



Sen. James F. Clayborne, Jr.

**Filed: 3/17/2017**

10000SB0262sam002

LRB100 05183 MLM 23850 a

1 AMENDMENT TO SENATE BILL 262

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 262 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Comptroller Act is amended by  
5 changing 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

1 owned by persons with disabilities, and small businesses  
2 capable of providing services to the State; (ii) education of  
3 minority-owned businesses, women-owned ~~female-owned~~  
4 businesses, businesses owned by persons with disabilities, and  
5 small businesses concerning State contracting and procurement;  
6 (iii) notification of minority-owned businesses, women-owned  
7 ~~female-owned~~ businesses, businesses owned by persons with  
8 disabilities, and small businesses of State contracting  
9 opportunities; and (iv) maintenance of an online database of  
10 State contracts that identifies the contracts awarded to  
11 minority-owned businesses, women-owned ~~female-owned~~  
12 businesses, businesses owned by persons with disabilities, and  
13 small businesses that includes the total amount paid by State  
14 agencies to contractors and the percentage paid to  
15 minority-owned businesses, women-owned ~~female-owned~~  
16 businesses, businesses owned by persons with disabilities, and  
17 small businesses.

18 The Comptroller shall work with the Business Enterprise  
19 Council created under Section 5 of the Business Enterprise for  
20 Minorities, Women ~~Females~~, and Persons with Disabilities Act to  
21 fulfill the Comptroller's responsibilities under this Section.  
22 The Comptroller may rely on the Business Enterprise Council's  
23 identification of minority-owned businesses, women-owned  
24 ~~female-owned~~ businesses, and businesses owned by persons with  
25 disabilities.

26 The Comptroller shall annually prepare and submit a report

1 to the Governor and the General Assembly concerning the  
2 progress of this initiative including the following  
3 information for the preceding calendar year: (i) a statement of  
4 the total amounts paid by each executive branch agency to  
5 contractors since the previous report; (ii) the percentage of  
6 the amounts that were paid to minority-owned businesses,  
7 women-owned ~~female-owned~~ businesses, businesses owned by  
8 persons with disabilities, and small businesses; (iii) the  
9 successes achieved and the challenges faced by the Comptroller  
10 in operating outreach programs for minorities, women, persons  
11 with disabilities, and small businesses; (iv) the challenges  
12 each executive branch agency may face in hiring qualified  
13 minority, woman ~~female~~, and small business employees and  
14 employees with disabilities and contracting with qualified  
15 minority-owned businesses, women-owned ~~female-owned~~  
16 businesses, businesses owned by persons with disabilities, and  
17 small businesses; and (iv) any other information, findings,  
18 conclusions, and recommendations for legislative or agency  
19 action, as the Comptroller deems appropriate.

20 On and after the effective date of this amendatory Act of  
21 the 97th General Assembly, any bidder or offeror awarded a  
22 contract of \$1,000 or more under Section 20-10, 20-15, 20-25,  
23 or 20-30 of the Illinois Procurement Code is required to pay a  
24 fee of \$15 to cover expenses related to the administration of  
25 this Section. The Comptroller shall deduct the fee from the  
26 first check issued to the vendor under the contract and deposit

1 the fee into the Comptroller's Administrative Fund. Contracts  
2 administered for statewide orders placed by agencies (commonly  
3 referred to as "statewide master contracts") are exempt from  
4 this fee.

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

6 (20 ILCS 605/605-525 rep.)

7 Section 10. The Department of Commerce and Economic  
8 Opportunity Law of the Civil Administrative Code of Illinois is  
9 amended by repealing Section 605-525.

10 Section 15. The Illinois Lottery Law is amended by changing  
11 Section 9.1 as follows:

12 (20 ILCS 1605/9.1)

13 Sec. 9.1. Private manager and management agreement.

14 (a) As used in this Section:

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

17 "Request for qualifications" means all materials and  
18 documents prepared by the Department to solicit the following  
19 from offerors:

20 (1) Statements of qualifications.

21 (2) Proposals to enter into a management agreement,  
22 including the identity of any prospective vendor or vendors  
23 that the offeror intends to initially engage to assist the

1 offeror in performing its obligations under the management  
2 agreement.

3 "Final offer" means the last proposal submitted by an  
4 offeror in response to the request for qualifications,  
5 including the identity of any prospective vendor or vendors  
6 that the offeror intends to initially engage to assist the  
7 offeror in performing its obligations under the management  
8 agreement.

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

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

17 (c) Pursuant to the terms of this subsection, the  
18 Department shall endeavor to expeditiously terminate the  
19 existing contracts in support of the Lottery in effect on the  
20 effective date of this amendatory Act of the 96th General  
21 Assembly in connection with the selection of the private  
22 manager. As part of its obligation to terminate these contracts  
23 and select the private manager, the Department shall establish  
24 a mutually agreeable timetable to transfer the functions of  
25 existing contractors to the private manager so that existing  
26 Lottery operations are not materially diminished or impaired

1 during the transition. To that end, the Department shall do the  
2 following:

3 (1) where such contracts contain a provision  
4 authorizing termination upon notice, the Department shall  
5 provide notice of termination to occur upon the mutually  
6 agreed timetable for transfer of functions;

7 (2) upon the expiration of any initial term or renewal  
8 term of the current Lottery contracts, the Department shall  
9 not renew such contract for a term extending beyond the  
10 mutually agreed timetable for transfer of functions; or

11 (3) in the event any current contract provides for  
12 termination of that contract upon the implementation of a  
13 contract with the private manager, the Department shall  
14 perform all necessary actions to terminate the contract on  
15 the date that coincides with the mutually agreed timetable  
16 for transfer of functions.

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

23 (c-5) The Department shall include provisions in the  
24 management agreement whereby the private manager shall, for a  
25 fee, and pursuant to a contract negotiated with the Department  
26 (the "Employee Use Contract"), utilize the services of current

1 Department employees to assist in the administration and  
2 operation of the Lottery. The Department shall be the employer  
3 of all such bargaining unit employees assigned to perform such  
4 work for the private manager, and such employees shall be State  
5 employees, as defined by the Personnel Code. Department  
6 employees shall operate under the same employment policies,  
7 rules, regulations, and procedures, as other employees of the  
8 Department. In addition, neither historical representation  
9 rights under the Illinois Public Labor Relations Act, nor  
10 existing collective bargaining agreements, shall be disturbed  
11 by the management agreement with the private manager for the  
12 management of the Lottery.

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

15 (1) A term not to exceed 10 years, including any  
16 renewals.

17 (2) A provision specifying that the Department:

18 (A) shall exercise actual control over all  
19 significant business decisions;

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

22 (B) has ready access at any time to information  
23 regarding Lottery operations;

24 (C) has the right to demand and receive information  
25 from the private manager concerning any aspect of the  
26 Lottery operations at any time; and

1           (D) retains ownership of all trade names,  
2           trademarks, and intellectual property associated with  
3           the Lottery.

4           (3) A provision imposing an affirmative duty on the  
5           private manager to provide the Department with material  
6           information and with any information the private manager  
7           reasonably believes the Department would want to know to  
8           enable the Department to conduct the Lottery.

9           (4) A provision requiring the private manager to  
10          provide the Department with advance notice of any operating  
11          decision that bears significantly on the public interest,  
12          including, but not limited to, decisions on the kinds of  
13          games to be offered to the public and decisions affecting  
14          the relative risk and reward of the games being offered, so  
15          the Department has a reasonable opportunity to evaluate and  
16          countermand that decision.

17          (5) A provision providing for compensation of the  
18          private manager that may consist of, among other things, a  
19          fee for services and a performance based bonus as  
20          consideration for managing the Lottery, including terms  
21          that may provide the private manager with an increase in  
22          compensation if Lottery revenues grow by a specified  
23          percentage in a given year.

24          (6) (Blank).

25          (7) A provision requiring the deposit of all Lottery  
26          proceeds to be deposited into the State Lottery Fund except



1 as otherwise provided in Section 20 of this Act.

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

4 (8-5) A provision encouraging that at least 20% of the  
5 cost of contracts entered into for goods and services by  
6 the private manager in connection with its management of  
7 the Lottery, other than contracts with sales agents or  
8 technical advisors, be awarded to businesses that are a  
9 minority-owned ~~minority-owned~~ business, a women-owned  
10 ~~female-owned~~ business, or a business owned by a person with  
11 disability, as those terms are defined in the Business  
12 Enterprise for Minorities, Women ~~Females~~, and Persons with  
13 Disabilities Act.

14 (9) A requirement that so long as the private manager  
15 complies with all the conditions of the agreement under the  
16 oversight of the Department, the private manager shall have  
17 the following duties and obligations with respect to the  
18 management of the Lottery:

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

21 (B) The rights and obligations under contracts  
22 with retailers and vendors.

23 (C) The implementation of a comprehensive security  
24 program by the private manager.

25 (D) The implementation of a comprehensive system  
26 of internal audits.

1           (E) The implementation of a program by the private  
2 manager to curb compulsive gambling by persons playing  
3 the Lottery.

4           (F) A system for determining (i) the type of  
5 Lottery games, (ii) the method of selecting winning  
6 tickets, (iii) the manner of payment of prizes to  
7 holders of winning tickets, (iv) the frequency of  
8 drawings of winning tickets, (v) the method to be used  
9 in selling tickets, (vi) a system for verifying the  
10 validity of tickets claimed to be winning tickets,  
11 (vii) the basis upon which retailer commissions are  
12 established by the manager, and (viii) minimum  
13 payouts.

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

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

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

23           (13) A requirement that the Department monitor and  
24 oversee the private manager's practices and take action  
25 that the Department considers appropriate to ensure that  
26 the private manager is in compliance with the terms of the

1 management agreement, while allowing the manager, unless  
2 specifically prohibited by law or the management  
3 agreement, to negotiate and sign its own contracts with  
4 vendors.

5 (14) A provision requiring the private manager to  
6 periodically file, at least on an annual basis, appropriate  
7 financial statements in a form and manner acceptable to the  
8 Department.

9 (15) Cash reserves requirements.

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

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

16 (18) Procedures for amendment of the agreement.

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

26 (20) The transition of rights and obligations,

1 including any associated equipment or other assets used in  
2 the operation of the Lottery, from the manager to any  
3 successor manager of the lottery, including the  
4 Department, following the termination of or foreclosure  
5 upon the management agreement.

6 (21) Right of use of copyrights, trademarks, and  
7 service marks held by the Department in the name of the  
8 State. The agreement must provide that any use of them by  
9 the manager shall only be for the purpose of fulfilling its  
10 obligations under the management agreement during the term  
11 of the agreement.

12 (22) The disclosure of any information requested by the  
13 Department to enable it to comply with the reporting  
14 requirements and information requests provided for under  
15 subsection (p) of this Section.

16 (e) Notwithstanding any other law to the contrary, the  
17 Department shall select a private manager through a competitive  
18 request for qualifications process consistent with Section  
19 20-35 of the Illinois Procurement Code, which shall take into  
20 account:

21 (1) the offeror's ability to market the Lottery to  
22 those residents who are new, infrequent, or lapsed players  
23 of the Lottery, especially those who are most likely to  
24 make regular purchases on the Internet;

25 (2) the offeror's ability to address the State's  
26 concern with the social effects of gambling on those who

1 can least afford to do so;

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

6 (4) the offeror's poor or inadequate past performance  
7 in servicing, equipping, operating or managing a lottery on  
8 behalf of Illinois, another State or foreign government and  
9 attracting persons who are not currently regular players of  
10 a lottery.

11 (f) The Department may retain the services of an advisor or  
12 advisors with significant experience in financial services or  
13 the management, operation, and procurement of goods, services,  
14 and equipment for a government-run lottery to assist in the  
15 preparation of the terms of the request for qualifications and  
16 selection of the private manager. Any prospective advisor  
17 seeking to provide services under this subsection (f) shall  
18 disclose any material business or financial relationship  
19 during the past 3 years with any potential offeror, or with a  
20 contractor or subcontractor presently providing goods,  
21 services, or equipment to the Department to support the  
22 Lottery. The Department shall evaluate the material business or  
23 financial relationship of each prospective advisor. The  
24 Department shall not select any prospective advisor with a  
25 substantial business or financial relationship that the  
26 Department deems to impair the objectivity of the services to

1 be provided by the prospective advisor. During the course of  
2 the advisor's engagement by the Department, and for a period of  
3 one year thereafter, the advisor shall not enter into any  
4 business or financial relationship with any offeror or any  
5 vendor identified to assist an offeror in performing its  
6 obligations under the management agreement. Any advisor  
7 retained by the Department shall be disqualified from being an  
8 offeror. The Department shall not include terms in the request  
9 for qualifications that provide a material advantage whether  
10 directly or indirectly to any potential offeror, or any  
11 contractor or subcontractor presently providing goods,  
12 services, or equipment to the Department to support the  
13 Lottery, including terms contained in previous responses to  
14 requests for proposals or qualifications submitted to  
15 Illinois, another State or foreign government when those terms  
16 are uniquely associated with a particular potential offeror,  
17 contractor, or subcontractor. The request for proposals  
18 offered by the Department on December 22, 2008 as  
19 "LOT08GAMESYS" and reference number "22016176" is declared  
20 void.

21 (g) The Department shall select at least 2 offerors as  
22 finalists to potentially serve as the private manager no later  
23 than August 9, 2010. Upon making preliminary selections, the  
24 Department shall schedule a public hearing on the finalists'  
25 proposals and provide public notice of the hearing at least 7  
26 calendar days before the hearing. The notice must include all

1 of the following:

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

3 (2) The subject matter of the hearing.

4 (3) A brief description of the management agreement to  
5 be awarded.

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

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

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

1 objectives of this Section. The Governor shall also sign the  
2 management agreement with the private manager.

3 (i) Any action to contest the private manager selected by  
4 the Governor under this Section must be brought within 7  
5 calendar days after the publication of the notice of the  
6 designation of the private manager as provided in subsection  
7 (h) of this Section.

8 (j) The Lottery shall remain, for so long as a private  
9 manager manages the Lottery in accordance with provisions of  
10 this Act, a Lottery conducted by the State, and the State shall  
11 not be authorized to sell or transfer the Lottery to a third  
12 party.

13 (k) Any tangible personal property used exclusively in  
14 connection with the lottery that is owned by the Department and  
15 leased to the private manager shall be owned by the Department  
16 in the name of the State and shall be considered to be public  
17 property devoted to an essential public and governmental  
18 function.

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

22 (m) Neither this Section nor any management agreement  
23 entered into under this Section prohibits the General Assembly  
24 from authorizing forms of gambling that are not in direct  
25 competition with the Lottery.

26 (n) The private manager shall be subject to a complete



1 investigation in the third, seventh, and tenth years of the  
2 agreement (if the agreement is for a 10-year term) by the  
3 Department in cooperation with the Auditor General to determine  
4 whether the private manager has complied with this Section and  
5 the management agreement. The private manager shall bear the  
6 cost of an investigation or reinvestigation of the private  
7 manager under this subsection.

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

1           Upon receipt of a written request from the Chief  
2 Procurement Officer, the Department shall provide to the Chief  
3 Procurement Officer a complete and un-redacted copy of the  
4 management agreement or any contract that is subject to the  
5 Department's approval authority under this subsection (o). The  
6 Department shall provide a copy of the agreement or contract to  
7 the Chief Procurement Officer in the time specified by the  
8 Chief Procurement Officer in his or her written request, but no  
9 later than 5 business days after the request is received by the  
10 Department. The Chief Procurement Officer must retain any  
11 portions of the management agreement or of any contract  
12 designated by the Department as confidential, proprietary, or  
13 trade secret information in complete confidence pursuant to  
14 subsection (g) of Section 7 of the Freedom of Information Act.  
15 The Department shall also provide the Chief Procurement Officer  
16 with reasonable advance written notice of any contract that is  
17 pending Department approval.

18           Notwithstanding any other provision of this Section to the  
19 contrary, the Chief Procurement Officer shall adopt  
20 administrative rules, including emergency rules, to establish  
21 a procurement process to select a successor private manager if  
22 a private management agreement has been terminated. The  
23 selection process shall at a minimum take into account the  
24 criteria set forth in items (1) through (4) of subsection (e)  
25 of this Section and may include provisions consistent with  
26 subsections (f), (g), (h), and (i) of this Section. The Chief

1 Procurement Officer shall also implement and administer the  
2 adopted selection process upon the termination of a private  
3 management agreement. The Department, after the Chief  
4 Procurement Officer certifies that the procurement process has  
5 been followed in accordance with the rules adopted under this  
6 subsection (o), shall select a final offeror as the private  
7 manager and sign the management agreement with the private  
8 manager.

9 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, and  
10 21.9, the Department shall distribute all proceeds of lottery  
11 tickets and shares sold in the following priority and manner:

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

13 (2) The payment of costs incurred in the operation and  
14 administration of the Lottery, including the payment of  
15 sums due to the private manager under the management  
16 agreement with the Department.

17 (3) On the last day of each month or as soon thereafter  
18 as possible, the State Comptroller shall direct and the  
19 State Treasurer shall transfer from the State Lottery Fund  
20 to the Common School Fund an amount that is equal to the  
21 proceeds transferred in the corresponding month of fiscal  
22 year 2009, as adjusted for inflation, to the Common School  
23 Fund.

24 (4) On or before the last day of each fiscal year,  
25 deposit any remaining proceeds, subject to payments under  
26 items (1), (2), and (3) into the Capital Projects Fund each

1 fiscal year.

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

4 (1) the Department shall submit written quarterly  
5 reports to the Governor and the General Assembly on the  
6 activities and actions of the private manager selected  
7 under this Section;

8 (2) upon request of the Chief Procurement Officer, the  
9 Department shall promptly produce information related to  
10 the procurement activities of the Department and the  
11 private manager requested by the Chief Procurement  
12 Officer; the Chief Procurement Officer must retain  
13 confidential, proprietary, or trade secret information  
14 designated by the Department in complete confidence  
15 pursuant to subsection (g) of Section 7 of the Freedom of  
16 Information Act; and

17 (3) at least 30 days prior to the beginning of the  
18 Department's fiscal year, the Department shall prepare an  
19 annual written report on the activities of the private  
20 manager selected under this Section and deliver that report  
21 to the Governor and General Assembly.

22 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;  
23 99-933, eff. 1-27-17.)

24 Section 20. The Department of Transportation Law of the  
25 Civil Administrative Code of Illinois is amended by changing

1 Sections 2705-585 and 2705-600 as follows:

2 (20 ILCS 2705/2705-585)

3 Sec. 2705-585. Diversity goals.

4 (a) To the extent permitted by any applicable federal law  
5 or regulation, all State construction projects funded from  
6 amounts (i) made available under the Governor's Fiscal Year  
7 2009 supplemental budget or the American Recovery and  
8 Reinvestment Act of 2009 and (ii) that are appropriated to the  
9 Illinois Department of Transportation shall comply with the  
10 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
11 with Disabilities Act.

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

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

23 (20 ILCS 2705/2705-600)

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

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

6           (0.5) Each fiscal year, the Department shall review any  
7 and all evidence of discrimination related to  
8 transportation construction projects. Evidence of  
9 discrimination may include, but is not limited to: (i) the  
10 determination of the Department's utilization of  
11 minority-owned and women-owned ~~female-owned~~ firms in its  
12 prime contracts and associated subcontracts; (ii) the  
13 availability of minority-owned and women-owned  
14 ~~female-owned~~ firms in the Department's geographic market  
15 areas and specific construction industry markets; (iii)  
16 any disparities between the utilization of minority-owned  
17 and women-owned ~~female-owned~~ firms in the Department's  
18 markets and the utilization of those firms on the  
19 Department's prime contracts and subcontracts in those  
20 markets; (iv) any disparities between the utilization of  
21 minority-owned and women-owned ~~female-owned~~ firms in the  
22 overall construction markets in which the Department  
23 purchases and the utilization of those firms in the overall  
24 construction economy in which the Department operates; (v)  
25 evidence of discrimination in the rates at which  
26 minority-owned and women-owned ~~female-owned~~ firms in the

1 Department's markets form businesses compared to similar  
2 non-minority-owned and non-women-owned ~~non-female-owned~~  
3 firms in the Department's markets and in the dollars earned  
4 by such businesses; and (vi) quantitative and qualitative  
5 anecdotal evidence of discrimination. If after reviewing  
6 such evidence, the Department finds and the chief  
7 procurement officer concurs in the findings that the  
8 Department has a strong basis in evidence that it has a  
9 compelling interest in remedying the identified  
10 discrimination against a specific group, race, or gender,  
11 and that the only remedy for such discrimination is a  
12 narrowly tailored target market, the chief procurement  
13 officer, in consultation with the Department, has the power  
14 to establish and implement a target market program tailored  
15 to address the specific findings of egregious  
16 discrimination made by the Department, after a public  
17 hearing at which minority, women ~~female~~, and general  
18 contractor groups, community organizations, and other  
19 interested parties shall have the opportunity to provide  
20 comments.

