of a minority group" shall mean a person who is a
3 citizen or lawful permanent resident of the United States and
4 who is any of the following:

5 (1) American Indian or Alaska Native (a person having
6 origins in any of the original peoples of North and South
7 America, including Central America, and who maintains
8 tribal affiliation or community attachment).

9 (2) Asian (a person having origins in any of the
10 original peoples of the Far East, Southeast Asia, or the
11 Indian subcontinent, including, but not limited to,
12 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,
13 the Philippine Islands, Thailand, and Vietnam).

14 (3) Black or African American (a person having origins
15 in any of the black racial groups of Africa). Terms such as
16 "Haitian" or "Negro" can be used in addition to "Black or
17 African American".

18 (4) Hispanic or Latino (a person of Cuban, Mexican,
19 Puerto Rican, South or Central American, or other Spanish
20 culture or origin, regardless of race).

21 (5) Native Hawaiian or Other Pacific Islander (a person
22 having origins in any of the original peoples of Hawaii,
23 Guam, Samoa, or other Pacific Islands).

24 Members of the McCormick Place Advisory Board shall serve
25 2-year terms and until their successors are appointed, except
26 members who serve as a result of their elected position whose

1 terms shall continue as long as they hold their designated
2 elected positions. Vacancies shall be filled by appointment for
3 the unexpired term in the same manner as original appointments
4 are made. The McCormick Place Advisory Board shall elect its
5 own chairperson.

6 Members of the McCormick Place Advisory Board shall serve
7 without compensation but, at the Authority's discretion, shall
8 be reimbursed for necessary expenses in connection with the
9 performance of their duties.

10 The McCormick Place Advisory Board shall meet quarterly, or
11 as needed, shall produce any reports it deems necessary, and
12 shall:

13 (1) Work with the Authority on ways to improve the area
14 physically and economically;

15 (2) Work with the Authority regarding potential means
16 for providing increased economic opportunities to
17 minorities and women produced indirectly or directly from
18 the construction and operation of the Expansion Project;

19 (3) Work with the Authority to minimize any potential
20 impact on the area surrounding the McCormick Place
21 Expansion Project, including any impact on minority-owned
22 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting
23 from the construction and operation of the Expansion
24 Project;

25 (4) Work with the Authority to find candidates for
26 building trades apprenticeships, for employment in the

1 hospitality industry, and to identify job training
2 programs;

3 (5) Work with the Authority to implement the provisions
4 of subsections (a) through (e) of this Section in the
5 construction of the Expansion Project, including the
6 Authority's goal of awarding not less than 25% and 5% of
7 the annual dollar value of contracts to minority-owned
8 ~~minority~~ and women-owned ~~female-owned~~ businesses, the
9 outreach program for minorities and women, and the
10 mentor/protege program for providing assistance to
11 minority-owned ~~minority~~ and women-owned ~~female-owned~~
12 businesses.

13 (g) The Authority shall comply with subsection (e) of
14 Section 5-42 of the Olympic Games and Paralympic Games (2016)
15 Law. For purposes of this Section, the term "games" has the
16 meaning set forth in the Olympic Games and Paralympic Games
17 (2016) Law.

18 (Source: P.A. 96-7, eff. 4-3-09; 97-396, eff. 1-1-12.)

19 Section 105. The Illinois Sports Facilities Authority Act
20 is amended by changing Section 9 as follows:

21 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

22 Sec. 9. Duties. In addition to the powers set forth
23 elsewhere in this Act, subject to the terms of any agreements
24 with the holders of the Authority's bonds or notes, the

1 Authority shall:

2 (1) Comply with all zoning, building, and land use
3 controls of the municipality within which is located any
4 stadium facility owned by the Authority or for which the
5 Authority provides financial assistance.

6 (2) With respect to a facility owned or to be owned by
7 the Authority, enter or have entered into a management
8 agreement with a tenant of the Authority to operate the
9 facility that requires the tenant to operate the facility
10 for a period at least as long as the term of any bonds
11 issued to finance the development, establishment,
12 construction, erection, acquisition, repair,
13 reconstruction, remodeling, adding to, extension,
14 improvement, equipping, operation, and maintenance of the
15 facility. Such agreement shall contain appropriate and
16 reasonable provisions with respect to termination, default
17 and legal remedies.

18 (3) With respect to a facility owned or to be owned by
19 a governmental owner other than the Authority, enter into
20 an assistance agreement with either a governmental owner of
21 a facility or its tenant, or both, that requires the
22 tenant, or if the tenant is not a party to the assistance
23 agreement requires the governmental owner to enter into an
24 agreement with the tenant that requires the tenant to use
25 the facility for a period at least as long as the term of
26 any bonds issued to finance the reconstruction,

1 renovation, remodeling, extension or improvement of all or
2 substantially all of the facility.

3 (4) Create and maintain a separate financial reserve
4 for repair and replacement of capital assets of any
5 facility owned by the Authority or for which the Authority
6 provides financial assistance and deposit into this
7 reserve not less than \$1,000,000 per year for each such
8 facility beginning at such time as the Authority and the
9 tenant, or the Authority and a governmental owner of a
10 facility, as applicable, shall agree.

11 (5) In connection with prequalification of general
12 contractors for the construction of a new stadium facility
13 or the reconstruction, renovation, remodeling, extension,
14 or improvement of all or substantially all of an existing
15 facility, the Authority shall require submission of a
16 commitment detailing how the general contractor will
17 expend 25% or more of the dollar value of the general
18 contract with one or more minority-owned businesses
19 ~~minority business enterprises~~ and 5% or more of the dollar
20 value with one or more women-owned businesses ~~female~~
21 ~~business enterprises~~. This commitment may be met by
22 contractor's status as a minority-owned businesses
23 ~~minority business enterprise~~ or women-owned businesses
24 ~~female business enterprise~~, by a joint venture or by
25 subcontracting a portion of the work with or by purchasing
26 materials for the work from one or more such businesses

1 ~~enterprises~~, or by any combination thereof. Any contract
2 with the general contractor for construction of the new
3 stadium facility and any contract for the reconstruction,
4 renovation, remodeling, adding to, extension or
5 improvement of all or substantially all of an existing
6 facility shall require the general contractor to meet the
7 foregoing obligations and shall require monthly reporting
8 to the Authority with respect to the status of the
9 implementation of the contractor's affirmative action plan
10 and compliance with that plan. This report shall be filed
11 with the General Assembly. The Authority shall establish
12 and maintain an affirmative action program designed to
13 promote equal employment opportunity which specifies the
14 goals and methods for increasing participation by
15 minorities and women in a representative mix of job
16 classifications required to perform the respective
17 contracts. The Authority shall file a report before March 1
18 of each year with the General Assembly detailing its
19 implementation of this paragraph. The terms
20 "minority-owned businesses", "women-owned businesses", and
21 "business owned by a person with a disability" have the
22 meanings given to those terms ~~The terms "minority business~~
23 ~~enterprise" and "female business enterprise" shall have~~
24 ~~the same meanings as "minority owned business" and "female~~
25 ~~owned business", respectively, as defined in the Business~~
26 Enterprise for Minorities, Women ~~Females~~, and Persons with

1 Disabilities Act.

2 (6) Provide for the construction of any new facility
3 pursuant to one or more contracts which require delivery of
4 a completed facility at a fixed maximum price to be insured
5 or guaranteed by a third party determined by the Authority
6 to be financially capable of causing completion of such
7 construction of the new facility.

8 In connection with any assistance agreement with a
9 governmental owner that provides financial assistance for a
10 facility to be used by a National Football League team, the
11 assistance agreement shall provide that the Authority or its
12 agent shall enter into the contract or contracts for the design
13 and construction services or design/build services for such
14 facility and thereafter transfer its rights and obligations
15 under the contract or contracts to the governmental owner of
16 the facility. In seeking parties to provide design and
17 construction services or design/build services with respect to
18 such facility, the Authority may use such procurement
19 procedures as it may determine, including, without limitation,
20 the selection of design professionals and construction
21 managers or design/builders as may be required by a team that
22 is at risk, in whole or in part, for the cost of design and
23 construction of the facility.

24 An assistance agreement may not provide, directly or
25 indirectly, for the payment to the Chicago Park District of
26 more than a total of \$10,000,000 on account of the District's

1 loss of property or revenue in connection with the renovation
2 of a facility pursuant to the assistance agreement.

3 (Source: P.A. 91-935, eff. 6-1-01; 92-16, eff. 6-28-01.)

4 Section 110. The Downstate Illinois Sports Facilities
5 Authority Act is amended by changing Section 40 as follows:

6 (70 ILCS 3210/40)

7 Sec. 40. Duties.

8 (a) In addition to the powers set forth elsewhere in this
9 Act, subject to the terms of any agreements with the holders of
10 the Authority's evidences of indebtedness, the Authority shall
11 do the following:

12 (1) Comply with all zoning, building, and land use
13 controls of the municipality within which is located any
14 stadium facility owned by the Authority or for which the
15 Authority provides financial assistance.

16 (2) Enter into a loan agreement with an owner of a
17 facility to finance the acquisition, construction,
18 maintenance, or rehabilitation of the facility. The
19 agreement shall contain appropriate and reasonable
20 provisions with respect to termination, default, and legal
21 remedies. The loan may be at below-market interest rates.

22 (3) Create and maintain a financial reserve for repair
23 and replacement of capital assets.

24 (b) In a loan agreement for the construction of a new

1 facility, in connection with prequalification of general
2 contractors for construction of the facility, the Authority
3 shall require that the owner of the facility require submission
4 of a commitment detailing how the general contractor will
5 expend 25% or more of the dollar value of the general contract
6 with one or more minority-owned businesses ~~minority business~~
7 ~~enterprises~~ and 5% or more of the dollar value with one or more
8 women-owned businesses ~~female business enterprises~~. This
9 commitment may be met by contractor's status as a
10 minority-owned businesses ~~minority business enterprise~~ or
11 women-owned businesses ~~female business enterprise~~, by a joint
12 venture, or by subcontracting a portion of the work with or by
13 purchasing materials for the work from one or more such
14 businesses ~~enterprises~~, or by any combination thereof. Any
15 contract with the general contractor for construction of the
16 new facility shall require the general contractor to meet the
17 foregoing obligations and shall require monthly reporting to
18 the Authority with respect to the status of the implementation
19 of the contractor's affirmative action plan and compliance with
20 that plan. This report shall be filed with the General
21 Assembly. The Authority shall require that the facility owner
22 establish and maintain an affirmative action program designed
23 to promote equal employment opportunity and that specifies the
24 goals and methods for increasing participation by minorities
25 and women in a representative mix of job classifications
26 required to perform the respective contracts. The Authority

1 shall file a report before March 1 of each year with the
2 General Assembly detailing its implementation of this
3 subsection. The terms "minority-owned businesses ~~minority~~
4 ~~business enterprise~~" and "women-owned businesses ~~female~~
5 ~~business enterprise~~" have the meanings provided in the Business
6 Enterprise for Minorities, Women ~~Females~~, and Persons with
7 Disabilities Act.

8 (c) With respect to a facility owned or to be owned by the
9 Authority, enter or have entered into a management agreement
10 with a tenant of the Authority to operate the facility that
11 requires the tenant to operate the facility for a period at
12 least as long as the term of any bonds issued to finance the
13 development, establishment, construction, erection,
14 acquisition, repair, reconstruction, remodeling, adding to,
15 extension, improvement, equipping, operation, and maintenance
16 of the facility. Such agreement shall contain appropriate and
17 reasonable provisions with respect to termination, default,
18 and legal remedies.

19 (Source: P.A. 93-227, eff. 1-1-04.)

20 Section 115. The Metropolitan Transit Authority Act is
21 amended by changing Section 12c as follows:

22 (70 ILCS 3605/12c)

23 Sec. 12c. Retiree Benefits Bonds and Notes.

24 (a) In addition to all other bonds or notes that it is

1 authorized to issue, the Authority is authorized to issue its
2 bonds or notes for the purposes of providing funds for the
3 Authority to make the deposits described in Section 12c(b)(1)
4 and (2), for refunding any bonds authorized to be issued under
5 this Section, as well as for the purposes of paying costs of
6 issuance, obtaining bond insurance or other credit enhancement
7 or liquidity facilities, paying costs of obtaining related
8 swaps as authorized in the Bond Authorization Act ("Swaps"),
9 providing a debt service reserve fund, paying Debt Service (as
10 defined in paragraph (i) of this Section 12c), and paying all
11 other costs related to any such bonds or notes.

12 (b)(1) After its receipt of a certified copy of a report of
13 the Auditor General of the State of Illinois meeting the
14 requirements of Section 3-2.3 of the Illinois State Auditing
15 Act, the Authority may issue \$1,348,550,000 aggregate original
16 principal amount of bonds and notes. After payment of the costs
17 of issuance and necessary deposits to funds and accounts
18 established with respect to debt service, the net proceeds of
19 such bonds or notes shall be deposited only in the Retirement
20 Plan for Chicago Transit Authority Employees and used only for
21 the purposes required by Section 22-101 of the Illinois Pension
22 Code. Provided that no less than \$1,110,500,000 has been
23 deposited in the Retirement Plan, remaining proceeds of bonds
24 issued under this subparagraph (b)(1) may be used to pay costs
25 of issuance and make necessary deposits to funds and accounts
26 with respect to debt service for bonds and notes issued under

1 this subparagraph or subparagraph (b) (2).

2 (2) After its receipt of a certified copy of a report of
3 the Auditor General of the State of Illinois meeting the
4 requirements of Section 3-2.3 of the Illinois State Auditing
5 Act, the Authority may issue \$639,680,000 aggregate original
6 principal amount of bonds and notes. After payment of the costs
7 of issuance and necessary deposits to funds and accounts
8 established with respect to debt service, the net proceeds of
9 such bonds or notes shall be deposited only in the Retiree
10 Health Care Trust and used only for the purposes required by
11 Section 22-101B of the Illinois Pension Code. Provided that no
12 less than \$528,800,000 has been deposited in the Retiree Health
13 Care Trust, remaining proceeds of bonds issued under this
14 subparagraph (b) (2) may be used to pay costs of issuance and
15 make necessary deposits to funds and accounts with respect to
16 debt service for bonds and notes issued under this subparagraph
17 or subparagraph (b) (1).

18 (3) In addition, refunding bonds are authorized to be
19 issued for the purpose of refunding outstanding bonds or notes
20 issued under this Section 12c.

21 (4) The bonds or notes issued under 12c(b) (1) shall be
22 issued as soon as practicable after the Auditor General issues
23 the report provided in Section 3-2.3(b) of the Illinois State
24 Auditing Act. The bonds or notes issued under 12c(b) (2) shall
25 be issued as soon as practicable after the Auditor General
26 issues the report provided in Section 3-2.3(c) of the Illinois

1 State Auditing Act.

2 (5) With respect to bonds and notes issued under
3 subparagraph (b), scheduled aggregate annual payments of
4 interest or deposits into funds and accounts established for
5 the purpose of such payment shall commence within one year
6 after the bonds and notes are issued. With respect to principal
7 and interest, scheduled aggregate annual payments of principal
8 and interest or deposits into funds and accounts established
9 for the purpose of such payment shall be not less than 70% in
10 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled
11 payments or deposits of principal and interest in 2012 and
12 shall be substantially equal beginning in 2012 and each year
13 thereafter. For purposes of this subparagraph (b),
14 "substantially equal" means that debt service in any full year
15 after calendar year 2011 is not more than 115% of debt service
16 in any other full year after calendar year 2011 during the term
17 of the bonds or notes. For the purposes of this subsection (b),
18 with respect to bonds and notes that bear interest at a
19 variable rate, interest shall be assumed at a rate equal to the
20 rate for United States Treasury Securities - State and Local
21 Government Series for the same maturity, plus 75 basis points.
22 If the Authority enters into a Swap with a counterparty
23 requiring the Authority to pay a fixed interest rate on a
24 notional amount, and the Authority has made a determination
25 that such Swap was entered into for the purpose of providing
26 substitute interest payments for variable interest rate bonds

1 or notes of a particular maturity or maturities in a principal
2 amount equal to the notional amount of the Swap, then during
3 the term of the Swap for purposes of any calculation of
4 interest payable on such bonds or notes, the interest rate on
5 the bonds or notes of such maturity or maturities shall be
6 determined as if such bonds or notes bore interest at the fixed
7 interest rate payable by the Authority under such Swap.

8 (6) No bond or note issued under this Section 12c shall
9 mature later than December 31, 2040.

10 (c) The Chicago Transit Board shall provide for the
11 issuance of bonds or notes as authorized in this Section 12c by
12 the adoption of an ordinance. The ordinance, together with the
13 bonds or notes, shall constitute a contract among the
14 Authority, the owners from time to time of the bonds or notes,
15 any bond trustee with respect to the bonds or notes, any
16 related credit enhancer and any provider of any related Swaps.

17 (d) The Authority is authorized to cause the proceeds of
18 the bonds or notes, and any interest or investment earnings on
19 the bonds or notes, and of any Swaps, to be invested until the
20 proceeds and any interest or investment earnings have been
21 deposited with the Retirement Plan or the Retiree Health Care
22 Trust.

23 (e) Bonds or notes issued pursuant to this Section 12c may
24 be general obligations of the Authority, to which shall be
25 pledged the full faith and credit of the Authority, or may be
26 obligations payable solely from particular sources of funds all

1 as may be provided in the authorizing ordinance. The
2 authorizing ordinance for the bonds and notes, whether or not
3 general obligations of the Authority, may provide for the Debt
4 Service (as defined in paragraph (i) of this Section 12c) to
5 have a claim for payment from particular sources of funds,
6 including, without limitation, amounts to be paid to the
7 Authority or a bond trustee. The authorizing ordinance may
8 provide for the means by which the bonds or notes (and any
9 related Swaps) may be secured, which may include, a pledge of
10 any revenues or funds of the Authority from whatever source
11 which may by law be utilized for paying Debt Service. In
12 addition to any other security, upon the written approval of
13 the Regional Transportation Authority by the affirmative vote
14 of 12 of its then Directors, the ordinance may provide a
15 specific pledge or assignment of and lien on or security
16 interest in amounts to be paid to the Authority by the Regional
17 Transportation Authority and direct payment thereof to the bond
18 trustee for payment of Debt Service with respect to the bonds
19 or notes, subject to the provisions of existing lease
20 agreements of the Authority with any public building
21 commission. The authorizing ordinance may also provide a
22 specific pledge or assignment of and lien on or security
23 interest in and direct payment to the trustee of all or a
24 portion of the moneys otherwise payable to the Authority from
25 the City of Chicago pursuant to an intergovernmental agreement
26 with the Authority to provide financial assistance to the

1 Authority. Any such pledge, assignment, lien or security
2 interest for the benefit of owners of bonds or notes shall be
3 valid and binding from the time the bonds or notes are issued,
4 without any physical delivery or further act, and shall be
5 valid and binding as against and prior to the claims of all
6 other parties having claims of any kind against the Authority
7 or any other person, irrespective of whether such other parties
8 have notice of such pledge, assignment, lien or security
9 interest, all as provided in the Local Government Debt Reform
10 Act, as it may be amended from time to time. The bonds or notes
11 of the Authority issued pursuant to this Section 12c shall have
12 such priority of payment and as to their claim for payment from
13 particular sources of funds, including their priority with
14 respect to obligations of the Authority issued under other
15 Sections of this Act, all as shall be provided in the
16 ordinances authorizing the issuance of the bonds or notes. The
17 ordinance authorizing the issuance of any bonds or notes under
18 this Section may provide for the creation of, deposits in, and
19 regulation and disposition of sinking fund or reserve accounts
20 relating to those bonds or notes and related agreements. The
21 ordinance authorizing the issuance of any such bonds or notes
22 authorized under this Section 12c may contain provisions for
23 the creation of a separate fund to provide for the payment of
24 principal of and interest on those bonds or notes and related
25 agreements. The ordinance may also provide limitations on the
26 issuance of additional bonds or notes of the Authority.

1 (f) Bonds or notes issued under this Section 12c shall not
2 constitute an indebtedness of the Regional Transportation
3 Authority, the State of Illinois, or of any other political
4 subdivision of or municipality within the State, except the
5 Authority.

6 (g) The ordinance of the Chicago Transit Board authorizing
7 the issuance of bonds or notes pursuant to this Section 12c may
8 provide for the appointment of a corporate trustee (which may
9 be any trust company or bank having the powers of a trust
10 company within Illinois) with respect to bonds or notes issued
11 pursuant to this Section 12c. The ordinance shall prescribe the
12 rights, duties, and powers of the trustee to be exercised for
13 the benefit of the Authority and the protection of the owners
14 of bonds or notes issued pursuant to this Section 12c. The
15 ordinance may provide for the trustee to hold in trust, invest
16 and use amounts in funds and accounts created as provided by
17 the ordinance with respect to the bonds or notes in accordance
18 with this Section 12c. The Authority may apply, as it shall
19 determine, any amounts received upon the sale of the bonds or
20 notes to pay any Debt Service on the bonds or notes. The
21 ordinance may provide for a trust indenture to set forth terms
22 of, sources of payment for and security for the bonds and
23 notes.

24 (h) The State of Illinois pledges to and agrees with the
25 owners of the bonds or notes issued pursuant to Section 12c
26 that the State of Illinois will not limit the powers vested in

1 the Authority by this Act to pledge and assign its revenues and
2 funds as security for the payment of the bonds or notes, or
3 vested in the Regional Transportation Authority by the Regional
4 Transportation Authority Act or this Act, so as to materially
5 impair the payment obligations of the Authority under the terms
6 of any contract made by the Authority with those owners or to
7 materially impair the rights and remedies of those owners until
8 those bonds or notes, together with interest and any redemption
9 premium, and all costs and expenses in connection with any
10 action or proceedings by or on behalf of such owners are fully
11 met and discharged. The Authority is authorized to include
12 these pledges and agreements of the State of Illinois in any
13 contract with owners of bonds or notes issued pursuant to this
14 Section 12c.

15 (i) For purposes of this Section, "Debt Service" with
16 respect to bonds or notes includes, without limitation,
17 principal (at maturity or upon mandatory redemption),
18 redemption premium, interest, periodic, upfront, and
19 termination payments on Swaps, fees for bond insurance or other
20 credit enhancement, liquidity facilities, the funding of bond
21 or note reserves, bond trustee fees, and all other costs of
22 providing for the security or payment of the bonds or notes.

23 (j) The Authority shall adopt a procurement program with
24 respect to contracts relating to the following service
25 providers in connection with the issuance of debt for the
26 benefit of the Retirement Plan for Chicago Transit Authority

1 Employees: underwriters, bond counsel, financial advisors, and
2 accountants. The program shall include goals for the payment of
3 not less than 30% of the total dollar value of the fees from
4 these contracts to minority-owned ~~minority-owned~~ businesses
5 and women-owned ~~female-owned~~ businesses as defined in the
6 Business Enterprise for Minorities, Women ~~Females~~, and Persons
7 with Disabilities Act. The Authority shall conduct outreach to
8 minority-owned ~~minority-owned~~ businesses and women-owned
9 ~~female-owned~~ businesses. Outreach shall include, but is not
10 limited to, advertisements in periodicals and newspapers,
11 mailings, and other appropriate media. The Authority shall
12 submit to the General Assembly a comprehensive report that
13 shall include, at a minimum, the details of the procurement
14 plan, outreach efforts, and the results of the efforts to
15 achieve goals for the payment of fees. The service providers
16 selected by the Authority pursuant to such program shall not be
17 subject to approval by the Regional Transportation Authority,
18 and the Regional Transportation Authority's approval pursuant
19 to subsection (e) of this Section 12c related to the issuance
20 of debt shall not be based in any way on the service providers
21 selected by the Authority pursuant to this Section.

22 (k) No person holding an elective office in this State,
23 holding a seat in the General Assembly, serving as a director,
24 trustee, officer, or employee of the Regional Transportation
25 Authority or the Chicago Transit Authority, including the
26 spouse or minor child of that person, may receive a legal,

1 banking, consulting, or other fee related to the issuance of
2 any bond issued by the Chicago Transit Authority pursuant to
3 this Section.

4 (Source: P.A. 95-708, eff. 1-18-08.)

5 Section 120. The School Code is amended by changing Section
6 10-20.44 as follows:

7 (105 ILCS 5/10-20.44)

8 Sec. 10-20.44. Report on contracts.

9 (a) This Section applies to all school districts, including
10 a school district organized under Article 34 of this Code.

11 (b) A school board must list on the district's Internet
12 website, if any, all contracts over \$25,000 and any contract
13 that the school board enters into with an exclusive bargaining
14 representative.

15 (c) Each year, in conjunction with the submission of the
16 Statement of Affairs to the State Board of Education prior to
17 December 1, provided for in Section 10-17, each school district
18 shall submit to the State Board of Education an annual report
19 on all contracts over \$25,000 awarded by the school district
20 during the previous fiscal year. The report shall include at
21 least the following:

22 (1) the total number of all contracts awarded by the
23 school district;

24 (2) the total value of all contracts awarded;

1 (3) the number of contracts awarded to minority-owned
2 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
3 businesses, and businesses owned by persons with
4 disabilities, as defined in the Business Enterprise for
5 Minorities, Women, ~~Females~~ and Persons with Disabilities
6 Act, and locally owned businesses; and

7 (4) the total value of contracts awarded to
8 minority-owned ~~minority-owned~~ businesses, women-owned
9 ~~female-owned~~ businesses, and businesses owned by persons
10 with disabilities, as defined in the Business Enterprise
11 for Minorities, Women, ~~Females~~ and Persons with
12 Disabilities Act, and locally owned businesses.

13 The report shall be made available to the public, including
14 publication on the school district's Internet website, if any.

15 (Source: P.A. 95-707, eff. 1-11-08; 96-328, eff. 8-11-09.)

16 Section 125. The Public University Energy Conservation Act
17 is amended by changing Sections 3 and 5-10 as follows:

18 (110 ILCS 62/3)

19 Sec. 3. Applicable laws. Other State laws and related
20 administrative requirements apply to this Act, including, but
21 not limited to, the following laws and related administrative
22 requirements: the Illinois Human Rights Act, the Prevailing
23 Wage Act, the Public Construction Bond Act, the Public Works
24 Preference Act (repealed on June 16, 2010 by Public Act

1 96-929), the Employment of Illinois Workers on Public Works
2 Act, the Freedom of Information Act, the Open Meetings Act, the
3 Illinois Architecture Practice Act of 1989, the Professional
4 Engineering Practice Act of 1989, the Structural Engineering
5 Practice Act of 1989, the Architectural, Engineering, and Land
6 Surveying Qualifications Based Selection Act, the Public
7 Contract Fraud Act, the Business Enterprise for Minorities,
8 Women ~~Females~~, and Persons with Disabilities Act, and the
9 Public Works Employment Discrimination Act.

10 (Source: P.A. 97-333, eff. 8-12-11.)

11 (110 ILCS 62/5-10)

12 Sec. 5-10. Energy conservation measure.

13 (a) "Energy conservation measure" means any improvement,
14 repair, alteration, or betterment of any building or facility,
15 subject to all applicable building codes, owned or operated by
16 a public university or any equipment, fixture, or furnishing to
17 be added to or used in any such building or facility that is
18 designed to reduce energy consumption or operating costs, and
19 may include, without limitation, one or more of the following:

20 (1) Insulation of the building structure or systems
21 within the building.

22 (2) Storm windows or doors, caulking or
23 weatherstripping, multiglazed windows or doors, heat
24 absorbing or heat reflective glazed and coated window or
25 door systems, additional glazing, reductions in glass

1 area, or other window and door system modifications that
2 reduce energy consumption.

3 (3) Automated or computerized energy control systems.

4 (4) Heating, ventilating, or air conditioning system
5 modifications or replacements.

6 (5) Replacement or modification of lighting fixtures
7 to increase the energy efficiency of the lighting system
8 without increasing the overall illumination of a facility,
9 unless an increase in illumination is necessary to conform
10 to the applicable State or local building code for the
11 lighting system after the proposed modifications are made.

12 (6) Energy recovery systems.

13 (7) Energy conservation measures that provide
14 long-term operating cost reductions.

15 (b) From the effective date of this amendatory Act of the
16 96th General Assembly until January 1, 2015, "energy
17 conservation measure" includes a renewable energy center pilot
18 project at Eastern Illinois University, provided that:

19 (1) the University signs a partnership contract with a
20 qualified energy conservation measure provider as provided
21 in this Act;

22 (2) the University has responsibility for the
23 qualified provider's actions with regard to applicable
24 laws;

25 (3) the University obtains a performance bond in
26 accordance with this Act;

1 (4) the University and the qualified provider follow
2 all aspects of the Prevailing Wage Act as provided by this
3 Act;

4 (5) the University and the qualified provider use an
5 approved list of firms from the Capital Development Board
6 (CDB), unless the University requires services that are not
7 typically performed by the firms on CDB's list;

8 (6) the University provides monthly progress reports
9 to the Procurement Policy Board, and the University allows
10 a representative from CDB to monitor the project, provided
11 that such involvement is at no cost to the University;

12 (7) the University requires the qualified provider to
13 follow the provisions of the Business Enterprise for
14 Minorities, Women ~~Females~~, and Persons with Disabilities
15 Act and the Public Works Employment Discrimination Act as
16 provided in this Act;

17 (8) the University agrees to award new building
18 construction work to a responsible bidder, as defined in
19 Section 30-22 of the Illinois Procurement Code;

20 (9) the University includes in its contract with the
21 qualified provider a requirement that the qualified
22 provider name the sub-contractors that it will use, and the
23 qualified provider may not change these without the
24 University's written approval;

25 (10) the University follows, to the extent possible,
26 the Design-Build Procurement Act for construction of the

1 project, taking into consideration the current status of
2 the project; for purposes of this Act, the definition of
3 "State construction agency" in the Design-Build
4 Procurement Act means Eastern Illinois University for the
5 purpose of this project;

6 (11) the University follows, to the extent possible,
7 the Architectural, Engineering, and Land Surveying
8 Qualifications Based Selection Act;

9 (12) the University requires all engineering,
10 architecture, and design work related to the installation
11 or modification of facilities be performed by design
12 professionals licensed by the State of Illinois and
13 professional design firms registered in the State of
14 Illinois; and

15 (13) the University produces annual reports and a final
16 report describing the project upon completion and files the
17 reports with the Procurement Policy Board, CDB, and the
18 General Assembly.

19 The provisions of this subsection (b), other than this
20 sentence, are inoperative after January 1, 2015.

21 (Source: P.A. 96-16, eff. 6-22-09.)

22 (110 ILCS 320/1.1 rep.)

23 Section 130. The University of Illinois at Chicago Act is
24 amended by repealing Section 1.1.

1 Section 135. The Illinois State University Law is amended
2 by changing Section 20-115 as follows:

3 (110 ILCS 675/20-115)

4 Sec. 20-115. Illinois Institute for Entrepreneurship
5 Education.

6 (a) There is created, effective July 1, 1997, within the
7 State at Illinois State University, the Illinois Institute for
8 Entrepreneurship Education, hereinafter referred to as the
9 Institute.

10 (b) The Institute created under this Section shall commence
11 its operations on July 1, 1997 and shall have a board composed
12 of 15 members representative of education, commerce and
13 industry, government, or labor, appointed as follows: 2 members
14 shall be appointees of the Governor, one of whom shall be a
15 minority or woman ~~female~~ person as defined in Section 2 of the
16 Business Enterprise for Minorities, Women ~~Females~~, and Persons
17 with Disabilities Act; one member shall be an appointee of the
18 President of the Senate; one member shall be an appointee of
19 the Minority Leader of the Senate; one member shall be an
20 appointee of the Speaker of the House of Representatives; one
21 member shall be an appointee of the Minority Leader of the
22 House of Representatives; 2 members shall be appointees of
23 Illinois State University; one member shall be an appointee of
24 the Board of Higher Education; one member shall be an appointee
25 of the State Board of Education; one member shall be an

1 appointee of the Department of Commerce and Economic
2 Opportunity; one member shall be an appointee of the Illinois
3 chapter of Economics America; and 3 members shall be appointed
4 by majority vote of the other 12 appointed members to represent
5 business owner-entrepreneurs. Each member shall have expertise
6 and experience in the area of entrepreneurship education,
7 including small business and entrepreneurship. The majority of
8 voting members must be from the private sector. The members
9 initially appointed to the board of the Institute created under
10 this Section shall be appointed to take office on July 1, 1997
11 and shall by lot determine the length of their respective terms
12 as follows: 5 members shall be selected by lot to serve terms
13 of one year, 5 members shall be selected by lot to serve terms
14 of 2 years, and 5 members shall be selected by lot to serve
15 terms of 3 years. Subsequent appointees shall each serve terms
16 of 3 years. The board shall annually select a chairperson from
17 among its members. Each board member shall serve without
18 compensation but shall be reimbursed for expenses incurred in
19 the performance of his or her duties.

20 (c) The purpose of the Institute shall be to foster the
21 growth and development of entrepreneurship education in the
22 State of Illinois. The Institute shall help remedy the
23 deficiencies in the preparation of entrepreneurship education
24 teachers, increase the quality and quantity of
25 entrepreneurship education programs, improve instructional
26 materials, and prepare personnel to serve as leaders and

1 consultants in the field of entrepreneurship education and
2 economic development. The Institute shall promote
3 entrepreneurship as a career option, promote and support the
4 development of innovative entrepreneurship education materials
5 and delivery systems, promote business, industry, and
6 education partnerships, promote collaboration and involvement
7 in entrepreneurship education programs, encourage and support
8 in-service and preservice teacher education programs within
9 various educational systems, and develop and distribute
10 relevant materials. The Institute shall provide a framework
11 under which the public and private sectors may work together
12 toward entrepreneurship education goals. These goals shall be
13 achieved by bringing together programs that have an impact on
14 entrepreneurship education to achieve coordination among
15 agencies and greater efficiency in the expenditure of funds.

16 (d) Beginning July 1, 1997, the Institute shall have the
17 following powers subject to State and Illinois State University
18 Board of Trustees regulations and guidelines:

19 (1) To employ and determine the compensation of an
20 executive director and such staff as it deems necessary;

21 (2) To own property and expend and receive funds and
22 generate funds;

23 (3) To enter into agreements with public and private
24 entities in the furtherance of its purpose; and

25 (4) To request and receive the cooperation and
26 assistance of all State departments and agencies in the

1 furtherance of its purpose.

2 (e) The board of the Institute shall be a policy making
3 body with the responsibility for planning and developing
4 Institute programs. The Institute, through the Board of
5 Trustees of Illinois State University, shall annually report to
6 the Governor and General Assembly by January 31 as to its
7 activities and operations, including its findings and
8 recommendations.

9 (f) Beginning on July 1, 1997, the Institute created under
10 this Section shall be deemed designated by law as the successor
11 to the Illinois Institute for Entrepreneurship Education,
12 previously created and existing under Section 2-11.5 of the
13 Public Community College Act until its abolition on July 1,
14 1997 as provided in that Section. On July 1, 1997, all
15 financial and other records of the Institute so abolished and
16 all of its property, whether real or personal, including but
17 not limited to all inventory and equipment, shall be deemed
18 transferred by operation of law to the Illinois Institute for
19 Entrepreneurship Education created under this Section 20-115.
20 The Illinois Institute for Entrepreneurship Education created
21 under this Section 20-115 shall have, with respect to the
22 predecessor Institute so abolished, all authority, powers, and
23 duties of a successor agency under Section 10-15 of the
24 Successor Agency Act.

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

1 Section 140. The Public Utilities Act is amended by
2 changing Section 9-220 as follows:

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

4 Sec. 9-220. Rate changes based on changes in fuel costs.

5 (a) Notwithstanding the provisions of Section 9-201, the
6 Commission may authorize the increase or decrease of rates and
7 charges based upon changes in the cost of fuel used in the
8 generation or production of electric power, changes in the cost
9 of purchased power, or changes in the cost of purchased gas
10 through the application of fuel adjustment clauses or purchased
11 gas adjustment clauses. The Commission may also authorize the
12 increase or decrease of rates and charges based upon
13 expenditures or revenues resulting from the purchase or sale of
14 emission allowances created under the federal Clean Air Act
15 Amendments of 1990, through such fuel adjustment clauses, as a
16 cost of fuel. For the purposes of this paragraph, cost of fuel
17 used in the generation or production of electric power shall
18 include the amount of any fees paid by the utility for the
19 implementation and operation of a process for the
20 desulfurization of the flue gas when burning high sulfur coal
21 at any location within the State of Illinois irrespective of
22 the attainment status designation of such location; but shall
23 not include transportation costs of coal (i) except to the
24 extent that for contracts entered into on and after the
25 effective date of this amendatory Act of 1997, the cost of the

1 coal, including transportation costs, constitutes the lowest
2 cost for adequate and reliable fuel supply reasonably available
3 to the public utility in comparison to the cost, including
4 transportation costs, of other adequate and reliable sources of
5 fuel supply reasonably available to the public utility, or (ii)
6 except as otherwise provided in the next 3 sentences of this
7 paragraph. Such costs of fuel shall, when requested by a
8 utility or at the conclusion of the utility's next general
9 electric rate proceeding, whichever shall first occur, include
10 transportation costs of coal purchased under existing coal
11 purchase contracts. For purposes of this paragraph "existing
12 coal purchase contracts" means contracts for the purchase of
13 coal in effect on the effective date of this amendatory Act of
14 1991, as such contracts may thereafter be amended, but only to
15 the extent that any such amendment does not increase the
16 aggregate quantity of coal to be purchased under such contract.
17 Nothing herein shall authorize an electric utility to recover
18 through its fuel adjustment clause any amounts of
19 transportation costs of coal that were included in the revenue
20 requirement used to set base rates in its most recent general
21 rate proceeding. Cost shall be based upon uniformly applied
22 accounting principles. Annually, the Commission shall initiate
23 public hearings to determine whether the clauses reflect actual
24 costs of fuel, gas, power, or coal transportation purchased to
25 determine whether such purchases were prudent, and to reconcile
26 any amounts collected with the actual costs of fuel, power,

1 gas, or coal transportation prudently purchased. In each such
2 proceeding, the burden of proof shall be upon the utility to
3 establish the prudence of its cost of fuel, power, gas, or coal
4 transportation purchases and costs. The Commission shall issue
5 its final order in each such annual proceeding for an electric
6 utility by December 31 of the year immediately following the
7 year to which the proceeding pertains, provided, that the
8 Commission shall issue its final order with respect to such
9 annual proceeding for the years 1996 and earlier by December
10 31, 1998.

11 (b) A public utility providing electric service, other than
12 a public utility described in subsections (e) or (f) of this
13 Section, may at any time during the mandatory transition period
14 file with the Commission proposed tariff sheets that eliminate
15 the public utility's fuel adjustment clause and adjust the
16 public utility's base rate tariffs by the amount necessary for
17 the base fuel component of the base rates to recover the public
18 utility's average fuel and power supply costs per kilowatt-hour
19 for the 2 most recent years for which the Commission has issued
20 final orders in annual proceedings pursuant to subsection (a),
21 where the average fuel and power supply costs per kilowatt-hour
22 shall be calculated as the sum of the public utility's prudent
23 and allowable fuel and power supply costs as found by the
24 Commission in the 2 proceedings divided by the public utility's
25 actual jurisdictional kilowatt-hour sales for those 2 years.
26 Notwithstanding any contrary or inconsistent provisions in

1 Section 9-201 of this Act, in subsection (a) of this Section or
2 in any rules or regulations promulgated by the Commission
3 pursuant to subsection (g) of this Section, the Commission
4 shall review and shall by order approve, or approve as
5 modified, the proposed tariff sheets within 60 days after the
6 date of the public utility's filing. The Commission may modify
7 the public utility's proposed tariff sheets only to the extent
8 the Commission finds necessary to achieve conformance to the
9 requirements of this subsection (b). During the 5 years
10 following the date of the Commission's order, but in any event
11 no earlier than January 1, 2007, a public utility whose fuel
12 adjustment clause has been eliminated pursuant to this
13 subsection shall not file proposed tariff sheets seeking, or
14 otherwise petition the Commission for, reinstatement of a fuel
15 adjustment clause.

16 (c) Notwithstanding any contrary or inconsistent
17 provisions in Section 9-201 of this Act, in subsection (a) of
18 this Section or in any rules or regulations promulgated by the
19 Commission pursuant to subsection (g) of this Section, a public
20 utility providing electric service, other than a public utility
21 described in subsection (e) or (f) of this Section, may at any
22 time during the mandatory transition period file with the
23 Commission proposed tariff sheets that establish the rate per
24 kilowatt-hour to be applied pursuant to the public utility's
25 fuel adjustment clause at the average value for such rate
26 during the preceding 24 months, provided that such average rate

1 results in a credit to customers' bills, without making any
2 revisions to the public utility's base rate tariffs. The
3 proposed tariff sheets shall establish the fuel adjustment rate
4 for a specific time period of at least 3 years but not more
5 than 5 years, provided that the terms and conditions for any
6 reinstatement earlier than 5 years shall be set forth in the
7 proposed tariff sheets and subject to modification or approval
8 by the Commission. The Commission shall review and shall by
9 order approve the proposed tariff sheets if it finds that the
10 requirements of this subsection are met. The Commission shall
11 not conduct the annual hearings specified in the last 3
12 sentences of subsection (a) of this Section for the utility for
13 the period that the factor established pursuant to this
14 subsection is in effect.

15 (d) A public utility providing electric service, or a
16 public utility providing gas service may file with the
17 Commission proposed tariff sheets that eliminate the public
18 utility's fuel or purchased gas adjustment clause and adjust
19 the public utility's base rate tariffs to provide for recovery
20 of power supply costs or gas supply costs that would have been
21 recovered through such clause; provided, that the provisions of
22 this subsection (d) shall not be available to a public utility
23 described in subsections (e) or (f) of this Section to
24 eliminate its fuel adjustment clause. Notwithstanding any
25 contrary or inconsistent provisions in Section 9-201 of this
26 Act, in subsection (a) of this Section, or in any rules or

1 regulations promulgated by the Commission pursuant to
2 subsection (g) of this Section, the Commission shall review and
3 shall by order approve, or approve as modified in the
4 Commission's order, the proposed tariff sheets within 240 days
5 after the date of the public utility's filing. The Commission's
6 order shall approve rates and charges that the Commission,
7 based on information in the public utility's filing or on the
8 record if a hearing is held by the Commission, finds will
9 recover the reasonable, prudent and necessary jurisdictional
10 power supply costs or gas supply costs incurred or to be
11 incurred by the public utility during a 12 month period found
12 by the Commission to be appropriate for these purposes,
13 provided, that such period shall be either (i) a 12 month
14 historical period occurring during the 15 months ending on the
15 date of the public utility's filing, or (ii) a 12 month future
16 period ending no later than 15 months following the date of the
17 public utility's filing. The public utility shall include with
18 its tariff filing information showing both (1) its actual
19 jurisdictional power supply costs or gas supply costs for a 12
20 month historical period conforming to (i) above and (2) its
21 projected jurisdictional power supply costs or gas supply costs
22 for a future 12 month period conforming to (ii) above. If the
23 Commission's order requires modifications in the tariff sheets
24 filed by the public utility, the public utility shall have 7
25 days following the date of the order to notify the Commission
26 whether the public utility will implement the modified tariffs

1 or elect to continue its fuel or purchased gas adjustment
2 clause in force as though no order had been entered. The
3 Commission's order shall provide for any reconciliation of
4 power supply costs or gas supply costs, as the case may be, and
5 associated revenues through the date that the public utility's
6 fuel or purchased gas adjustment clause is eliminated. During
7 the 5 years following the date of the Commission's order, a
8 public utility whose fuel or purchased gas adjustment clause
9 has been eliminated pursuant to this subsection shall not file
10 proposed tariff sheets seeking, or otherwise petition the
11 Commission for, reinstatement or adoption of a fuel or
12 purchased gas adjustment clause. Nothing in this subsection (d)
13 shall be construed as limiting the Commission's authority to
14 eliminate a public utility's fuel adjustment clause or
15 purchased gas adjustment clause in accordance with any other
16 applicable provisions of this Act.

17 (e) Notwithstanding any contrary or inconsistent
18 provisions in Section 9-201 of this Act, in subsection (a) of
19 this Section, or in any rules promulgated by the Commission
20 pursuant to subsection (g) of this Section, a public utility
21 providing electric service to more than 1,000,000 customers in
22 this State may, within the first 6 months after the effective
23 date of this amendatory Act of 1997, file with the Commission
24 proposed tariff sheets that eliminate, effective January 1,
25 1997, the public utility's fuel adjustment clause without
26 adjusting its base rates, and such tariff sheets shall be

1 effective upon filing. To the extent the application of the
2 fuel adjustment clause had resulted in net charges to customers
3 after January 1, 1997, the utility shall also file a tariff
4 sheet that provides for a refund stated on a per kilowatt-hour
5 basis of such charges over a period not to exceed 6 months;
6 provided however, that such refund shall not include the
7 proportional amounts of taxes paid under the Use Tax Act,
8 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
9 Occupation Tax Act on fuel used in generation. The Commission
10 shall issue an order within 45 days after the date of the
11 public utility's filing approving or approving as modified such
12 tariff sheet. If the fuel adjustment clause is eliminated
13 pursuant to this subsection, the Commission shall not conduct
14 the annual hearings specified in the last 3 sentences of
15 subsection (a) of this Section for the utility for any period
16 after December 31, 1996 and prior to any reinstatement of such
17 clause. A public utility whose fuel adjustment clause has been
18 eliminated pursuant to this subsection shall not file a
19 proposed tariff sheet seeking, or otherwise petition the
20 Commission for, reinstatement of the fuel adjustment clause
21 prior to January 1, 2007.