21 (1) In January of each year, the Department and the  
22 chief procurement officer shall report jointly to the  
23 General Assembly the results of any evidentiary inquiries  
24 or studies that establish the Department's compelling  
25 interest in remedying egregious discrimination based upon  
26 strong evidence of the need for a narrowly tailored target

1 market to remedy such discrimination and public hearings  
2 held pursuant to this Section, and shall report the actions  
3 to be taken to address the findings, including, if  
4 warranted, the establishment and implementation of any  
5 target market initiatives.

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

22 (3) The chief procurement officer may make  
23 participation in the target market program dependent upon  
24 submission to stricter compliance audits than are  
25 generally applicable. No contract shall be eligible for  
26 inclusion in the target market program unless the



1 Department determines that there are at least 3  
2 minority-owned businesses or women-owned ~~female-owned~~  
3 businesses interested in participating in that type of  
4 contract. The Department, with the concurrence of the chief  
5 procurement officer, may develop guidelines to regulate  
6 the level of participation of individual minority-owned  
7 businesses and women-owned ~~female-owned~~ businesses in the  
8 target market program in order to prevent the domination of  
9 the target market program by a small number of those  
10 entities. The Department may require minority-owned  
11 businesses and women-owned ~~female-owned~~ businesses to  
12 participate in training programs offered by the Department  
13 or other State agencies as a condition precedent to  
14 participation in the target market program.

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

1           (5) The Department may include in the target market  
2 program contracts that are funded by the federal government  
3 to the extent allowed by federal law and may vary the  
4 standards of eligibility of the target market program to  
5 the extent necessary to comply with the federal funding  
6 requirements.

7           (6) If no satisfactory bid or response is received with  
8 respect to a contract that has been designated as part of  
9 the target market program, the chief procurement officer,  
10 in consultation with the Department, may delete that  
11 contract from the target market program. In addition, the  
12 chief procurement officer, in consultation with the  
13 Department, may thereupon designate and set aside for the  
14 target market program additional contracts corresponding  
15 in approximate value to the contract that was deleted from  
16 the target market program, in keeping with the narrowly  
17 tailored process used for selecting contracts suitable for  
18 the program and to the extent feasible.

19           (7) The chief procurement officer, in consultation  
20 with the Department, shall promulgate such rules as he or  
21 she deems necessary to administer the target market  
22 program.

23           If any part, sentence, or clause of this Section is for any  
24 reason held invalid or to be unconstitutional, such decision  
25 shall not affect the validity of the remaining portions of this  
26 Section.

1           This Section is repealed on June 30, 2017.

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

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

5           (20 ILCS 3105/16) (from Ch. 127, par. 783b)

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

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

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

19                 (2) The occurrence of an event or series of events  
20                 which, in the Board's opinion, warrants a summary  
21                 suspension or modification of a prequalification without a  
22                 hearing including, without limitation, (i) the indictment  
23                 of the holder of the prequalification by a State or federal  
24                 agency or other branch of government for a crime; (ii) the

1 suspension or modification of a license or  
2 prequalification by another State agency or federal agency  
3 or other branch of government after hearings; (iii) a  
4 material breach of a contract made between the Board and an  
5 architect, engineer or contractor; and (iv) the failure to  
6 comply with State law including, without limitation, the  
7 Business Enterprise for Minorities, Women ~~Females~~, and  
8 Persons with Disabilities Act, the prevailing wage  
9 requirements, and the Steel Products Procurement Act.

10 (c) If a prequalification is suspended or modified by the  
11 Board without hearings for any reason set forth in this Section  
12 or in Section 10-65 of the Illinois Administrative Procedure  
13 Act, as amended, the Board shall within 30 days of the issuance  
14 of an order of suspension or modification of a prequalification  
15 initiate proceedings for the suspension or modification of or  
16 other action upon the prequalification.

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

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

20 (20 ILCS 3860/20)

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

22 Sec. 20. Powers and duties of the Illinois Health  
23 Information Exchange Authority. The Authority has the  
24 following powers, together with all powers incidental or

1 necessary to accomplish the purposes of this Act:

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

6 (2) The Authority shall establish and adopt standards  
7 and requirements for the use of health information and the  
8 requirements for participation in the ILHIE by persons or  
9 entities including, but not limited to, health care  
10 providers, payors, and local health information exchanges.

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

23 (4) The Authority shall identify barriers to the  
24 adoption of electronic health records systems, including  
25 researching the rates and patterns of dissemination and use  
26 of electronic health record systems throughout the State.

1 The Authority shall make the results of the research  
2 available on its website.

3 (5) The Authority shall prepare educational materials  
4 and educate the general public on the benefits of  
5 electronic health records, the ILHIE, and the safeguards  
6 available to prevent unauthorized disclosure of health  
7 information.

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

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

22 (8) The Authority may solicit and accept grants, loans,  
23 contributions, or appropriations from any public or  
24 private source and may expend those moneys, through  
25 contracts, grants, loans, or agreements, on activities it  
26 considers suitable to the performance of its duties under

1           this Act.

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

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

19           (11) The Authority shall consult and coordinate with  
20 the Department of Public Health to further the Authority's  
21 collection of health information from health care  
22 providers for public health purposes. The collection of  
23 public health information shall include identifiable  
24 information for use by the Authority or other State  
25 agencies to comply with State and federal laws. Any  
26 identifiable information so collected shall be privileged

1 and confidential in accordance with Sections 8-2101,  
2 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil  
3 Procedure.

4 (12) All identified or deidentified health information  
5 in the form of health data or medical records contained in,  
6 stored in, submitted to, transferred by, or released from  
7 the Illinois Health Information Exchange, and identified  
8 or deidentified health information in the form of health  
9 data and medical records of the Illinois Health Information  
10 Exchange in the possession of the Illinois Health  
11 Information Exchange Authority due to its administration  
12 of the Illinois Health Information Exchange, shall be  
13 exempt from inspection and copying under the Freedom of  
14 Information Act. The terms "identified" and "deidentified"  
15 shall be given the same meaning as in the Health Insurance  
16 Portability and Accountability Act of 1996, Public Law  
17 104-191, or any subsequent amendments thereto, and any  
18 regulations promulgated thereunder.

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



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

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

4 (20 ILCS 3948/20)

5 Sec. 20. Board of directors. IGP shall be governed by a  
6 board of directors. The IGP board of directors shall consist of  
7 14 members. Five of the members shall be voting members  
8 appointed by the Governor with the advice and consent of the  
9 Senate. The Speaker and Minority Leader of the House of  
10 Representatives, the President and Minority Leader of the  
11 Senate, the Lieutenant Governor, the Director of Agriculture,  
12 the Director of Commerce and Economic Opportunity, the  
13 Chairperson of the Illinois Arts Council, and the Director of  
14 the Illinois Finance Authority, or the designee of each, shall  
15 be non-voting ex officio members.

16 Of the members appointed by the Governor, one member must  
17 have a background in agriculture, one member must have a  
18 background in manufacturing, and one member must have a  
19 background in international business relations.

20 Of the initial members appointed by the Governor, 3 members  
21 shall serve 4-year terms and 2 members shall serve 2-year terms  
22 as designated by the Governor. Thereafter, members appointed by  
23 the Governor shall serve 4-year terms. A vacancy among members  
24 appointed by the Governor shall be filled by appointment by the

1 Governor for the remainder of the vacated term.

2 Members of the board shall receive no compensation but  
3 shall be reimbursed for expenses incurred in the performance of  
4 their duties.

5 The Governor shall designate the chairman of the board  
6 until a successor is designated. The board shall meet at the  
7 call of the chair.

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

17 On December 31 of each year, the board shall report to the  
18 General Assembly and the Governor regarding the use of services  
19 provided by businesses owned by minorities, women ~~females~~, and  
20 persons with disabilities, as defined under the Business  
21 Enterprise for Minorities, Women ~~Females~~, and Persons with  
22 Disabilities Act.

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

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

1 (30 ILCS 105/8.32) (from Ch. 127, par. 144.32)

2 Sec. 8.32. All moneys received by the Minority and Women  
3 ~~Female~~ Business Enterprise Council, or by the Department of  
4 Central Management Services on behalf of the Council or the  
5 Department's ~~Minority and Female~~ Business Enterprise for  
6 Minorities, Women, and Persons with Disabilities Division,  
7 from grants, donations, seminar registration fees, and the sale  
8 of directories, lists and other such information, shall be  
9 deposited into the Minority and Female Business Enterprise Fund  
10 in the State treasury. Expenses of the Council or the  
11 Department's ~~Minority and Female~~ Business Enterprise for  
12 Minorities, Women, and Persons with Disabilities Division may  
13 be paid from this Fund.

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

15 (30 ILCS 105/45)

16 Sec. 45. Award of capital funds. Each award by grant or  
17 loan of State funds of \$250,000 or more for capital  
18 construction costs or professional services is conditioned  
19 upon the recipient's written certification that the recipient  
20 shall comply with the business enterprise program practices for  
21 minority-owned businesses, women-owned ~~female-owned~~  
22 businesses, and businesses owned by persons with disabilities  
23 of the Business Enterprise for Minorities, Women ~~Females~~, and  
24 Persons with Disabilities Act (30 ILCS 575/) and the equal

1 employment practices of Section 2-105 of the Illinois Human  
2 Rights Act (775 ILCS 5/2-105). This Section, however, does not  
3 apply to any grant or loan (i) for which a grant or loan  
4 agreement was executed before the effective date of this  
5 amendatory Act of the 96th General Assembly, (ii) for which  
6 prior-incurred costs are being reimbursed, or (iii) for a  
7 federally funded program under which the requirement of this  
8 Section would contravene federal law. Each recipient shall  
9 submit the written certification and business enterprise  
10 program plan for minority-owned businesses, women-owned  
11 ~~female-owned~~ businesses, and businesses owned by persons with  
12 disabilities before signing the relevant grant or loan  
13 agreement. Each grant or loan agreement shall include a  
14 provision that the grant or loan recipient agrees to comply  
15 with the provisions of the Business Enterprise for Minorities,  
16 Women ~~Females~~, and Persons with Disabilities Act (30 ILCS 575/)  
17 and the equal employment practices of Section 2-105 of the  
18 Illinois Human Rights Act (775 ILCS 5/2-105).

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

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

25 Section 45. The General Obligation Bond Act is amended by

1 changing Sections 8 and 15.5 as follows:

2 (30 ILCS 330/8) (from Ch. 127, par. 658)

3 Sec. 8. Bond sale expenses.

4 (a) An amount not to exceed 0.5 percent of the principal  
5 amount of the proceeds of sale of each bond sale is authorized  
6 to be used to pay the reasonable costs of issuance and sale,  
7 including, without limitation, underwriter's discounts and  
8 fees, but excluding bond insurance, of State of Illinois  
9 general obligation bonds authorized and sold pursuant to this  
10 Act, provided that no salaries of State employees or other  
11 State office operating expenses shall be paid out of  
12 non-appropriated proceeds, provided further that the percent  
13 shall be 1.0% for each sale of "Build America Bonds" or  
14 "Qualified School Construction Bonds" as defined in  
15 subsections (d) and (e) of Section 9, respectively. The  
16 Governor's Office of Management and Budget shall compile a  
17 summary of all costs of issuance on each sale (including both  
18 costs paid out of proceeds and those paid out of appropriated  
19 funds) and post that summary on its web site within 20 business  
20 days after the issuance of the Bonds. The summary shall  
21 include, as applicable, the respective percentages of  
22 participation and compensation of each underwriter that is a  
23 member of the underwriting syndicate, legal counsel, financial  
24 advisors, and other professionals for the bond issue and an  
25 identification of all costs of issuance paid to minority-owned

1 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
2 businesses, and businesses owned by persons with disabilities.  
3 The terms "minority-owned ~~minority-owned~~ businesses",  
4 "women-owned ~~female-owned~~ businesses", and "business owned by a  
5 person with a disability" have the meanings given to those  
6 terms in the Business Enterprise for Minorities, Women ~~Females~~,  
7 and Persons with Disabilities Act. That posting shall be  
8 maintained on the web site for a period of at least 30 days. In  
9 addition, the Governor's Office of Management and Budget shall  
10 provide a written copy of each summary of costs to the Speaker  
11 and Minority Leader of the House of Representatives, the  
12 President and Minority Leader of the Senate, and the Commission  
13 on Government Forecasting and Accountability within 20  
14 business days after each issuance of the Bonds. In addition,  
15 the Governor's Office of Management and Budget shall provide  
16 copies of all contracts under which any costs of issuance are  
17 paid or to be paid to the Commission on Government Forecasting  
18 and Accountability within 20 business days after the issuance  
19 of Bonds for which those costs are paid or to be paid. Instead  
20 of 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 a third party for having promoted the selection  
5 of the underwriter, financial advisor, or attorney for that  
6 contract. In the event that the Governor's Office of Management  
7 and Budget determines that an underwriter, financial advisor,  
8 or attorney has filed a false certification with respect to the  
9 payment of contingent fees, the Governor's Office of Management  
10 and Budget shall not contract with that underwriter, financial  
11 advisor, or attorney, or with any firm employing any person who  
12 signed false certifications, for a period of 2 calendar years,  
13 beginning with the date the determination is made. The validity  
14 of Bonds issued under such circumstances of violation pursuant  
15 to this Section shall not be affected.

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

17 (30 ILCS 330/15.5)

18 Sec. 15.5. Compliance with the Business Enterprise for  
19 Minorities, Women ~~Females~~, and Persons with Disabilities Act.  
20 Notwithstanding any other provision of law, the Governor's  
21 Office of Management and Budget shall comply with the Business  
22 Enterprise for Minorities, Women ~~Females~~, and Persons with  
23 Disabilities Act.

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

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

3           (30 ILCS 425/5) (from Ch. 127, par. 2805)

4           Sec. 5. Bond Sale Expenses.

5           (a) An amount not to exceed 0.5% of the principal amount of  
6 the proceeds of the sale of each bond sale is authorized to be  
7 used to pay reasonable costs of each issuance and sale of Bonds  
8 authorized and sold pursuant to this Act, including, without  
9 limitation, underwriter's discounts and fees, but excluding  
10 bond insurance, advertising, printing, bond rating, travel of  
11 outside vendors, security, delivery, legal and financial  
12 advisory services, initial fees of trustees, registrars,  
13 paying agents and other fiduciaries, initial costs of credit or  
14 liquidity enhancement arrangements, initial fees of indexing  
15 and remarketing agents, and initial costs of interest rate  
16 swaps, guarantees or arrangements to limit interest rate risk,  
17 as determined in the related Bond Sale Order, from the proceeds  
18 of each Bond sale, provided that no salaries of State employees  
19 or other State office operating expenses shall be paid out of  
20 non-appropriated proceeds, and provided further that the  
21 percent shall be 1.0% for each sale of "Build America Bonds" as  
22 defined in subsection (c) of Section 6. The Governor's Office  
23 of Management and Budget shall compile a summary of all costs  
24 of issuance on each sale (including both costs paid out of  
25 proceeds and those paid out of appropriated funds) and post



1 that summary on its web site within 20 business days after the  
2 issuance of the bonds. That posting shall be maintained on the  
3 web site for a period of at least 30 days. In addition, the  
4 Governor's Office of Management and Budget shall provide a  
5 written copy of each summary of costs to the Speaker and  
6 Minority Leader of the House of Representatives, the President  
7 and Minority Leader of the Senate, and the Commission on  
8 Government Forecasting and Accountability within 20 business  
9 days after each issuance of the bonds. This summary shall  
10 include, as applicable, the respective percentage of  
11 participation and compensation of each underwriter that is a  
12 member of the underwriting syndicate, legal counsel, financial  
13 advisors, and other professionals for the Bond issue, and an  
14 identification of all costs of issuance paid to minority-owned  
15 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
16 businesses, and businesses owned by persons with disabilities.  
17 The terms "minority-owned ~~minority-owned~~ businesses",  
18 "women-owned ~~female-owned~~ businesses", and "business owned by a  
19 person with a disability" have the meanings given to those  
20 terms in the Business Enterprise for Minorities, Women ~~Females~~,  
21 and Persons with Disabilities Act. In addition, the Governor's  
22 Office of Management and Budget shall provide copies of all  
23 contracts under which any costs of issuance are paid or to be  
24 paid to the Commission on Government Forecasting and  
25 Accountability within 20 business days after the issuance of  
26 Bonds for which those costs are paid or to be paid. Instead of

1 filing a second or subsequent copy of the same contract, the  
2 Governor's Office of Management and Budget may file a statement  
3 that specified costs are paid under specified contracts filed  
4 earlier with the Commission.

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

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

1           Sec. 8.3. Compliance with the Business Enterprise for  
2 Minorities, Women ~~Females~~, and Persons with Disabilities Act.  
3 Notwithstanding any other provision of law, the Governor's  
4 Office of Management and Budget shall comply with the Business  
5 Enterprise for Minorities, Women ~~Females~~, and Persons with  
6 Disabilities Act.

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

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

11           (30 ILCS 500/15-25)

12           Sec. 15-25. Bulletin content.

13           (a) Invitations for bids. Notice of each and every contract  
14 that is offered, including renegotiated contracts and change  
15 orders, shall be published in the Bulletin. All businesses  
16 listed on the Department of Transportation Disadvantaged  
17 Business Enterprise Directory, the Department of Central  
18 Management Services Business Enterprise Program, and the Chief  
19 Procurement Office's Small Business Vendors Directory shall be  
20 furnished written instructions and information on how to  
21 register on each Procurement Bulletin maintained by the State.  
22 Such information shall be provided to each business within 30  
23 calendar days after the business' notice of certification. The  
24 applicable chief procurement officer may provide by rule an

1 organized format for the publication of this information, but  
2 in any case it must include at least the date first offered,  
3 the date submission of offers is due, the location that offers  
4 are to be submitted to, the purchasing State agency, the  
5 responsible State purchasing officer, a brief purchase  
6 description, the method of source selection, information of how  
7 to obtain a comprehensive purchase description and any  
8 disclosure and contract forms, and encouragement to potential  
9 contractors to hire qualified veterans, as defined by Section  
10 45-67 of this Code, and qualified Illinois minorities, women,  
11 persons with disabilities, and residents discharged from any  
12 Illinois adult correctional center.

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

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

23 (b-5) Contracts awarded. Notice of each and every contract  
24 that is awarded, including renegotiated contracts and change  
25 orders, shall be issued electronically to the successful  
26 responsible bidder, offeror, or contractor and published in the

1 next available subsequent Bulletin. The applicable chief  
2 procurement officer may provide by rule an organized format for  
3 the publication of this information, but in any case it must  
4 include at least all of the information specified in subsection  
5 (a) as well as the name of the successful responsible bidder,  
6 offeror, the contract price, the number of unsuccessful bidders  
7 or offerors and any other disclosure specified in any Section  
8 of this Code. This notice must be posted in the online  
9 electronic Bulletin prior to execution of the contract.

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

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

1 hearing to extend an emergency contract must be posted in the  
2 online electronic Procurement Bulletin no later than 14  
3 calendar days prior to the hearing.

4 (c-5) Business Enterprise Program report. Each purchasing  
5 agency shall, with the assistance of the applicable chief  
6 procurement officer, post in the online electronic Bulletin a  
7 copy of its annual report of utilization of businesses owned by  
8 minorities, women ~~females~~, and persons with disabilities as  
9 submitted to the Business Enterprise Council for Minorities,  
10 Women ~~Females~~, and Persons with Disabilities pursuant to  
11 Section 6(c) of the Business Enterprise for Minorities, Women  
12 ~~Females~~, and Persons with Disabilities Act within 10 calendar  
13 days after its submission of its report to the Council.

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

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

1 before the hearing required by Section 20-25.

2 (d) Other required disclosure. The applicable chief  
3 procurement officer shall provide by rule for the organized  
4 publication of all other disclosure required in other Sections  
5 of this Code in a timely manner.

6 (e) The changes to subsections (b), (c), (c-5), (c-10), and  
7 (c-15) of this Section made by this amendatory Act of the 96th  
8 General Assembly apply to reports submitted, offers made, and  
9 notices on contracts executed on or after its effective date.

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

15 (Source: P.A. 97-895, eff. 8-3-12; 98-1038, eff. 8-25-14;  
16 98-1076, eff. 1-1-15.)

17 (30 ILCS 500/30-30)

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

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

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

25 (1) plumbing;

1           (2) heating, piping, refrigeration, and automatic  
2           temperature control systems, including the testing and  
3           balancing of those systems;

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

7           (4) electric wiring; and

8           (5) general contract work.

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

21          Beginning on the effective date of this amendatory Act of  
22          the 99th General Assembly and through December 31, 2019, for  
23          single prime projects: (i) the bid of the successful low bidder  
24          shall identify the name of the subcontractor, if any, and the  
25          bid proposal costs for each of the 5 subdivisions of work set  
26          forth in this Section; (ii) the contract entered into with the



1 successful bidder shall provide that no identified  
2 subcontractor may be terminated without the written consent of  
3 the Capital Development Board; (iii) the contract shall comply  
4 with the disadvantaged business practices of the Business  
5 Enterprise for Minorities, Women ~~Females~~, and Persons with  
6 Disabilities Act and the equal employment practices of Section  
7 2-105 of the Illinois Human Rights Act; (iv) the Capital  
8 Development Board shall submit a quarterly report to the  
9 Procurement Policy Board with information on the general scope,  
10 project budget, and established Business Enterprise Program  
11 goals for any single prime procurement bid in the previous 3  
12 months with a total construction cost valued at \$10,000,000 or  
13 less; and (v) the Capital Development Board shall submit an  
14 annual report to the General Assembly and Governor on the  
15 bidding, award, and performance of all single prime projects.