22 (f) Notwithstanding any contrary or inconsistent
23 provisions in Section 9-201 of this Act, in subsection (a) of
24 this Section, or in any rules or regulations promulgated by the
25 Commission pursuant to subsection (g) of this Section, a public
26 utility providing electric service to more than 500,000

1 customers but fewer than 1,000,000 customers in this State may,
2 within the first 6 months after the effective date of this
3 amendatory Act of 1997, file with the Commission proposed
4 tariff sheets that eliminate, effective January 1, 1997, the
5 public utility's fuel adjustment clause and adjust its base
6 rates by the amount necessary for the base fuel component of
7 the base rates to recover 91% of the public utility's average
8 fuel and power supply costs for the 2 most recent years for
9 which the Commission, as of January 1, 1997, has issued final
10 orders in annual proceedings pursuant to subsection (a), where
11 the average fuel and power supply costs per kilowatt-hour shall
12 be calculated as the sum of the public utility's prudent and
13 allowable fuel and power supply costs as found by the
14 Commission in the 2 proceedings divided by the public utility's
15 actual jurisdictional kilowatt-hour sales for those 2 years,
16 provided, that such tariff sheets shall be effective upon
17 filing. To the extent the application of the fuel adjustment
18 clause had resulted in net charges to customers after January
19 1, 1997, the utility shall also file a tariff sheet that
20 provides for a refund stated on a per kilowatt-hour basis of
21 such charges over a period not to exceed 6 months. Provided
22 however, that such refund shall not include the proportional
23 amounts of taxes paid under the Use Tax Act, Service Use Tax
24 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
25 Act on fuel used in generation. The Commission shall issue an
26 order within 45 days after the date of the public utility's

1 filing approving or approving as modified such tariff sheet. If
2 the fuel adjustment clause is eliminated pursuant to this
3 subsection, the Commission shall not conduct the annual
4 hearings specified in the last 3 sentences of subsection (a) of
5 this Section for the utility for any period after December 31,
6 1996 and prior to any reinstatement of such clause. A public
7 utility whose fuel adjustment clause has been eliminated
8 pursuant to this subsection shall not file a proposed tariff
9 sheet seeking, or otherwise petition the Commission for,
10 reinstatement of the fuel adjustment clause prior to January 1,
11 2007.

12 (g) The Commission shall have authority to promulgate rules
13 and regulations to carry out the provisions of this Section.

14 (h) Any Illinois gas utility may enter into a contract on
15 or before September 30, 2011 for up to 10 years of supply with
16 any company for the purchase of substitute natural gas (SNG)
17 produced from coal through the gasification process if the
18 company has commenced construction of a clean coal SNG facility
19 by July 1, 2012 and commencement of construction shall mean
20 that material physical site work has occurred, such as site
21 clearing and excavation, water runoff prevention, water
22 retention reservoir preparation, or foundation development.
23 The contract shall contain the following provisions: (i) at
24 least 90% of feedstock to be used in the gasification process
25 shall be coal with a high volatile bituminous rank and greater
26 than 1.7 pounds of sulfur per million Btu content; (ii) at the

1 time the contract term commences, the price per million Btu may
2 not exceed \$7.95 in 2008 dollars, adjusted annually based on
3 the change in the Annual Consumer Price Index for All Urban
4 Consumers for the Midwest Region as published in April by the
5 United States Department of Labor, Bureau of Labor Statistics
6 (or a suitable Consumer Price Index calculation if this
7 Consumer Price Index is not available) for the previous
8 calendar year; provided that the price per million Btu shall
9 not exceed \$9.95 at any time during the contract; (iii) the
10 utility's supply contract for the purchase of SNG does not
11 exceed 15% of the annual system supply requirements of the
12 utility as of 2008; and (iv) the contract costs pursuant to
13 subsection (h-10) of this Section shall not include any
14 lobbying expenses, charitable contributions, advertising,
15 organizational memberships, carbon dioxide pipeline or
16 sequestration expenses, or marketing expenses.

17 Any gas utility that is providing service to more than
18 150,000 customers on August 2, 2011 (the effective date of
19 Public Act 97-239) shall either elect to enter into a contract
20 on or before September 30, 2011 for 10 years of SNG supply with
21 the owner of a clean coal SNG facility or to file biennial rate
22 proceedings before the Commission in the years 2012, 2014, and
23 2016, with such filings made after August 2, 2011 and no later
24 than September 30 of the years 2012, 2014, and 2016 consistent
25 with all requirements of 83 Ill. Adm. Code 255 and 285 as
26 though the gas utility were filing for an increase in its

1 rates, without regard to whether such filing would produce an
2 increase, a decrease, or no change in the gas utility's rates,
3 and the Commission shall review the gas utility's filing and
4 shall issue its order in accordance with the provisions of
5 Section 9-201 of this Act.

6 Within 7 days after August 2, 2011, the owner of the clean
7 coal SNG facility shall submit to the Illinois Power Agency and
8 each gas utility that is providing service to more than 150,000
9 customers on August 2, 2011 a copy of a draft contract. Within
10 30 days after the receipt of the draft contract, each such gas
11 utility shall provide the Illinois Power Agency and the owner
12 of the clean coal SNG facility with its comments and
13 recommended revisions to the draft contract. Within 7 days
14 after the receipt of the gas utility's comments and recommended
15 revisions, the owner of the facility shall submit its
16 responsive comments and a further revised draft of the contract
17 to the Illinois Power Agency. The Illinois Power Agency shall
18 review the draft contract and comments.

19 During its review of the draft contract, the Illinois Power
20 Agency shall:

21 (1) review and confirm in writing that the terms stated
22 in this subsection (h) are incorporated in the SNG
23 contract;

24 (2) review the SNG pricing formula included in the
25 contract and approve that formula if the Illinois Power
26 Agency determines that the formula, at the time the

1 contract term commences: (A) starts with a price of \$6.50
2 per MMBtu adjusted by the adjusted final capitalized plant
3 cost; (B) takes into account budgeted miscellaneous net
4 revenue after cost allowance, including sale of SNG
5 produced by the clean coal SNG facility above the nameplate
6 capacity of the facility and other by-products produced by
7 the facility, as approved by the Illinois Power Agency; (C)
8 does not include carbon dioxide transportation or
9 sequestration expenses; and (D) includes all provisions
10 required under this subsection (h); if the Illinois Power
11 Agency does not approve of the SNG pricing formula, then
12 the Illinois Power Agency shall modify the formula to
13 ensure that it meets the requirements of this subsection
14 (h);

15 (3) review and approve the amount of budgeted
16 miscellaneous net revenue after cost allowance, including
17 sale of SNG produced by the clean coal SNG facility above
18 the nameplate capacity of the facility and other
19 by-products produced by the facility, to be included in the
20 pricing formula; the Illinois Power Agency shall approve
21 the amount of budgeted miscellaneous net revenue to be
22 included in the pricing formula if it determines the
23 budgeted amount to be reasonable and accurate;

24 (4) review and confirm in writing that using the EIA
25 Annual Energy Outlook-2011 Henry Hub Spot Price, the
26 contract terms set out in subsection (h), the

1 reconciliation account terms as set out in subsection
2 (h-15), and an estimated inflation rate of 2.5% for each
3 corresponding year, that there will be no cumulative
4 estimated increase for residential customers; and

5 (5) allocate the nameplate capacity of the clean coal
6 SNG by total therms sold to ultimate customers by each gas
7 utility in 2008; provided, however, no utility shall be
8 required to purchase more than 42% of the projected annual
9 output of the facility; additionally, the Illinois Power
10 Agency shall further adjust the allocation only as required
11 to take into account (A) adverse consolidation,
12 derivative, or lease impacts to the balance sheet or income
13 statement of any gas utility or (B) the physical capacity
14 of the gas utility to accept SNG.

15 If the parties to the contract do not agree on the terms
16 therein, then the Illinois Power Agency shall retain an
17 independent mediator to mediate the dispute between the
18 parties. If the parties are in agreement on the terms of the
19 contract, then the Illinois Power Agency shall approve the
20 contract. If after mediation the parties have failed to come to
21 agreement, then the Illinois Power Agency shall revise the
22 draft contract as necessary to confirm that the contract
23 contains only terms that are reasonable and equitable. The
24 Illinois Power Agency may, in its discretion, retain an
25 independent, qualified, and experienced expert to assist in its
26 obligations under this subsection (h). The Illinois Power

1 Agency shall adopt and make public policies detailing the
2 processes for retaining a mediator and an expert under this
3 subsection (h). Any mediator or expert retained under this
4 subsection (h) shall be retained no later than 60 days after
5 August 2, 2011.

6 The Illinois Power Agency shall complete all of its
7 responsibilities under this subsection (h) within 60 days after
8 August 2, 2011. The clean coal SNG facility shall pay a
9 reasonable fee as required by the Illinois Power Agency for its
10 services under this subsection (h) and shall pay the mediator's
11 and expert's reasonable fees, if any. A gas utility and its
12 customers shall have no obligation to reimburse the clean coal
13 SNG facility or the Illinois Power Agency of any such costs.

14 Within 30 days after commercial production of SNG has
15 begun, the Commission shall initiate a review to determine
16 whether the final capitalized plant cost of the clean coal SNG
17 facility reflects actual incurred costs and whether the
18 incurred costs were reasonable. In determining the actual
19 incurred costs included in the final capitalized plant cost and
20 the reasonableness of those costs, the Commission may in its
21 discretion retain independent, qualified, and experienced
22 experts to assist in its determination. The expert shall not
23 own or control any direct or indirect interest in the clean
24 coal SNG facility and shall have no contractual relationship
25 with the clean coal SNG facility. If an expert is retained by
26 the Commission, then the clean coal SNG facility shall pay the

1 expert's reasonable fees. The fees shall not be passed on to a
2 utility or its customers. The Commission shall adopt and make
3 public a policy detailing the process for retaining experts
4 under this subsection (h).

5 Within 30 days after completion of its review, the
6 Commission shall initiate a formal proceeding on the final
7 capitalized plant cost of the clean coal SNG facility at which
8 comments and testimony may be submitted by any interested
9 parties and the public. If the Commission finds that the final
10 capitalized plant cost includes costs that were not actually
11 incurred or costs that were unreasonably incurred, then the
12 Commission shall disallow the amount of non-incurred or
13 unreasonable costs from the SNG price under contracts entered
14 into under this subsection (h). If the Commission disallows any
15 costs, then the Commission shall adjust the SNG price using the
16 price formula in the contract approved by the Illinois Power
17 Agency under this subsection (h) to reflect the disallowed
18 costs and shall enter an order specifying the revised price. In
19 addition, the Commission's order shall direct the clean coal
20 SNG facility to issue refunds of such sums as shall represent
21 the difference between actual gross revenues and the gross
22 revenue that would have been obtained based upon the same
23 volume, from the price revised by the Commission. Any refund
24 shall include interest calculated at a rate determined by the
25 Commission and shall be returned according to procedures
26 prescribed by the Commission.

1 Nothing in this subsection (h) shall preclude any party
2 affected by a decision of the Commission under this subsection
3 (h) from seeking judicial review of the Commission's decision.

4 (h-1) Any Illinois gas utility may enter into a sourcing
5 agreement for up to 30 years of supply with the clean coal SNG
6 brownfield facility if the clean coal SNG brownfield facility
7 has commenced construction. Any gas utility that is providing
8 service to more than 150,000 customers on July 13, 2011 (the
9 effective date of Public Act 97-096) shall either elect to file
10 biennial rate proceedings before the Commission in the years
11 2012, 2014, and 2016 or enter into a sourcing agreement or
12 sourcing agreements with a clean coal SNG brownfield facility
13 with an initial term of 30 years for either (i) a percentage of
14 43,500,000,000 cubic feet per year, such that the utilities
15 entering into sourcing agreements with the clean coal SNG
16 brownfield facility purchase 100%, allocated by total therms
17 sold to ultimate customers by each gas utility in 2008 or (ii)
18 such lesser amount as may be available from the clean coal SNG
19 brownfield facility; provided that no utility shall be required
20 to purchase more than 42% of the projected annual output of the
21 clean coal SNG brownfield facility, with the remainder of such
22 utility's obligation to be divided proportionately between the
23 other utilities, and provided that the Illinois Power Agency
24 shall further adjust the allocation only as required to take
25 into account adverse consolidation, derivative, or lease
26 impacts to the balance sheet or income statement of any gas

1 utility.

2 A gas utility electing to file biennial rate proceedings
3 before the Commission must file a notice of its election with
4 the Commission within 60 days after July 13, 2011 or its right
5 to make the election is irrevocably waived. A gas utility
6 electing to file biennial rate proceedings shall make such
7 filings no later than August 1 of the years 2012, 2014, and
8 2016, consistent with all requirements of 83 Ill. Adm. Code 255
9 and 285 as though the gas utility were filing for an increase
10 in its rates, without regard to whether such filing would
11 produce an increase, a decrease, or no change in the gas
12 utility's rates, and notwithstanding any other provisions of
13 this Act, the Commission shall fully review the gas utility's
14 filing and shall issue its order in accordance with the
15 provisions of Section 9-201 of this Act, regardless of whether
16 the Commission has approved a formula rate for the gas utility.

17 Within 15 days after July 13, 2011, the owner of the clean
18 coal SNG brownfield facility shall submit to the Illinois Power
19 Agency and each gas utility that is providing service to more
20 than 150,000 customers on July 13, 2011 a copy of a draft
21 sourcing agreement. Within 45 days after receipt of the draft
22 sourcing agreement, each such gas utility shall provide the
23 Illinois Power Agency and the owner of a clean coal SNG
24 brownfield facility with its comments and recommended
25 revisions to the draft sourcing agreement. Within 15 days after
26 the receipt of the gas utility's comments and recommended

1 revisions, the owner of the clean coal SNG brownfield facility
2 shall submit its responsive comments and a further revised
3 draft of the sourcing agreement to the Illinois Power Agency.
4 The Illinois Power Agency shall review the draft sourcing
5 agreement and comments.

6 If the parties to the sourcing agreement do not agree on
7 the terms therein, then the Illinois Power Agency shall retain
8 an independent mediator to mediate the dispute between the
9 parties. If the parties are in agreement on the terms of the
10 sourcing agreement, the Illinois Power Agency shall approve the
11 final draft sourcing agreement. If after mediation the parties
12 have failed to come to agreement, then the Illinois Power
13 Agency shall revise the draft sourcing agreement as necessary
14 to confirm that the final draft sourcing agreement contains
15 only terms that are reasonable and equitable. The Illinois
16 Power Agency shall adopt and make public a policy detailing the
17 process for retaining a mediator under this subsection (h-1).
18 Any mediator retained to assist with mediating disputes between
19 the parties regarding the sourcing agreement shall be retained
20 no later than 60 days after July 13, 2011.

21 Upon approval of a final draft agreement, the Illinois
22 Power Agency shall submit the final draft agreement to the
23 Capital Development Board and the Commission no later than 90
24 days after July 13, 2011. The gas utility and the clean coal
25 SNG brownfield facility shall pay a reasonable fee as required
26 by the Illinois Power Agency for its services under this

1 subsection (h-1) and shall pay the mediator's reasonable fees,
2 if any. The Illinois Power Agency shall adopt and make public a
3 policy detailing the process for retaining a mediator under
4 this Section.

5 The sourcing agreement between a gas utility and the clean
6 coal SNG brownfield facility shall contain the following
7 provisions:

8 (1) Any and all coal used in the gasification process
9 must be coal that has high volatile bituminous rank and
10 greater than 1.7 pounds of sulfur per million Btu content.

11 (2) Coal and petroleum coke are feedstocks for the
12 gasification process, with coal comprising at least 50% of
13 the total feedstock over the term of the sourcing agreement
14 unless the facility reasonably determines that it is
15 necessary to use additional petroleum coke to deliver net
16 consumer savings, in which case the facility shall use coal
17 for at least 35% of the total feedstock over the term of
18 any sourcing agreement and with the feedstocks to be
19 procured in accordance with requirements of Section 1-78 of
20 the Illinois Power Agency Act.

21 (3) The sourcing agreement has an initial term that
22 once entered into terminates no more than 30 years after
23 the commencement of the commercial production of SNG at the
24 clean coal SNG brownfield facility.

25 (4) The clean coal SNG brownfield facility guarantees a
26 minimum of \$100,000,000 in consumer savings to customers of

1 the utilities that have entered into sourcing agreements
2 with the clean coal SNG brownfield facility, calculated in
3 real 2010 dollars at the conclusion of the term of the
4 sourcing agreement by comparing the delivered SNG price to
5 the Chicago City-gate price on a weighted daily basis for
6 each day over the entire term of the sourcing agreement, to
7 be provided in accordance with subsection (h-2) of this
8 Section.

9 (5) Prior to the clean coal SNG brownfield facility
10 issuing a notice to proceed to construction, the clean coal
11 SNG brownfield facility shall establish a consumer
12 protection reserve account for the benefit of the customers
13 of the utilities that have entered into sourcing agreements
14 with the clean coal SNG brownfield facility pursuant to
15 this subsection (h-1), with cash principal in the amount of
16 \$150,000,000. This cash principal shall only be
17 recoverable through the consumer protection reserve
18 account and not as a cost to be recovered in the delivered
19 SNG price pursuant to subsection (h-3) of this Section. The
20 consumer protection reserve account shall be maintained
21 and administered by an independent trustee that is mutually
22 agreed upon by the clean coal SNG brownfield facility, the
23 utilities, and the Commission in an interest-bearing
24 account in accordance with subsection (h-2) of this
25 Section.

26 "Consumer protection reserve account principal maximum

1 amount" shall mean the maximum amount of principal to be
2 maintained in the consumer protection reserve account.
3 During the first 2 years of operation of the facility,
4 there shall be no consumer protection reserve account
5 maximum amount. After the first 2 years of operation of the
6 facility, the consumer protection reserve account maximum
7 amount shall be \$150,000,000. After 5 years of operation,
8 and every 5 years thereafter, the trustee shall calculate
9 the 5-year average balance of the consumer protection
10 reserve account. If the trustee determines that during the
11 prior 5 years the consumer protection reserve account has
12 had an average account balance of less than \$75,000,000,
13 then the consumer protection reserve account principal
14 maximum amount shall be increased by \$5,000,000. If the
15 trustee determines that during the prior 5 years the
16 consumer protection reserve account has had an average
17 account balance of more than \$75,000,000, then the consumer
18 protection reserve account principal maximum amount shall
19 be decreased by \$5,000,000.

20 (6) The clean coal SNG brownfield facility shall
21 identify and sell economically viable by-products produced
22 by the facility.

23 (7) Fifty percent of all additional net revenue,
24 defined as miscellaneous net revenue from products
25 produced by the facility and delivered during the month
26 after cost allowance for costs associated with additional

1 net revenue that are not otherwise recoverable pursuant to
2 subsection (h-3) of this Section, including net revenue
3 from sales of substitute natural gas derived from the
4 facility above the nameplate capacity of the facility and
5 other by-products produced by the facility, shall be
6 credited to the consumer protection reserve account
7 pursuant to subsection (h-2) of this Section.

8 (8) The delivered SNG price per million btu to be paid
9 monthly by the utility to the clean coal SNG brownfield
10 facility, which shall be based only upon the following: (A)
11 a capital recovery charge, operations and maintenance
12 costs, and sequestration costs, only to the extent approved
13 by the Commission pursuant to paragraphs (1), (2), and (3)
14 of subsection (h-3) of this Section; (B) the actual
15 delivered and processed fuel costs pursuant to paragraph
16 (4) of subsection (h-3) of this Section; (C) actual costs
17 of SNG transportation pursuant to paragraph (6) of
18 subsection (h-3) of this Section; (D) certain taxes and
19 fees imposed by the federal government, the State, or any
20 unit of local government as provided in paragraph (6) of
21 subsection (h-3) of this Section; and (E) the credit, if
22 any, from the consumer protection reserve account pursuant
23 to subsection (h-2) of this Section. The delivered SNG
24 price per million Btu shall proportionately reflect these
25 elements over the term of the sourcing agreement.

26 (9) A formula to translate the recoverable costs and

1 charges under subsection (h-3) of this Section into the
2 delivered SNG price per million btu.

3 (10) Title to the SNG shall pass at a mutually
4 agreeable point in Illinois, and may provide that, rather
5 than the utility taking title to the SNG, a mutually agreed
6 upon third-party gas marketer pursuant to a contract
7 approved by the Illinois Power Agency or its designee may
8 take title to the SNG pursuant to an agreement between the
9 utility, the owner of the clean coal SNG brownfield
10 facility, and the third-party gas marketer.

11 (11) A utility may exit the sourcing agreement without
12 penalty if the clean coal SNG brownfield facility does not
13 commence construction by July 1, 2015.

14 (12) A utility is responsible to pay only the
15 Commission determined unit price cost of SNG that is
16 purchased by the utility. Nothing in the sourcing agreement
17 will obligate a utility to invest capital in a clean coal
18 SNG brownfield facility.

19 (13) The quality of SNG must, at a minimum, be
20 equivalent to the quality required for interstate pipeline
21 gas before a utility is required to accept and pay for SNG
22 gas.

23 (14) Nothing in the sourcing agreement will require a
24 utility to construct any facilities to accept delivery of
25 SNG. Provided, however, if a utility is required by law or
26 otherwise elects to connect the clean coal SNG brownfield

1 facility to an interstate pipeline, then the utility shall
2 be entitled to recover pursuant to its tariffs all just and
3 reasonable costs that are prudently incurred. Any costs
4 incurred by the utility to receive, deliver, manage, or
5 otherwise accommodate purchases under the SNG sourcing
6 agreement will be fully recoverable through a utility's
7 purchased gas adjustment clause rider mechanism in
8 conjunction with a SNG brownfield facility rider
9 mechanism. The SNG brownfield facility rider mechanism (A)
10 shall be applicable to all customers who receive
11 transportation service from the utility, (B) shall be
12 designed to have an equal percent impact on the
13 transportation services rates of each class of the
14 utility's customers, and (C) shall accurately reflect the
15 net consumer savings, if any, and above-market costs, if
16 any, associated with the utility receiving, delivering,
17 managing, or otherwise accommodating purchases under the
18 SNG sourcing agreement.

19 (15) Remedies for the clean coal SNG brownfield
20 facility's failure to deliver a designated amount for a
21 designated period.

22 (16) The clean coal SNG brownfield facility shall make
23 a good faith effort to ensure that an amount equal to not
24 less than 15% of the value of its prime construction
25 contract for the facility shall be established as a goal to
26 be awarded to minority-owned ~~minority-owned~~ businesses,

1 women-owned ~~female-owned~~ businesses, and businesses owned
2 by a person with a disability; provided that at least 75%
3 of the amount of such total goal shall be for
4 minority-owned ~~minority-owned~~ businesses. "Minority-owned
5 ~~Minority-owned~~ business", "women-owned ~~female-owned~~
6 business", and "business owned by a person with a
7 disability" shall have the meanings ascribed to them in
8 Section 2 of the Business Enterprise for Minorities, Women,
9 ~~Females~~ and Persons with Disabilities Act.

10 (17) Prior to the clean coal SNG brownfield facility
11 issuing a notice to proceed to construction, the clean coal
12 SNG brownfield facility shall file with the Commission a
13 certificate from an independent engineer that the clean
14 coal SNG brownfield facility has (A) obtained all
15 applicable State and federal environmental permits
16 required for construction; (B) obtained approval from the
17 Commission of a carbon capture and sequestration plan; and
18 (C) obtained all necessary permits required for
19 construction for the transportation and sequestration of
20 carbon dioxide as set forth in the Commission-approved
21 carbon capture and sequestration plan.

22 (h-2) Consumer protection reserve account. The clean coal
23 SNG brownfield facility shall guarantee a minimum of
24 \$100,000,000 in consumer savings to customers of the utilities
25 that have entered into sourcing agreements with the clean coal
26 SNG brownfield facility, calculated in real 2010 dollars at the

1 conclusion of the term of the sourcing agreement by comparing
2 the delivered SNG price to the Chicago City-gate price on a
3 weighted daily basis for each day over the entire term of the
4 sourcing agreement. Prior to the clean coal SNG brownfield
5 facility issuing a notice to proceed to construction, the clean
6 coal SNG brownfield facility shall establish a consumer
7 protection reserve account for the benefit of the retail
8 customers of the utilities that have entered into sourcing
9 agreements with the clean coal SNG brownfield facility pursuant
10 to subsection (h-1), with cash principal in the amount of
11 \$150,000,000. Such cash principal shall only be recovered
12 through the consumer protection reserve account and not as a
13 cost to be recovered in the delivered SNG price pursuant to
14 subsection (h-3) of this Section. The consumer protection
15 reserve account shall be maintained and administered by an
16 independent trustee that is mutually agreed upon by the clean
17 coal SNG brownfield facility, the utilities, and the Commission
18 in an interest-bearing account in accordance with the
19 following:

20 (1) The clean coal SNG brownfield facility monthly
21 shall calculate (A) the difference between the monthly
22 delivered SNG price and the Chicago City-gate price, by
23 comparing the delivered SNG price, which shall include the
24 cost of transportation to the delivery point, if any, to
25 the Chicago City-gate price on a weighted daily basis for
26 each day of the prior month based upon a mutually agreed

1 upon published index and (B) the overage amount, if any, by
2 calculating the annualized incremental additional cost, if
3 any, of the delivered SNG in excess of 2.015% of the
4 average annual inflation-adjusted amounts paid by all gas
5 distribution customers in connection with natural gas
6 service during the 5 years ending May 31, 2010.

7 (2) During the first 2 years of operation of the
8 facility:

9 (A) to the extent there is an overage amount, the
10 consumer protection reserve account shall be used to
11 provide a credit to reduce the SNG price by an amount
12 equal to the overage amount; and

13 (B) to the extent the monthly delivered SNG price
14 is less than or equal to the Chicago City-gate price,
15 the utility shall credit the difference between the
16 monthly delivered SNG price and the monthly Chicago
17 City-gate price, if any, to the consumer protection
18 reserve account. Such credit issued pursuant to this
19 paragraph (B) shall be deemed prudent and reasonable
20 and not subject to a Commission prudence review;

21 (3) After 2 years of operation of the facility, and
22 monthly, on an on-going basis, thereafter:

23 (A) to the extent that the monthly delivered SNG
24 price is less than or equal to the Chicago City-gate
25 price, calculated using the weighted average of the
26 daily Chicago City-gate price on a daily basis over the

1 entire month, the utility shall credit the difference,
2 if any, to the consumer protection reserve account.
3 Such credit issued pursuant to this subparagraph (A)
4 shall be deemed prudent and reasonable and not subject
5 to a Commission prudence review;

6 (B) any amounts in the consumer protection reserve
7 account in excess of the consumer protection reserve
8 account principal maximum amount shall be distributed
9 as follows: (i) if retail customers have not realized
10 net consumer savings, calculated by comparing the
11 delivered SNG price to the weighted average of the
12 daily Chicago City-gate price on a daily basis over the
13 entire term of the sourcing agreement to date, then 50%
14 of any amounts in the consumer protection reserve
15 account in excess of the consumer protection reserve
16 account principal maximum shall be distributed to the
17 clean coal SNG brownfield facility, with the remaining
18 50% of any such additional amounts being credited to
19 retail customers, and (ii) if retail customers have
20 realized net consumer savings, then 100% of any amounts
21 in the consumer protection reserve account in excess of
22 the consumer protection reserve account principal
23 maximum shall be distributed to the clean coal SNG
24 brownfield facility; provided, however, that under no
25 circumstances shall the total cumulative amount
26 distributed to the clean coal SNG brownfield facility

1 under this subparagraph (B) exceed \$150,000,000;

2 (C) to the extent there is an overage amount, after
3 distributing the amounts pursuant to subparagraph (B)
4 of this paragraph (3), if any, the consumer protection
5 reserve account shall be used to provide a credit to
6 reduce the SNG price by an amount equal to the overage
7 amount;

8 (D) if retail customers have realized net consumer
9 savings, calculated by comparing the delivered SNG
10 price to the weighted average of the daily Chicago
11 City-gate price on a daily basis over the entire term
12 of the sourcing agreement to date, then after
13 distributing the amounts pursuant to subparagraphs (B)
14 and (C) of this paragraph (3), 50% of any additional
15 amounts in the consumer protection reserve account in
16 excess of the consumer protection reserve account
17 principal maximum shall be distributed to the clean
18 coal SNG brownfield facility, with the remaining 50% of
19 any such additional amounts being credited to retail
20 customers; provided, however, that if retail customers
21 have not realized such net consumer savings, no such
22 distribution shall be made to the clean coal SNG
23 brownfield facility, and 100% of such additional
24 amounts shall be credited to the retail customers to
25 the extent the consumer protection reserve account
26 exceeds the consumer protection reserve account

1 principal maximum amount.

2 (4) Fifty percent of all additional net revenue,
3 defined as miscellaneous net revenue after cost allowance
4 for costs associated with additional net revenue that are
5 not otherwise recoverable pursuant to subsection (h-3) of
6 this Section, including net revenue from sales of
7 substitute natural gas derived from the facility above the
8 nameplate capacity of the facility and other by-products
9 produced by the facility, shall be credited to the consumer
10 protection reserve account.

11 (5) At the conclusion of the term of the sourcing
12 agreement, to the extent retail customers have not saved
13 the minimum of \$100,000,000 in consumer savings as
14 guaranteed in this subsection (h-2), amounts in the
15 consumer protection reserve account shall be credited to
16 retail customers to the extent the retail customers have
17 saved the minimum of \$100,000,000; 50% of any additional
18 amounts in the consumer protection reserve account shall be
19 distributed to the company, and the remaining 50% shall be
20 distributed to retail customers.

21 (6) If, at the conclusion of the term of the sourcing
22 agreement, the customers have not saved the minimum
23 \$100,000,000 in savings as guaranteed in this subsection
24 (h-2) and the consumer protection reserve account has been
25 depleted, then the clean coal SNG brownfield facility shall
26 be liable for any remaining amount owed to the retail

1 customers to the extent that the customers are provided
2 with the \$100,000,000 in savings as guaranteed in this
3 subsection (h-2). The retail customers shall have first
4 priority in recovering that debt above any creditors,
5 except the original senior secured lender to the extent
6 that the original senior secured lender has any senior
7 secured debt outstanding, including any clean coal SNG
8 brownfield facility parent companies or affiliates.

9 (7) The clean coal SNG brownfield facility, the
10 utilities, and the trustee shall work together to take
11 commercially reasonable steps to minimize the tax impact of
12 these transactions, while preserving the consumer
13 benefits.

14 (8) The clean coal SNG brownfield facility shall each
15 month, starting in the facility's first year of commercial
16 operation, file with the Commission, in such form as the
17 Commission shall require, a report as to the consumer
18 protection reserve account. The monthly report must
19 contain the following information:

20 (A) the extent the monthly delivered SNG price is
21 greater than, less than, or equal to the Chicago
22 City-gate price;

23 (B) the amount credited or debited to the consumer
24 protection reserve account during the month;

25 (C) the amounts credited to consumers and
26 distributed to the clean coal SNG brownfield facility

1 during the month;

2 (D) the total amount of the consumer protection
3 reserve account at the beginning and end of the month;

4 (E) the total amount of consumer savings to date;

5 (F) a confidential summary of the inputs used to
6 calculate the additional net revenue; and

7 (G) any other additional information the
8 Commission shall require.

9 When any report is erroneous or defective or appears to
10 the Commission to be erroneous or defective, the Commission
11 may notify the clean coal SNG brownfield facility to amend
12 the report within 30 days, and, before or after the
13 termination of the 30-day period, the Commission may
14 examine the trustee of the consumer protection reserve
15 account or the officers, agents, employees, books,
16 records, or accounts of the clean coal SNG brownfield
17 facility and correct such items in the report as upon such
18 examination the Commission may find defective or
19 erroneous. All reports shall be under oath.

20 All reports made to the Commission by the clean coal
21 SNG brownfield facility and the contents of the reports
22 shall be open to public inspection and shall be deemed a
23 public record under the Freedom of Information Act. Such
24 reports shall be preserved in the office of the Commission.
25 The Commission shall publish an annual summary of the
26 reports prior to February 1 of the following year. The

1 annual summary shall be made available to the public on the
2 Commission's website and shall be submitted to the General
3 Assembly.

4 Any facility that fails to file a report required under
5 this paragraph (8) to the Commission within the time
6 specified or to make specific answer to any question
7 propounded by the Commission within 30 days from the time
8 it is lawfully required to do so, or within such further
9 time not to exceed 90 days as may in its discretion be
10 allowed by the Commission, shall pay a penalty of \$500 to
11 the Commission for each day it is in default.

12 Any person who willfully makes any false report to the
13 Commission or to any member, officer, or employee thereof,
14 any person who willfully in a report withholds or fails to
15 provide material information to which the Commission is
16 entitled under this paragraph (8) and which information is
17 either required to be filed by statute, rule, regulation,
18 order, or decision of the Commission or has been requested
19 by the Commission, and any person who willfully aids or
20 abets such person shall be guilty of a Class A misdemeanor.

21 (h-3) Recoverable costs and revenue by the clean coal SNG
22 brownfield facility.

23 (1) A capital recovery charge approved by the
24 Commission shall be recoverable by the clean coal SNG
25 brownfield facility under a sourcing agreement. The
26 capital recovery charge shall be comprised of capital costs

1 and a reasonable rate of return. "Capital costs" means
2 costs to be incurred in connection with the construction
3 and development of a facility, as defined in Section 1-10
4 of the Illinois Power Agency Act, and such other costs as
5 the Capital Development Board deems appropriate to be
6 recovered in the capital recovery charge.

7 (A) Capital costs. The Capital Development Board
8 shall calculate a range of capital costs that it
9 believes would be reasonable for the clean coal SNG
10 brownfield facility to recover under the sourcing
11 agreement. In making this determination, the Capital
12 Development Board shall review the facility cost
13 report, if any, of the clean coal SNG brownfield
14 facility, adjusting the results based on the change in
15 the Annual Consumer Price Index for All Urban Consumers
16 for the Midwest Region as published in April by the
17 United States Department of Labor, Bureau of Labor
18 Statistics, the final draft of the sourcing agreement,
19 and the rate of return approved by the Commission. In
20 addition, the Capital Development Board may consult as
21 much as it deems necessary with the clean coal SNG
22 brownfield facility and conduct whatever research and
23 investigation it deems necessary.

24 The Capital Development Board shall retain an
25 engineering expert to assist in determining both the
26 range of capital costs and the range of operations and

1 maintenance costs that it believes would be reasonable
2 for the clean coal SNG brownfield facility to recover
3 under the sourcing agreement. Provided, however, that
4 such expert shall: (i) not have been involved in the
5 clean coal SNG brownfield facility's facility cost
6 report, if any, (ii) not own or control any direct or
7 indirect interest in the initial clean coal facility,
8 and (iii) have no contractual relationship with the
9 clean coal SNG brownfield facility. In order to qualify
10 as an independent expert, a person or company must
11 have:

12 (i) direct previous experience conducting
13 front-end engineering and design studies for
14 large-scale energy facilities and administering
15 large-scale energy operations and maintenance
16 contracts, which may be particularized to the
17 specific type of financing associated with the
18 clean coal SNG brownfield facility;

19 (ii) an advanced degree in economics,
20 mathematics, engineering, or a related area of
21 study;

22 (iii) ten years of experience in the energy
23 sector, including construction and risk management
24 experience;

25 (iv) expertise in assisting companies with
26 obtaining financing for large-scale energy

1 projects, which may be particularized to the
2 specific type of financing associated with the
3 clean coal SNG brownfield facility;

4 (v) expertise in operations and maintenance
5 which may be particularized to the specific type of
6 operations and maintenance associated with the
7 clean coal SNG brownfield facility;

8 (vi) expertise in credit and contract
9 protocols;

10 (vii) adequate resources to perform and
11 fulfill the required functions and
12 responsibilities; and

13 (viii) the absence of a conflict of interest
14 and inappropriate bias for or against an affected
15 gas utility or the clean coal SNG brownfield
16 facility.

17 The clean coal SNG brownfield facility and the
18 Illinois Power Agency shall cooperate with the Capital
19 Development Board in any investigation it deems
20 necessary. The Capital Development Board shall make
21 its final determination of the range of capital costs
22 confidentially and shall submit that range to the
23 Commission in a confidential filing within 120 days
24 after July 13, 2011 (the effective date of Public Act
25 97-096). The clean coal SNG brownfield facility shall
26 submit to the Commission its estimate of the capital

1 costs to be recovered under the sourcing agreement.
2 Only after the clean coal SNG brownfield facility has
3 submitted this estimate shall the Commission publicly
4 announce the range of capital costs submitted by the
5 Capital Development Board.

6 In the event that the estimate submitted by the
7 clean coal SNG brownfield facility is within or below
8 the range submitted by the Capital Development Board,
9 the clean coal SNG brownfield facility's estimate
10 shall be approved by the Commission as the amount of
11 capital costs to be recovered under the sourcing
12 agreement. In the event that the estimate submitted by
13 the clean coal SNG brownfield facility is above the
14 range submitted by the Capital Development Board, the
15 amount of capital costs at the lowest end of the range
16 submitted by the Capital Development Board shall be
17 approved by the Commission as the amount of capital
18 costs to be recovered under the sourcing agreement.
19 Within 15 days after the Capital Development Board has
20 submitted its range and the clean coal SNG brownfield
21 facility has submitted its estimate, the Commission
22 shall approve the capital costs for the clean coal SNG
23 brownfield facility.

24 The Capital Development Board shall monitor the
25 construction of the clean coal SNG brownfield facility
26 for the full duration of construction to assess

1 potential cost overruns. The Capital Development
2 Board, in its discretion, may retain an expert to
3 facilitate such monitoring. The clean coal SNG
4 brownfield facility shall pay a reasonable fee as
5 required by the Capital Development Board for the
6 Capital Development Board's services under this
7 subsection (h-3) to be deposited into the Capital
8 Development Board Revolving Fund, and such fee shall
9 not be passed through to a utility or its customers. If
10 an expert is retained by the Capital Development Board
11 for monitoring of construction, then the clean coal SNG
12 brownfield facility must pay for the expert's
13 reasonable fees and such costs shall not be passed
14 through to a utility or its customers.

15 (B) Rate of Return. No later than 30 days after the
16 date on which the Illinois Power Agency submits a final
17 draft sourcing agreement, the Commission shall hold a
18 public hearing to determine the rate of return to be
19 recovered under the sourcing agreement. Rate of return
20 shall be comprised of the clean coal SNG brownfield
21 facility's actual cost of debt, including
22 mortgage-style amortization, and a reasonable return
23 on equity. The Commission shall post notice of the
24 hearing on its website no later than 10 days prior to
25 the date of the hearing. The Commission shall provide
26 the public and all interested parties, including the

1 gas utilities, the Attorney General, and the Illinois
2 Power Agency, an opportunity to be heard.

3 In determining the return on equity, the
4 Commission shall select a commercially reasonable
5 return on equity taking into account the return on
6 equity being received by developers of similar
7 facilities in or outside of Illinois, the need to
8 balance an incentive for clean-coal technology with
9 the need to protect ratepayers from high gas prices,
10 the risks being borne by the clean coal SNG brownfield
11 facility in the final draft sourcing agreement, and any
12 other information that the Commission may deem
13 relevant. The Commission may establish a return on
14 equity that varies with the amount of savings, if any,
15 to customers during the term of the sourcing agreement,
16 comparing the delivered SNG price to a daily weighted
17 average price of natural gas, based upon an index. The
18 Illinois Power Agency shall recommend a return on
19 equity to the Commission using the same criteria.
20 Within 60 days after receiving the final draft sourcing
21 agreement from the Illinois Power Agency, the
22 Commission shall approve the rate of return for the
23 clean coal brownfield facility. Within 30 days after
24 obtaining debt financing for the clean coal SNG
25 brownfield facility, the clean coal SNG brownfield
26 facility shall file a notice with the Commission

1 identifying the actual cost of debt.

2 (2) Operations and maintenance costs approved by the
3 Commission shall be recoverable by the clean coal SNG
4 brownfield facility under the sourcing agreement. The
5 operations and maintenance costs mean costs that have been
6 incurred for the administration, supervision, operation,
7 maintenance, preservation, and protection of the clean
8 coal SNG brownfield facility's physical plant.

9 The Capital Development Board shall calculate a range
10 of operations and maintenance costs that it believes would
11 be reasonable for the clean coal SNG brownfield facility to
12 recover under the sourcing agreement, incorporating an
13 inflation index or combination of inflation indices to most
14 accurately reflect the actual costs of operating the clean
15 coal SNG brownfield facility. In making this
16 determination, the Capital Development Board shall review
17 the facility cost report, if any, of the clean coal SNG
18 brownfield facility, adjusting the results for inflation
19 based on the change in the Annual Consumer Price Index for
20 All Urban Consumers for the Midwest Region as published in
21 April by the United States Department of Labor, Bureau of
22 Labor Statistics, the final draft of the sourcing
23 agreement, and the rate of return approved by the
24 Commission. In addition, the Capital Development Board may
25 consult as much as it deems necessary with the clean coal
26 SNG brownfield facility and conduct whatever research and

1 investigation it deems necessary. As set forth in
2 subparagraph (A) of paragraph (1) of this subsection (h-3),
3 the Capital Development Board shall retain an independent
4 engineering expert to assist in determining both the range
5 of operations and maintenance costs that it believes would
6 be reasonable for the clean coal SNG brownfield facility to
7 recover under the sourcing agreement. The clean coal SNG
8 brownfield facility and the Illinois Power Agency shall
9 cooperate with the Capital Development Board in any
10 investigation it deems necessary. The Capital Development
11 Board shall make its final determination of the range of
12 operations and maintenance costs confidentially and shall
13 submit that range to the Commission in a confidential
14 filing within 120 days after July 13, 2011.

15 The clean coal SNG brownfield facility shall submit to
16 the Commission its estimate of the operations and
17 maintenance costs to be recovered under the sourcing
18 agreement. Only after the clean coal SNG brownfield
19 facility has submitted this estimate shall the Commission
20 publicly announce the range of operations and maintenance
21 costs submitted by the Capital Development Board. In the
22 event that the estimate submitted by the clean coal SNG
23 brownfield facility is within or below the range submitted
24 by the Capital Development Board, the clean coal SNG
25 brownfield facility's estimate shall be approved by the
26 Commission as the amount of operations and maintenance

1 costs to be recovered under the sourcing agreement. In the
2 event that the estimate submitted by the clean coal SNG
3 brownfield facility is above the range submitted by the
4 Capital Development Board, the amount of operations and
5 maintenance costs at the lowest end of the range submitted
6 by the Capital Development Board shall be approved by the
7 Commission as the amount of operations and maintenance
8 costs to be recovered under the sourcing agreement. Within
9 15 days after the Capital Development Board has submitted
10 its range and the clean coal SNG brownfield facility has
11 submitted its estimate, the Commission shall approve the
12 operations and maintenance costs for the clean coal SNG
13 brownfield facility.

14 The clean coal SNG brownfield facility shall pay for
15 the independent engineering expert's reasonable fees and
16 such costs shall not be passed through to a utility or its
17 customers. The clean coal SNG brownfield facility shall pay
18 a reasonable fee as required by the Capital Development
19 Board for the Capital Development Board's services under
20 this subsection (h-3) to be deposited into the Capital
21 Development Board Revolving Fund, and such fee shall not be
22 passed through to a utility or its customers.

23 (3) Sequestration costs approved by the Commission
24 shall be recoverable by the clean coal SNG brownfield
25 facility. "Sequestration costs" means costs to be incurred
26 by the clean coal SNG brownfield facility in accordance

1 with its Commission-approved carbon capture and
2 sequestration plan to:

3 (A) capture carbon dioxide;

4 (B) build, operate, and maintain a sequestration
5 site in which carbon dioxide may be injected;

6 (C) build, operate, and maintain a carbon dioxide
7 pipeline; and

8 (D) transport the carbon dioxide to the
9 sequestration site or a pipeline.

10 The Commission shall assess the prudence of the
11 sequestration costs for the clean coal SNG brownfield
12 facility before construction commences at the
13 sequestration site or pipeline. Any revenues the clean coal
14 SNG brownfield facility receives as a result of the
15 capture, transportation, or sequestration of carbon
16 dioxide shall be first credited against all sequestration
17 costs, with the positive balance, if any, treated as
18 additional net revenue.

19 The Commission may, in its discretion, retain an expert
20 to assist in its review of sequestration costs. The clean
21 coal SNG brownfield facility shall pay for the expert's
22 reasonable fees if an expert is retained by the Commission,
23 and such costs shall not be passed through to a utility or
24 its customers. Once made, the Commission's determination
25 of the amount of recoverable sequestration costs shall not
26 be increased unless the clean coal SNG brownfield facility

1 can show by clear and convincing evidence that (i) the
2 costs were not reasonably foreseeable; (ii) the costs were
3 due to circumstances beyond the clean coal SNG brownfield
4 facility's control; and (iii) the clean coal SNG brownfield
5 facility took all reasonable steps to mitigate the costs.
6 If the Commission determines that sequestration costs may
7 be increased, the Commission shall provide for notice and a
8 public hearing for approval of the increased sequestration
9 costs.