16 For building construction projects with a total  
17 construction cost valued at \$5,000,000 or less, the Capital  
18 Development Board shall not use the single prime procurement  
19 delivery method for more than 50% of the total number of  
20 projects bid for each fiscal year. Any project with a total  
21 construction cost valued greater than \$5,000,000 may be bid  
22 using single prime at the discretion of the Executive Director  
23 of the Capital Development Board.

24 Beginning on the effective date of this amendatory Act of  
25 the 99th General Assembly and through December 31, 2017, the  
26 Capital Development Board shall, on a weekly basis: review the

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

26 (b) The provisions of this subsection are operative on and

1 after January 1, 2020. For building construction contracts in  
2 excess of \$250,000, separate specifications shall be prepared  
3 for all equipment, labor, and materials in connection with the  
4 following 5 subdivisions of the work to be performed:

5 (1) plumbing;

6 (2) heating, piping, refrigeration, and automatic  
7 temperature control systems, including the testing and  
8 balancing of those systems;

9 (3) ventilating and distribution systems for  
10 conditioned air, including the testing and balancing of  
11 those systems;

12 (4) electric wiring; and

13 (5) general contract work.

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

1 (Source: P.A. 98-431, eff. 8-16-13; 98-1076, eff. 1-1-15;  
2 99-257, eff. 8-4-15.)

3 (30 ILCS 500/45-45)

4 Sec. 45-45. Small businesses.

5 (a) Set-asides. Each chief procurement officer has  
6 authority to designate as small business set-asides a fair  
7 proportion of construction, supply, and service contracts for  
8 award to small businesses in Illinois. Advertisements for bids  
9 or offers for those contracts shall specify designation as  
10 small business set-asides. In awarding the contracts, only bids  
11 or offers from qualified small businesses shall be considered.

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

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

4           (2) No retail business or business selling services is  
5           a small business if its annual sales and receipts exceed  
6           \$8,000,000.

7           (3) No manufacturing business is a small business if it  
8           employs more than 250 persons.

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

11          (c) Fair proportion. For the purpose of subsection (a), for  
12          State agencies of the executive branch, a fair proportion of  
13          construction contracts shall be no less than 25% nor more than  
14          40% of the annual total contracts for construction.

15          (d) Withdrawal of designation. A small business set-aside  
16          designation may be withdrawn by the purchasing agency when  
17          deemed in the best interests of the State. Upon withdrawal, all  
18          bids or offers shall be rejected, and the bidders or offerors  
19          shall be notified of the reason for rejection. The contract  
20          shall then be awarded in accordance with this Code without the  
21          designation of small business set-aside.

22          (e) Small business specialist. The chief procurement  
23          officer shall designate a State purchasing officer who will be  
24          responsible for engaging an experienced contract negotiator to  
25          serve as its small business specialist, whose duties shall  
26          include:

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

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

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

12           (4) Making recommendations to the chief procurement  
13 officer for the simplification of specifications and terms  
14 in order to increase the opportunities for small business  
15 participation.

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

19           (f) Small business annual report. The State purchasing  
20 officer designated under subsection (e) shall annually before  
21 December 1 report in writing to the General Assembly concerning  
22 the awarding of contracts to small businesses. The report shall  
23 include the total value of awards made in the preceding fiscal  
24 year under the designation of small business set-aside. The  
25 report shall also include the total value of awards made to  
26 businesses owned by minorities, women ~~females~~, and persons with

1 disabilities, as defined in the Business Enterprise for  
2 Minorities, Women ~~Females~~, and Persons with Disabilities Act,  
3 in the preceding fiscal year under the designation of small  
4 business set-aside.

5 The requirement for reporting to the General Assembly shall  
6 be satisfied by filing copies of the report as required by  
7 Section 3.1 of the General Assembly Organization Act.

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

9 (30 ILCS 500/45-57)

10 Sec. 45-57. Veterans.

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

1           (b) Fiscal year reports. By each September 1, each chief  
2 procurement officer shall report to the Department of Central  
3 Management Services on all of the following for the immediately  
4 preceding fiscal year, and by each March 1 the Department of  
5 Central Management Services shall compile and report that  
6 information to the General Assembly:

7           (1) The total number of VOSB, and the number of SDVOSB,  
8 who submitted bids for contracts under this Code.

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

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

25           (d) Governor's recommendations. To assist the State in  
26 reaching the goal described in subsection (a), the Governor



1 shall recommend to the General Assembly changes in programs to  
2 assist businesses owned by qualified veterans.

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

4 "Armed forces of the United States" means the United States  
5 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in  
6 active duty as defined under 38 U.S.C. Section 101. Service in  
7 the Merchant Marine that constitutes active duty under Section  
8 401 of federal Public Act 95-202 shall also be considered  
9 service in the armed forces for purposes of this Section.

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

24 "Control" means the exclusive, ultimate, majority, or sole  
25 control of the business, including but not limited to capital  
26 investment and all other financial matters, property,

1 acquisitions, contract negotiations, legal matters,  
2 officer-director-employee selection and comprehensive hiring,  
3 operation responsibilities, cost-control matters, income and  
4 dividend matters, financial transactions, and rights of other  
5 shareholders or joint partners. Control shall be real,  
6 substantial, and continuing, not pro forma. Control shall  
7 include the power to direct or cause the direction of the  
8 management and policies of the business and to make the  
9 day-to-day as well as major decisions in matters of policy,  
10 management, and operations. Control shall be exemplified by  
11 possessing the requisite knowledge and expertise to run the  
12 particular business, and control shall not include simple  
13 majority or absentee ownership.

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

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

1 "Qualified veteran-owned small business" or "VOSB" means a  
2 small business (i) that is at least 51% owned by one or more  
3 qualified veterans living in Illinois or, in the case of a  
4 corporation, at least 51% of the stock of which is owned by one  
5 or more qualified veterans living in Illinois; (ii) that has  
6 its home office in Illinois; and (iii) for which items (i) and  
7 (ii) are factually verified annually by the Department of  
8 Central Management Services.

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

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

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

24 "Time of hostilities with a foreign country" means any  
25 period of time in the past, present, or future during which a  
26 declaration of war by the United States Congress has been or is

1 in effect or during which an emergency condition has been or is  
2 in effect that is recognized by the issuance of a Presidential  
3 proclamation or a Presidential executive order and in which the  
4 armed forces expeditionary medal or other campaign service  
5 medals are awarded according to Presidential executive order.

6 "Veteran" means a person who (i) has been a member of the  
7 armed forces of the United States or, while a citizen of the  
8 United States, was a member of the armed forces of allies of  
9 the United States in time of hostilities with a foreign country  
10 and (ii) has served under one or more of the following  
11 conditions: (a) the veteran served a total of at least 6  
12 months; (b) the veteran served for the duration of hostilities  
13 regardless of the length of the engagement; (c) the veteran was  
14 discharged on the basis of hardship; or (d) the veteran was  
15 released from active duty because of a service connected  
16 disability and was discharged under honorable conditions.

17 (f) Certification program. The Illinois Department of  
18 Veterans' Affairs and the Department of Central Management  
19 Services shall work together to devise a certification  
20 procedure to assure that businesses taking advantage of this  
21 Section are legitimately classified as qualified  
22 service-disabled veteran-owned small businesses or qualified  
23 veteran-owned small businesses.

24 (g) Penalties.

25 (1) Administrative penalties. The chief procurement  
26 officers appointed pursuant to Section 10-20 shall suspend

1 any person who commits a violation of Section 17-10.3 or  
2 subsection (d) of Section 33E-6 of the Criminal Code of  
3 2012 relating to this Section from bidding on, or  
4 participating as a contractor, subcontractor, or supplier  
5 in, any State contract or project for a period of not less  
6 than 3 years, and, if the person is certified as a  
7 service-disabled veteran-owned small business or a  
8 veteran-owned small business, then the Department shall  
9 revoke the business's certification for a period of not  
10 less than 3 years. An additional or subsequent violation  
11 shall extend the periods of suspension and revocation for a  
12 period of not less than 5 years. The suspension and  
13 revocation shall apply to the principals of the business  
14 and any subsequent business formed or financed by, or  
15 affiliated with, those principals.

16 (2) Reports of violations. Each State agency shall  
17 report any alleged violation of Section 17-10.3 or  
18 subsection (d) of Section 33E-6 of the Criminal Code of  
19 2012 relating to this Section to the chief procurement  
20 officers appointed pursuant to Section 10-20. The chief  
21 procurement officers appointed pursuant to Section 10-20  
22 shall subsequently report all such alleged violations to  
23 the Attorney General, who shall determine whether to bring  
24 a civil action against any person for the violation.

25 (3) List of suspended persons. The chief procurement  
26 officers appointed pursuant to Section 10-20 shall monitor

1 the status of all reported violations of Section 17-10.3 or  
2 subsection (d) of Section 33E-6 of the Criminal Code of  
3 1961 or the Criminal Code of 2012 relating to this Section  
4 and shall maintain and make available to all State agencies  
5 a central listing of all persons that committed violations  
6 resulting in suspension.

7 (4) Use of suspended persons. During the period of a  
8 person's suspension under paragraph (1) of this  
9 subsection, a State agency shall not enter into any  
10 contract with that person or with any contractor using the  
11 services of that person as a subcontractor.

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

20 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;  
21 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

22 (30 ILCS 500/45-65)

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

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

- 1           (2) the Illinois Mined Coal Act;
- 2           (3) the Steel Products Procurement Act;
- 3           (4) the Veterans Preference Act;
- 4           (5) the Business Enterprise for Minorities, Women
- 5 ~~Females~~, and Persons with Disabilities Act; and
- 6           (6) the Procurement of Domestic Products Act.
- 7 (Source: P.A. 93-954, eff. 1-1-05.)

8           Section 60. The Design-Build Procurement Act is amended by

9 changing Sections 5, 15, 30, and 46 as follows:

10           (30 ILCS 537/5)

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

12           Sec. 5. Legislative policy. It is the intent of the

13 General Assembly that the Capital Development Board be allowed

14 to use the design-build delivery method for public projects if

15 it is shown to be in the State's best interest for that

16 particular project. It shall be the policy of the Capital

17 Development Board in the procurement of design-build services

18 to publicly announce all requirements for design-build

19 services and to procure these services on the basis of

20 demonstrated competence and qualifications and with due regard

21 for the principles of competitive selection.

22           The Capital Development Board shall, prior to issuing

23 requests for proposals, promulgate and publish procedures for

24 the solicitation and award of contracts pursuant to this Act.

1           The Capital Development Board shall, for each public  
2 project or projects permitted under this Act, make a written  
3 determination, including a description as to the particular  
4 advantages of the design-build procurement method, that it is  
5 in the best interests of this State to enter into a  
6 design-build contract for the project or projects. In making  
7 that determination, the following factors shall be considered:

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

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

14           (3) The ability of the State construction agency to  
15 define and provide comprehensive scope and performance  
16 criteria for the project.

17           No State construction agency may use a design-build  
18 procurement method unless the agency determines in writing that  
19 the project will comply with the disadvantaged business and  
20 equal employment practices of the State as established in the  
21 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
22 with Disabilities Act and Section 2-105 of the Illinois Human  
23 Rights Act.

24           The Capital Development Board shall within 15 days after  
25 the initial determination provide an advisory copy to the  
26 Procurement Policy Board and maintain the full record of



1 determination for 5 years.

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

3 (30 ILCS 537/15)

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

5 Sec. 15. Solicitation of proposals.

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

18 (b) The request for proposal shall be prepared for each  
19 project and must contain, without limitation, the following  
20 information:

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

22 (2) A preliminary schedule for the completion of the  
23 contract.

24 (3) The proposed budget for the project, the source of  
25 funds, and the currently available funds at the time the

1 request for proposal is submitted.

2 (4) Prequalification criteria for design-build  
3 entities wishing to submit proposals. The State  
4 construction agency shall include, at a minimum, its normal  
5 prequalification, licensing, registration, and other  
6 requirements, but nothing contained herein precludes the  
7 use of additional prequalification criteria by the State  
8 construction agency.

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

17 (6) The performance criteria.

18 (7) The evaluation criteria for each phase of the  
19 solicitation.

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

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

26 (d) The date that proposals are due must be at least 21

1 calendar days after the date of the issuance of the request for  
2 proposal. In the event the cost of the project is estimated to  
3 exceed \$10 million, then the proposal due date must be at least  
4 28 calendar days after the date of the issuance of the request  
5 for proposal. The State construction agency shall include in  
6 the request for proposal a minimum of 30 days to develop the  
7 Phase II submissions after the selection of entities from the  
8 Phase I evaluation is completed.

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

10 (30 ILCS 537/30)

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

12 Sec. 30. Procedures for Selection.

13 (a) The State construction agency must use a two-phase  
14 procedure for the selection of the successful design-build  
15 entity. Phase I of the procedure will evaluate and shortlist  
16 the design-build entities based on qualifications, and Phase II  
17 will evaluate the technical and cost proposals.

18 (b) The State construction agency shall include in the  
19 request for proposal the evaluating factors to be used in Phase  
20 I. These factors are in addition to any prequalification  
21 requirements of design-build entities that the agency has set  
22 forth. Each request for proposal shall establish the relative  
23 importance assigned to each evaluation factor and subfactor,  
24 including any weighting of criteria to be employed by the State  
25 construction agency. The State construction agency must

1 maintain a record of the evaluation scoring to be disclosed in  
2 event of a protest regarding the solicitation.

3 The State construction agency shall include the following  
4 criteria in every Phase I evaluation of design-build entities:

5 (1) experience of personnel; (2) successful experience with  
6 similar project types; (3) financial capability; (4)  
7 timeliness of past performance; (5) experience with similarly  
8 sized projects; (6) successful reference checks of the firm;  
9 (7) commitment to assign personnel for the duration of the  
10 project and qualifications of the entity's consultants; and (8)  
11 ability or past performance in meeting or exhausting good faith  
12 efforts to meet the utilization goals for business enterprises  
13 established in the Business Enterprise for Minorities, Women  
14 ~~Females~~, and Persons with Disabilities Act and with Section  
15 2-105 of the Illinois Human Rights Act. The State construction  
16 agency may include any additional relevant criteria in Phase I  
17 that it deems necessary for a proper qualification review.

18 The State construction agency may not consider any  
19 design-build entity for evaluation or award if the entity has  
20 any pecuniary interest in the project or has other  
21 relationships or circumstances, including but not limited to,  
22 long-term leasehold, mutual performance, or development  
23 contracts with the State construction agency, that may give the  
24 design-build entity a financial or tangible advantage over  
25 other design-build entities in the preparation, evaluation, or  
26 performance of the design-build contract or that create the

1 appearance of impropriety. No proposal shall be considered that  
2 does not include an entity's plan to comply with the  
3 requirements established in the Business Enterprise for  
4 Minorities, Women ~~Females~~, and Persons with Disabilities Act,  
5 for both the design and construction areas of performance, and  
6 with Section 2-105 of the Illinois Human Rights Act.

7 Upon completion of the qualifications evaluation, the  
8 State construction agency shall create a shortlist of the most  
9 highly qualified design-build entities. The State construction  
10 agency, in its discretion, is not required to shortlist the  
11 maximum number of entities as identified for Phase II  
12 evaluation, provided however, no less than 2 design-build  
13 entities nor more than 6 are selected to submit Phase II  
14 proposals.

15 The State construction agency shall notify the entities  
16 selected for the shortlist in writing. This notification shall  
17 commence the period for the preparation of the Phase II  
18 technical and cost evaluations. The State construction agency  
19 must allow sufficient time for the shortlist entities to  
20 prepare their Phase II submittals considering the scope and  
21 detail requested by the State agency.

22 (c) The State construction agency shall include in the  
23 request for proposal the evaluating factors to be used in the  
24 technical and cost submission components of Phase II. Each  
25 request for proposal shall establish, for both the technical  
26 and cost submission components of Phase II, the relative

1 importance assigned to each evaluation factor and subfactor,  
2 including any weighting of criteria to be employed by the State  
3 construction agency. The State construction agency must  
4 maintain a record of the evaluation scoring to be disclosed in  
5 event of a protest regarding the solicitation.

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

17 The State construction agency shall include the following  
18 criteria in every Phase II cost evaluation: the total project  
19 cost, the construction costs, and the time of completion. The  
20 State construction agency may include any additional relevant  
21 technical evaluation factors it deems necessary for proper  
22 selection. The total project cost criteria weighing factor  
23 shall be 25%.

24 The State construction agency shall directly employ or  
25 retain a licensed design professional to evaluate the technical  
26 and cost submissions to determine if the technical submissions

1 are in accordance with generally accepted industry standards.

2 Upon completion of the technical submissions and cost  
3 submissions evaluation, the State construction agency may  
4 award the design-build contract to the highest overall ranked  
5 entity.

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

7 (30 ILCS 537/46)

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

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

1 ~~Females~~, and Persons with Disabilities Act and the provisions  
2 of Section 2-105 of the Illinois Human Rights Act.

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

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

6 (30 ILCS 571/25)

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

9 (a) Set forth effective, immediate, and mutually  
10 binding procedures for resolving jurisdictional labor  
11 disputes and grievances arising before the completion of  
12 work.

13 (b) Contain guarantees against strikes, lockouts, or  
14 similar actions.

15 (c) Ensure a reliable source of skilled and experienced  
16 labor.

17 (d) For minorities and women ~~females~~ as defined under  
18 the Business Enterprise for Minorities, Women ~~Females~~, and  
19 Persons with Disabilities Act, set forth goals for  
20 apprenticeship hours to be performed by minorities and  
21 women ~~females~~ and set forth goals for total hours to be  
22 performed by underrepresented minorities and women  
23 ~~females~~.

24 (e) Permit the selection of the lowest qualified



1 responsible bidder, without regard to union or non-union  
2 status at other construction sites.

3 (f) Bind all contractors and subcontractors on the  
4 public works project through the inclusion of appropriate  
5 bid specifications in all relevant bid documents.

6 (g) Include such other terms as the parties deem  
7 appropriate.

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

9 (30 ILCS 571/37)

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

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

23 Section 70. The Business Enterprise for Minorities,  
24 Females, and Persons with Disabilities Act is amended by

1 changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, and  
2 8f and by adding Sections 8g, 8h, and 8i as follows:

3 (30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

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

5 Sec. 0.01. Short title. This Act may be cited as the  
6 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
7 with Disabilities Act.

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

9 (30 ILCS 575/1) (from Ch. 127, par. 132.601)

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

11 Sec. 1. Purpose. The State of Illinois declares that it is  
12 the public policy of the State to promote and encourage the  
13 continuing economic development of minority-owned ~~minority~~ and  
14 women-owned ~~female-owned~~ and operated businesses and that  
15 minority-owned ~~minority~~ and women-owned ~~female-owned~~ and  
16 operated businesses participate in the State's procurement  
17 process as both prime and subcontractors. The State of Illinois  
18 has observed that the goals established in this Act have served  
19 to increase the participation of minority and women ~~female~~  
20 businesses in contracts awarded by the State. The State hereby  
21 declares that the adoption of this amendatory Act of 1989 shall  
22 serve the State's continuing interest in promoting open access  
23 in the awarding of State contracts to disadvantaged small  
24 business enterprises victimized by discriminatory practices.

1 Furthermore, after reviewing evidence of the high level of  
2 attainment of the 10% minimum goals established under this Act,  
3 and, after considering evidence that minority and women ~~female~~  
4 businesses, as established in 1982, constituted and continue to  
5 constitute more than 10% of the businesses operating in this  
6 State, the State declares that the continuation of such 10%  
7 minimum goals under this amendatory Act of 1989 is a narrowly  
8 tailored means of promoting open access and thus the further  
9 growth and development of minority and women ~~female~~ businesses.

10 The State of Illinois further declares that it is the  
11 public policy of this State to promote and encourage the  
12 continuous economic development of businesses owned by persons  
13 with disabilities and a 2% contracting goal is a narrowly  
14 tailored means of promoting open access and thus the further  
15 growth and development of those businesses.

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

17 (30 ILCS 575/2)

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

19 Sec. 2. Definitions.

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

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

25 (a) American Indian or Alaska Native (a person

1           having origins in any of the original peoples of North  
2           and South America, including Central America, and who  
3           maintains tribal affiliation or community attachment).

4           (b) Asian (a person having origins in any of the  
5           original peoples of the Far East, Southeast Asia, or  
6           the Indian subcontinent, including, but not limited  
7           to, Cambodia, China, India, Japan, Korea, Malaysia,  
8           Pakistan, the Philippine Islands, Thailand, and  
9           Vietnam).

10          (c) Black or African American (a person having  
11          origins in any of the black racial groups of Africa).  
12          Terms such as "Haitian" or "Negro" can be used in  
13          addition to "Black or African American".

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

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

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

23          (2.05) "Person with a disability" means a person who is  
24          a citizen or lawful resident of the United States and is a  
25          person qualifying as a person with a disability under  
26          subdivision (2.1) of this subsection (A).

1           (2.1) "Person with a disability" means a person with a  
2           severe physical or mental disability that:

3           (a) results from:

4           amputation,

5           arthritis,

6           autism,

7           blindness,

8           burn injury,

9           cancer,

10          cerebral palsy,

11          Crohn's disease,

12          cystic fibrosis,

13          deafness,

14          head injury,

15          heart disease,

16          hemiplegia,

17          hemophilia,

18          respiratory or pulmonary dysfunction,

19          an intellectual disability,

20          mental illness,

21          multiple sclerosis,

22          muscular dystrophy,

23          musculoskeletal disorders,

24          neurological disorders, including stroke and

25          epilepsy,

26          paraplegia,

1           quadriplegia and other spinal cord conditions,  
2           sickle cell anemia,  
3           ulcerative colitis,  
4           specific learning disabilities, or  
5           end stage renal failure disease; and

6           (b) substantially limits one or more of the  
7           person's major life activities.

8           Another disability or combination of disabilities may  
9           also be considered as a severe disability for the purposes  
10          of item (a) of this subdivision (2.1) if it is determined  
11          by an evaluation of rehabilitation potential to cause a  
12          comparable degree of substantial functional limitation  
13          similar to the specific list of disabilities listed in item  
14          (a) of this subdivision (2.1).

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

22          (4) "Women-owned ~~Female-owned~~ business" means a  
23          business which is at least 51% owned by one or more women  
24          ~~females~~, or, in the case of a corporation, at least 51% of  
25          the stock in which is owned by one or more women ~~females~~;  
26          and the management and daily business operations of which

1 are controlled by one or more of the women ~~females~~ who own  
2 it.

3 (4.1) "Business owned by a person with a disability"  
4 means a business that is at least 51% owned by one or more  
5 persons with a disability and the management and daily  
6 business operations of which are controlled by one or more  
7 of the persons with disabilities who own it. A  
8 not-for-profit agency for persons with disabilities that  
9 is exempt from taxation under Section 501 of the Internal  
10 Revenue Code of 1986 is also considered a "business owned  
11 by a person with a disability".

12 (4.2) "Council" means the Business Enterprise Council  
13 for Minorities, Women ~~Females~~, and Persons with  
14 Disabilities created under Section 5 of this Act.

15 (5) "State contracts" means all contracts entered into  
16 by the State, any agency or department thereof, or any  
17 public institution of higher education, including  
18 community college districts, regardless of the source of  
19 the funds with which the contracts are paid, which are not  
20 subject to federal reimbursement. "State contracts" does  
21 not include contracts awarded by a retirement system,  
22 pension fund, or investment board subject to Section  
23 1-109.1 of the Illinois Pension Code. This definition shall  
24 control over any existing definition under this Act or  
25 applicable administrative rule.

26 "State construction contracts" means all State

1 contracts entered into by a State agency or public  
2 institution of higher education for the repair,  
3 remodeling, renovation or construction of a building or  
4 structure, or for the construction or maintenance of a  
5 highway defined in Article 2 of the Illinois Highway Code.

6 (6) "State agencies" shall mean all departments,  
7 officers, boards, commissions, institutions and bodies  
8 politic and corporate of the State, but does not include  
9 the Board of Trustees of the University of Illinois, the  
10 Board of Trustees of Southern Illinois University, the  
11 Board of Trustees of Chicago State University, the Board of  
12 Trustees of Eastern Illinois University, the Board of  
13 Trustees of Governors State University, the Board of  
14 Trustees of Illinois State University, the Board of  
15 Trustees of Northeastern Illinois University, the Board of  
16 Trustees of Northern Illinois University, the Board of  
17 Trustees of Western Illinois University, municipalities or  
18 other local governmental units, or other State  
19 constitutional officers.

20 (7) "Public institutions of higher education" means  
21 the University of Illinois, Southern Illinois University,  
22 Chicago State University, Eastern Illinois University,  
23 Governors State University, Illinois State University,  
24 Northeastern Illinois University, Northern Illinois  
25 University, Western Illinois University, the public  
26 community colleges of the State, and any other public



1 universities, colleges, and community colleges now or  
2 hereafter established or authorized by the General  
3 Assembly.

4 (8) "Certification" means a determination made by the  
5 Council or by one delegated authority from the Council to  
6 make certifications, or by a State agency with statutory  
7 authority to make such a certification, that a business  
8 entity is a business owned by a minority, woman ~~female~~, or  
9 person with a disability for whatever purpose. A business  
10 owned and controlled by women ~~females~~ shall be certified as  
11 a "woman-owned ~~female-owned~~ business". A business owned and  
12 controlled by women ~~females~~ who are also minorities shall  
13 be certified as both a "women-owned ~~female-owned~~ business"  
14 and a "minority-owned ~~minority-owned~~ business".

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

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

6 (10) "Business" means a business that has annual gross  
7 sales of less than \$75,000,000 as evidenced by the federal  
8 income tax return of the business. A firm with gross sales  
9 in excess of this cap may apply to the Council for  
10 certification for a particular contract if the firm can  
11 demonstrate that the contract would have significant  
12 impact on businesses owned by minorities, women ~~females~~, or  
13 persons with disabilities as suppliers or subcontractors  
14 or in employment of minorities, women ~~females~~, or persons  
15 with disabilities.

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

24 (12) "Business Enterprise Program" means the Business  
25 Enterprise Program of the Department of Central Management  
26 Services.

1 (B) When a business is owned at least 51% by any  
2 combination of minority persons, women ~~females~~, or persons with  
3 disabilities, even though none of the 3 classes alone holds at  
4 least a 51% interest, the ownership requirement for purposes of  
5 this Act is considered to be met. The certification category  
6 for the business is that of the class holding the largest  
7 ownership interest in the business. If 2 or more classes have  
8 equal ownership interests, the certification category shall be  
9 determined by the business.

10 (Source: P.A. 98-95, eff. 7-17-13; 99-143, eff. 7-27-15;  
11 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

12 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

14 Sec. 4. Award of State contracts.

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

1 ~~female-owned~~ businesses, and contracts representing at least  
2 2% shall be awarded to businesses owned by persons with  
3 disabilities.

4 The above percentage relates to the total dollar amount of  
5 State contracts during each State fiscal year, calculated by  
6 examining independently each type of contract for each agency  
7 or public institutions of higher education which lets such  
8 contracts. Only that percentage of arrangements which  
9 represents the participation of businesses owned by  
10 minorities, women ~~females~~, and persons with disabilities on  
11 such contracts shall be included.

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

24 (c) In the case of all work undertaken by the University of  
25 Illinois related to the planning, organization, and staging of  
26 the games, the University of Illinois shall establish a goal of

1 awarding not less than 25% of the annual dollar value of all  
2 contracts, purchase orders, and other agreements (collectively  
3 referred to as "the contracts") to minority-owned businesses or  
4 businesses owned by a person with a disability and 5% of the  
5 annual dollar value the contracts to women-owned ~~female-owned~~  
6 businesses. For purposes of this subsection, the term "games"  
7 has the meaning set forth in the Olympic Games and Paralympic  
8 Games (2016) Law.

9 (d) Within one year after April 28, 2009 (the effective  
10 date of Public Act 96-8), the Department of Central Management  
11 Services shall conduct a social scientific study that measures  
12 the impact of discrimination on minority and women ~~female~~  
13 business development in Illinois. Within 18 months after April  
14 28, 2009 (the effective date of Public Act 96-8), the  
15 Department shall issue a report of its findings and any  
16 recommendations on whether to adjust the goals for minority and  
17 women ~~female~~ participation established in this Act. Copies of  
18 this report and the social scientific study shall be filed with  
19 the Governor and the General Assembly.

20 (e) Except as permitted under this Act or as otherwise  
21 mandated by federal law or regulation, those who submit bids or  
22 proposals for State construction contracts subject to the  
23 provisions of this Act, whose bids or proposals are successful  
24 and include a completed utilization plan but that fail to meet  
25 the goals set forth in subsection (b) of this Section, shall be  
26 notified of that deficiency and shall be afforded a period not

1 to exceed 5 ~~10~~ days from the date of notification to cure that  
2 deficiency in the bid or proposal. The deficiency in the bid or  
3 proposal may only be cured by contracting with additional  
4 subcontractors who are owned by minorities or women ~~females~~,  
5 but in no case shall an identified subcontractor with a  
6 certification made pursuant to this Act be terminated from the  
7 contract without the written consent of the State agency or  
8 public institution of higher education entering into the  
9 contract.

10 (f) Non-construction solicitations that include Business  
11 Enterprise Program participation goals shall include the  
12 utilization plan in the solicitation. Utilization plans are due  
13 at the time of bid or offer submission. Failure to complete and  
14 include a utilization plan, including documentation  
15 demonstrating good faith effort when requesting a waiver, shall  
16 render the bid or offer non-responsive.

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

18 (30 ILCS 575/4f)

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

20 Sec. 4f. Award of State contracts.

21 (1) It is hereby declared to be the public policy of the  
22 State of Illinois to promote and encourage each State agency  
23 and public institution of higher education to use businesses  
24 owned by minorities, women ~~females~~, and persons with  
25 disabilities in the area of goods and services, including, but

1 not limited to, insurance services, investment management  
2 services, information technology services, accounting  
3 services, architectural and engineering services, and legal  
4 services. Furthermore, each State agency and public  
5 institution of higher education shall utilize such firms to the  
6 greatest extent feasible within the bounds of financial and  
7 fiduciary prudence, and take affirmative steps to remove any  
8 barriers to the full participation of such firms in the  
9 procurement and contracting opportunities afforded.

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

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

1 asset managers of the State funds be minorities, women  
2 ~~females~~, and persons with disabilities.

3 (c) When a State agency or public institution of higher  
4 education, other than a community college, awards  
5 contracts for information technology services, accounting  
6 services, architectural and engineering services, and  
7 legal services, for each State agency and public  
8 institution of higher education, it shall be the  
9 aspirational goal to use such firms owned by minorities,  
10 women ~~females~~, and persons with disabilities as defined by  
11 this Act and lawyers who are minorities, women ~~females~~, and  
12 persons with disabilities as defined by this Act, for not  
13 less than 20% of the total dollar amount of State  
14 contracts.

15 (d) When a community college awards a contract for  
16 insurance services, investment services, information  
17 technology services, accounting services, architectural  
18 and engineering services, and legal services, it shall be  
19 the aspirational goal of each community college to use  
20 businesses owned by minorities, women ~~females~~, and persons  
21 with disabilities as defined in this Act for not less than  
22 20% of the total amount spent on contracts for these  
23 services collectively. When a community college awards  
24 contracts for investment services, contracts awarded to  
25 investment managers who are not emerging investment  
26 managers as defined in this Act shall not be considered



1 businesses owned by minorities, women ~~females~~, or persons  
2 with disabilities for the purposes of this Section.

3 (2) As used in this Section:

4 "Accounting services" means the measurement,  
5 processing and communication of financial information  
6 about economic entities including, but is not limited to,  
7 financial accounting, management accounting, auditing,  
8 cost containment and auditing services, taxation and  
9 accounting information systems.

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

22 "Emerging investment manager" means an investment  
23 manager or claims consultant having assets under  
24 management below \$10 billion or otherwise adjudicating  
25 claims.

26 "Information technology services" means, but is not

1 limited to, specialized technology-oriented solutions by  
2 combining the processes and functions of software,  
3 hardware, networks, telecommunications, web designers,  
4 cloud developing resellers, and electronics.

5 "Insurance broker" means an insurance brokerage firm,  
6 claims administrator, or both, that procures, places all  
7 lines of insurance, or administers claims with annual  
8 premiums or fees of at least \$5,000,000 but not more than  
9 \$10,000,000.

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

13 (3) Each State agency and public institution of higher  
14 education shall adopt policies that identify its plan and  
15 implementation procedures for increasing the use of service  
16 firms owned by minorities, women ~~females~~, and persons with  
17 disabilities.

18 (4) Except as provided in subsection (5), the Council shall  
19 file no later than March 1 of each year an annual report to the  
20 Governor and the General Assembly. The report filed with the  
21 General Assembly shall be filed as required in Section 3.1 of  
22 the General Assembly Organization Act. This report shall: (i)  
23 identify the service firms used by each State agency and public  
24 institution of higher education, (ii) identify the actions it  
25 has undertaken to increase the use of service firms owned by  
26 minorities, women ~~females~~, and persons with disabilities,

1 including encouraging non-minority-owned ~~non-minority-owned~~  
2 firms to use other service firms owned by minorities, women  
3 ~~females~~, and persons with disabilities as subcontractors when  
4 the opportunities arise, (iii) state any recommendations made  
5 by the Council to each State agency and public institution of  
6 higher education to increase participation by the use of  
7 service firms owned by minorities, women ~~females~~, and persons  
8 with disabilities, and (iv) include the following:

9 (A) For insurance services: the names of the insurance  
10 brokers or claims consultants used, the total of risk  
11 managed by each State agency and public institution of  
12 higher education by insurance brokers, the total  
13 commissions, fees paid, or both, the lines or insurance  
14 policies placed, and the amount of premiums placed; and the  
15 percentage of the risk managed by insurance brokers, the  
16 percentage of total commission, fees paid, or both, the  
17 lines or insurance policies placed, and the amount of  
18 premiums placed with each by the insurance brokers owned by  
19 minorities, women ~~females~~, and persons with disabilities  
20 by each State agency and public institution of higher  
21 education.

22 (B) For investment management services: the names of  
23 the investment managers used, the total funds under  
24 management of investment managers; the total commissions,  
25 fees paid, or both; the total and percentage of funds under  
26 management of emerging investment managers owned by

1 minorities, women ~~females~~, and persons with disabilities,  
2 including the total and percentage of total commissions,  
3 fees paid, or both by each State agency and public  
4 institution of higher education.

5 (C) The names of service firms, the percentage and  
6 total dollar amount paid for professional services by  
7 category by each State agency and public institution of  
8 higher education.

9 (D) The names of service firms, the percentage and  
10 total dollar amount paid for services by category to firms  
11 owned by minorities, women ~~females~~, and persons with  
12 disabilities by each State agency and public institution of  
13 higher education.

14 (E) The total number of contracts awarded for services  
15 by category and the total number of contracts awarded to  
16 firms owned by minorities, women ~~females~~, and persons with  
17 disabilities by each State agency and public institution of  
18 higher education.

19 (5) For community college districts, the Business  
20 Enterprise Council shall only report the following information  
21 for each community college district: (i) the name of the  
22 community colleges in the district, (ii) the name and contact  
23 information of a person at each community college appointed to  
24 be the single point of contact for vendors owned by minorities,  
25 women ~~females~~, or persons with disabilities, (iii) the policy  
26 of the community college district concerning certified

1 vendors, (iv) the certifications recognized by the community  
2 college district for determining whether a business is owned or  
3 controlled by a minority, woman ~~female~~, or person with a  
4 disability, (v) outreach efforts conducted by the community  
5 college district to increase the use of certified vendors, (vi)  
6 the total expenditures by the community college district in the  
7 prior fiscal year in the divisions of work specified in  
8 paragraphs (a), (b), and (c) of subsection (1) of this Section  
9 and the amount paid to certified vendors in those divisions of  
10 work, and (vii) the total number of contracts entered into for  
11 the divisions of work specified in paragraphs (a), (b), and (c)  
12 of subsection (1) of this Section and the total number of  
13 contracts awarded to certified vendors providing these  
14 services to the community college district. The Business  
15 Enterprise Council shall not make any utilization reports under  
16 this Act for community college districts for Fiscal Year 2015  
17 and Fiscal Year 2016, but shall make the report required by  
18 this subsection for Fiscal Year 2017 and for each fiscal year  
19 thereafter. The Business Enterprise Council shall report the  
20 information in items (i), (ii), (iii), and (iv) of this  
21 subsection beginning in September of 2016. The Business  
22 Enterprise Council may collect the data needed to make its  
23 report from the Illinois Community College Board.

24 (6) The status of the utilization of services shall be  
25 discussed at each of the regularly scheduled Business  
26 Enterprise Council meetings. Time shall be allotted for the

1 Council to receive, review, and discuss the progress of the use  
2 of service firms owned by minorities, women ~~females~~, and  
3 persons with disabilities by each State agency and public  
4 institution of higher education; and any evidence regarding  
5 past or present racial, ethnic, or gender-based discrimination  
6 which directly impacts a State agency or public institution of  
7 higher education contracting with such firms. If after  
8 reviewing such evidence the Council finds that there is or has  
9 been such discrimination against a specific group, race or sex,  
10 the Council shall establish sheltered markets or adjust  
11 existing sheltered markets tailored to address the Council's  
12 specific findings for the divisions of work specified in  
13 paragraphs (a), (b), and (c) of subsection (1) of this Section.  
14 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

15 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

17 Sec. 5. Business Enterprise Council.

18 (1) To help implement, monitor and enforce the goals of  
19 this Act, there is created the Business Enterprise Council for  
20 Minorities, Women ~~Females~~, and Persons with Disabilities,  
21 hereinafter referred to as the Council, composed of the  
22 Secretary of Human Services and the Directors of the Department  
23 of Human Rights, the Department of Commerce and Economic  
24 Opportunity, the Department of Central Management Services,  
25 the Department of Transportation and the Capital Development

1 Board, or their duly appointed representatives. Ten  
2 individuals representing businesses that are minority-owned  
3 ~~minority~~ or women-owned ~~female-owned~~ or owned by persons with  
4 disabilities, 2 individuals representing the business  
5 community, and a representative of public institutions of  
6 higher education shall be appointed by the Governor. These  
7 members shall serve 2 year terms and shall be eligible for  
8 reappointment. Any vacancy occurring on the Council shall also  
9 be filled by the Governor. Any member appointed to fill a  
10 vacancy occurring prior to the expiration of the term for which  
11 his predecessor was appointed shall be appointed for the  
12 remainder of such term. Members of the Council shall serve  
13 without compensation but shall be reimbursed for any ordinary  
14 and necessary expenses incurred in the performance of their  
15 duties.

16 The Director of the Department of Central Management  
17 Services shall serve as the Council chairperson and shall  
18 select, subject to approval of the council, a Secretary  
19 responsible for the operation of the program who shall serve as  
20 the Division Manager of the Business Enterprise for Minorities,  
21 Women ~~Females~~, and Persons with Disabilities Division of the  
22 Department of Central Management Services.

23 The Director of each State agency and the chief executive  
24 officer of each public institutions of higher education shall  
25 appoint a liaison to the Council. The liaison shall be  
26 responsible for submitting to the Council any reports and

1 documents necessary under this Act.

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

3 (a) Devise a certification procedure to assure that  
4 businesses taking advantage of this Act are legitimately  
5 classified as businesses owned by minorities, women  
6 ~~females~~, or persons with disabilities.

7 (b) Maintain a list of all businesses legitimately  
8 classified as businesses owned by minorities, women  
9 ~~females~~, or persons with disabilities to provide to State  
10 agencies and public institutions of higher education.

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

14 (d) Review compliance plans submitted by each State  
15 agency and public institutions of higher education  
16 pursuant to this Act.

17 (e) Make annual reports as provided in Section 8f to  
18 the Governor and the General Assembly on the status of the  
19 program.

20 (f) Serve as a central clearinghouse for information on  
21 State contracts, including the maintenance of a list of all  
22 pending State contracts upon which businesses owned by  
23 minorities, women ~~females~~, and persons with disabilities  
24 may bid. At the Council's discretion, maintenance of the  
25 list may include 24-hour electronic access to the list  
26 along with the bid and application information.



1 (g) Establish a toll free telephone number to  
2 facilitate information requests concerning the  
3 certification process and pending contracts.

4 (3) No premium bond rate of a surety company for a bond  
5 required of a business owned by a minority, woman ~~female~~, or  
6 person with a disability bidding for a State contract shall be  
7 higher than the lowest rate charged by that surety company for  
8 a similar bond in the same classification of work that would be  
9 written for a business not owned by a minority, woman ~~female~~,  
10 or person with a disability.

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

15 (5) The Secretary shall have the following duties and  
16 responsibilities:

17 (a) To be responsible for the day-to-day operation of  
18 the Council.

19 (b) To serve as a coordinator for all of the State's  
20 programs for businesses owned by minorities, women  
21 ~~females~~, and persons with disabilities and as the  
22 information and referral center for all State initiatives  
23 for businesses owned by minorities, women ~~females~~, and  
24 persons with disabilities.

25 (c) To establish an enforcement procedure whereby the  
26 Council may recommend to the appropriate State legal

1 officer that the State exercise its legal remedies which  
2 shall include (1) termination of the contract involved, (2)  
3 prohibition of participation by the respondent in public  
4 contracts for a period not to exceed 3 years ~~one year~~, (3)  
5 imposition of a penalty not to exceed any profit acquired  
6 as a result of violation, or (4) any combination thereof.  
7 Such procedures shall require prior approval by Council.