10 (4) Actual delivered and processed fuel costs shall be
11 set by the Illinois Power Agency through a SNG feedstock
12 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
13 the Illinois Power Agency Act, to be performed at least
14 every 5 years and purchased by the clean coal SNG
15 brownfield facility pursuant to feedstock procurement
16 contracts developed by the Illinois Power Agency, with coal
17 comprising at least 50% of the total feedstock over the
18 term of the sourcing agreement and petroleum coke
19 comprising the remainder of the SNG feedstock. If the
20 Commission fails to approve a feedstock procurement plan or
21 fails to approve the results of a feedstock procurement
22 event, then the fuel shall be purchased by the company
23 month-by-month on the spot market and those actual
24 delivered and processed fuel costs shall be recoverable
25 under the sourcing agreement. If a supplier defaults under
26 the terms of a procurement contract, then the Illinois

1 Power Agency shall immediately initiate a feedstock
2 procurement process to obtain a replacement supply, and,
3 prior to the conclusion of that process, fuel shall be
4 purchased by the company month-by-month on the spot market
5 and those actual delivered and processed fuel costs shall
6 be recoverable under the sourcing agreement.

7 (5) Taxes and fees imposed by the federal government,
8 the State, or any unit of local government applicable to
9 the clean coal SNG brownfield facility, excluding income
10 tax, shall be recoverable by the clean coal SNG brownfield
11 facility under the sourcing agreement to the extent such
12 taxes and fees were not applicable to the facility on July
13 13, 2011.

14 (6) The actual transportation costs, in accordance
15 with the applicable utility's tariffs, and third-party
16 marketer costs incurred by the company, if any, associated
17 with transporting the SNG from the clean coal SNG
18 brownfield facility to the Chicago City-gate to sell such
19 SNG into the natural gas markets shall be recoverable under
20 the sourcing agreement.

21 (7) Unless otherwise provided, within 30 days after a
22 decision of the Commission on recoverable costs under this
23 Section, any interested party to the Commission's decision
24 may apply for a rehearing with respect to the decision. The
25 Commission shall receive and consider the application for
26 rehearing and shall grant or deny the application in whole

1 or in part within 20 days after the date of the receipt of
2 the application by the Commission. If no rehearing is
3 applied for within the required 30 days or an application
4 for rehearing is denied, then the Commission decision shall
5 be final. If an application for rehearing is granted, then
6 the Commission shall hold a rehearing within 30 days after
7 granting the application. The decision of the Commission
8 upon rehearing shall be final.

9 Any person affected by a decision of the Commission
10 under this subsection (h-3) may have the decision reviewed
11 only under and in accordance with the Administrative Review
12 Law. Unless otherwise provided, the provisions of the
13 Administrative Review Law, all amendments and
14 modifications to that Law, and the rules adopted pursuant
15 to that Law shall apply to and govern all proceedings for
16 the judicial review of final administrative decisions of
17 the Commission under this subsection (h-3). The term
18 "administrative decision" is defined as in Section 3-101 of
19 the Code of Civil Procedure.

20 (8) The Capital Development Board shall adopt and make
21 public a policy detailing the process for retaining experts
22 under this Section. Any experts retained to assist with
23 calculating the range of capital costs or operations and
24 maintenance costs shall be retained no later than 45 days
25 after July 13, 2011.

26 (h-4) No later than 90 days after the Illinois Power Agency

1 submits the final draft sourcing agreement pursuant to
2 subsection (h-1), the Commission shall approve a sourcing
3 agreement containing (i) the capital costs, rate of return, and
4 operations and maintenance costs established pursuant to
5 subsection (h-3) and (ii) all other terms and conditions,
6 rights, provisions, exceptions, and limitations contained in
7 the final draft sourcing agreement; provided, however, the
8 Commission shall correct typographical and scrivener's errors
9 and modify the contract only as necessary to provide that the
10 gas utility does not have the right to terminate the sourcing
11 agreement due to any future events that may occur other than
12 the clean coal SNG brownfield facility's failure to timely meet
13 milestones, uncured default, extended force majeure, or
14 abandonment. Once the sourcing agreement is approved, then the
15 gas utility subject to that sourcing agreement shall have 45
16 days after the date of the Commission's approval to enter into
17 the sourcing agreement.

18 (h-5) Sequestration enforcement.

19 (A) All contracts entered into under subsection (h) of
20 this Section and all sourcing agreements under subsection
21 (h-1) of this Section, regardless of duration, shall
22 require the owner of any facility supplying SNG under the
23 contract or sourcing agreement to provide certified
24 documentation to the Commission each year, starting in the
25 facility's first year of commercial operation, accurately
26 reporting the quantity of carbon dioxide emissions from the

1 facility that have been captured and sequestered and
2 reporting any quantities of carbon dioxide released from
3 the site or sites at which carbon dioxide emissions were
4 sequestered in prior years, based on continuous monitoring
5 of those sites.

6 (B) If, in any year, the owner of the clean coal SNG
7 facility fails to demonstrate that the SNG facility
8 captured and sequestered at least 90% of the total carbon
9 dioxide emissions that the facility would otherwise emit or
10 that sequestration of emissions from prior years has
11 failed, resulting in the release of carbon dioxide into the
12 atmosphere, then the owner of the clean coal SNG facility
13 must pay a penalty of \$20 per ton of excess carbon dioxide
14 emissions not to exceed \$40,000,000, in any given year
15 which shall be deposited into the Energy Efficiency Trust
16 Fund and distributed pursuant to subsection (b) of Section
17 6-6 of the Renewable Energy, Energy Efficiency, and Coal
18 Resources Development Law of 1997. On or before the 5-year
19 anniversary of the execution of the contract and every 5
20 years thereafter, an expert hired by the owner of the
21 facility with the approval of the Attorney General shall
22 conduct an analysis to determine the cost of sequestration
23 of at least 90% of the total carbon dioxide emissions the
24 plant would otherwise emit. If the analysis shows that the
25 actual annual cost is greater than the penalty, then the
26 penalty shall be increased to equal the actual cost.

1 Provided, however, to the extent that the owner of the
2 facility described in subsection (h) of this Section can
3 demonstrate that the failure was as a result of acts of God
4 (including fire, flood, earthquake, tornado, lightning,
5 hurricane, or other natural disaster); any amendment,
6 modification, or abrogation of any applicable law or
7 regulation that would prevent performance; war; invasion;
8 act of foreign enemies; hostilities (regardless of whether
9 war is declared); civil war; rebellion; revolution;
10 insurrection; military or usurped power or confiscation;
11 terrorist activities; civil disturbance; riots;
12 nationalization; sabotage; blockage; or embargo, the owner
13 of the facility described in subsection (h) of this Section
14 shall not be subject to a penalty if and only if (i) it
15 promptly provides notice of its failure to the Commission;
16 (ii) as soon as practicable and consistent with any order
17 or direction from the Commission, it submits to the
18 Commission proposed modifications to its carbon capture
19 and sequestration plan; and (iii) it carries out its
20 proposed modifications in the manner and time directed by
21 the Commission.

22 If the Commission finds that the facility has not
23 satisfied each of these requirements, then the facility
24 shall be subject to the penalty. If the owner of the clean
25 coal SNG facility captured and sequestered more than 90% of
26 the total carbon dioxide emissions that the facility would

1 otherwise emit, then the owner of the facility may credit
2 such additional amounts to reduce the amount of any future
3 penalty to be paid. The penalty resulting from the failure
4 to capture and sequester at least the minimum amount of
5 carbon dioxide shall not be passed on to a utility or its
6 customers.

7 If the clean coal SNG facility fails to meet the
8 requirements specified in this subsection (h-5), then the
9 Attorney General, on behalf of the People of the State of
10 Illinois, shall bring an action to enforce the obligations
11 related to the facility set forth in this subsection (h-5),
12 including any penalty payments owed, but not including the
13 physical obligation to capture and sequester at least 90%
14 of the total carbon dioxide emissions that the facility
15 would otherwise emit. Such action may be filed in any
16 circuit court in Illinois. By entering into a contract
17 pursuant to subsection (h) of this Section, the clean coal
18 SNG facility agrees to waive any objections to venue or to
19 the jurisdiction of the court with regard to the Attorney
20 General's action under this subsection (h-5).

21 Compliance with the sequestration requirements and any
22 penalty requirements specified in this subsection (h-5)
23 for the clean coal SNG facility shall be assessed annually
24 by the Commission, which may in its discretion retain an
25 expert to facilitate its assessment. If any expert is
26 retained by the Commission, then the clean coal SNG

1 facility shall pay for the expert's reasonable fees, and
2 such costs shall not be passed through to the utility or
3 its customers.

4 In addition, carbon dioxide emission credits received
5 by the clean coal SNG facility in connection with
6 sequestration of carbon dioxide from the facility must be
7 sold in a timely fashion with any revenue, less applicable
8 fees and expenses and any expenses required to be paid by
9 facility for carbon dioxide transportation or
10 sequestration, deposited into the reconciliation account
11 within 30 days after receipt of such funds by the owner of
12 the clean coal SNG facility.

13 The clean coal SNG facility is prohibited from
14 transporting or sequestering carbon dioxide unless the
15 owner of the carbon dioxide pipeline that transfers the
16 carbon dioxide from the facility and the owner of the
17 sequestration site where the carbon dioxide captured by the
18 facility is stored has acquired all applicable permits
19 under applicable State and federal laws, statutes, rules,
20 or regulations prior to the transfer or sequestration of
21 carbon dioxide. The responsibility for compliance with the
22 sequestration requirements specified in this subsection
23 (h-5) for the clean coal SNG facility shall reside solely
24 with the clean coal SNG facility, regardless of whether the
25 facility has contracted with another party to capture,
26 transport, or sequester carbon dioxide.

1 (C) If, in any year, the owner of a clean coal SNG
2 brownfield facility fails to demonstrate that the clean
3 coal SNG brownfield facility captured and sequestered at
4 least 85% of the total carbon dioxide emissions that the
5 facility would otherwise emit, then the owner of the clean
6 coal SNG brownfield facility must pay a penalty of \$20 per
7 ton of excess carbon emissions up to \$20,000,000, which
8 shall be deposited into the Energy Efficiency Trust Fund
9 and distributed pursuant to subsection (b) of Section 6-6
10 of the Renewable Energy, Energy Efficiency, and Coal
11 Resources Development Law of 1997. Provided, however, to
12 the extent that the owner of the clean coal SNG brownfield
13 facility can demonstrate that the failure was as a result
14 of acts of God (including fire, flood, earthquake, tornado,
15 lightning, hurricane, or other natural disaster); any
16 amendment, modification, or abrogation of any applicable
17 law or regulation that would prevent performance; war;
18 invasion; act of foreign enemies; hostilities (regardless
19 of whether war is declared); civil war; rebellion;
20 revolution; insurrection; military or usurped power or
21 confiscation; terrorist activities; civil disturbances;
22 riots; nationalization; sabotage; blockage; or embargo,
23 the owner of the clean coal SNG brownfield facility shall
24 not be subject to a penalty if and only if (i) it promptly
25 provides notice of its failure to the Commission; (ii) as
26 soon as practicable and consistent with any order or

1 direction from the Commission, it submits to the Commission
2 proposed modifications to its carbon capture and
3 sequestration plan; and (iii) it carries out its proposed
4 modifications in the manner and time directed by the
5 Commission. If the Commission finds that the facility has
6 not satisfied each of these requirements, then the facility
7 shall be subject to the penalty. If the owner of a clean
8 coal SNG brownfield facility demonstrates that the clean
9 coal SNG brownfield facility captured and sequestered more
10 than 85% of the total carbon emissions that the facility
11 would otherwise emit, the owner of the clean coal SNG
12 brownfield facility may credit such additional amounts to
13 reduce the amount of any future penalty to be paid. The
14 penalty resulting from the failure to capture and sequester
15 at least the minimum amount of carbon dioxide shall not be
16 passed on to a utility or its customers.

17 In addition to any penalty for the clean coal SNG
18 brownfield facility's failure to capture and sequester at
19 least its minimum sequestration requirement, the Attorney
20 General, on behalf of the People of the State of Illinois,
21 shall bring an action for specific performance of this
22 subsection (h-5). Such action may be filed in any circuit
23 court in Illinois. By entering into a sourcing agreement
24 pursuant to subsection (h-1) of this Section, the clean
25 coal SNG brownfield facility agrees to waive any objections
26 to venue or to the jurisdiction of the court with regard to

1 the Attorney General's action for specific performance
2 under this subsection (h-5).

3 Compliance with the sequestration requirements and
4 penalty requirements specified in this subsection (h-5)
5 for the clean coal SNG brownfield facility shall be
6 assessed annually by the Commission, which may in its
7 discretion retain an expert to facilitate its assessment.
8 If an expert is retained by the Commission, then the clean
9 coal SNG brownfield facility shall pay for the expert's
10 reasonable fees, and such costs shall not be passed through
11 to a utility or its customers. A SNG facility operating
12 pursuant to this subsection (h-5) shall not forfeit its
13 designation as a clean coal SNG facility or a clean coal
14 SNG brownfield facility if the facility fails to fully
15 comply with the applicable carbon sequestration
16 requirements in any given year, provided the requisite
17 offsets are purchased or requisite penalties are paid.

18 Responsibility for compliance with the sequestration
19 requirements specified in this subsection (h-5) for the
20 clean coal SNG brownfield facility shall reside solely with
21 the clean coal SNG brownfield facility regardless of
22 whether the facility has contracted with another party to
23 capture, transport, or sequester carbon dioxide.

24 (h-7) Sequestration permitting, oversight, and
25 investigations.

26 (1) No clean coal facility or clean coal SNG brownfield

1 facility may transport or sequester carbon dioxide unless
2 the Commission approves the method of carbon dioxide
3 transportation or sequestration. Such approval shall be
4 required regardless of whether the facility has contracted
5 with another to transport or sequester the carbon dioxide.
6 Nothing in this subsection (h-7) shall release the owner or
7 operator of a carbon dioxide sequestration site or carbon
8 dioxide pipeline from any other permitting requirements
9 under applicable State and federal laws, statutes, rules,
10 or regulations.

11 (2) The Commission shall review carbon dioxide
12 transportation and sequestration methods proposed by a
13 clean coal facility or a clean coal SNG brownfield facility
14 and shall approve those methods it deems reasonable and
15 cost-effective. For purposes of this review,
16 "cost-effective" means a commercially reasonable price for
17 similar carbon dioxide transportation or sequestration
18 techniques. In determining whether sequestration is
19 reasonable and cost-effective, the Commission may consult
20 with the Illinois State Geological Survey and retain third
21 parties to assist in its determination, provided that such
22 third parties shall not own or control any direct or
23 indirect interest in the facility that is proposing the
24 carbon dioxide transportation or the carbon dioxide
25 sequestration method and shall have no contractual
26 relationship with that facility. If a third party is

1 retained by the Commission, then the facility proposing the
2 carbon dioxide transportation or sequestration method
3 shall pay for the expert's reasonable fees, and these costs
4 shall not be passed through to a utility or its customers.

5 No later than 6 months prior to the date upon which the
6 owner intends to commence construction of a clean coal
7 facility or the clean coal SNG brownfield facility, the
8 owner of the facility shall file with the Commission a
9 carbon dioxide transportation or sequestration plan. The
10 Commission shall hold a public hearing within 30 days after
11 receipt of the facility's carbon dioxide transportation or
12 sequestration plan. The Commission shall post notice of the
13 review on its website upon submission of a carbon dioxide
14 transportation or sequestration method and shall accept
15 written public comments. The Commission shall take the
16 comments into account when making its decision.

17 The Commission may not approve a carbon dioxide
18 sequestration method if the owner or operator of the
19 sequestration site has not received (i) an Underground
20 Injection Control permit from the United States
21 Environmental Protection Agency, or from the Illinois
22 Environmental Protection Agency pursuant to the
23 Environmental Protection Act; (ii) an Underground
24 Injection Control permit from the Illinois Department of
25 Natural Resources pursuant to the Illinois Oil and Gas Act;
26 or (iii) an Underground Injection Control permit from the

1 United States Environmental Protection Agency or a permit
2 similar to items (i) or (ii) from the state in which the
3 sequestration site is located if the sequestration will
4 take place outside of Illinois. The Commission shall
5 approve or deny the carbon dioxide transportation or
6 sequestration method within 90 days after the receipt of
7 all required information.

8 (3) At least annually, the Illinois Environmental
9 Protection Agency shall inspect all carbon dioxide
10 sequestration sites in Illinois. The Illinois
11 Environmental Protection Agency may, as often as deemed
12 necessary, monitor and conduct investigations of those
13 sites. The owner or operator of the sequestration site must
14 cooperate with the Illinois Environmental Protection
15 Agency investigations of carbon dioxide sequestration
16 sites.

17 If the Illinois Environmental Protection Agency
18 determines at any time a site creates conditions that
19 warrant the issuance of a seal order under Section 34 of
20 the Environmental Protection Act, then the Illinois
21 Environmental Protection Agency shall seal the site
22 pursuant to the Environmental Protection Act. If the
23 Illinois Environmental Protection Agency determines at any
24 time a carbon dioxide sequestration site creates
25 conditions that warrant the institution of a civil action
26 for an injunction under Section 43 of the Environmental

1 Protection Act, then the Illinois Environmental Protection
2 Agency shall request the State's Attorney or the Attorney
3 General institute such action. The Illinois Environmental
4 Protection Agency shall provide notice of any such actions
5 as soon as possible on its website. The SNG facility shall
6 incur all reasonable costs associated with any such
7 inspection or monitoring of the sequestration sites, and
8 these costs shall not be recoverable from utilities or
9 their customers.

10 (4) (Blank).

11 (h-9) The clean coal SNG brownfield facility shall have the
12 right to recover prudently incurred increased costs or reduced
13 revenue resulting from any new or amendatory legislation or
14 other action. The State of Illinois pledges that the State will
15 not enact any law or take any action to:

16 (1) break, or repeal the authority for, sourcing
17 agreements approved by the Commission and entered into
18 between public utilities and the clean coal SNG brownfield
19 facility;

20 (2) deny public utilities full cost recovery for their
21 costs incurred under those sourcing agreements; or

22 (3) deny the clean coal SNG brownfield facility full
23 cost and revenue recovery as provided under those sourcing
24 agreements that are recoverable pursuant to subsection
25 (h-3) of this Section.

26 These pledges are for the benefit of the parties to those

1 sourcing agreements and the issuers and holders of bonds or
2 other obligations issued or incurred to finance or refinance
3 the clean coal SNG brownfield facility. The clean coal SNG
4 brownfield facility is authorized to include and refer to these
5 pledges in any financing agreement into which it may enter in
6 regard to those sourcing agreements.

7 The State of Illinois retains and reserves all other rights
8 to enact new or amendatory legislation or take any other
9 action, without impairment of the right of the clean coal SNG
10 brownfield facility to recover prudently incurred increased
11 costs or reduced revenue resulting from the new or amendatory
12 legislation or other action, including, but not limited to,
13 such legislation or other action that would (i) directly or
14 indirectly raise the costs the clean coal SNG brownfield
15 facility must incur; (ii) directly or indirectly place
16 additional restrictions, regulations, or requirements on the
17 clean coal SNG brownfield facility; (iii) prohibit
18 sequestration in general or prohibit a specific sequestration
19 method or project; or (iv) increase minimum sequestration
20 requirements for the clean coal SNG brownfield facility to the
21 extent technically feasible. The clean coal SNG brownfield
22 facility shall have the right to recover prudently incurred
23 increased costs or reduced revenue resulting from the new or
24 amendatory legislation or other action as described in this
25 subsection (h-9).

26 (h-10) Contract costs for SNG incurred by an Illinois gas

1 utility are reasonable and prudent and recoverable through the
2 purchased gas adjustment clause and are not subject to review
3 or disallowance by the Commission. Contract costs are costs
4 incurred by the utility under the terms of a contract that
5 incorporates the terms stated in subsection (h) of this Section
6 as confirmed in writing by the Illinois Power Agency as set
7 forth in subsection (h) of this Section, which confirmation
8 shall be deemed conclusive, or as a consequence of or condition
9 to its performance under the contract, including (i) amounts
10 paid for SNG under the SNG contract and (ii) costs of
11 transportation and storage services of SNG purchased from
12 interstate pipelines under federally approved tariffs. The
13 Illinois gas utility shall initiate a clean coal SNG facility
14 rider mechanism that (A) shall be applicable to all customers
15 who receive transportation service from the utility, (B) shall
16 be designed to have an equal percentage impact on the
17 transportation services rates of each class of the utility's
18 total customers, and (C) shall accurately reflect the net
19 customer savings, if any, and above market costs, if any, under
20 the SNG contract. Any contract, the terms of which have been
21 confirmed in writing by the Illinois Power Agency as set forth
22 in subsection (h) of this Section and the performance of the
23 parties under such contract cannot be grounds for challenging
24 prudence or cost recovery by the utility through the purchased
25 gas adjustment clause, and in such cases, the Commission is
26 directed not to consider, and has no authority to consider, any

1 attempted challenges.

2 The contracts entered into by Illinois gas utilities
3 pursuant to subsection (h) of this Section shall provide that
4 the utility retains the right to terminate the contract without
5 further obligation or liability to any party if the contract
6 has been impaired as a result of any legislative,
7 administrative, judicial, or other governmental action that is
8 taken that eliminates all or part of the prudence protection of
9 this subsection (h-10) or denies the recoverability of all or
10 part of the contract costs through the purchased gas adjustment
11 clause. Should any Illinois gas utility exercise its right
12 under this subsection (h-10) to terminate the contract, all
13 contract costs incurred prior to termination are and will be
14 deemed reasonable, prudent, and recoverable as and when
15 incurred and not subject to review or disallowance by the
16 Commission. Any order, issued by the State requiring or
17 authorizing the discontinuation of the merchant function,
18 defined as the purchase and sale of natural gas by an Illinois
19 gas utility for the ultimate consumer in its service territory
20 shall include provisions necessary to prevent the impairment of
21 the value of any contract hereunder over its full term.

22 (h-11) All costs incurred by an Illinois gas utility in
23 procuring SNG from a clean coal SNG brownfield facility
24 pursuant to subsection (h-1) or a third-party marketer pursuant
25 to subsection (h-1) are reasonable and prudent and recoverable
26 through the purchased gas adjustment clause in conjunction with

1 a SNG brownfield facility rider mechanism and are not subject
2 to review or disallowance by the Commission; provided that if a
3 utility is required by law or otherwise elects to connect the
4 clean coal SNG brownfield facility to an interstate pipeline,
5 then the utility shall be entitled to recover pursuant to its
6 tariffs all just and reasonable costs that are prudently
7 incurred. Sourcing agreement costs are costs incurred by the
8 utility under the terms of a sourcing agreement that
9 incorporates the terms stated in subsection (h-1) of this
10 Section as approved by the Commission as set forth in
11 subsection (h-4) of this Section, which approval shall be
12 deemed conclusive, or as a consequence of or condition to its
13 performance under the contract, including (i) amounts paid for
14 SNG under the SNG contract and (ii) costs of transportation and
15 storage services of SNG purchased from interstate pipelines
16 under federally approved tariffs. Any sourcing agreement, the
17 terms of which have been approved by the Commission as set
18 forth in subsection (h-4) of this Section, and the performance
19 of the parties under the sourcing agreement cannot be grounds
20 for challenging prudence or cost recovery by the utility, and
21 in these cases, the Commission is directed not to consider, and
22 has no authority to consider, any attempted challenges.