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

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

21 (f) To accept donations and, with the approval of the  
22 Council or the Director of Central Management Services,  
23 grants related to the purposes of this Act; to conduct  
24 seminars related to the purpose of this Act and to charge  
25 reasonable registration fees; and to sell directories,  
26 vendor lists and other such information to interested

1 parties, except that forms necessary to become eligible for  
2 the program shall be provided free of charge to a business  
3 or individual applying for the program.

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

5 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

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

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

20 (a) The compliance plan shall also include, but not be  
21 limited to, (1) a policy statement, signed by the State agency  
22 or public institution of higher education head, expressing a  
23 commitment to encourage the use of businesses owned by  
24 minorities, women ~~females~~, and persons with disabilities, (2)  
25 the designation of the liaison officer provided for in Section

1 5 of this Act, (3) procedures to distribute to potential  
2 contractors and vendors the list of all businesses legitimately  
3 classified as businesses owned by minorities, women ~~females~~,  
4 and persons with disabilities and so certified under this Act,  
5 (4) procedures to set separate contract goals on specific prime  
6 contracts and purchase orders with subcontracting  
7 possibilities based upon the type of work or services and  
8 subcontractor availability, (5) procedures to assure that  
9 contractors and vendors make good faith efforts to meet  
10 contract goals, (6) procedures for contract goal exemption,  
11 modification and waiver, and (7) the delineation of separate  
12 contract goals for businesses owned by minorities, women  
13 ~~females~~, and persons with disabilities.

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

21 (c) Each State agency and public institution of higher  
22 education under the jurisdiction of this Act shall file with  
23 the Council an annual report of its utilization of businesses  
24 owned by minorities, women ~~females~~, and persons with  
25 disabilities during the preceding fiscal year including lapse  
26 period spending and a mid-fiscal year report of its utilization

1 to date for the then current fiscal year. The reports shall  
2 include a self-evaluation of the efforts of the State agency or  
3 public institution of higher education to meet its goals under  
4 the Act.

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

1 compliance plan, shall be deemed approved under this Act.

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

3 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

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

5 Sec. 6a. Notice of contracts to Council. Except in case of  
6 emergency as defined in the Illinois Procurement Code, or as  
7 authorized by rule promulgated by the Department of Central  
8 Management Services, each agency and public institution of  
9 higher education under the jurisdiction of this Act shall  
10 notify the Secretary of the Council of proposed contracts for  
11 professional and artistic services and provide the information  
12 in the form and detail as required by rule promulgated by the  
13 Department of Central Management Services. Notification may be  
14 made through direct written communication to the Secretary to  
15 be received at least 14 days before execution of the contract  
16 (or the solicitation response date, if applicable) ~~or by~~  
17 ~~advertising in the official State newspaper for at least 3~~  
18 ~~days, the last of which must be at least 10 days after the~~  
19 ~~first publication.~~ The agency or public institution of higher  
20 education must consider any vendor referred by the Secretary  
21 before execution of the contract. The provisions of this  
22 Section shall not apply to any State agency or public  
23 institution of higher education that has awarded contracts for  
24 professional and artistic services to businesses owned by  
25 minorities, women ~~females~~, and persons with disabilities

1 totaling ~~totalling~~ in the aggregate \$40,000,000 or more during  
2 the preceding fiscal year.

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

4 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

6 Sec. 7. Exemptions; ~~and~~ waivers; debarment; publication of  
7 data.

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

1 (2) Class exemptions.

2 (a) Creation. The Council, on its own initiative or at  
3 the request of the affected agency or public institution of  
4 higher education, may permit an entire class of contracts  
5 be made exempt from State contracting goals for businesses  
6 owned by minorities, women ~~females~~, and persons with  
7 disabilities whenever there has been a determination,  
8 reduced to writing and based on the best information  
9 available at the time of the determination, that there is  
10 an insufficient number of qualified businesses owned by  
11 minorities, women ~~females~~, and persons with disabilities  
12 to ensure adequate competition and an expectation of  
13 reasonable prices on bids or proposals within that class.

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

16 (3) Waivers. Where a particular contract requires a  
17 contractor to meet a goal established pursuant to this Act, the  
18 contractor shall have the right to request a waiver from such  
19 requirements. The Council shall grant the waiver where the  
20 contractor demonstrates that there has been made a good faith  
21 effort to comply with the goals for participation by businesses  
22 owned by minorities, women ~~females~~, and persons with  
23 disabilities.

24 (4) Conflict with other laws. In the event that any State  
25 contract, which otherwise would be subject to the provisions of  
26 this Act, is or becomes subject to federal laws or regulations



1 which conflict with the provisions of this Act or actions of  
2 the State taken pursuant hereto, the provisions of the federal  
3 laws or regulations shall apply and the contract shall be  
4 interpreted and enforced accordingly.

5 (5) Each chief procurement officer, as defined in the  
6 Illinois Procurement Code, shall maintain on his or her  
7 official Internet website a database of waivers granted under  
8 this Section with respect to contracts under his or her  
9 jurisdiction. The database, which shall be updated  
10 periodically as necessary, shall be searchable by contractor  
11 name and by contracting State agency.

12 (6) Each chief procurement officer, as defined by the  
13 Illinois Procurement Code, shall maintain on its website a list  
14 of all firms that have been debarred as a result of not  
15 achieving the firm's diversity goal.

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

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

2 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

4 Sec. 8. Enforcement.

5 (1) The Council shall make such findings, recommendations  
6 and proposals to the Governor as are necessary and appropriate  
7 to enforce this Act. If, as a result of its monitoring  
8 activities, the Council determines that its goals and policies  
9 are not being met by any State agency or public institution of  
10 higher education, the Council may recommend any or all of the  
11 following actions:

12 (a) Establish enforcement procedures whereby the  
13 Council may recommend to the appropriate State agency,  
14 public institutions of higher education, or law  
15 enforcement officer that legal or administrative remedies  
16 be initiated for violations of contract provisions or rules  
17 issued hereunder or by a contracting State agency or public  
18 institutions of higher education. State agencies and  
19 public institutions of higher education shall be  
20 authorized to adopt remedies for such violations which  
21 shall include (1) termination of the contract involved, (2)  
22 prohibition of participation of the respondents in public  
23 contracts for a period not to exceed 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.

1 (b) If the Council concludes that a compliance plan  
2 submitted under Section 6 is unlikely to produce the  
3 participation goals for businesses owned by minorities,  
4 women ~~females~~, and persons with disabilities within the  
5 then current fiscal year, the Council may recommend that  
6 the State agency or public institution of higher education  
7 revise its plan to provide additional opportunities for  
8 participation by businesses owned by minorities, women  
9 ~~females~~, and persons with disabilities. Such recommended  
10 revisions may include, but shall not be limited to, the  
11 following:

12 (i) assurances of stronger and better focused  
13 solicitation efforts to obtain more businesses owned  
14 by minorities, women ~~females~~, and persons with  
15 disabilities as potential sources of supply;

16 (ii) division of job or project requirements, when  
17 economically feasible, into tasks or quantities to  
18 permit participation of businesses owned by  
19 minorities, women ~~females~~, and persons with  
20 disabilities;

21 (iii) elimination of extended experience or  
22 capitalization requirements, when programmatically  
23 feasible, to permit participation of businesses owned  
24 by minorities, women ~~females~~, and persons with  
25 disabilities;

26 (iv) identification of specific proposed contracts

1 as particularly attractive or appropriate for  
2 participation by businesses owned by minorities, women  
3 ~~females~~, and persons with disabilities, such  
4 identification to result from and be coupled with the  
5 efforts of subparagraphs (i) through (iii);

6 (v) implementation of those regulations  
7 established for the use of the sheltered market  
8 process.

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

24 (3) A vendor shall be in breach of the contract and may be  
25 subject to penalties for failure to meet its diversity  
26 commitments.

1           (a) If the Council or its delegate determines, upon  
2           reviewing a particular contract, that the diversity  
3           participation commitments have not been met, a penalty in  
4           the amount of the discrepancy between the amount of the  
5           commitment, as the amount may be amended through change  
6           orders or otherwise over the term of the contract, and the  
7           achieved amount may be applied to the contractor.

8           (b) Prior to imposing a penalty specified by this  
9           subsection (3), the Council shall notify the contractor of  
10           the fact and amount of the proposed penalty. The contractor  
11           shall have the opportunity to present evidence to the  
12           Council to controvert the fact or amount of the proposed  
13           penalty. Within 15 days of receiving the final decision of  
14           the Council on the matter, and in the event that the final  
15           decision is adverse to the contractor, the contractor may  
16           submit to the Council a written request for a hearing to be  
17           conducted by the legal counsel for the Business Enterprise  
18           Program.

19           (c) Upon receipt of a timely request for a hearing, the  
20           Council shall institute an action with the legal counsel of  
21           the Business Enterprise Program, which shall conduct the  
22           hearing within 30 days of receiving the request.

23           (d) The penalty specified by this subsection (3) shall  
24           be imposed either upon expiration of the time period in  
25           which the contractor may seek review by the legal counsel  
26           of the Business Enterprise Program, or upon the legal

1 counsel's finding adverse to the contractor, as  
2 applicable.

3 (e) The Council shall use all funds collected as  
4 penalties under this subsection (3) exclusively for  
5 development of businesses owned by minorities, women, and  
6 persons with disabilities programs and encouragement of  
7 such businesses' participation in the State.

8 (f) In addition to the penalty specified by this  
9 subsection (d), after a contractor's second failure to meet  
10 diversity commitments, the Council may declare the  
11 contractor ineligible for an award of contracts for a  
12 period of up to 3 years, following the procedures set forth  
13 in paragraphs (b), (c), and (d) of this subsection (3). In  
14 determining whether to declare a contractor ineligible,  
15 the Council shall take into account the contractor's record  
16 for meeting its commitments regarding diversity  
17 participation in contracts with the State.

18 (4) The decisions of the legal counsel of the Business  
19 Enterprise Program under this Section are final and are subject  
20 to review as final decisions under the provisions of the  
21 Administrative Review Law, and shall only be overturned if the  
22 court finds that they are against the manifest weight of the  
23 evidence.

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

25 (30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

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

2 Sec. 8a. Advance and progress payments. Any contract  
3 awarded to a business owned by a minority, woman ~~female~~, or  
4 person with a disability pursuant to this Act may contain a  
5 provision for advance or progress payments, or both, except  
6 that a State construction contract awarded to a minority-owned  
7 ~~minority~~ or women-owned ~~female-owned~~ business pursuant to this  
8 Act may contain a provision for progress payments but may not  
9 contain a provision for advance payments.

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

11 (30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

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

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

1 "Sheltered market" shall mean a procurement procedure  
2 whereby certain contracts are selected and specifically set  
3 aside for businesses owned by minorities, women ~~females~~, and  
4 persons with disabilities on a competitive bid or negotiated  
5 basis.

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

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

11 (30 ILCS 575/8f)

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

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

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

22 (2) a summary of the number of contracts awarded and  
23 the average contract amount by each State agency and public  
24 institution of higher education;

25 (3) an analysis of the level of overall goal



1 achievement concerning purchases from minority-owned  
2 ~~minority~~ businesses, women-owned ~~female-owned~~ businesses,  
3 and businesses owned by persons with disabilities;

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

9 (5) a summary of the number of contracts awarded to  
10 businesses with annual gross sales of less than \$1,000,000;  
11 of \$1,000,000 or more, but less than \$5,000,000; of  
12 \$5,000,000 or more, but less than \$10,000,000; and of  
13 \$10,000,000 or more.

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

15 (30 ILCS 575/8g new)

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

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

22 (b) The Department of Central Management Services shall  
23 provide a report to the Council all State agency  
24 non-construction contracts that exceed \$20,000,000 prior to  
25 award. The report shall contain the following: (i) the name of

1 the proposed awardee, (ii) the total bid amount, (iii) the  
2 established Business Enterprise Program goal, (iv) the dollar  
3 amount and percentage of participation by businesses owned by  
4 minorities, women, and persons with disabilities, and (v) the  
5 names of the certified firms identified in the utilization  
6 plan.

7 (30 ILCS 575/8h new)

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

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

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

14 (ii) cable and video providers, as defined in Section  
15 21-201 of the Public Utilities Act;

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

18 (iv) wireless service providers;

19 (v) broadband internet access services providers; and

20 (vi) any other entity that provides messaging, voice,  
21 or video services via the Internet or a social media  
22 platform.

23 (2) Each entity listed in subsection (1) of this Section  
24 may submit to the Illinois Commerce Commission and the Business  
25 Enterprise Council an annual report by April 15, 2018, and

1 every April 15 thereafter, which provides, for the previous  
2 calendar year, information and data on diversity goals, and  
3 progress toward achieving those goals, by businesses owned by  
4 minorities, women, persons with disabilities, and veterans.  
5 The report shall include a narrative description of the  
6 entity's supplier diversity goals and plans for meeting those  
7 goals. The report shall include annual spending in professional  
8 services and spending with certified businesses owned by  
9 minorities, women, persons with disabilities, and veterans,  
10 including, but not limited to, the following professional  
11 services categories: accounting, architecture and engineering,  
12 information technology, insurance, financial, legal, and  
13 marketing services. The report shall also include the entity's  
14 overall annual spending in the listed professional service  
15 categories. An entity subject to this Section which is part of  
16 an affiliated group of entities may provide information for the  
17 affiliated group as a whole.

18 (3) Any entity that is subject to this Section that fails  
19 to comply with the reporting requirements shall be reported by  
20 the Business Enterprise Council to each chief procurement  
21 officer. Upon receiving a report from the Business Enterprise  
22 Council, the chief procurement officer shall prohibit any  
23 non-compliant entities from bidding on State contracts for a  
24 period of one year beginning the first day of the following  
25 fiscal year and post on its respective bulletin the names of  
26 all entities that fail to comply with the provisions of this

1 Section.

2 (4) The decisions of the Council under this Section 8 are  
3 final and are subject to review as final decisions under the  
4 provisions of the Administrative Review Law, and shall only be  
5 overturned if the court finds that they are against the  
6 manifest weight of the evidence.

7 (30 ILCS 575/8i new)

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

10 (a) within 30 days of the effective date of this  
11 amendatory Act of the 100th General Assembly, review all  
12 solicitations and establish diversity goals on a  
13 contract-by-contract basis;

14 (b) review all existing contracts prior to the time of  
15 renewal to determine if the diversity goal is being met by  
16 the prime vendor;

17 (c) review all existing contracts prior to the time of  
18 renewal to determine if the diversity goal should be  
19 increased based upon market conditions and availability of  
20 certified diverse firms;

21 (d) review existing contracts with no diversity goal to  
22 determine if a diversity goal should be established; if it  
23 is determined that a diversity goal should be established,  
24 the State agency or public institution of higher education  
25 shall amend the contract to include the diversity goal;

1 prime contractors shall be required to complete a  
2 utilization plan to demonstrate how it intends to meet the  
3 diversity goal; and

4 (e) review renewals at least 6 months prior to renewal  
5 to allow adequate time to rebid if it is determined that  
6 the prime contractor has not demonstrated good faith  
7 efforts towards meeting the diversity goal.

8 Section 75. The Film Production Services Tax Credit Act of  
9 2008 is amended by changing Sections 30 and 45 as follows:

10 (35 ILCS 16/30)

11 Sec. 30. Review of application for accredited production  
12 certificate.

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

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

18 (2) The applicant's production is economically sound  
19 and will benefit the people of the State of Illinois by  
20 increasing opportunities for employment and strengthen the  
21 economy of Illinois.

22 (3) The applicant has filed a diversity plan with the  
23 Department outlining specific goals (i) for hiring  
24 minority persons and women ~~females~~, as defined in the

1 Business Enterprise for Minorities, Women ~~Females~~, and  
2 Persons with Disabilities Act, and (ii) for using vendors  
3 receiving certification under the Business Enterprise for  
4 Minorities, Women ~~Females~~, and Persons with Disabilities  
5 Act; the Department has approved the plan as meeting the  
6 requirements established by the Department; and the  
7 Department has verified that the applicant has met or made  
8 good-faith efforts in achieving those goals. The  
9 Department must adopt any rules that are necessary to  
10 ensure compliance with the provisions of this item (3) and  
11 that are necessary to require that the applicant's plan  
12 reflects the diversity of this State.

13 (4) The applicant's production application indicates  
14 whether the applicant intends to participate in training,  
15 education, and recruitment programs that are organized in  
16 cooperation with Illinois colleges and universities, labor  
17 organizations, and the motion picture industry and are  
18 designed to promote and encourage the training and hiring  
19 of Illinois residents who represent the diversity of the  
20 Illinois population.

21 (5) That, if not for the credit, the applicant's  
22 production would not occur in Illinois, which may be  
23 demonstrated by any means including, but not limited to,  
24 evidence that the applicant has multi-state or  
25 international location options and could reasonably and  
26 efficiently locate outside of the State, or demonstration

1 that at least one other state or nation is being considered  
2 for the production, or evidence that the receipt of the  
3 credit is a major factor in the applicant's decision and  
4 that without the credit the applicant likely would not  
5 create or retain jobs in Illinois, or demonstration that  
6 receiving the credit is essential to the applicant's  
7 decision to create or retain new jobs in the State.

8 (6) Awarding the credit will result in an overall  
9 positive impact to the State, as determined by the  
10 Department using the best available data.

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

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

16 (35 ILCS 16/45)

17 Sec. 45. Evaluation of tax credit program; reports to the  
18 General Assembly.

19 (a) The Department shall evaluate the tax credit program.  
20 The evaluation must include an assessment of the effectiveness  
21 of the program in creating and retaining new jobs in Illinois  
22 and of the revenue impact of the program, and may include a  
23 review of the practices and experiences of other states or  
24 nations with similar programs. Upon completion of this  
25 evaluation, the Department shall determine the overall success

1 of the program, and may make a recommendation to extend,  
2 modify, or not extend the program based on this evaluation.

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

6 (1) the economic impact of the tax credit program,  
7 including the number of jobs created and retained,  
8 including whether the job positions are entry level,  
9 management, talent-related, vendor-related, or  
10 production-related;

11 (2) the amount of film production spending brought to  
12 Illinois, including the amount of spending and type of  
13 Illinois vendors hired in connection with an accredited  
14 production; and

15 (3) an overall picture of whether the human  
16 infrastructure of the motion picture industry in Illinois  
17 reflects the geographical, racial and ethnic, gender, and  
18 income-level diversity of the State of Illinois.

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

22 (1) an identification of each vendor that provided  
23 goods or services that were included in an accredited  
24 production's Illinois production spending;

25 (2) the amount paid to each identified vendor by the  
26 accredited production;



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

6           (4) a description of any steps taken by the Department  
7 to encourage accredited productions to use vendors who are  
8 a minority-owned ~~minority-owned~~ business or a women-owned  
9 ~~female-owned~~ business.

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

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

13           (35 ILCS 17/10-30)

14           Sec. 10-30. Review of application for accredited theater  
15 production certificate.

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

19           (1) the applicant intends to make the expenditure in  
20 the State required for certification of the accredited  
21 theater production;

22           (2) the applicant's accredited theater production is  
23 economically sound and will benefit the people of the State  
24 of Illinois by increasing opportunities for employment and

1 will strengthen the economy of Illinois;

2 (3) the following requirements related to the  
3 implementation of a diversity plan have been met: (i) the  
4 applicant has filed with the Department a diversity plan  
5 outlining specific goals for hiring Illinois labor  
6 expenditure eligible minority persons and women ~~females~~,  
7 as defined in the Business Enterprise for Minorities, Women  
8 ~~Females~~, and Persons with Disabilities Act, and for using  
9 vendors receiving certification under the Business  
10 Enterprise for Minorities, Women ~~Females~~, and Persons with  
11 Disabilities Act; (ii) the Department has approved the plan  
12 as meeting the requirements established by the Department  
13 and verified that the applicant has met or made good faith  
14 efforts in achieving those goals; and (iii) the Department  
15 has adopted any rules that are necessary to ensure  
16 compliance with the provisions set forth in this paragraph  
17 and necessary to require that the applicant's plan reflects  
18 the diversity of the population of this State;

19 (4) the applicant's accredited theater production  
20 application indicates whether the applicant intends to  
21 participate in training, education, and recruitment  
22 programs that are organized in cooperation with Illinois  
23 colleges and universities, labor organizations, and the  
24 holders of accredited theater production certificates and  
25 are designed to promote and encourage the training and  
26 hiring of Illinois residents who represent the diversity of

1 Illinois;

2 (5) if not for the tax credit award, the applicant's  
3 accredited theater production would not occur in Illinois,  
4 which may be demonstrated by any means, including, but not  
5 limited to, evidence that: (i) the applicant, presenter,  
6 owner, or licensee of the production rights has other state  
7 or international location options at which to present the  
8 production and could reasonably and efficiently locate  
9 outside of the State, (ii) at least one other state or  
10 nation could be considered for the production, (iii) the  
11 receipt of the tax award credit is a major factor in the  
12 decision of the applicant, presenter, production owner or  
13 licensee as to where the production will be presented and  
14 that without the tax credit award the applicant likely  
15 would not create or retain jobs in Illinois, or (iv)  
16 receipt of the tax credit award is essential to the  
17 applicant's decision to create or retain new jobs in the  
18 State; and

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

22 (b) If any of the provisions in this Section conflict with  
23 any existing collective bargaining agreements, the terms and  
24 conditions of those collective bargaining agreements shall  
25 control.