23 (h-15) Reconciliation account. The clean coal SNG facility
24 shall establish a reconciliation account for the benefit of the
25 retail customers of the utilities that have entered into
26 contracts with the clean coal SNG facility pursuant to

1 subsection (h). The reconciliation account shall be maintained
2 and administered by an independent trustee that is mutually
3 agreed upon by the owners of the clean coal SNG facility, the
4 utilities, and the Commission in an interest-bearing account in
5 accordance with the following:

6 (1) The clean coal SNG facility shall conduct an
7 analysis annually within 60 days after receiving the
8 necessary cost information, which shall be provided by the
9 gas utility within 6 months after the end of the preceding
10 calendar year, to determine (i) the average annual contract
11 SNG cost, which shall be calculated as the total amount
12 paid for SNG purchased from the clean coal SNG facility
13 over the preceding 12 months, plus the cost to the utility
14 of the required transportation and storage services of SNG,
15 divided by the total number of MMBtus of SNG actually
16 purchased from the clean coal SNG facility in the preceding
17 12 months under the utility contract; (ii) the average
18 annual natural gas purchase cost, which shall be calculated
19 as the total annual supply costs paid for baseload natural
20 gas (excluding any SNG) purchased by such utility over the
21 preceding 12 months plus the costs of transportation and
22 storage services of such natural gas (excluding such costs
23 for SNG), divided by the total number of MMbtus of baseload
24 natural gas (excluding SNG) actually purchased by the
25 utility during the year; (iii) the cost differential, which
26 shall be the difference between the average annual contract

1 SNG cost and the average annual natural gas purchase cost;
2 and (iv) the revenue share target which shall be the cost
3 differential multiplied by the total amount of SNG
4 purchased over the preceding 12 months under such utility
5 contract.

6 (A) To the extent the annual average contract SNG
7 cost is less than the annual average natural gas
8 purchase cost, the utility shall credit an amount equal
9 to the revenue share target to the reconciliation
10 account. Such credit payment shall be made monthly
11 starting within 30 days after the completed analysis in
12 this subsection (h-15) and based on collections from
13 all customers via a line item charge in all customer
14 bills designed to have an equal percentage impact on
15 the transportation services of each class of
16 customers. Credit payments made pursuant to this
17 subparagraph (A) shall be deemed prudent and
18 reasonable and not subject to Commission prudence
19 review.

20 (B) To the extent the annual average contract SNG
21 cost is greater than the annual average natural gas
22 purchase cost, the reconciliation account shall be
23 used to provide a credit equal to the revenue share
24 target to the utilities to be used to reduce the
25 utility's natural gas costs through the purchased gas
26 adjustment clause. Such payment shall be made within 30

1 days after the completed analysis pursuant to this
2 subsection (h-15), but only to the extent that the
3 reconciliation account has a positive balance.

4 (2) At the conclusion of the term of the SNG contracts
5 pursuant to subsection (h) and the completion of the final
6 annual analysis pursuant to this subsection (h-15), to the
7 extent the facility owes any amount to retail customers,
8 amounts in the account shall be credited to retail
9 customers to the extent the owed amount is repaid; 50% of
10 any additional amount in the reconciliation account shall
11 be distributed to the utilities to be used to reduce the
12 utilities' natural gas costs through the purchase gas
13 adjustment clause with the remaining amount distributed to
14 the clean coal SNG facility. Such payment shall be made
15 within 30 days after the last completed analysis pursuant
16 to this subsection (h-15). If the facility has repaid all
17 owed amounts, if any, to retail customers and has
18 distributed 50% of any additional amount in the account to
19 the utilities, then the owners of the clean coal SNG
20 facility shall have no further obligation to the utility or
21 the retail customers.

22 If, at the conclusion of the term of the contracts
23 pursuant to subsection (h) and the completion of the final
24 annual analysis pursuant to this subsection (h-15), the
25 facility owes any amount to retail customers and the
26 account has been depleted, then the clean coal SNG facility

1 shall be liable for any remaining amount owed to the retail
2 customers. The clean coal SNG facility shall market the
3 daily production of SNG and distribute on a monthly basis
4 5% of the amounts collected with respect to such future
5 sales to the utilities in proportion to each utility's SNG
6 contract to be used to reduce the utility's natural gas
7 costs through the purchase gas adjustment clause; such
8 payments to the utility shall continue until either 15
9 years after the conclusion of the contract or such time as
10 the sum of such payments equals the remaining amount owed
11 to the retail customers at the end of the contract,
12 whichever is earlier. If the debt to the retail customers
13 is not repaid within 15 years after the conclusion of the
14 contract, then the owner of the clean coal SNG facility
15 must sell the facility, and all proceeds from that sale
16 must be used to repay any amount owed to the retail
17 customers under this subsection (h-15).

18 The retail customers shall have first priority in
19 recovering that debt above any creditors, except the
20 secured lenders to the extent that the secured lenders have
21 any secured debt outstanding, including any parent
22 companies or affiliates of the clean coal SNG facility.

23 (3) 50% of all additional net revenue, defined as
24 miscellaneous net revenue after cost allowance and above
25 the budgeted estimate established for revenue pursuant to
26 subsection (h), including sale of substitute natural gas

1 derived from the clean coal SNG facility above the
2 nameplate capacity of the facility and other by-products
3 produced by the facility, shall be credited to the
4 reconciliation account on an annual basis with such payment
5 made within 30 days after the end of each calendar year
6 during the term of the contract.

7 (4) The clean coal SNG facility shall each year,
8 starting in the facility's first year of commercial
9 operation, file with the Commission, in such form as the
10 Commission shall require, a report as to the reconciliation
11 account. The annual report must contain the following
12 information:

13 (A) the revenue share target amount;

14 (B) the amount credited or debited to the
15 reconciliation account during the year;

16 (C) the amount credited to the utilities to be used
17 to reduce the utilities natural gas costs though the
18 purchase gas adjustment clause;

19 (D) the total amount of reconciliation account at
20 the beginning and end of the year;

21 (E) the total amount of consumer savings to date;

22 and

23 (F) any additional information the Commission may
24 require.

25 When any report is erroneous or defective or appears to the
26 Commission to be erroneous or defective, the Commission may

1 notify the clean coal SNG facility to amend the report within
2 30 days; before or after the termination of the 30-day period,
3 the Commission may examine the trustee of the reconciliation
4 account or the officers, agents, employees, books, records, or
5 accounts of the clean coal SNG facility and correct such items
6 in the report as upon such examination the Commission may find
7 defective or erroneous. All reports shall be under oath.

8 All reports made to the Commission by the clean coal SNG
9 facility and the contents of the reports shall be open to
10 public inspection and shall be deemed a public record under the
11 Freedom of Information Act. Such reports shall be preserved in
12 the office of the Commission. The Commission shall publish an
13 annual summary of the reports prior to February 1 of the
14 following year. The annual summary shall be made available to
15 the public on the Commission's website and shall be submitted
16 to the General Assembly.

17 Any facility that fails to file the report required under
18 this paragraph (4) to the Commission within the time specified
19 or to make specific answer to any question propounded by the
20 Commission within 30 days after the time it is lawfully
21 required to do so, or within such further time not to exceed 90
22 days as may be allowed by the Commission in its discretion,
23 shall pay a penalty of \$500 to the Commission for each day it
24 is in default.

25 Any person who willfully makes any false report to the
26 Commission or to any member, officer, or employee thereof, any

1 person who willfully in a report withholds or fails to provide
2 material information to which the Commission is entitled under
3 this paragraph (4) and which information is either required to
4 be filed by statute, rule, regulation, order, or decision of
5 the Commission or has been requested by the Commission, and any
6 person who willfully aids or abets such person shall be guilty
7 of a Class A misdemeanor.

8 (h-20) The General Assembly authorizes the Illinois
9 Finance Authority to issue bonds to the maximum extent
10 permitted to finance coal gasification facilities described in
11 this Section, which constitute both "industrial projects"
12 under Article 801 of the Illinois Finance Authority Act and
13 "clean coal and energy projects" under Sections 825-65 through
14 825-75 of the Illinois Finance Authority Act.

15 Administrative costs incurred by the Illinois Finance
16 Authority in performance of this subsection (h-20) shall be
17 subject to reimbursement by the clean coal SNG facility on
18 terms as the Illinois Finance Authority and the clean coal SNG
19 facility may agree. The utility and its customers shall have no
20 obligation to reimburse the clean coal SNG facility or the
21 Illinois Finance Authority for any such costs.

22 (h-25) The State of Illinois pledges that the State may not
23 enact any law or take any action to (1) break or repeal the
24 authority for SNG purchase contracts entered into between
25 public gas utilities and the clean coal SNG facility pursuant
26 to subsection (h) of this Section or (2) deny public gas

1 utilities their full cost recovery for contract costs, as
2 defined in subsection (h-10), that are incurred under such SNG
3 purchase contracts. These pledges are for the benefit of the
4 parties to such SNG purchase contracts and the issuers and
5 holders of bonds or other obligations issued or incurred to
6 finance or refinance the clean coal SNG facility. The
7 beneficiaries are authorized to include and refer to these
8 pledges in any finance agreement into which they may enter in
9 regard to such contracts.

10 (h-30) The State of Illinois retains and reserves all other
11 rights to enact new or amendatory legislation or take any other
12 action, including, but not limited to, such legislation or
13 other action that would (1) directly or indirectly raise the
14 costs that the clean coal SNG facility must incur; (2) directly
15 or indirectly place additional restrictions, regulations, or
16 requirements on the clean coal SNG facility; (3) prohibit
17 sequestration in general or prohibit a specific sequestration
18 method or project; or (4) increase minimum sequestration
19 requirements.

20 (i) If a gas utility or an affiliate of a gas utility has
21 an ownership interest in any entity that produces or sells
22 synthetic natural gas, Article VII of this Act shall apply.

23 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,
24 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;
25 98-463, eff. 8-16-13.)

1 Section 145. The Illinois Horse Racing Act of 1975 is
2 amended by changing Sections 12.1 and 12.2 as follows:

3 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

4 Sec. 12.1. (a) The General Assembly finds that the Illinois
5 Racing Industry does not include a fair proportion of minority
6 or female workers.

7 Therefore, the General Assembly urges that the job training
8 institutes, trade associations and employers involved in the
9 Illinois Horse Racing Industry take affirmative action to
10 encourage equal employment opportunity to all workers
11 regardless of race, color, creed or sex.

12 Before an organization license, inter-track wagering
13 license or inter-track wagering location license can be
14 granted, the applicant for any such license shall execute and
15 file with the Board a good faith affirmative action plan to
16 recruit, train and upgrade minorities and females in all
17 classifications with the applicant for license. One year after
18 issuance of any such license, and each year thereafter, the
19 licensee shall file a report with the Board evidencing and
20 certifying compliance with the originally filed affirmative
21 action plan.

22 (b) At least 10% of the total amount of all State contracts
23 for the infrastructure improvement of any race track grounds in
24 this State shall be let to minority-owned ~~minority-owned~~
25 businesses or women-owned ~~female-owned~~ businesses. "State

1 contract", "minority-owned ~~minority-owned~~ business" and
2 "women-owned ~~female-owned~~ business" shall have the meanings
3 ascribed to them under the Business Enterprise for Minorities,
4 Women ~~Females~~, and Persons with Disabilities Act.

5 (Source: P.A. 92-16, eff. 6-28-01.)

6 (230 ILCS 5/12.2)

7 Sec. 12.2. Business enterprise program.

8 (a) For the purposes of this Section, the terms "minority",
9 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",
10 "women-owned ~~female-owned~~ business", "person with a
11 disability", and "business owned by a person with a disability"
12 have the meanings ascribed to them in the Business Enterprise
13 for Minorities, Women ~~Females~~, and Persons with Disabilities
14 Act.

15 (b) The Board shall, by rule, establish goals for the award
16 of contracts by each organization licensee or inter-track
17 wagering licensee to businesses owned by minorities, women
18 ~~females~~, and persons with disabilities, expressed as
19 percentages of an organization licensee's or inter-track
20 wagering licensee's total dollar amount of contracts awarded
21 during each calendar year. Each organization licensee or
22 inter-track wagering licensee must make every effort to meet
23 the goals established by the Board pursuant to this Section.
24 When setting the goals for the award of contracts, the Board
25 shall not include contracts where: (1) licensees are purchasing

1 goods or services from vendors or suppliers or in markets where
2 there are no or a limited number of minority-owned ~~minority~~
3 ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or
4 businesses owned by persons with disabilities that would be
5 sufficient to satisfy the goal; (2) there are no or a limited
6 number of suppliers licensed by the Board; (3) the licensee or
7 its parent company owns a company that provides the goods or
8 services; or (4) the goods or services are provided to the
9 licensee by a publicly traded company.

10 (c) Each organization licensee or inter-track wagering
11 licensee shall file with the Board an annual report of its
12 utilization of minority-owned ~~minority-owned~~ businesses,
13 women-owned ~~female-owned~~ businesses, and businesses owned by
14 persons with disabilities during the preceding calendar year.
15 The reports shall include a self-evaluation of the efforts of
16 the organization licensee or inter-track wagering licensee to
17 meet its goals under this Section.

18 (d) The organization licensee or inter-track wagering
19 licensee shall have the right to request a waiver from the
20 requirements of this Section. The Board shall grant the waiver
21 where the organization licensee or inter-track wagering
22 licensee demonstrates that there has been made a good faith
23 effort to comply with the goals for participation by
24 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~
25 ~~owned~~ businesses, and businesses owned by persons with
26 disabilities.

1 (e) If the Board determines that its goals and policies are
2 not being met by any organization licensee or inter-track
3 wagering licensee, then the Board may:

4 (1) adopt remedies for such violations; and

5 (2) recommend that the organization licensee or
6 inter-track wagering licensee provide additional
7 opportunities for participation by minority-owned ~~minority~~
8 ~~owned~~ businesses, women-owned ~~female-owned~~
9 businesses owned by persons with disabilities; such
10 recommendations may include, but shall not be limited to:

11 (A) assurances of stronger and better focused
12 solicitation efforts to obtain more minority-owned
13 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
14 businesses, and businesses owned by persons with
15 disabilities as potential sources of supply;

16 (B) division of job or project requirements, when
17 economically feasible, into tasks or quantities to
18 permit participation of minority-owned ~~minority-owned~~
19 businesses, women-owned ~~female-owned~~ businesses, and
20 businesses owned by persons with disabilities;

21 (C) elimination of extended experience or
22 capitalization requirements, when programmatically
23 feasible, to permit participation of minority-owned
24 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
25 businesses, and businesses owned by persons with
26 disabilities;

1 (D) identification of specific proposed contracts
2 as particularly attractive or appropriate for
3 participation by minority-owned ~~minority-owned~~
4 businesses, women-owned ~~female-owned~~ businesses, and
5 businesses owned by persons with disabilities, such
6 identification to result from and be coupled with the
7 efforts of items (A) through (C); and

8 (E) implementation of regulations established for
9 the use of the sheltered market process.

10 (f) The Board shall file, no later than March 1 of each
11 year, an annual report that shall detail the level of
12 achievement toward the goals specified in this Section over the
13 3 most recent fiscal years. The annual report shall include,
14 but need not be limited to:

15 (1) a summary detailing expenditures subject to the
16 goals, the actual goals specified, and the goals attained
17 by each organization licensee or inter-track wagering
18 licensee;

19 (2) a summary of the number of contracts awarded and
20 the average contract amount by each organization licensee
21 or inter-track wagering licensee;

22 (3) an analysis of the level of overall goal
23 achievement concerning purchases from minority-owned
24 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
25 businesses, and businesses owned by persons with
26 disabilities;

1 (4) an analysis of the number of minority-owned
2 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
3 businesses, and businesses owned by persons with
4 disabilities that are certified under the program as well
5 as the number of those businesses that received State
6 procurement contracts; and

7 (5) (blank).

8 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;
9 99-891, eff. 1-1-17.)

10 Section 150. The Riverboat Gambling Act is amended by
11 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

12 (230 ILCS 10/4) (from Ch. 120, par. 2404)

13 Sec. 4. Definitions. As used in this Act:

14 (a) "Board" means the Illinois Gaming Board.

15 (b) "Occupational license" means a license issued by the
16 Board to a person or entity to perform an occupation which the
17 Board has identified as requiring a license to engage in
18 riverboat gambling in Illinois.

19 (c) "Gambling game" includes, but is not limited to,
20 baccarat, twenty-one, poker, craps, slot machine, video game of
21 chance, roulette wheel, klondike table, punchboard, faro
22 layout, keno layout, numbers ticket, push card, jar ticket, or
23 pull tab which is authorized by the Board as a wagering device
24 under this Act.

1 (d) "Riverboat" means a self-propelled excursion boat, a
2 permanently moored barge, or permanently moored barges that are
3 permanently fixed together to operate as one vessel, on which
4 lawful gambling is authorized and licensed as provided in this
5 Act.

6 (e) "Managers license" means a license issued by the Board
7 to a person or entity to manage gambling operations conducted
8 by the State pursuant to Section 7.3.

9 (f) "Dock" means the location where a riverboat moors for
10 the purpose of embarking passengers for and disembarking
11 passengers from the riverboat.

12 (g) "Gross receipts" means the total amount of money
13 exchanged for the purchase of chips, tokens or electronic cards
14 by riverboat patrons.

15 (h) "Adjusted gross receipts" means the gross receipts less
16 winnings paid to wagerers.

17 (i) "Cheat" means to alter the selection of criteria which
18 determine the result of a gambling game or the amount or
19 frequency of payment in a gambling game.

20 (j) (Blank).

21 (k) "Gambling operation" means the conduct of authorized
22 gambling games upon a riverboat.

23 (l) "License bid" means the lump sum amount of money that
24 an applicant bids and agrees to pay the State in return for an
25 owners license that is re-issued on or after July 1, 2003.

26 (m) The terms "minority person", "woman ~~female~~", and

1 "person with a disability" shall have the same meaning as
2 defined in Section 2 of the Business Enterprise for Minorities,
3 Women Females, and Persons with Disabilities Act.
4 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

5 (230 ILCS 10/7) (from Ch. 120, par. 2407)

6 Sec. 7. Owners Licenses.

7 (a) The Board shall issue owners licenses to persons, firms
8 or corporations which apply for such licenses upon payment to
9 the Board of the non-refundable license fee set by the Board,
10 upon payment of a \$25,000 license fee for the first year of
11 operation and a \$5,000 license fee for each succeeding year and
12 upon a determination by the Board that the applicant is
13 eligible for an owners license pursuant to this Act and the
14 rules of the Board. From the effective date of this amendatory
15 Act of the 95th General Assembly until (i) 3 years after the
16 effective date of this amendatory Act of the 95th General
17 Assembly, (ii) the date any organization licensee begins to
18 operate a slot machine or video game of chance under the
19 Illinois Horse Racing Act of 1975 or this Act, (iii) the date
20 that payments begin under subsection (c-5) of Section 13 of the
21 Act, or (iv) the wagering tax imposed under Section 13 of this
22 Act is increased by law to reflect a tax rate that is at least
23 as stringent or more stringent than the tax rate contained in
24 subsection (a-3) of Section 13, whichever occurs first, as a
25 condition of licensure and as an alternative source of payment

1 for those funds payable under subsection (c-5) of Section 13 of
2 the Riverboat Gambling Act, any owners licensee that holds or
3 receives its owners license on or after the effective date of
4 this amendatory Act of the 94th General Assembly, other than an
5 owners licensee operating a riverboat with adjusted gross
6 receipts in calendar year 2004 of less than \$200,000,000, must
7 pay into the Horse Racing Equity Trust Fund, in addition to any
8 other payments required under this Act, an amount equal to 3%
9 of the adjusted gross receipts received by the owners licensee.
10 The payments required under this Section shall be made by the
11 owners licensee to the State Treasurer no later than 3:00
12 o'clock p.m. of the day after the day when the adjusted gross
13 receipts were received by the owners licensee. A person, firm
14 or corporation is ineligible to receive an owners license if:

15 (1) the person has been convicted of a felony under the
16 laws of this State, any other state, or the United States;

17 (2) the person has been convicted of any violation of
18 Article 28 of the Criminal Code of 1961 or the Criminal
19 Code of 2012, or substantially similar laws of any other
20 jurisdiction;

21 (3) the person has submitted an application for a
22 license under this Act which contains false information;

23 (4) the person is a member of the Board;

24 (5) a person defined in (1), (2), (3) or (4) is an
25 officer, director or managerial employee of the firm or
26 corporation;

1 (6) the firm or corporation employs a person defined in
2 (1), (2), (3) or (4) who participates in the management or
3 operation of gambling operations authorized under this
4 Act;

5 (7) (blank); or

6 (8) a license of the person, firm or corporation issued
7 under this Act, or a license to own or operate gambling
8 facilities in any other jurisdiction, has been revoked.

9 The Board is expressly prohibited from making changes to
10 the requirement that licensees make payment into the Horse
11 Racing Equity Trust Fund without the express authority of the
12 Illinois General Assembly and making any other rule to
13 implement or interpret this amendatory Act of the 95th General
14 Assembly. For the purposes of this paragraph, "rules" is given
15 the meaning given to that term in Section 1-70 of the Illinois
16 Administrative Procedure Act.

17 (b) In determining whether to grant an owners license to an
18 applicant, the Board shall consider:

19 (1) the character, reputation, experience and
20 financial integrity of the applicants and of any other or
21 separate person that either:

22 (A) controls, directly or indirectly, such
23 applicant, or

24 (B) is controlled, directly or indirectly, by such
25 applicant or by a person which controls, directly or
26 indirectly, such applicant;

1 (2) the facilities or proposed facilities for the
2 conduct of riverboat gambling;

3 (3) the highest prospective total revenue to be derived
4 by the State from the conduct of riverboat gambling;

5 (4) the extent to which the ownership of the applicant
6 reflects the diversity of the State by including minority
7 persons, women ~~females~~, and persons with a disability and
8 the good faith affirmative action plan of each applicant to
9 recruit, train and upgrade minority persons, women
10 ~~females~~, and persons with a disability in all employment
11 classifications;

12 (5) the financial ability of the applicant to purchase
13 and maintain adequate liability and casualty insurance;

14 (6) whether the applicant has adequate capitalization
15 to provide and maintain, for the duration of a license, a
16 riverboat;

17 (7) the extent to which the applicant exceeds or meets
18 other standards for the issuance of an owners license which
19 the Board may adopt by rule; and

20 (8) The amount of the applicant's license bid.