26 (c) The Department shall act expeditiously regarding

1 approval of applications for accredited theater production  
2 certificates so as to accommodate the pre-production work,  
3 booking, commencement of ticket sales, determination of  
4 performance dates, load in, and other matters relating to the  
5 live theater productions for which approval is sought.

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

7 (35 ILCS 17/10-50)

8 Sec. 10-50. Live theater tax credit award program  
9 evaluation and reports.

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

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

14 (ii) an assessment of the revenue impact of the  
15 program;

16 (iii) in the discretion of the Department, a review of  
17 the practices and experiences of other states or nations  
18 with similar programs; and

19 (iv) an assessment of the overall success of the  
20 program. The Department may make a recommendation to  
21 extend, modify, or not extend the program based on the  
22 evaluation.

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

1 (i) an assessment of the economic impact of the  
2 program, including the number of jobs created and retained,  
3 and whether the job positions are entry level, management,  
4 vendor, or production related;

5 (ii) the amount of accredited theater production  
6 spending brought to Illinois, including the amount of  
7 spending and type of Illinois vendors hired in connection  
8 with an accredited theater production; and

9 (iii) a determination of whether those receiving  
10 qualifying Illinois labor expenditure salaries or wages  
11 reflect the geographical, racial and ethnic, gender, and  
12 income level diversity of the State of Illinois.

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

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

19 (ii) a statement of the amount paid to each identified  
20 vendor by the accredited theater production and whether the  
21 vendor is a minority-owned ~~minority~~ or women-owned ~~female~~  
22 ~~owned~~ business as defined in Section 2 of the Business  
23 Enterprise for Minorities, Women ~~Females~~, and Persons with  
24 Disabilities Act; and

25 (iii) a description of the steps taken by the  
26 Department to encourage accredited theater productions to

1 use vendors who are minority-owned ~~minority~~ or women-owned  
2 ~~female-owned~~ businesses.

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

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

6 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

7 Sec. 1-109.1. Allocation and delegation of fiduciary  
8 duties.

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

13 (a) Appoint one or more investment managers as  
14 fiduciaries to manage (including the power to acquire and  
15 dispose of) any assets of the retirement system or pension  
16 fund; and

17 (b) Allocate duties among themselves and designate  
18 others as fiduciaries to carry out specific fiduciary  
19 activities other than the management of the assets of the  
20 retirement system or pension fund.

21 (2) The board of trustees of a pension fund established  
22 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not  
23 transfer its investment authority, nor transfer the assets of  
24 the fund to any other person or entity for the purpose of

1 consolidating or merging its assets and management with any  
2 other pension fund or public investment authority, unless the  
3 board resolution authorizing such transfer is submitted for  
4 approval to the contributors and pensioners of the fund at  
5 elections held not less than 30 days after the adoption of such  
6 resolution by the board, and such resolution is approved by a  
7 majority of the votes cast on the question in both the  
8 contributors election and the pensioners election. The  
9 election procedures and qualifications governing the election  
10 of trustees shall govern the submission of resolutions for  
11 approval under this paragraph, insofar as they may be made  
12 applicable.

13 (3) Pursuant to subsections (h) and (i) of Section 6 of  
14 Article VII of the Illinois Constitution, the investment  
15 authority of boards of trustees of retirement systems and  
16 pension funds established under this Code is declared to be a  
17 subject of exclusive State jurisdiction, and the concurrent  
18 exercise by a home rule unit of any power affecting such  
19 investment authority is hereby specifically denied and  
20 preempted.

21 (4) For the purposes of this Code, "emerging investment  
22 manager" means a qualified investment adviser that manages an  
23 investment portfolio of at least \$10,000,000 but less than  
24 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~  
25 business", "women-owned ~~female-owned~~ business" or "business  
26 owned by a person with a disability" as those terms are defined

1 in the Business Enterprise for Minorities, Women ~~Females~~, and  
2 Persons with Disabilities Act.

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

14 On or before January 1, 2010, a retirement system, pension  
15 fund, or investment board subject to this Code, except those  
16 whose investments are restricted by Section 1-113.2 of this  
17 Code, shall adopt a policy that sets forth goals for  
18 utilization of emerging investment managers. This policy shall  
19 include quantifiable goals for the management of assets in  
20 specific asset classes by emerging investment managers. The  
21 retirement system, pension fund, or investment board shall  
22 establish 3 separate goals for: (i) emerging investment  
23 managers that are minority-owned ~~minority-owned~~ businesses;  
24 (ii) emerging investment managers that are women-owned ~~female~~  
25 ~~owned~~ businesses; and (iii) emerging investment managers that  
26 are businesses owned by a person with a disability. The goals



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

9 If in any case an emerging investment manager meets the  
10 criteria established by a board for a specific search and meets  
11 the criteria established by a consultant for that search, then  
12 that emerging investment manager shall receive an invitation by  
13 the board of trustees, or an investment committee of the board  
14 of trustees, to present his or her firm for final consideration  
15 of a contract. In the case where multiple emerging investment  
16 managers meet the criteria of this Section, the staff may  
17 choose the most qualified firm or firms to present to the  
18 board.

19 The use of an emerging investment manager does not  
20 constitute a transfer of investment authority for the purposes  
21 of subsection (2) of this Section.

22 (5) Each retirement system, pension fund, or investment  
23 board subject to this Code, except those whose investments are  
24 restricted by Section 1-113.2 of this Code, shall establish a  
25 policy that sets forth goals for increasing the racial, ethnic,  
26 and gender diversity of its fiduciaries, including its

1 consultants and senior staff. Each system, fund, and investment  
2 board shall annually review the goals established under this  
3 subsection.

4 (6) On or before January 1, 2010, a retirement system,  
5 pension fund, or investment board subject to this Code, except  
6 those whose investments are restricted by Section 1-113.2 of  
7 this Code, shall adopt a policy that sets forth goals for  
8 utilization of businesses owned by minorities, women ~~females~~,  
9 and persons with disabilities for all contracts and services.  
10 The goals established shall be based on the percentage of total  
11 dollar amount of all contracts let to minority-owned ~~minority~~  
12 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and  
13 businesses owned by a person with a disability, as those terms  
14 are defined in the Business Enterprise for Minorities, Women  
15 ~~Females~~, and Persons with Disabilities Act. The retirement  
16 system, pension fund, or investment board shall annually review  
17 the goals established under this subsection.

18 (7) On or before January 1, 2010, a retirement system,  
19 pension fund, or investment board subject to this Code, except  
20 those whose investments are restricted by Section 1-113.2 of  
21 this Code, shall adopt a policy that sets forth goals for  
22 increasing the utilization of minority broker-dealers. For the  
23 purposes of this Code, "minority broker-dealer" means a  
24 qualified broker-dealer who meets the definition of  
25 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~  
26 ~~owned~~ business", or "business owned by a person with a

1 disability", as those terms are defined in the Business  
2 Enterprise for Minorities, Women ~~Females~~, and Persons with  
3 Disabilities Act. The retirement system, pension fund, or  
4 investment board shall annually review the goals established  
5 under this Section.

6 (8) Each retirement system, pension fund, and investment  
7 board subject to this Code, except those whose investments are  
8 restricted by Section 1-113.2 of this Code, shall submit a  
9 report to the Governor and the General Assembly by January 1 of  
10 each year that includes the following: (i) the policy adopted  
11 under subsection (4) of this Section, including the names and  
12 addresses of the emerging investment managers used, percentage  
13 of the assets under the investment control of emerging  
14 investment managers for the 3 separate goals, and the actions  
15 it has undertaken to increase the use of emerging investment  
16 managers, including encouraging other investment managers to  
17 use emerging investment managers as subcontractors when the  
18 opportunity arises; (ii) the policy adopted under subsection  
19 (5) of this Section; (iii) the policy adopted under subsection  
20 (6) of this Section; (iv) the policy adopted under subsection  
21 (7) of this Section, including specific actions undertaken to  
22 increase the use of minority broker-dealers; and (v) the policy  
23 adopted under subsection (9) of this Section.

24 (9) On or before February 1, 2015, a retirement system,  
25 pension fund, or investment board subject to this Code, except  
26 those whose investments are restricted by Section 1-113.2 of

1 this Code, shall adopt a policy that sets forth goals for  
2 increasing the utilization of minority investment managers.  
3 For the purposes of this Code, "minority investment manager"  
4 means a qualified investment manager that manages an investment  
5 portfolio and meets the definition of "minority-owned ~~minority~~  
6 ~~owned~~ business", "women-owned ~~female-owned~~ business", or  
7 "business owned by a person with a disability", as those terms  
8 are defined in the Business Enterprise for Minorities, Women  
9 ~~Females~~, and Persons with Disabilities Act.

10 It is hereby declared to be the public policy of the State  
11 of Illinois to encourage the trustees of public employee  
12 retirement systems, pension funds, and investment boards to use  
13 minority investment managers in managing their systems'  
14 assets, encompassing all asset classes, and to increase the  
15 racial, ethnic, and gender diversity of their fiduciaries, to  
16 the greatest extent feasible within the bounds of financial and  
17 fiduciary prudence, and to take affirmative steps to remove any  
18 barriers to the full participation in investment opportunities  
19 afforded by those retirement systems, pension funds, and  
20 investment boards.

21 The retirement system, pension fund, or investment board  
22 shall establish 3 separate goals for: (i) minority investment  
23 managers that are minority-owned ~~minority-owned~~ businesses;  
24 (ii) minority investment managers that are women-owned ~~female~~  
25 ~~owned~~ businesses; and (iii) minority investment managers that  
26 are businesses owned by a person with a disability. The

1 retirement system, pension fund, or investment board shall  
2 annually review the goals established under this Section.

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

13 The use of a minority investment manager does not  
14 constitute a transfer of investment authority for the purposes  
15 of subsection (2) of this Section.

16 (10) Beginning January 1, 2016, it shall be the  
17 aspirational goal for a retirement system, pension fund, or  
18 investment board subject to this Code to use emerging  
19 investment managers for not less than 20% of the total funds  
20 under management. Furthermore, it shall be the aspirational  
21 goal that not less than 20% of investment advisors be  
22 minorities, women ~~females~~, and persons with disabilities as  
23 those terms are defined in the Business Enterprise for  
24 Minorities, Women ~~Females~~, and Persons with Disabilities Act.  
25 It shall be the aspirational goal to utilize businesses owned  
26 by minorities, women ~~females~~, and persons with disabilities for

1 not less than 20% of contracts awarded for "information  
2 technology services", "accounting services", "insurance  
3 brokers", "architectural and engineering services", and "legal  
4 services" as those terms are defined in the Act.

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

6 (40 ILCS 5/1-113.21)

7 Sec. 1-113.21. Contracts for services.

8 (a) Beginning January 1, 2015, no contract, oral or  
9 written, for investment services, consulting services, or  
10 commitment to a private market fund shall be awarded by a  
11 retirement system, pension fund, or investment board  
12 established under this Code unless the investment advisor,  
13 consultant, or private market fund first discloses:

14 (1) the number of its investment and senior staff and  
15 the percentage of its investment and senior staff who are  
16 (i) a minority person, (ii) a woman ~~female~~, and (iii) a  
17 person with a disability; and

18 (2) the number of contracts, oral or written, for  
19 investment services, consulting services, and professional  
20 and artistic services that the investment advisor,  
21 consultant, or private market fund has with (i) a  
22 minority-owned ~~minority-owned~~ business, (ii) a women-owned  
23 ~~female-owned~~ business, or (iii) a business owned by a  
24 person with a disability; and

25 (3) the number of contracts, oral or written, for

1 investment services, consulting services, and professional  
2 and artistic services the investment advisor, consultant,  
3 or private market fund has with a business other than (i) a  
4 minority-owned ~~minority-owned~~ business, (ii) a women-owned  
5 ~~female-owned~~ business or (iii) a business owned by a person  
6 with a disability, if more than 50% of services performed  
7 pursuant to the contract are performed by (i) a minority  
8 person, (ii) a woman ~~female~~, and (iii) a person with a  
9 disability.

10 (b) The disclosures required by this Section shall be  
11 considered, within the bounds of financial and fiduciary  
12 prudence, prior to the awarding of a contract, oral or written,  
13 for investment services, consulting services, or commitment to  
14 a private market fund.

15 (c) For the purposes of this Section, the terms "minority  
16 person", "woman ~~female~~", "person with a disability",  
17 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~  
18 ~~owned~~ business", and "business owned by a person with a  
19 disability" have the same meaning as those terms have in the  
20 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
21 with Disabilities Act.

22 (d) For purposes of this Section, the term "private market  
23 fund" means any private equity fund, private equity fund of  
24 funds, venture capital fund, hedge fund, hedge fund of funds,  
25 real estate fund, or other investment vehicle that is not  
26 publicly traded.

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

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

4 (55 ILCS 5/5-1134)

5 Sec. 5-1134. Project labor agreements.

6 (a) Any sports, arts, or entertainment facilities that  
7 receive revenue from a tax imposed under subsection (b) of  
8 Section 5-1030 of this Code shall be considered to be public  
9 works within the meaning of the Prevailing Wage Act. The county  
10 authorities responsible for the construction, renovation,  
11 modification, or alteration of the sports, arts, or  
12 entertainment facilities shall enter into project labor  
13 agreements with labor organizations as defined in the National  
14 Labor Relations Act to assure that no labor dispute interrupts  
15 or interferes with the construction, renovation, modification,  
16 or alteration of the projects.

17 (b) The project labor agreements must include the  
18 following:

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

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

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



1           The county, taxing bodies, municipalities, and the labor  
2 organizations shall have the authority to include other terms  
3 and conditions as they deem necessary.

4           (c) The project labor agreement shall be filed with the  
5 Director of the Illinois Department of Labor in accordance with  
6 procedures established by the Department. At a minimum, the  
7 project labor agreement must provide the names, addresses, and  
8 occupations of the owner of the facilities and the individuals  
9 representing the labor organization employees participating in  
10 the project labor agreement. The agreement must also specify  
11 the terms and conditions required in subsection (b) of this  
12 Section.

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

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

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

3 (65 ILCS 115/10-5.3)

4 Sec. 10-5.3. Certification of River Edge Redevelopment  
5 Zones.

6 (a) Approval of designated River Edge Redevelopment Zones  
7 shall be made by the Department by certification of the  
8 designating ordinance. The Department shall promptly issue a  
9 certificate for each zone upon its approval. The certificate  
10 shall be signed by the Director of the Department, shall make  
11 specific reference to the designating ordinance, which shall be  
12 attached thereto, and shall be filed in the office of the  
13 Secretary of State. A certified copy of the River Edge  
14 Redevelopment Zone Certificate, or a duplicate original  
15 thereof, shall be recorded in the office of the recorder of  
16 deeds of the county in which the River Edge Redevelopment Zone  
17 lies.

18 (b) A River Edge Redevelopment Zone shall be effective upon  
19 its certification. The Department shall transmit a copy of the  
20 certification to the Department of Revenue, and to the  
21 designating municipality. Upon certification of a River Edge  
22 Redevelopment Zone, the terms and provisions of the designating  
23 ordinance shall be in effect, and may not be amended or  
24 repealed except in accordance with Section 10-5.4.

25 (c) A River Edge Redevelopment Zone shall be in effect for

1 the period stated in the certificate, which shall in no event  
2 exceed 30 calendar years. Zones shall terminate at midnight of  
3 December 31 of the final calendar year of the certified term,  
4 except as provided in Section 10-5.4.

5 (d) In calendar years 2006 and 2007, the Department may  
6 certify one pilot River Edge Redevelopment Zone in the City of  
7 East St. Louis, one pilot River Edge Redevelopment Zone in the  
8 City of Rockford, and one pilot River Edge Redevelopment Zone  
9 in the City of Aurora.

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

12 On or after the effective date of this amendatory Act of  
13 the 97th General Assembly, the Department may certify one  
14 additional pilot River Edge Redevelopment Zone in the City of  
15 Peoria.

16 Thereafter the Department may not certify any additional  
17 River Edge Redevelopment Zones, but may amend and rescind  
18 certifications of existing River Edge Redevelopment Zones in  
19 accordance with Section 10-5.4, except that no River Edge  
20 Redevelopment Zone may be extended on or after the effective  
21 date of this amendatory Act of the 97th General Assembly. Each  
22 River Edge Redevelopment Zone in existence on the effective  
23 date of this amendatory Act of the 97th General Assembly shall  
24 continue until its scheduled termination under this Act, unless  
25 the Zone is decertified sooner. At the time of its term  
26 expiration each River Edge Redevelopment Zone will become an

1 open enterprise zone, available for the previously designated  
2 area or a different area to compete for designation as an  
3 enterprise zone. No preference for designation as a Zone will  
4 be given to the previously designated area.

5 (e) A municipality in which a River Edge Redevelopment Zone  
6 has been certified must submit to the Department, within 60  
7 days after the certification, a plan for encouraging the  
8 participation by minority persons, women ~~females~~, persons with  
9 disabilities, and veterans in the zone. The Department may  
10 assist the municipality in developing and implementing the  
11 plan. The terms "minority person", "woman ~~female~~", and "person  
12 with a disability" have the meanings set forth under Section 2  
13 of the Business Enterprise for Minorities, Women ~~Females~~, and  
14 Persons with Disabilities Act. "Veteran" means an Illinois  
15 resident who is a veteran as defined in subsection (h) of  
16 Section 1491 of Title 10 of the United States Code.

17 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;  
18 97-905, eff. 8-7-12.)

19 Section 100. The Metropolitan Pier and Exposition  
20 Authority Act is amended by changing Sections 10.2 and 23.1 as  
21 follows:

22 (70 ILCS 210/10.2)

23 Sec. 10.2. Bonding disclosure.

24 (a) Truth in borrowing disclosure. Within 60 business days

1 after the issuance of any bonds under this Act, the Authority  
2 shall disclose the total principal and interest payments to be  
3 paid on the bonds over the full stated term of the bonds. The  
4 disclosure also shall include principal and interest payments  
5 to be made by each fiscal year over the full stated term of the  
6 bonds and total principal and interest payments to be made by  
7 each fiscal year on all other outstanding bonds issued under  
8 this Act over the full stated terms of those bonds. These  
9 disclosures shall be calculated assuming bonds are not redeemed  
10 or refunded prior to their stated maturities. Amounts included  
11 in these disclosures as payment of interest on variable rate  
12 bonds shall be computed at an interest rate equal to the rate  
13 at which the variable rate bonds are first set upon issuance,  
14 plus 2.5%, after taking into account any credits permitted in  
15 the related indenture or other instrument against the amount of  
16 such interest for each fiscal year.

17 (b) Bond sale expenses disclosure. Within 60 business days  
18 after the issuance of any bonds under this Act, the Authority  
19 shall disclose all costs of issuance on each sale of bonds  
20 under this Act. The disclosure shall include, as applicable,  
21 the respective percentages of participation and compensation  
22 of each underwriter that is a member of the underwriting  
23 syndicate, legal counsel, financial advisors, and other  
24 professionals for the bond issue and an identification of all  
25 costs of issuance paid to minority-owned ~~minority-owned~~  
26 businesses, women-owned ~~female-owned~~ businesses, and

1 businesses owned by persons with disabilities. The terms  
2 "minority-owned ~~minority-owned~~ businesses", "women-owned  
3 ~~female-owned~~ businesses", and "business owned by a person with  
4 a disability" have the meanings given to those terms in the  
5 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
6 with Disabilities Act. In addition, the Authority shall provide  
7 copies of all contracts under which any costs of issuance are  
8 paid or to be paid to the Commission on Government Forecasting  
9 and Accountability within 60 business days after the issuance  
10 of bonds for which those costs are paid or to be paid. Instead  
11 of filing a second or subsequent copy of the same contract, the  
12 Authority may file a statement that specified costs are paid  
13 under specified contracts filed earlier with the Commission.

14 (c) The disclosures required in this Section shall be  
15 published by posting the disclosures for no less than 30 days  
16 on the website of the Authority and shall be available to the  
17 public upon request. The Authority shall also provide the  
18 disclosures to the Governor's Office of Management and Budget,  
19 the Commission on Government Forecasting and Accountability,  
20 and the General Assembly.

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

22 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

23 Sec. 23.1. Affirmative action.

24 (a) The Authority shall, within 90 days after the effective  
25 date of this amendatory Act of 1984, establish and maintain an

1 affirmative action program designed to promote equal  
2 employment opportunity and eliminate the effects of past  
3 discrimination. Such program shall include a plan, including  
4 timetables where appropriate, which shall specify goals and  
5 methods for increasing participation by women and minorities in  
6 employment, including employment related to the planning,  
7 organization, and staging of the games, by the Authority and by  
8 parties which contract with the Authority. The Authority shall  
9 submit a detailed plan with the General Assembly prior to  
10 September 1 of each year. Such program shall also establish  
11 procedures and sanctions (including debarment), which the  
12 Authority shall enforce to ensure compliance with the plan  
13 established pursuant to this Section and with State and federal  
14 laws and regulations relating to the employment of women and  
15 minorities. A determination by the Authority as to whether a  
16 party to a contract with the Authority has achieved the goals  
17 or employed the methods for increasing participation by women  
18 and minorities shall be determined in accordance with the terms  
19 of such contracts or the applicable provisions of rules and  
20 regulations of the Authority existing at the time such contract  
21 was executed, including any provisions for consideration of  
22 good faith efforts at compliance which the Authority may  
23 reasonably adopt.

24 (b) The Authority shall adopt and maintain minority-owned  
25 minority and women-owned ~~female-owned~~ business enterprise  
26 procurement programs under the affirmative action program

1 described in subsection (a) for any and all work, including all  
2 contracting related to the planning, organization, and staging  
3 of the games, undertaken by the Authority. That work shall  
4 include, but is not limited to, the purchase of professional  
5 services, construction services, supplies, materials, and  
6 equipment. The programs shall establish goals of awarding not  
7 less than 25% of the annual dollar value of all contracts,  
8 purchase orders, or other agreements (collectively referred to  
9 as "contracts") to minority-owned ~~minority-owned~~ businesses  
10 and 5% of the annual dollar value of all contracts to  
11 women-owned ~~female-owned~~ businesses. Without limiting the  
12 generality of the foregoing, the programs shall require in  
13 connection with the prequalification or consideration of  
14 vendors for professional service contracts, construction  
15 contracts, and contracts for supplies, materials, equipment,  
16 and services that each proposer or bidder submit as part of his  
17 or her proposal or bid a commitment detailing how he or she  
18 will expend 25% or more of the dollar value of his or her  
19 contracts with one or more minority-owned ~~minority-owned~~  
20 businesses and 5% or more of the dollar value with one or more  
21 women-owned ~~female-owned~~ businesses. Bids or proposals that do  
22 not include such detailed commitments are not responsive and  
23 shall be rejected unless the Authority deems it appropriate to  
24 grant a waiver of these requirements. In addition the Authority  
25 may, in connection with the selection of providers of  
26 professional services, reserve the right to select a



1 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business  
2 or businesses to fulfill the commitment to minority and woman  
3 ~~female~~ business participation. The commitment to minority and  
4 woman ~~female~~ business participation may be met by the  
5 contractor or professional service provider's status as a  
6 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business,  
7 by joint venture or by subcontracting a portion of the work  
8 with or purchasing materials for the work from one or more such  
9 businesses, or by any combination thereof. Each contract shall  
10 require the contractor or provider to submit a certified  
11 monthly report detailing the status of that contractor or  
12 provider's compliance with the Authority's minority-owned  
13 ~~minority~~ and women-owned ~~female-owned~~ business enterprise  
14 procurement program. The Authority, after reviewing the  
15 monthly reports of the contractors and providers, shall compile  
16 a comprehensive report regarding compliance with this  
17 procurement program and file it quarterly with the General  
18 Assembly. If, in connection with a particular contract, the  
19 Authority determines that it is impracticable or excessively  
20 costly to obtain minority-owned ~~minority~~ or women-owned ~~female~~  
21 ~~owned~~ businesses to perform sufficient work to fulfill the  
22 commitment required by this subsection, the Authority shall  
23 reduce or waive the commitment in the contract, as may be  
24 appropriate. The Authority shall establish rules and  
25 regulations setting forth the standards to be used in  
26 determining whether or not a reduction or waiver is

1 appropriate. The terms "minority-owned ~~minority-owned~~  
2 business" and "women-owned ~~female-owned~~ business" have the  
3 meanings given to those terms in the Business Enterprise for  
4 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

5 (c) The Authority shall adopt and maintain an affirmative  
6 action program in connection with the hiring of minorities and  
7 women on the Expansion Project and on any and all construction  
8 projects, including all contracting related to the planning,  
9 organization, and staging of the games, undertaken by the  
10 Authority. The program shall be designed to promote equal  
11 employment opportunity and shall specify the goals and methods  
12 for increasing the participation of minorities and women in a  
13 representative mix of job classifications required to perform  
14 the respective contracts awarded by the Authority.

15 (d) In connection with the Expansion Project, the Authority  
16 shall incorporate the following elements into its  
17 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business  
18 procurement programs to the extent feasible: (1) a major  
19 contractors program that permits minority-owned ~~minority-owned~~  
20 businesses and women-owned ~~female-owned~~ businesses to bear  
21 significant responsibility and risk for a portion of the  
22 project; (2) a mentor/protege program that provides financial,  
23 technical, managerial, equipment, and personnel support to  
24 minority-owned ~~minority-owned~~ businesses and women-owned  
25 ~~female-owned~~ businesses; (3) an emerging firms program that  
26 includes minority-owned ~~minority-owned~~ businesses and

1 women-owned ~~female-owned~~ businesses that would not otherwise  
2 qualify for the project due to inexperience or limited  
3 resources; (4) a small projects program that includes  
4 participation by smaller minority-owned ~~minority-owned~~  
5 businesses and women-owned ~~female-owned~~ businesses on jobs  
6 where the total dollar value is \$5,000,000 or less; and (5) a  
7 set-aside program that will identify contracts requiring the  
8 expenditure of funds less than \$50,000 for bids to be submitted  
9 solely by minority-owned ~~minority-owned~~ businesses and  
10 women-owned ~~female-owned~~ businesses.

11 (e) The Authority is authorized to enter into agreements  
12 with contractors' associations, labor unions, and the  
13 contractors working on the Expansion Project to establish an  
14 Apprenticeship Preparedness Training Program to provide for an  
15 increase in the number of minority and women ~~female~~ journeymen  
16 and apprentices in the building trades and to enter into  
17 agreements with Community College District 508 to provide  
18 readiness training. The Authority is further authorized to  
19 enter into contracts with public and private educational  
20 institutions and persons in the hospitality industry to provide  
21 training for employment in the hospitality industry.

22 (f) McCormick Place Advisory Board. There is created a  
23 McCormick Place Advisory Board composed as follows: 2 members  
24 shall be appointed by the Mayor of Chicago; 2 members shall be  
25 appointed by the Governor; 2 members shall be State Senators  
26 appointed by the President of the Senate; 2 members shall be

1 State Senators appointed by the Minority Leader of the Senate;  
2 2 members shall be State Representatives appointed by the  
3 Speaker of the House of Representatives; and 2 members shall be  
4 State Representatives appointed by the Minority Leader of the  
5 House of Representatives. The terms of all previously appointed  
6 members of the Advisory Board expire on the effective date of  
7 this amendatory Act of the 92nd General Assembly. A State  
8 Senator or State Representative member may appoint a designee  
9 to serve on the McCormick Place Advisory Board in his or her  
10 absence.

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

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

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

23 (3) Black or African American (a person having origins  
24 in any of the black racial groups of Africa). Terms such as  
25 "Haitian" or "Negro" can be used in addition to "Black or  
26 African American".

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

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

7           Members of the McCormick Place Advisory Board shall serve  
8           2-year terms and until their successors are appointed, except  
9           members who serve as a result of their elected position whose  
10          terms shall continue as long as they hold their designated  
11          elected positions. Vacancies shall be filled by appointment for  
12          the unexpired term in the same manner as original appointments  
13          are made. The McCormick Place Advisory Board shall elect its  
14          own chairperson.

15          Members of the McCormick Place Advisory Board shall serve  
16          without compensation but, at the Authority's discretion, shall  
17          be reimbursed for necessary expenses in connection with the  
18          performance of their duties.

19          The McCormick Place Advisory Board shall meet quarterly, or  
20          as needed, shall produce any reports it deems necessary, and  
21          shall:

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

24                 (2) Work with the Authority regarding potential means  
25                 for providing increased economic opportunities to  
26                 minorities and women produced indirectly or directly from

1 the construction and operation of the Expansion Project;

2 (3) Work with the Authority to minimize any potential  
3 impact on the area surrounding the McCormick Place  
4 Expansion Project, including any impact on minority-owned  
5 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting  
6 from the construction and operation of the Expansion  
7 Project;

8 (4) Work with the Authority to find candidates for  
9 building trades apprenticeships, for employment in the  
10 hospitality industry, and to identify job training  
11 programs;

12 (5) Work with the Authority to implement the provisions  
13 of subsections (a) through (e) of this Section in the  
14 construction of the Expansion Project, including the  
15 Authority's goal of awarding not less than 25% and 5% of  
16 the annual dollar value of contracts to minority-owned  
17 ~~minority~~ and women-owned ~~female-owned~~ businesses, the  
18 outreach program for minorities and women, and the  
19 mentor/protege program for providing assistance to  
20 minority-owned ~~minority~~ and women-owned ~~female-owned~~  
21 businesses.

22 (g) The Authority shall comply with subsection (e) of  
23 Section 5-42 of the Olympic Games and Paralympic Games (2016)  
24 Law. For purposes of this Section, the term "games" has the  
25 meaning set forth in the Olympic Games and Paralympic Games  
26 (2016) Law.

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

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

4 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

5 Sec. 9. Duties. In addition to the powers set forth  
6 elsewhere in this Act, subject to the terms of any agreements  
7 with the holders of the Authority's bonds or notes, the  
8 Authority shall:

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

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

1           (3) With respect to a facility owned or to be owned by  
2 a governmental owner other than the Authority, enter into  
3 an assistance agreement with either a governmental owner of  
4 a facility or its tenant, or both, that requires the  
5 tenant, or if the tenant is not a party to the assistance  
6 agreement requires the governmental owner to enter into an  
7 agreement with the tenant that requires the tenant to use  
8 the facility for a period at least as long as the term of  
9 any bonds issued to finance the reconstruction,  
10 renovation, remodeling, extension or improvement of all or  
11 substantially all of the facility.

12           (4) Create and maintain a separate financial reserve  
13 for repair and replacement of capital assets of any  
14 facility owned by the Authority or for which the Authority  
15 provides financial assistance and deposit into this  
16 reserve not less than \$1,000,000 per year for each such  
17 facility beginning at such time as the Authority and the  
18 tenant, or the Authority and a governmental owner of a  
19 facility, as applicable, shall agree.

20           (5) In connection with prequalification of general  
21 contractors for the construction of a new stadium facility  
22 or the reconstruction, renovation, remodeling, extension,  
23 or improvement of all or substantially all of an existing  
24 facility, the Authority shall require submission of a  
25 commitment detailing how the general contractor will  
26 expend 25% or more of the dollar value of the general



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

1 of each year with the General Assembly detailing its  
2 implementation of this paragraph. The terms  
3 "minority-owned businesses", "women-owned businesses", and  
4 "business owned by a person with a disability" have the  
5 meanings given to those terms ~~The terms "minority business~~  
6 ~~enterprise" and "female business enterprise" shall have~~  
7 ~~the same meanings as "minority owned business" and "female~~  
8 ~~owned business", respectively, as defined in the Business~~  
9 ~~Enterprise for Minorities, Women Females, and Persons with~~  
10 ~~Disabilities Act.~~

11 (6) Provide for the construction of any new facility  
12 pursuant to one or more contracts which require delivery of  
13 a completed facility at a fixed maximum price to be insured  
14 or guaranteed by a third party determined by the Authority  
15 to be financially capable of causing completion of such  
16 construction of the new facility.

17 In connection with any assistance agreement with a  
18 governmental owner that provides financial assistance for a  
19 facility to be used by a National Football League team, the  
20 assistance agreement shall provide that the Authority or its  
21 agent shall enter into the contract or contracts for the design  
22 and construction services or design/build services for such  
23 facility and thereafter transfer its rights and obligations  
24 under the contract or contracts to the governmental owner of  
25 the facility. In seeking parties to provide design and  
26 construction services or design/build services with respect to

1 such facility, the Authority may use such procurement  
2 procedures as it may determine, including, without limitation,  
3 the selection of design professionals and construction  
4 managers or design/builders as may be required by a team that  
5 is at risk, in whole or in part, for the cost of design and  
6 construction of the facility.

7 An assistance agreement may not provide, directly or  
8 indirectly, for the payment to the Chicago Park District of  
9 more than a total of \$10,000,000 on account of the District's  
10 loss of property or revenue in connection with the renovation  
11 of a facility pursuant to the assistance agreement.

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

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

15 (70 ILCS 3210/40)

16 Sec. 40. Duties.

17 (a) In addition to the powers set forth elsewhere in this  
18 Act, subject to the terms of any agreements with the holders of  
19 the Authority's evidences of indebtedness, the Authority shall  
20 do the following:

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

1           (2) Enter into a loan agreement with an owner of a  
2           facility to finance the acquisition, construction,  
3           maintenance, or rehabilitation of the facility. The  
4           agreement shall contain appropriate and reasonable  
5           provisions with respect to termination, default, and legal  
6           remedies. The loan may be at below-market interest rates.

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

9           (b) In a loan agreement for the construction of a new  
10          facility, in connection with prequalification of general  
11          contractors for construction of the facility, the Authority  
12          shall require that the owner of the facility require submission  
13          of a commitment detailing how the general contractor will  
14          expend 25% or more of the dollar value of the general contract  
15          with one or more minority-owned businesses ~~minority business~~  
16          ~~enterprises~~ and 5% or more of the dollar value with one or more  
17          women-owned businesses ~~female business enterprises~~. This  
18          commitment may be met by contractor's status as a  
19          minority-owned businesses ~~minority business enterprise~~ or  
20          women-owned businesses ~~female business enterprise~~, by a joint  
21          venture, or by subcontracting a portion of the work with or by  
22          purchasing materials for the work from one or more such  
23          businesses ~~enterprises~~, or by any combination thereof. Any  
24          contract with the general contractor for construction of the  
25          new facility shall require the general contractor to meet the  
26          foregoing obligations and shall require monthly reporting to

1 the Authority with respect to the status of the implementation  
2 of the contractor's affirmative action plan and compliance with  
3 that plan. This report shall be filed with the General  
4 Assembly. The Authority shall require that the facility owner  
5 establish and maintain an affirmative action program designed  
6 to promote equal employment opportunity and that specifies the  
7 goals and methods for increasing participation by minorities  
8 and women in a representative mix of job classifications  
9 required to perform the respective contracts. The Authority  
10 shall file a report before March 1 of each year with the  
11 General Assembly detailing its implementation of this  
12 subsection. The terms "minority-owned businesses ~~minority~~  
13 ~~business enterprise~~" and "women-owned businesses ~~female~~  
14 ~~business enterprise~~" have the meanings provided in the Business  
15 Enterprise for Minorities, Women ~~Females~~, and Persons with  
16 Disabilities Act.

17 (c) With respect to a facility owned or to be owned by the  
18 Authority, enter or have entered into a management agreement  
19 with a tenant of the Authority to operate the facility that  
20 requires the tenant to operate the facility for a period at  
21 least as long as the term of any bonds issued to finance the  
22 development, establishment, construction, erection,  
23 acquisition, repair, reconstruction, remodeling, adding to,  
24 extension, improvement, equipping, operation, and maintenance  
25 of the facility. Such agreement shall contain appropriate and  
26 reasonable provisions with respect to termination, default,

1 and legal remedies.

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

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

5 (70 ILCS 3605/12c)

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

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

19 (b) (1) After its receipt of a certified copy of a report of  
20 the Auditor General of the State of Illinois meeting the  
21 requirements of Section 3-2.3 of the Illinois State Auditing  
22 Act, the Authority may issue \$1,348,550,000 aggregate original  
23 principal amount of bonds and notes. After payment of the costs  
24 of issuance and necessary deposits to funds and accounts

1 established with respect to debt service, the net proceeds of  
2 such bonds or notes shall be deposited only in the Retirement  
3 Plan for Chicago Transit Authority Employees and used only for  
4 the purposes required by Section 22-101 of the Illinois Pension  
5 Code. Provided that no less than \$1,110,500,000 has been  
6 deposited in the Retirement Plan, remaining proceeds of bonds  
7 issued under this subparagraph (b) (1) may be used to pay costs  
8 of issuance and make necessary deposits to funds and accounts  
9 with respect to debt service for bonds and notes issued under  
10 this subparagraph or subparagraph (b) (2).

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

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

4           (4) The bonds or notes issued under 12c(b)(1) shall be  
5 issued as soon as practicable after the Auditor General issues  
6 the report provided in Section 3-2.3(b) of the Illinois State  
7 Auditing Act. The bonds or notes issued under 12c(b)(2) shall  
8 be issued as soon as practicable after the Auditor General  
9 issues the report provided in Section 3-2.3(c) of the Illinois  
10 State Auditing Act.

11           (5) With respect to bonds and notes issued under  
12 subparagraph (b), scheduled aggregate annual payments of  
13 interest or deposits into funds and accounts established for  
14 the purpose of such payment shall commence within one year  
15 after the bonds and notes are issued. With respect to principal  
16 and interest, scheduled aggregate annual payments of principal  
17 and interest or deposits into funds and accounts established  
18 for the purpose of such payment shall be not less than 70% in  
19 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled  
20 payments or deposits of principal and interest in 2012 and  
21 shall be substantially equal beginning in 2012 and each year  
22 thereafter. For purposes of this subparagraph (b),  
23 "substantially equal" means that debt service in any full year  
24 after calendar year 2011 is not more than 115% of debt service  
25 in any other full year after calendar year 2011 during the term  
26 of the bonds or notes. For the purposes of this subsection (b),



1 with respect to bonds and notes that bear interest at a  
2 variable rate, interest shall be assumed at a rate equal to the  
3 rate for United States Treasury Securities - State and Local  
4 Government Series for the same maturity, plus 75 basis points.  
5 If the Authority enters into a Swap with a counterparty  
6 requiring the Authority to pay a fixed interest rate on a  
7 notional amount, and the Authority has made a determination  
8 that such Swap was entered into for the purpose of providing  
9 substitute interest payments for variable interest rate bonds  
10 or notes of a particular maturity or maturities in a principal  
11 amount equal to the notional amount of the Swap, then during  
12 the term of the Swap for purposes of any calculation of  
13 interest payable on such bonds or notes, the interest rate on  
14 the bonds or notes of such maturity or maturities shall be  
15 determined as if such bonds or notes bore interest at the fixed  
16 interest rate payable by the Authority under such Swap.

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

19 (c) The Chicago Transit Board shall provide for the  
20 issuance of bonds or notes as authorized in this Section 12c by  
21 the adoption of an ordinance. The ordinance, together with the  
22 bonds or notes, shall constitute a contract among the  
23 Authority, the owners from time to time of the bonds or notes,  
24 any bond trustee with respect to the bonds or notes, any  
25 related credit enhancer and any provider of any related Swaps.

26 (d) The Authority is authorized to cause the proceeds of

1 the bonds or notes, and any interest or investment earnings on  
2 the bonds or notes, and of any Swaps, to be invested until the  
3 proceeds and any interest or investment earnings have been  
4 deposited with the Retirement Plan or the Retiree Health Care  
5 Trust.

6 (e) Bonds or notes issued pursuant to this Section 12c may  
7 be general obligations of the Authority, to which shall be  
8 pledged the full faith and credit of the Authority, or may be  
9 obligations payable solely from particular sources of funds all  
10 as may be provided in the authorizing ordinance. The  
11 authorizing ordinance for the bonds and notes, whether or not  
12 general obligations of the Authority, may provide for the Debt  
13 Service (as defined in paragraph (i) of this Section 12c) to  
14 have a claim for payment from particular sources of funds,  
15 including, without limitation, amounts to be paid to the  
16 Authority or a bond trustee. The authorizing ordinance may  
17 provide for the means by which the bonds or notes (and any  
18 related Swaps) may be secured, which may include, a pledge of  
19 any revenues or funds of the Authority from whatever source  
20 which may by law be utilized for paying Debt Service. In  
21 addition to any other security, upon the written approval of  
22 the Regional Transportation Authority by the affirmative vote  
23 of 12 of its then Directors, the ordinance may provide a  
24 specific pledge or assignment of and lien on or security  
25 interest in amounts to be paid to the Authority by the Regional  
26 Transportation Authority and direct payment thereof to the bond

1 trustee for payment of Debt Service with respect to the bonds  
2 or notes, subject to the provisions of existing lease  
3 agreements of the Authority with any public building  
4 commission. The authorizing ordinance may also provide a  
5 specific pledge or assignment of and lien on or security  
6 interest in and direct payment to the trustee of all or a  
7 portion of the moneys otherwise payable to the Authority from  
8 the City of Chicago pursuant to an intergovernmental agreement  
9 with the Authority to provide financial assistance to the  
10 Authority. Any such pledge, assignment, lien or security  
11 interest for the benefit of owners of bonds or notes shall be  
12 valid and binding from the time the bonds or notes are issued,  
13 without any physical delivery or further act, and shall be  
14 valid and binding as against and prior to the claims of all  
15 other parties having claims of any kind against the Authority  
16 or any other person, irrespective of whether such other parties  
17 have notice of such pledge, assignment, lien or security  
18 interest, all as provided in the Local Government Debt Reform  
19 Act, as it may be amended from time to time. The bonds or notes  
20 of the Authority issued pursuant to this Section 12c shall have  
21 such priority of payment and as to their claim for payment from  
22 particular sources of funds, including their priority with  
23 respect to obligations of the Authority issued under other  
24 Sections of this Act, all as shall be provided in the  
25 ordinances authorizing the issuance of the bonds or notes. The  
26 ordinance authorizing the issuance of any bonds or notes under

1 this Section may provide for the creation of, deposits in, and  
2 regulation and disposition of sinking fund or reserve accounts  
3 relating to those bonds or notes and related agreements. The  
4 ordinance authorizing the issuance of any such bonds or notes  
5 authorized under this Section 12c may contain provisions for  
6 the creation of a separate fund to provide for the payment of  
7 principal of and interest on those bonds or notes and related  
8 agreements. The ordinance may also provide limitations on the  
9 issuance of additional bonds or notes of the Authority.