21 (c) Each owners license shall specify the place where
22 riverboats shall operate and dock.

23 (d) Each applicant shall submit with his application, on
24 forms provided by the Board, 2 sets of his fingerprints.

25 (e) The Board may issue up to 10 licenses authorizing the
26 holders of such licenses to own riverboats. In the application

1 for an owners license, the applicant shall state the dock at
2 which the riverboat is based and the water on which the
3 riverboat will be located. The Board shall issue 5 licenses to
4 become effective not earlier than January 1, 1991. Three of
5 such licenses shall authorize riverboat gambling on the
6 Mississippi River, or, with approval by the municipality in
7 which the riverboat was docked on August 7, 2003 and with Board
8 approval, be authorized to relocate to a new location, in a
9 municipality that (1) borders on the Mississippi River or is
10 within 5 miles of the city limits of a municipality that
11 borders on the Mississippi River and (2), on August 7, 2003,
12 had a riverboat conducting riverboat gambling operations
13 pursuant to a license issued under this Act; one of which shall
14 authorize riverboat gambling from a home dock in the city of
15 East St. Louis. One other license shall authorize riverboat
16 gambling on the Illinois River south of Marshall County. The
17 Board shall issue one additional license to become effective
18 not earlier than March 1, 1992, which shall authorize riverboat
19 gambling on the Des Plaines River in Will County. The Board may
20 issue 4 additional licenses to become effective not earlier
21 than March 1, 1992. In determining the water upon which
22 riverboats will operate, the Board shall consider the economic
23 benefit which riverboat gambling confers on the State, and
24 shall seek to assure that all regions of the State share in the
25 economic benefits of riverboat gambling.

26 In granting all licenses, the Board may give favorable

1 consideration to economically depressed areas of the State, to
2 applicants presenting plans which provide for significant
3 economic development over a large geographic area, and to
4 applicants who currently operate non-gambling riverboats in
5 Illinois. The Board shall review all applications for owners
6 licenses, and shall inform each applicant of the Board's
7 decision. The Board may grant an owners license to an applicant
8 that has not submitted the highest license bid, but if it does
9 not select the highest bidder, the Board shall issue a written
10 decision explaining why another applicant was selected and
11 identifying the factors set forth in this Section that favored
12 the winning bidder.

13 In addition to any other revocation powers granted to the
14 Board under this Act, the Board may revoke the owners license
15 of a licensee which fails to begin conducting gambling within
16 15 months of receipt of the Board's approval of the application
17 if the Board determines that license revocation is in the best
18 interests of the State.

19 (f) The first 10 owners licenses issued under this Act
20 shall permit the holder to own up to 2 riverboats and equipment
21 thereon for a period of 3 years after the effective date of the
22 license. Holders of the first 10 owners licenses must pay the
23 annual license fee for each of the 3 years during which they
24 are authorized to own riverboats.

25 (g) Upon the termination, expiration, or revocation of each
26 of the first 10 licenses, which shall be issued for a 3 year

1 period, all licenses are renewable annually upon payment of the
2 fee and a determination by the Board that the licensee
3 continues to meet all of the requirements of this Act and the
4 Board's rules. However, for licenses renewed on or after May 1,
5 1998, renewal shall be for a period of 4 years, unless the
6 Board sets a shorter period.

7 (h) An owners license shall entitle the licensee to own up
8 to 2 riverboats. A licensee shall limit the number of gambling
9 participants to 1,200 for any such owners license. A licensee
10 may operate both of its riverboats concurrently, provided that
11 the total number of gambling participants on both riverboats
12 does not exceed 1,200. Riverboats licensed to operate on the
13 Mississippi River and the Illinois River south of Marshall
14 County shall have an authorized capacity of at least 500
15 persons. Any other riverboat licensed under this Act shall have
16 an authorized capacity of at least 400 persons.

17 (i) A licensed owner is authorized to apply to the Board
18 for and, if approved therefor, to receive all licenses from the
19 Board necessary for the operation of a riverboat, including a
20 liquor license, a license to prepare and serve food for human
21 consumption, and other necessary licenses. All use, occupation
22 and excise taxes which apply to the sale of food and beverages
23 in this State and all taxes imposed on the sale or use of
24 tangible personal property apply to such sales aboard the
25 riverboat.

26 (j) The Board may issue or re-issue a license authorizing a

1 riverboat to dock in a municipality or approve a relocation
2 under Section 11.2 only if, prior to the issuance or
3 re-issuance of the license or approval, the governing body of
4 the municipality in which the riverboat will dock has by a
5 majority vote approved the docking of riverboats in the
6 municipality. The Board may issue or re-issue a license
7 authorizing a riverboat to dock in areas of a county outside
8 any municipality or approve a relocation under Section 11.2
9 only if, prior to the issuance or re-issuance of the license or
10 approval, the governing body of the county has by a majority
11 vote approved of the docking of riverboats within such areas.

12 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

13 (230 ILCS 10/7.1)

14 Sec. 7.1. Re-issuance of revoked or non-renewed owners
15 licenses.

16 (a) If an owners license terminates or expires without
17 renewal or the Board revokes or determines not to renew an
18 owners license (including, without limitation, an owners
19 license for a licensee that was not conducting riverboat
20 gambling operations on January 1, 1998) and that revocation or
21 determination is final, the Board may re-issue such license to
22 a qualified applicant pursuant to an open and competitive
23 bidding process, as set forth in Section 7.5, and subject to
24 the maximum number of authorized licenses set forth in Section
25 7(e).

1 (b) To be a qualified applicant, a person, firm, or
2 corporation cannot be ineligible to receive an owners license
3 under Section 7(a) and must submit an application for an owners
4 license that complies with Section 6. Each such applicant must
5 also submit evidence to the Board that minority persons and
6 women ~~females~~ hold ownership interests in the applicant of at
7 least 16% and 4% respectively.

8 (c) Notwithstanding anything to the contrary in Section
9 7(e), an applicant may apply to the Board for approval of
10 relocation of a re-issued license to a new home dock location
11 authorized under Section 3(c) upon receipt of the approval from
12 the municipality or county, as the case may be, pursuant to
13 Section 7(j).

14 (d) In determining whether to grant a re-issued owners
15 license to an applicant, the Board shall consider all of the
16 factors set forth in Sections 7(b) and (e) as well as the
17 amount of the applicant's license bid. The Board may grant the
18 re-issued owners license to an applicant that has not submitted
19 the highest license bid, but if it does not select the highest
20 bidder, the Board shall issue a written decision explaining why
21 another applicant was selected and identifying the factors set
22 forth in Sections 7(b) and (e) that favored the winning bidder.

23 (e) Re-issued owners licenses shall be subject to annual
24 license fees as provided for in Section 7(a) and shall be
25 governed by the provisions of Sections 7(f), (g), (h), and (i).

26 (Source: P.A. 93-28, eff. 6-20-03.)

1 (230 ILCS 10/7.4)

2 Sec. 7.4. Managers licenses.

3 (a) A qualified person may apply to the Board for a
4 managers license to operate and manage any gambling operation
5 conducted by the State. The application shall be made on forms
6 provided by the Board and shall contain such information as the
7 Board prescribes, including but not limited to information
8 required in Sections 6(a), (b), and (c) and information
9 relating to the applicant's proposed price to manage State
10 gambling operations and to provide the riverboat, gambling
11 equipment, and supplies necessary to conduct State gambling
12 operations.

13 (b) Each applicant must submit evidence to the Board that
14 minority persons and women ~~females~~ hold ownership interests in
15 the applicant of at least 16% and 4%, respectively.

16 (c) A person, firm, or corporation is ineligible to receive
17 a managers license if:

18 (1) the person has been convicted of a felony under the
19 laws of this State, any other state, or the United States;

20 (2) the person has been convicted of any violation of
21 Article 28 of the Criminal Code of 1961 or the Criminal
22 Code of 2012, or substantially similar laws of any other
23 jurisdiction;

24 (3) the person has submitted an application for a
25 license under this Act which contains false information;

1 (4) the person is a member of the Board;

2 (5) a person defined in (1), (2), (3), or (4) is an
3 officer, director, or managerial employee of the firm or
4 corporation;

5 (6) the firm or corporation employs a person defined in
6 (1), (2), (3), or (4) who participates in the management or
7 operation of gambling operations authorized under this
8 Act; or

9 (7) a license of the person, firm, or corporation
10 issued under this Act, or a license to own or operate
11 gambling facilities in any other jurisdiction, has been
12 revoked.

13 (d) Each applicant shall submit with his or her
14 application, on forms prescribed by the Board, 2 sets of his or
15 her fingerprints.

16 (e) The Board shall charge each applicant a fee, set by the
17 Board, to defray the costs associated with the background
18 investigation conducted by the Board.

19 (f) A person who knowingly makes a false statement on an
20 application is guilty of a Class A misdemeanor.

21 (g) The managers license shall be for a term not to exceed
22 10 years, shall be renewable at the Board's option, and shall
23 contain such terms and provisions as the Board deems necessary
24 to protect or enhance the credibility and integrity of State
25 gambling operations, achieve the highest prospective total
26 revenue to the State, and otherwise serve the interests of the

1 citizens of Illinois.

2 (h) Issuance of a managers license shall be subject to an
3 open and competitive bidding process. The Board may select an
4 applicant other than the lowest bidder by price. If it does not
5 select the lowest bidder, the Board shall issue a notice of who
6 the lowest bidder was and a written decision as to why another
7 bidder was selected.

8 (Source: P.A. 97-1150, eff. 1-25-13.)

9 (230 ILCS 10/7.6)

10 Sec. 7.6. Business enterprise program.

11 (a) For the purposes of this Section, the terms "minority",
12 "minority-owned ~~minority-owned~~ business", "woman ~~female~~", "
13 women-owned ~~female-owned~~ business", "person with a
14 disability", and "business owned by a person with a disability"
15 have the meanings ascribed to them in the Business Enterprise
16 for Minorities, Women ~~Females~~, and Persons with Disabilities
17 Act.

18 (b) The Board shall, by rule, establish goals for the award
19 of contracts by each owners licensee to businesses owned by
20 minorities, women ~~females~~, and persons with disabilities,
21 expressed as percentages of an owners licensee's total dollar
22 amount of contracts awarded during each calendar year. Each
23 owners licensee must make every effort to meet the goals
24 established by the Board pursuant to this Section. When setting
25 the goals for the award of contracts, the Board shall not

1 include contracts where: (1) any purchasing mandates would be
2 dependent upon the availability of minority-owned ~~minority~~
3 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
4 businesses owned by persons with disabilities ready, willing,
5 and able with capacity to provide quality goods and services to
6 a gaming operation at reasonable prices; (2) there are no or a
7 limited number of licensed suppliers as defined by this Act for
8 the goods or services provided to the licensee; (3) the
9 licensee or its parent company owns a company that provides the
10 goods or services; or (4) the goods or services are provided to
11 the licensee by a publicly traded company.

12 (c) Each owners licensee shall file with the Board an
13 annual report of its utilization of minority-owned ~~minority~~
14 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
15 businesses owned by persons with disabilities during the
16 preceding calendar year. The reports shall include a
17 self-evaluation of the efforts of the owners licensee to meet
18 its goals under this Section.

19 (d) The owners licensee shall have the right to request a
20 waiver from the requirements of this Section. The Board shall
21 grant the waiver where the owners licensee demonstrates that
22 there has been made a good faith effort to comply with the
23 goals for participation by minority-owned ~~minority-owned~~
24 businesses, women-owned ~~female-owned~~ businesses, and
25 businesses owned by persons with disabilities.

26 (e) If the Board determines that its goals and policies are

1 not being met by any owners licensee, then the Board may:

2 (1) adopt remedies for such violations; and

3 (2) recommend that the owners licensee provide
4 additional opportunities for participation by
5 minority-owned ~~minority-owned~~ businesses, women-owned
6 ~~female-owned~~ businesses, and businesses owned by persons
7 with disabilities; such recommendations may include, but
8 shall not be limited to:

9 (A) assurances of stronger and better focused
10 solicitation efforts to obtain more minority-owned
11 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
12 businesses, and businesses owned by persons with
13 disabilities as potential sources of supply;

14 (B) division of job or project requirements, when
15 economically feasible, into tasks or quantities to
16 permit participation of minority-owned ~~minority-owned~~
17 businesses, women-owned ~~female-owned~~ businesses, and
18 businesses owned by persons with disabilities;

19 (C) elimination of extended experience or
20 capitalization requirements, when programmatically
21 feasible, to permit participation of minority-owned
22 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
23 businesses, and businesses owned by persons with
24 disabilities;

25 (D) identification of specific proposed contracts
26 as particularly attractive or appropriate for

1 participation by minority-owned ~~minority-owned~~
2 businesses, women-owned ~~female-owned~~ businesses, and
3 businesses owned by persons with disabilities, such
4 identification to result from and be coupled with the
5 efforts of items (A) through (C); and

6 (E) implementation of regulations established for
7 the use of the sheltered market process.

8 (f) The Board shall file, no later than March 1 of each
9 year, an annual report that shall detail the level of
10 achievement toward the goals specified in this Section over the
11 3 most recent fiscal years. The annual report shall include,
12 but need not be limited to:

13 (1) a summary detailing expenditures subject to the
14 goals, the actual goals specified, and the goals attained
15 by each owners licensee; and

16 (2) an analysis of the level of overall goal
17 achievement concerning purchases from minority-owned
18 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
19 businesses, and businesses owned by persons with
20 disabilities.

21 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

22 (230 ILCS 10/11.2)

23 Sec. 11.2. Relocation of riverboat home dock.

24 (a) A licensee that was not conducting riverboat gambling
25 on January 1, 1998 may apply to the Board for renewal and

1 approval of relocation to a new home dock location authorized
2 under Section 3(c) and the Board shall grant the application
3 and approval upon receipt by the licensee of approval from the
4 new municipality or county, as the case may be, in which the
5 licensee wishes to relocate pursuant to Section 7(j).

6 (b) Any licensee that relocates its home dock pursuant to
7 this Section shall attain a level of at least 20% minority
8 person and woman ~~female~~ ownership, at least 16% and 4%
9 respectively, within a time period prescribed by the Board, but
10 not to exceed 12 months from the date the licensee begins
11 conducting gambling at the new home dock location. The 12-month
12 period shall be extended by the amount of time necessary to
13 conduct a background investigation pursuant to Section 6. For
14 the purposes of this Section, the terms "woman ~~female~~" and
15 "minority person" have the meanings provided in Section 2 of
16 the Business Enterprise for Minorities, Women ~~Females~~, and
17 Persons with Disabilities Act.

18 (Source: P.A. 91-40, eff. 6-25-99.)

19 Section 155. The Environmental Protection Act is amended by
20 changing Section 14.7 as follows:

21 (415 ILCS 5/14.7)

22 (This Section may contain text from a Public Act with a
23 delayed effective date)

24 Sec. 14.7. Preservation of community water supplies.

1 (a) The Agency shall adopt rules governing certain
2 corrosion prevention projects carried out on community water
3 supplies. Those rules shall not apply to buried pipelines
4 including, but not limited to, pipes, mains, and joints. The
5 rules shall exclude routine maintenance activities of
6 community water supplies including, but not limited to, the use
7 of protective coatings applied by the owner's utility personnel
8 during the course of performing routine maintenance
9 activities. The activities may include, but not be limited to,
10 the painting of fire hydrants; routine over-coat painting of
11 interior and exterior building surfaces such as floors, doors,
12 windows, and ceilings; and routine touch-up and over-coat
13 application of protective coatings typically found on water
14 utility pumps, pipes, tanks, and other water treatment plant
15 appurtenances and utility owned structures. Those rules shall
16 include:

17 (1) standards for ensuring that community water
18 supplies carry out corrosion prevention and mitigation
19 methods according to corrosion prevention industry
20 standards adopted by the Agency;

21 (2) requirements that community water supplies use:

22 (A) protective coatings personnel to carry out
23 corrosion prevention and mitigation methods on exposed
24 water treatment tanks, exposed non-concrete water
25 treatment structures, exposed water treatment pipe
26 galleys; exposed pumps; and generators; the Agency

1 shall not limit to protective coatings personnel any
2 other work relating to prevention and mitigation
3 methods on any other water treatment appurtenances
4 where protective coatings are utilized for corrosion
5 control and prevention to prolong the life of the water
6 utility asset; and

7 (B) inspectors to ensure that best practices and
8 standards are adhered to on each corrosion prevention
9 project; and

10 (3) standards to prevent environmental degradation
11 that might occur as a result of carrying out corrosion
12 prevention and mitigation methods including, but not
13 limited to, standards to prevent the improper handling and
14 containment of hazardous materials, especially lead paint,
15 removed from the exterior of a community water supply.

16 In adopting rules under this subsection (a), the Agency
17 shall obtain input from corrosion industry experts
18 specializing in the training of personnel to carry out
19 corrosion prevention and mitigation methods.

20 (b) As used in this Section:

21 "Community water supply" has the meaning ascribed to that
22 term in Section 3.145 of this Act.

23 "Corrosion" means a naturally occurring phenomenon
24 commonly defined as the deterioration of a metal that results
25 from a chemical or electrochemical reaction with its
26 environment.

1 "Corrosion prevention and mitigation methods" means the
2 preparation, application, installation, removal, or general
3 maintenance as necessary of a protective coating system,
4 including any or more of the following:

5 (A) surface preparation and coating application on
6 the exterior or interior of a community water supply;
7 or

8 (B) shop painting of structural steel fabricated
9 for installation as part of a community water supply.

10 "Corrosion prevention project" means carrying out
11 corrosion prevention and mitigation methods. "Corrosion
12 prevention project" does not include clean-up related to
13 surface preparation.

14 "Protective coatings personnel" means personnel employed
15 or retained by a contractor providing services covered by this
16 Section to carry out corrosion prevention or mitigation methods
17 or inspections.

18 (c) This Section shall apply to only those projects
19 receiving 100% funding from the State.

20 (d) Each contract procured pursuant to the Illinois
21 Procurement Code for the provision of services covered by this
22 Section (1) shall comply with applicable provisions of the
23 Illinois Procurement Code and (2) shall include provisions for
24 reporting participation by minority persons, as defined by
25 Section 2 of the Business Enterprise for Minorities, Women
26 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as

1 defined by Section 2 of the Business Enterprise for Minorities,
2 Women ~~Females~~, and Persons with Disabilities Act; and veterans,
3 as defined by Section 45-57 of the Illinois Procurement Code,
4 in apprenticeship and training programs in which the contractor
5 or his or her subcontractors participate. The requirements of
6 this Section do not apply to an individual licensed under the
7 Professional Engineering Practice Act of 1989 or the Structural
8 Engineering Act of 1989.

9 (Source: P.A. 99-923, eff. 7-1-17.)

10 Section 160. The Public Private Agreements for the Illiana
11 Expressway Act is amended by changing Section 20 as follows:

12 (605 ILCS 130/20)

13 Sec. 20. Procurement; request for proposals process.

14 (a) Notwithstanding any provision of law to the contrary,
15 the Department on behalf of the State shall select a contractor
16 through a competitive request for proposals process governed by
17 the Illinois Procurement Code and rules adopted under that Code
18 and this Act.

19 (b) The competitive request for proposals process shall, at
20 a minimum, solicit statements of qualification and proposals
21 from offerors.

22 (c) The competitive request for proposals process shall, at
23 a minimum, take into account the following criteria:

24 (1) The offeror's plans for the Illiana Expressway

1 project;

2 (2) The offeror's current and past business practices;

3 (3) The offeror's poor or inadequate past performance
4 in developing, financing, constructing, managing, or
5 operating highways or other public assets;

6 (4) The offeror's ability to meet and past performance
7 in meeting or exhausting good faith efforts to meet the
8 utilization goals for business enterprises established in
9 the Business Enterprise for Minorities, Women ~~Females~~, and
10 Persons with Disabilities Act;

11 (5) The offeror's ability to comply with and past
12 performance in complying with Section 2-105 of the Illinois
13 Human Rights Act; and

14 (6) The offeror's plans to comply with the Business
15 Enterprise for Minorities, Women ~~Females~~, and Persons with
16 Disabilities Act and Section 2-105 of the Illinois Human
17 Rights Act.

18 (d) The Department shall retain the services of an advisor
19 or advisors with significant experience in the development,
20 financing, construction, management, or operation of public
21 assets to assist in the preparation of the request for
22 proposals.

23 (e) The Department shall not include terms in the request
24 for proposals that provide an advantage, whether directly or
25 indirectly, to any contractor presently providing goods,
26 services, or equipment to the Department.

1 (f) The Department shall select at least 2 offerors as
2 finalists. The Department shall submit the offerors'
3 statements of qualification and proposals to the Commission on
4 Government Forecasting and Accountability and the Procurement
5 Policy Board, which shall, within 30 days of the submission,
6 complete a review of the statements of qualification and
7 proposals and, jointly or separately, report on, at a minimum,
8 the satisfaction of the criteria contained in the request for
9 proposals, the qualifications of the offerors, and the value of
10 the proposals to the State. The Department shall not select an
11 offeror as the contractor for the Illiana Expressway project
12 until it has received and considered the findings of the
13 Commission on Government Forecasting and Accountability and
14 the Procurement Policy Board as set forth in their respective
15 reports.

16 (g) Before awarding a public private agreement to an
17 offeror, the Department shall schedule and hold a public
18 hearing or hearings on the proposed public private agreement
19 and publish notice of the hearing or hearings at least 7 days
20 before the hearing and in accordance with Section 4-219 of the
21 Illinois Highway Code. The notice must include the following:

22 (1) the date, time, and place of the hearing and the
23 address of the Department;

24 (2) the subject matter of the hearing;

25 (3) a description of the agreement that may be awarded;

26 and

1 (4) the recommendation that has been made to select an
2 offeror as the contractor for the Illiana Expressway
3 project.

4 At the hearing, the Department shall allow the public to be
5 heard on the subject of the hearing.

6 (h) After the procedures required in this Section have been
7 completed, the Department shall make a determination as to
8 whether the offeror should be designated as the contractor for
9 the Illiana Expressway project and shall submit the decision to
10 the Governor and to the Governor's Office of Management and
11 Budget. After review of the Department's determination, the
12 Governor may accept or reject the determination. If the
13 Governor accepts the determination of the Department, the
14 Governor shall designate the offeror for the Illiana Expressway
15 project.

16 (Source: P.A. 96-913, eff. 6-9-10.)

17 Section 165. The Public-Private Agreements for the South
18 Suburban Airport Act is amended by changing Section 2-30 as
19 follows:

20 (620 ILCS 75/2-30)

21 Sec. 2-30. Request for proposals process to enter into
22 public-private agreements.

23 (a) Notwithstanding any provisions of the Illinois
24 Procurement Code, the Department, on behalf of the State, shall

1 select a contractor through a competitive request for proposals
2 process governed by Section 2-30 of this Act. The Department
3 will consult with the chief procurement officer for
4 construction or construction-related activities designated
5 pursuant to clause (2) of Section 1-15.15 of the Illinois
6 Procurement Code on the competitive request for proposals
7 process, and the Secretary will determine, in consultation with
8 the chief procurement officer, which procedures to adopt and
9 apply to the competitive request for proposals process in order
10 to ensure an open, transparent, and efficient process that
11 accomplishes the purposes of this Act.

12 (b) The competitive request for proposals process shall, at
13 a minimum, solicit statements of qualification and proposals
14 from offerors.

15 (c) The competitive request for proposals process shall, at
16 a minimum, take into account the following criteria:

17 (1) the offeror's plans for the South Suburban Airport
18 project;

19 (2) the offeror's current and past business practices;

20 (3) the offeror's poor or inadequate past performance
21 in developing, financing, constructing, managing, or
22 operating airports or other public assets;

23 (4) the offeror's ability to meet the utilization goals
24 for business enterprises established in the Business
25 Enterprise for Minorities, Women ~~Females~~, and Persons with
26 Disabilities Act;

1 (5) the offeror's ability to comply with Section 2-105
2 of the Illinois Human Rights Act; and

3 (6) the offeror's plans to comply with the Business
4 Enterprise for Minorities, Women ~~Females~~, and Persons with
5 Disabilities Act and Section 2-105 of the Illinois Human
6 Rights Act.

7 (d) The Department shall retain the services of an advisor
8 or advisors with significant experience in the development,
9 financing, construction, management, or operation of public
10 assets to assist in the preparation of the request for
11 proposals.

12 (e) The Department shall not include terms in the request
13 for proposals that provide an advantage, whether directly or
14 indirectly, to any contractor presently providing goods,
15 services, or equipment to the Department.

16 (f) The Department shall select one or more offerors as
17 finalists. The Department shall submit the offeror's
18 statements of qualification and proposals to the Commission on
19 Government Forecasting and Accountability and the Procurement
20 Policy Board, which shall, within 30 days after the submission,
21 complete a review of the statements of qualification and
22 proposals and, jointly or separately, report on, at a minimum,
23 the satisfaction of the criteria contained in the request for
24 proposals, the qualifications of the offerors, and the value of
25 the proposals to the State. The Department shall not select an
26 offeror as the contractor for the South Suburban Airport

1 project until it has received and considered the findings of
2 the Commission on Government Forecasting and Accountability
3 and the Procurement Policy Board as set forth in their
4 respective reports.

5 (g) Before awarding a public-private agreement to an
6 offeror, the Department shall schedule and hold a public
7 hearing or hearings on the proposed public-private agreement
8 and publish notice of the hearing or hearings at least 7 days
9 before the hearing. The notice shall include the following:

10 (1) the date, time, and place of the hearing and the
11 address of the Department;

12 (2) the subject matter of the hearing;

13 (3) a description of the agreement that may be awarded;
14 and

15 (4) the recommendation that has been made to select an
16 offeror as the contractor for the South Suburban Airport
17 project.

18 At the hearing, the Department shall allow the public to be
19 heard on the subject of the hearing.

20 (h) After the procedures required in this Section have been
21 completed, the Department shall make a determination as to
22 whether the offeror should be designated as the contractor for
23 the South Suburban Airport project and shall submit the
24 decision to the Governor and to the Governor's Office of
25 Management and Budget. After review of the Department's
26 determination, the Governor may accept or reject the

1 determination. If the Governor accepts the determination of the
2 Department, the Governor shall designate the offeror for the
3 South Suburban Airport project.

4 (Source: P.A. 98-109, eff. 7-25-13.)

5 Section 170. The Public-Private Partnerships for
6 Transportation Act is amended by changing Section 25 as
7 follows:

8 (630 ILCS 5/25)

9 Sec. 25. Design-build procurement.

10 (a) This Section 25 shall apply only to transportation
11 projects for which the Department or the Authority intends to
12 execute a design-build agreement, in which case the Department
13 or the Authority shall abide by the requirements and procedures
14 of this Section 25 in addition to other applicable requirements
15 and procedures set forth in this Act.

16 (b) (1) The transportation agency must issue a notice of
17 intent to receive proposals for the project at least 14 days
18 before issuing the request for the qualifications. The
19 transportation agency must publish the advance notice in a
20 daily newspaper of general circulation in the county where the
21 transportation agency is located. The transportation agency is
22 encouraged to use publication of the notice in related
23 construction industry service publications. A brief
24 description of the proposed procurement must be included in the

1 notice. The transportation agency must provide a copy of the
2 request for qualifications to any party requesting a copy.

3 (2) The request for qualifications shall be prepared for
4 each project and must contain, without limitation, the
5 following information: (i) the name of the transportation
6 agency; (ii) a preliminary schedule for the completion of the
7 contract; (iii) the proposed budget for the project and the
8 source of funds, to the extent not already reflected in the
9 Department's Multi-Year Highway Improvement Program; (iv) the
10 shortlisting process for entities or groups of entities such as
11 unincorporated joint ventures wishing to submit proposals (the
12 transportation agency shall include, at a minimum, its normal
13 prequalification, licensing, registration, and other
14 requirements, but nothing contained herein precludes the use of
15 additional criteria by the transportation agency); (v) a
16 summary of anticipated material requirements of the contract,
17 including but not limited to, the proposed terms and
18 conditions, required performance and payment bonds, insurance,
19 and the utilization goals established by the transportation
20 agency for minority and women business enterprises and
21 compliance with Section 2-105 of the Illinois Human Rights Act;
22 and (vi) the anticipated number of entities that will be
23 shortlisted for the request for proposals phase.

24 (3) The transportation agency may include any other
25 relevant information in the request for qualifications that it
26 chooses to supply. The private entity shall be entitled to rely

1 upon the accuracy of this documentation in the development of
2 its statement of qualifications and its proposal only to the
3 extent expressly warranted by the transportation agency.

4 (4) The date that statements of qualifications are due must
5 be at least 21 calendar days after the date of the issuance of
6 the request for qualifications. In the event the cost of the
7 project is estimated to exceed \$12,000,000, then the statement
8 of qualifications due date must be at least 28 calendar days
9 after the date of the issuance of the request for
10 qualifications. The transportation agency shall include in the
11 request for proposals a minimum of 30 days to develop the
12 proposals after the selection of entities from the evaluation
13 of the statements of qualifications is completed.

14 (c)(1) The transportation agency shall develop, with the
15 assistance of a licensed design professional, the request for
16 qualifications and the request for proposals, which shall
17 include scope and performance criteria. The scope and
18 performance criteria must be in sufficient detail and contain
19 adequate information to reasonably apprise the private
20 entities of the transportation agency's overall programmatic
21 needs and goals, including criteria and preliminary design
22 plans, general budget parameters, schedule, and delivery
23 requirements.

24 (2) Each request for qualifications and request for
25 proposals shall also include a description of the level of
26 design to be provided in the proposals. This description must

1 include the scope and type of renderings, drawings, and
2 specifications that, at a minimum, will be required by the
3 transportation agency to be produced by the private entities.

4 (3) The scope and performance criteria shall be prepared by
5 a design professional who is an employee of the transportation
6 agency, or the transportation agency may contract with an
7 independent design professional selected under the
8 Architectural, Engineering, and Land Surveying Qualifications
9 Based Selection Act to provide these services.

10 (4) The design professional that prepares the scope and
11 performance criteria is prohibited from participating in any
12 private entity proposal for the project.

13 (d)(1) The transportation agency must use a two phase
14 procedure for the selection of the successful design-build
15 entity. The request for qualifications phase will evaluate and
16 shortlist the private entities based on qualifications, and the
17 request for proposals will evaluate the technical and cost
18 proposals.

19 (2) The transportation agency shall include in the request
20 for qualifications the evaluating factors to be used in the
21 request for qualifications phase. These factors are in addition
22 to any prequalification requirements of private entities that
23 the transportation agency has set forth. Each request for
24 qualifications shall establish the relative importance
25 assigned to each evaluation factor, including any weighting of
26 criteria to be employed by the transportation agency. The

1 transportation agency must maintain a record of the evaluation
2 scoring to be disclosed in event of a protest regarding the
3 solicitation.

4 The transportation agency shall include the following
5 criteria in every request for qualifications phase evaluation
6 of private entities: (i) experience of personnel; (ii)
7 successful experience with similar project types; (iii)
8 financial capability; (iv) timeliness of past performance; (v)
9 experience with similarly sized projects; (vi) successful
10 reference checks of the firm; (vii) commitment to assign
11 personnel for the duration of the project and qualifications of
12 the entity's consultants; and (viii) ability or past
13 performance in meeting or exhausting good faith efforts to meet
14 the utilization goals for business enterprises established in
15 the Business Enterprise for Minorities, Women ~~Females~~, and
16 Persons with Disabilities Act and in complying with Section
17 2-105 of the Illinois Human Rights Act. No proposal shall be
18 considered that does not include an entity's plan to comply
19 with the requirements regarding minority and women business
20 enterprises and economically disadvantaged firms established
21 by the transportation agency and with Section 2-105 of the
22 Illinois Human Rights Act. The transportation agency may
23 include any additional relevant criteria in the request for
24 qualifications phase that it deems necessary for a proper
25 qualification review.

26 Upon completion of the qualifications evaluation, the

1 transportation agency shall create a shortlist of the most
2 highly qualified private entities.

3 The transportation agency shall notify the entities
4 selected for the shortlist in writing. This notification shall
5 commence the period for the preparation of the request for
6 proposals phase technical and cost evaluations. The
7 transportation agency must allow sufficient time for the
8 shortlist entities to prepare their proposals considering the
9 scope and detail requested by the transportation agency.

10 (3) The transportation agency shall include in the request
11 for proposals the evaluating factors to be used in the
12 technical and cost submission components. Each request for
13 proposals shall establish, for both the technical and cost
14 submission components, the relative importance assigned to
15 each evaluation factor, including any weighting of criteria to
16 be employed by the transportation agency. The transportation
17 agency must maintain a record of the evaluation scoring to be
18 disclosed in event of a protest regarding the solicitation.

19 The transportation agency shall include the following
20 criteria in every request for proposals phase technical
21 evaluation of private entities: (i) compliance with objectives
22 of the project; (ii) compliance of proposed services to the
23 request for proposal requirements; (iii) compliance with the
24 request for proposal requirements of products or materials
25 proposed; (iv) quality of design parameters; and (v) design
26 concepts. The transportation agency may include any additional

1 relevant technical evaluation factors it deems necessary for
2 proper selection.

3 The transportation agency shall include the following
4 criteria in every request for proposals phase cost evaluation:
5 the total project cost and the time of completion. The
6 transportation agency may include any additional relevant
7 technical evaluation factors it deems necessary for proper
8 selection. The guaranteed maximum project cost criteria
9 weighing factor shall not exceed 30%.

10 The transportation agency shall directly employ or retain a
11 licensed design professional to evaluate the technical and cost
12 submissions to determine if the technical submissions are in
13 accordance with generally accepted industry standards.

14 (e) Statements of qualifications and proposals must be
15 properly identified and sealed. Statements of qualifications
16 and proposals may not be reviewed until after the deadline for
17 submission has passed as set forth in the request for
18 qualifications or the request for proposals. All private
19 entities submitting statements of qualifications or proposals
20 shall be disclosed after the deadline for submission, and all
21 private entities who are selected for request for proposals
22 phase evaluation shall also be disclosed at the time of that
23 determination.

24 Design-build proposals shall include a bid bond in the form
25 and security as designated in the request for proposals.
26 Proposals shall also contain a separate sealed envelope with

1 the cost information within the overall proposal submission.
2 Proposals shall include a list of all design professionals and
3 other entities to which any work identified in Section 30-30 of
4 the Illinois Procurement Code as a subdivision of construction
5 work may be subcontracted during the performance of the
6 contract to the extent known at the time of proposal. If the
7 information is not known at the time of proposal, then the
8 design-build agreement shall require the identification prior
9 to a previously unlisted subcontractor commencing work on the
10 transportation project.

11 Statements of qualifications and proposals must meet all
12 material requirements of the request for qualifications or
13 request for proposals, or else they may be rejected as
14 non-responsive. The transportation agency shall have the right
15 to reject any and all statements of qualifications and
16 proposals.

17 The private entity's proprietary intellectual property
18 contained in the drawings and specifications of any
19 unsuccessful statement of qualifications or proposal shall
20 remain the property of the private entity.

21 The transportation agency shall review the statements of
22 qualifications and the proposals for compliance with the
23 performance criteria and evaluation factors.

24 Statements of qualifications and proposals may be
25 withdrawn prior to the due date and time for submissions for
26 any cause. After evaluation begins by the transportation

1 agency, clear and convincing evidence of error is required for
2 withdrawal.

3 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

4 Section 175. The Criminal Code of 2012 is amended by
5 changing Sections 17-10.3 and 33E-2 as follows:

6 (720 ILCS 5/17-10.3)

7 Sec. 17-10.3. Deception relating to certification of
8 disadvantaged business enterprises.

9 (a) Fraudulently obtaining or retaining certification. A
10 person who, in the course of business, fraudulently obtains or
11 retains certification as a minority-owned ~~minority-owned~~
12 business, women-owned ~~female-owned~~ business, service-disabled
13 veteran-owned small business, or veteran-owned small business
14 commits a Class 2 felony.

15 (b) Willfully making a false statement. A person who, in
16 the course of business, willfully makes a false statement
17 whether by affidavit, report or other representation, to an
18 official or employee of a State agency or the ~~Minority and~~
19 ~~Female~~ Business Enterprise Council for Minorities, Women, and
20 Persons with Disabilities for the purpose of influencing the
21 certification or denial of certification of any business entity
22 as a minority-owned ~~minority-owned~~ business, women-owned
23 ~~female-owned~~ business, service-disabled veteran-owned small
24 business, or veteran-owned small business commits a Class 2

1 felony.

2 (c) Willfully obstructing or impeding an official or
3 employee of any agency in his or her investigation. Any person
4 who, in the course of business, willfully obstructs or impedes
5 an official or employee of any State agency or the ~~Minority and~~
6 ~~Female~~ Business Enterprise Council for Minorities, Women, and
7 Persons with Disabilities who is investigating the
8 qualifications of a business entity which has requested
9 certification as a minority-owned ~~minority-owned~~ business,
10 women-owned ~~female-owned~~ business, service-disabled
11 veteran-owned small business, or veteran-owned small business
12 commits a Class 2 felony.

13 (d) Fraudulently obtaining public moneys reserved for
14 disadvantaged business enterprises. Any person who, in the
15 course of business, fraudulently obtains public moneys
16 reserved for, or allocated or available to, minority-owned
17 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
18 businesses, service-disabled veteran-owned small businesses,
19 or veteran-owned small businesses commits a Class 2 felony.

20 (e) Definitions. As used in this Article, "minority-owned
21 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",
22 "State agency" with respect to minority-owned ~~minority-owned~~
23 businesses and women-owned ~~female-owned~~ businesses, and
24 "certification" with respect to minority-owned ~~minority-owned~~
25 businesses and women-owned ~~female-owned~~ businesses shall have
26 the meanings ascribed to them in Section 2 of the Business

1 Enterprise for Minorities, Women ~~Females~~, and Persons with
2 Disabilities Act. As used in this Article, "service-disabled
3 veteran-owned small business", "veteran-owned small business",
4 "State agency" with respect to service-disabled veteran-owned
5 small businesses and veteran-owned small businesses, and
6 "certification" with respect to service-disabled veteran-owned
7 small businesses and veteran-owned small businesses have the
8 same meanings as in Section 45-57 of the Illinois Procurement
9 Code.

10 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

11 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

12 Sec. 33E-2. Definitions. In this Act:

13 (a) "Public contract" means any contract for goods,
14 services or construction let to any person with or without bid
15 by any unit of State or local government.

16 (b) "Unit of State or local government" means the State,
17 any unit of state government or agency thereof, any county or
18 municipal government or committee or agency thereof, or any
19 other entity which is funded by or expends tax dollars or the
20 proceeds of publicly guaranteed bonds.

21 (c) "Change order" means a change in a contract term other
22 than as specifically provided for in the contract which
23 authorizes or necessitates any increase or decrease in the cost
24 of the contract or the time to completion.

25 (d) "Person" means any individual, firm, partnership,

1 corporation, joint venture or other entity, but does not
2 include a unit of State or local government.

3 (e) "Person employed by any unit of State or local
4 government" means any employee of a unit of State or local
5 government and any person defined in subsection (d) who is
6 authorized by such unit of State or local government to act on
7 its behalf in relation to any public contract.

8 (f) "Sheltered market" has the meaning ascribed to it in
9 Section 8b of the Business Enterprise for Minorities, Women
10 ~~Females~~, and Persons with Disabilities Act; except that, with
11 respect to State contracts set aside for award to
12 service-disabled veteran-owned small businesses and
13 veteran-owned small businesses pursuant to Section 45-57 of the
14 Illinois Procurement Code, "sheltered market" means
15 procurements pursuant to that Section.

16 (g) "Kickback" means any money, fee, commission, credit,
17 gift, gratuity, thing of value, or compensation of any kind
18 which is provided, directly or indirectly, to any prime
19 contractor, prime contractor employee, subcontractor, or
20 subcontractor employee for the purpose of improperly obtaining
21 or rewarding favorable treatment in connection with a prime
22 contract or in connection with a subcontract relating to a
23 prime contract.

24 (h) "Prime contractor" means any person who has entered
25 into a public contract.

26 (i) "Prime contractor employee" means any officer,

1 partner, employee, or agent of a prime contractor.

2 (i-5) "Stringing" means knowingly structuring a contract
3 or job order to avoid the contract or job order being subject
4 to competitive bidding requirements.

5 (j) "Subcontract" means a contract or contractual action
6 entered into by a prime contractor or subcontractor for the
7 purpose of obtaining goods or services of any kind under a
8 prime contract.

9 (k) "Subcontractor" (1) means any person, other than the
10 prime contractor, who offers to furnish or furnishes any goods
11 or services of any kind under a prime contract or a subcontract
12 entered into in connection with such prime contract; and (2)
13 includes any person who offers to furnish or furnishes goods or
14 services to the prime contractor or a higher tier
15 subcontractor.

16 (l) "Subcontractor employee" means any officer, partner,
17 employee, or agent of a subcontractor.

18 (Source: P.A. 97-260, eff. 8-5-11.)

19 Section 180. The Business Corporation Act of 1983 is
20 amended by changing Section 14.05 as follows:

21 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

22 Sec. 14.05. Annual report of domestic or foreign
23 corporation. Each domestic corporation organized under any
24 general law or special act of this State authorizing the

1 corporation to issue shares, other than homestead
2 associations, building and loan associations, banks and
3 insurance companies (which includes a syndicate or limited
4 syndicate regulated under Article V 1/2 of the Illinois
5 Insurance Code or member of a group of underwriters regulated
6 under Article V of that Code), and each foreign corporation
7 (except members of a group of underwriters regulated under
8 Article V of the Illinois Insurance Code) authorized to
9 transact business in this State, shall file, within the time
10 prescribed by this Act, an annual report setting forth:

11 (a) The name of the corporation.

12 (b) The address, including street and number, or rural
13 route number, of its registered office in this State, and
14 the name of its registered agent at that address.

15 (c) The address, including street and number, or rural
16 route number, of its principal office.

17 (d) The names and respective addresses, including
18 street and number, or rural route number, of its directors
19 and officers.

20 (e) A statement of the aggregate number of shares which
21 the corporation has authority to issue, itemized by classes
22 and series, if any, within a class.

23 (f) A statement of the aggregate number of issued
24 shares, itemized by classes, and series, if any, within a
25 class.

26 (g) A statement, expressed in dollars, of the amount of

1 paid-in capital of the corporation as defined in this Act.

2 (h) Either a statement that (1) all the property of the
3 corporation is located in this State and all of its
4 business is transacted at or from places of business in
5 this State, or the corporation elects to pay the annual
6 franchise tax on the basis of its entire paid-in capital,
7 or (2) a statement, expressed in dollars, of the value of
8 all the property owned by the corporation, wherever
9 located, and the value of the property located within this
10 State, and a statement, expressed in dollars, of the gross
11 amount of business transacted by the corporation and the
12 gross amount thereof transacted by the corporation at or
13 from places of business in this State as of the close of
14 its fiscal year on or immediately preceding the last day of
15 the third month prior to the anniversary month or in the
16 case of a corporation which has established an extended
17 filing month, as of the close of its fiscal year on or
18 immediately preceding the last day of the third month prior
19 to the extended filing month; however, in the case of a
20 domestic corporation that has not completed its first
21 fiscal year, the statement with respect to property owned
22 shall be as of the last day of the third month preceding
23 the anniversary month and the statement with respect to
24 business transacted shall be furnished for the period
25 between the date of incorporation and the last day of the
26 third month preceding the anniversary month. In the case of

1 a foreign corporation that has not been authorized to
2 transact business in this State for a period of 12 months
3 and has not commenced transacting business prior to
4 obtaining authority, the statement with respect to
5 property owned shall be as of the last day of the third
6 month preceding the anniversary month and the statement
7 with respect to business transacted shall be furnished for
8 the period between the date of its authorization to
9 transact business in this State and the last day of the
10 third month preceding the anniversary month. If the data
11 referenced in item (2) of this subsection is not completed,
12 the franchise tax provided for in this Act shall be
13 computed on the basis of the entire paid-in capital.

14 (i) A statement, including the basis therefor, of
15 status as a "minority-owned ~~minority-owned~~ business" or as
16 a "women-owned ~~female-owned~~ business" as those terms are
17 defined in the Business Enterprise for Minorities, Women
18 ~~Females~~, and Persons with Disabilities Act.

19 (j) Additional information as may be necessary or
20 appropriate in order to enable the Secretary of State to
21 administer this Act and to verify the proper amount of fees
22 and franchise taxes payable by the corporation.

23 The annual report shall be made on forms prescribed and
24 furnished by the Secretary of State, and the information
25 therein required by paragraphs (a) through (d), both inclusive,
26 of this Section, shall be given as of the date of the execution

1 of the annual report and the information therein required by
2 paragraphs (e), (f) and (g) of this Section shall be given as
3 of the last day of the third month preceding the anniversary
4 month, except that the information required by paragraphs (e),
5 (f) and (g) shall, in the case of a corporation which has
6 established an extended filing month, be given in its final
7 transition annual report and each subsequent annual report as
8 of the close of its fiscal year immediately preceding its
9 extended filing month. It shall be executed by the corporation
10 by its president, a vice-president, secretary, assistant
11 secretary, treasurer or other officer duly authorized by the
12 board of directors of the corporation to execute those reports,
13 and verified by him or her, or, if the corporation is in the
14 hands of a receiver or trustee, it shall be executed on behalf
15 of the corporation and verified by the receiver or trustee.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,
17 7-1-03.)

18 Section 999. Effective date. This Act takes effect upon
19 becoming law.