10 (f) Bonds or notes issued under this Section 12c shall not  
11 constitute an indebtedness of the Regional Transportation  
12 Authority, the State of Illinois, or of any other political  
13 subdivision of or municipality within the State, except the  
14 Authority.

15 (g) The ordinance of the Chicago Transit Board authorizing  
16 the issuance of bonds or notes pursuant to this Section 12c may  
17 provide for the appointment of a corporate trustee (which may  
18 be any trust company or bank having the powers of a trust  
19 company within Illinois) with respect to bonds or notes issued  
20 pursuant to this Section 12c. The ordinance shall prescribe the  
21 rights, duties, and powers of the trustee to be exercised for  
22 the benefit of the Authority and the protection of the owners  
23 of bonds or notes issued pursuant to this Section 12c. The  
24 ordinance may provide for the trustee to hold in trust, invest  
25 and use amounts in funds and accounts created as provided by  
26 the ordinance with respect to the bonds or notes in accordance

1 with this Section 12c. The Authority may apply, as it shall  
2 determine, any amounts received upon the sale of the bonds or  
3 notes to pay any Debt Service on the bonds or notes. The  
4 ordinance may provide for a trust indenture to set forth terms  
5 of, sources of payment for and security for the bonds and  
6 notes.

7 (h) The State of Illinois pledges to and agrees with the  
8 owners of the bonds or notes issued pursuant to Section 12c  
9 that the State of Illinois will not limit the powers vested in  
10 the Authority by this Act to pledge and assign its revenues and  
11 funds as security for the payment of the bonds or notes, or  
12 vested in the Regional Transportation Authority by the Regional  
13 Transportation Authority Act or this Act, so as to materially  
14 impair the payment obligations of the Authority under the terms  
15 of any contract made by the Authority with those owners or to  
16 materially impair the rights and remedies of those owners until  
17 those bonds or notes, together with interest and any redemption  
18 premium, and all costs and expenses in connection with any  
19 action or proceedings by or on behalf of such owners are fully  
20 met and discharged. The Authority is authorized to include  
21 these pledges and agreements of the State of Illinois in any  
22 contract with owners of bonds or notes issued pursuant to this  
23 Section 12c.

24 (i) For purposes of this Section, "Debt Service" with  
25 respect to bonds or notes includes, without limitation,  
26 principal (at maturity or upon mandatory redemption),

1 redemption premium, interest, periodic, upfront, and  
2 termination payments on Swaps, fees for bond insurance or other  
3 credit enhancement, liquidity facilities, the funding of bond  
4 or note reserves, bond trustee fees, and all other costs of  
5 providing for the security or payment of the bonds or notes.

6 (j) The Authority shall adopt a procurement program with  
7 respect to contracts relating to the following service  
8 providers in connection with the issuance of debt for the  
9 benefit of the Retirement Plan for Chicago Transit Authority  
10 Employees: underwriters, bond counsel, financial advisors, and  
11 accountants. The program shall include goals for the payment of  
12 not less than 30% of the total dollar value of the fees from  
13 these contracts to minority-owned ~~minority-owned~~ businesses  
14 and women-owned ~~female-owned~~ businesses as defined in the  
15 Business Enterprise for Minorities, Women ~~Females~~, and Persons  
16 with Disabilities Act. The Authority shall conduct outreach to  
17 minority-owned ~~minority-owned~~ businesses and women-owned  
18 ~~female-owned~~ businesses. Outreach shall include, but is not  
19 limited to, advertisements in periodicals and newspapers,  
20 mailings, and other appropriate media. The Authority shall  
21 submit to the General Assembly a comprehensive report that  
22 shall include, at a minimum, the details of the procurement  
23 plan, outreach efforts, and the results of the efforts to  
24 achieve goals for the payment of fees. The service providers  
25 selected by the Authority pursuant to such program shall not be  
26 subject to approval by the Regional Transportation Authority,

1 and the Regional Transportation Authority's approval pursuant  
2 to subsection (e) of this Section 12c related to the issuance  
3 of debt shall not be based in any way on the service providers  
4 selected by the Authority pursuant to this Section.

5 (k) No person holding an elective office in this State,  
6 holding a seat in the General Assembly, serving as a director,  
7 trustee, officer, or employee of the Regional Transportation  
8 Authority or the Chicago Transit Authority, including the  
9 spouse or minor child of that person, may receive a legal,  
10 banking, consulting, or other fee related to the issuance of  
11 any bond issued by the Chicago Transit Authority pursuant to  
12 this Section.

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

14 Section 120. The School Code is amended by changing Section  
15 10-20.44 as follows:

16 (105 ILCS 5/10-20.44)

17 Sec. 10-20.44. Report on contracts.

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

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

24 (c) Each year, in conjunction with the submission of the

1 Statement of Affairs to the State Board of Education prior to  
2 December 1, provided for in Section 10-17, each school district  
3 shall submit to the State Board of Education an annual report  
4 on all contracts over \$25,000 awarded by the school district  
5 during the previous fiscal year. The report shall include at  
6 least the following:

7 (1) the total number of all contracts awarded by the  
8 school district;

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

10 (3) the number of contracts awarded to minority-owned  
11 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
12 businesses, and businesses owned by persons with  
13 disabilities, as defined in the Business Enterprise for  
14 Minorities, Women, ~~Females~~ and Persons with Disabilities  
15 Act, and locally owned businesses; and

16 (4) the total value of contracts awarded to  
17 minority-owned ~~minority-owned~~ businesses, women-owned  
18 ~~female-owned~~ businesses, and businesses owned by persons  
19 with disabilities, as defined in the Business Enterprise  
20 for Minorities, Women, ~~Females~~ and Persons with  
21 Disabilities Act, and locally owned businesses.

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

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

25 Section 125. The Public University Energy Conservation Act



1 is amended by changing Sections 3 and 5-10 as follows:

2 (110 ILCS 62/3)

3 Sec. 3. Applicable laws. Other State laws and related  
4 administrative requirements apply to this Act, including, but  
5 not limited to, the following laws and related administrative  
6 requirements: the Illinois Human Rights Act, the Prevailing  
7 Wage Act, the Public Construction Bond Act, the Public Works  
8 Preference Act (repealed on June 16, 2010 by Public Act  
9 96-929), the Employment of Illinois Workers on Public Works  
10 Act, the Freedom of Information Act, the Open Meetings Act, the  
11 Illinois Architecture Practice Act of 1989, the Professional  
12 Engineering Practice Act of 1989, the Structural Engineering  
13 Practice Act of 1989, the Architectural, Engineering, and Land  
14 Surveying Qualifications Based Selection Act, the Public  
15 Contract Fraud Act, the Business Enterprise for Minorities,  
16 Women ~~Females~~, and Persons with Disabilities Act, and the  
17 Public Works Employment Discrimination Act.

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

19 (110 ILCS 62/5-10)

20 Sec. 5-10. Energy conservation measure.

21 (a) "Energy conservation measure" means any improvement,  
22 repair, alteration, or betterment of any building or facility,  
23 subject to all applicable building codes, owned or operated by  
24 a public university or any equipment, fixture, or furnishing to

1 be added to or used in any such building or facility that is  
2 designed to reduce energy consumption or operating costs, and  
3 may include, without limitation, one or more of the following:

4 (1) Insulation of the building structure or systems  
5 within the building.

6 (2) Storm windows or doors, caulking or  
7 weatherstripping, multiglazed windows or doors, heat  
8 absorbing or heat reflective glazed and coated window or  
9 door systems, additional glazing, reductions in glass  
10 area, or other window and door system modifications that  
11 reduce energy consumption.

12 (3) Automated or computerized energy control systems.

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

15 (5) Replacement or modification of lighting fixtures  
16 to increase the energy efficiency of the lighting system  
17 without increasing the overall illumination of a facility,  
18 unless an increase in illumination is necessary to conform  
19 to the applicable State or local building code for the  
20 lighting system after the proposed modifications are made.

21 (6) Energy recovery systems.

22 (7) Energy conservation measures that provide  
23 long-term operating cost reductions.

24 (b) From the effective date of this amendatory Act of the  
25 96th General Assembly until January 1, 2015, "energy  
26 conservation measure" includes a renewable energy center pilot

1 project at Eastern Illinois University, provided that:

2 (1) the University signs a partnership contract with a  
3 qualified energy conservation measure provider as provided  
4 in this Act;

5 (2) the University has responsibility for the  
6 qualified provider's actions with regard to applicable  
7 laws;

8 (3) the University obtains a performance bond in  
9 accordance with this Act;

10 (4) the University and the qualified provider follow  
11 all aspects of the Prevailing Wage Act as provided by this  
12 Act;

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

17 (6) the University provides monthly progress reports  
18 to the Procurement Policy Board, and the University allows  
19 a representative from CDB to monitor the project, provided  
20 that such involvement is at no cost to the University;

21 (7) the University requires the qualified provider to  
22 follow the provisions of the Business Enterprise for  
23 Minorities, Women ~~Females~~, and Persons with Disabilities  
24 Act and the Public Works Employment Discrimination Act as  
25 provided in this Act;

26 (8) the University agrees to award new building

1 construction work to a responsible bidder, as defined in  
2 Section 30-22 of the Illinois Procurement Code;

3 (9) the University includes in its contract with the  
4 qualified provider a requirement that the qualified  
5 provider name the sub-contractors that it will use, and the  
6 qualified provider may not change these without the  
7 University's written approval;

8 (10) the University follows, to the extent possible,  
9 the Design-Build Procurement Act for construction of the  
10 project, taking into consideration the current status of  
11 the project; for purposes of this Act, the definition of  
12 "State construction agency" in the Design-Build  
13 Procurement Act means Eastern Illinois University for the  
14 purpose of this project;

15 (11) the University follows, to the extent possible,  
16 the Architectural, Engineering, and Land Surveying  
17 Qualifications Based Selection Act;

18 (12) the University requires all engineering,  
19 architecture, and design work related to the installation  
20 or modification of facilities be performed by design  
21 professionals licensed by the State of Illinois and  
22 professional design firms registered in the State of  
23 Illinois; and

24 (13) the University produces annual reports and a final  
25 report describing the project upon completion and files the  
26 reports with the Procurement Policy Board, CDB, and the

1 General Assembly.

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

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

5 (110 ILCS 320/1.1 rep.)

6 Section 130. The University of Illinois at Chicago Act is  
7 amended by repealing Section 1.1.

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

10 (110 ILCS 675/20-115)

11 Sec. 20-115. Illinois Institute for Entrepreneurship  
12 Education.

13 (a) There is created, effective July 1, 1997, within the  
14 State at Illinois State University, the Illinois Institute for  
15 Entrepreneurship Education, hereinafter referred to as the  
16 Institute.

17 (b) The Institute created under this Section shall commence  
18 its operations on July 1, 1997 and shall have a board composed  
19 of 15 members representative of education, commerce and  
20 industry, government, or labor, appointed as follows: 2 members  
21 shall be appointees of the Governor, one of whom shall be a  
22 minority or woman ~~female~~ person as defined in Section 2 of the  
23 Business Enterprise for Minorities, Women ~~Females~~, and Persons

1 with Disabilities Act; one member shall be an appointee of the  
2 President of the Senate; one member shall be an appointee of  
3 the Minority Leader of the Senate; one member shall be an  
4 appointee of the Speaker of the House of Representatives; one  
5 member shall be an appointee of the Minority Leader of the  
6 House of Representatives; 2 members shall be appointees of  
7 Illinois State University; one member shall be an appointee of  
8 the Board of Higher Education; one member shall be an appointee  
9 of the State Board of Education; one member shall be an  
10 appointee of the Department of Commerce and Economic  
11 Opportunity; one member shall be an appointee of the Illinois  
12 chapter of Economics America; and 3 members shall be appointed  
13 by majority vote of the other 12 appointed members to represent  
14 business owner-entrepreneurs. Each member shall have expertise  
15 and experience in the area of entrepreneurship education,  
16 including small business and entrepreneurship. The majority of  
17 voting members must be from the private sector. The members  
18 initially appointed to the board of the Institute created under  
19 this Section shall be appointed to take office on July 1, 1997  
20 and shall by lot determine the length of their respective terms  
21 as follows: 5 members shall be selected by lot to serve terms  
22 of one year, 5 members shall be selected by lot to serve terms  
23 of 2 years, and 5 members shall be selected by lot to serve  
24 terms of 3 years. Subsequent appointees shall each serve terms  
25 of 3 years. The board shall annually select a chairperson from  
26 among its members. Each board member shall serve without

1 compensation but shall be reimbursed for expenses incurred in  
2 the performance of his or her duties.

3 (c) The purpose of the Institute shall be to foster the  
4 growth and development of entrepreneurship education in the  
5 State of Illinois. The Institute shall help remedy the  
6 deficiencies in the preparation of entrepreneurship education  
7 teachers, increase the quality and quantity of  
8 entrepreneurship education programs, improve instructional  
9 materials, and prepare personnel to serve as leaders and  
10 consultants in the field of entrepreneurship education and  
11 economic development. The Institute shall promote  
12 entrepreneurship as a career option, promote and support the  
13 development of innovative entrepreneurship education materials  
14 and delivery systems, promote business, industry, and  
15 education partnerships, promote collaboration and involvement  
16 in entrepreneurship education programs, encourage and support  
17 in-service and preservice teacher education programs within  
18 various educational systems, and develop and distribute  
19 relevant materials. The Institute shall provide a framework  
20 under which the public and private sectors may work together  
21 toward entrepreneurship education goals. These goals shall be  
22 achieved by bringing together programs that have an impact on  
23 entrepreneurship education to achieve coordination among  
24 agencies and greater efficiency in the expenditure of funds.

25 (d) Beginning July 1, 1997, the Institute shall have the  
26 following powers subject to State and Illinois State University

1 Board of Trustees regulations and guidelines:

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

4 (2) To own property and expend and receive funds and  
5 generate funds;

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

8 (4) To request and receive the cooperation and  
9 assistance of all State departments and agencies in the  
10 furtherance of its purpose.

11 (e) The board of the Institute shall be a policy making  
12 body with the responsibility for planning and developing  
13 Institute programs. The Institute, through the Board of  
14 Trustees of Illinois State University, shall annually report to  
15 the Governor and General Assembly by January 31 as to its  
16 activities and operations, including its findings and  
17 recommendations.

18 (f) Beginning on July 1, 1997, the Institute created under  
19 this Section shall be deemed designated by law as the successor  
20 to the Illinois Institute for Entrepreneurship Education,  
21 previously created and existing under Section 2-11.5 of the  
22 Public Community College Act until its abolition on July 1,  
23 1997 as provided in that Section. On July 1, 1997, all  
24 financial and other records of the Institute so abolished and  
25 all of its property, whether real or personal, including but  
26 not limited to all inventory and equipment, shall be deemed



1 transferred by operation of law to the Illinois Institute for  
2 Entrepreneurship Education created under this Section 20-115.  
3 The Illinois Institute for Entrepreneurship Education created  
4 under this Section 20-115 shall have, with respect to the  
5 predecessor Institute so abolished, all authority, powers, and  
6 duties of a successor agency under Section 10-15 of the  
7 Successor Agency Act.

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

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

11 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

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

13 (a) Notwithstanding the provisions of Section 9-201, the  
14 Commission may authorize the increase or decrease of rates and  
15 charges based upon changes in the cost of fuel used in the  
16 generation or production of electric power, changes in the cost  
17 of purchased power, or changes in the cost of purchased gas  
18 through the application of fuel adjustment clauses or purchased  
19 gas adjustment clauses. The Commission may also authorize the  
20 increase or decrease of rates and charges based upon  
21 expenditures or revenues resulting from the purchase or sale of  
22 emission allowances created under the federal Clean Air Act  
23 Amendments of 1990, through such fuel adjustment clauses, as a  
24 cost of fuel. For the purposes of this paragraph, cost of fuel

1 used in the generation or production of electric power shall  
2 include the amount of any fees paid by the utility for the  
3 implementation and operation of a process for the  
4 desulfurization of the flue gas when burning high sulfur coal  
5 at any location within the State of Illinois irrespective of  
6 the attainment status designation of such location; but shall  
7 not include transportation costs of coal (i) except to the  
8 extent that for contracts entered into on and after the  
9 effective date of this amendatory Act of 1997, the cost of the  
10 coal, including transportation costs, constitutes the lowest  
11 cost for adequate and reliable fuel supply reasonably available  
12 to the public utility in comparison to the cost, including  
13 transportation costs, of other adequate and reliable sources of  
14 fuel supply reasonably available to the public utility, or (ii)  
15 except as otherwise provided in the next 3 sentences of this  
16 paragraph. Such costs of fuel shall, when requested by a  
17 utility or at the conclusion of the utility's next general  
18 electric rate proceeding, whichever shall first occur, include  
19 transportation costs of coal purchased under existing coal  
20 purchase contracts. For purposes of this paragraph "existing  
21 coal purchase contracts" means contracts for the purchase of  
22 coal in effect on the effective date of this amendatory Act of  
23 1991, as such contracts may thereafter be amended, but only to  
24 the extent that any such amendment does not increase the  
25 aggregate quantity of coal to be purchased under such contract.  
26 Nothing herein shall authorize an electric utility to recover

1 through its fuel adjustment clause any amounts of  
2 transportation costs of coal that were included in the revenue  
3 requirement used to set base rates in its most recent general  
4 rate proceeding. Cost shall be based upon uniformly applied  
5 accounting principles. Annually, the Commission shall initiate  
6 public hearings to determine whether the clauses reflect actual  
7 costs of fuel, gas, power, or coal transportation purchased to  
8 determine whether such purchases were prudent, and to reconcile  
9 any amounts collected with the actual costs of fuel, power,  
10 gas, or coal transportation prudently purchased. In each such  
11 proceeding, the burden of proof shall be upon the utility to  
12 establish the prudence of its cost of fuel, power, gas, or coal  
13 transportation purchases and costs. The Commission shall issue  
14 its final order in each such annual proceeding for an electric  
15 utility by December 31 of the year immediately following the  
16 year to which the proceeding pertains, provided, that the  
17 Commission shall issue its final order with respect to such  
18 annual proceeding for the years 1996 and earlier by December  
19 31, 1998.

20 (b) A public utility providing electric service, other than  
21 a public utility described in subsections (e) or (f) of this  
22 Section, may at any time during the mandatory transition period  
23 file with the Commission proposed tariff sheets that eliminate  
24 the public utility's fuel adjustment clause and adjust the  
25 public utility's base rate tariffs by the amount necessary for  
26 the base fuel component of the base rates to recover the public

1 utility's average fuel and power supply costs per kilowatt-hour  
2 for the 2 most recent years for which the Commission has issued  
3 final orders in annual proceedings pursuant to subsection (a),  
4 where the average fuel and power supply costs per kilowatt-hour  
5 shall be calculated as the sum of the public utility's prudent  
6 and allowable fuel and power supply costs as found by the  
7 Commission in the 2 proceedings divided by the public utility's  
8 actual jurisdictional kilowatt-hour sales for those 2 years.  
9 Notwithstanding any contrary or inconsistent provisions in  
10 Section 9-201 of this Act, in subsection (a) of this Section or  
11 in any rules or regulations promulgated by the Commission  
12 pursuant to subsection (g) of this Section, the Commission  
13 shall review and shall by order approve, or approve as  
14 modified, the proposed tariff sheets within 60 days after the  
15 date of the public utility's filing. The Commission may modify  
16 the public utility's proposed tariff sheets only to the extent  
17 the Commission finds necessary to achieve conformance to the  
18 requirements of this subsection (b). During the 5 years  
19 following the date of the Commission's order, but in any event  
20 no earlier than January 1, 2007, a public utility whose fuel  
21 adjustment clause has been eliminated pursuant to this  
22 subsection shall not file proposed tariff sheets seeking, or  
23 otherwise petition the Commission for, reinstatement of a fuel  
24 adjustment clause.

25 (c) Notwithstanding any contrary or inconsistent  
26 provisions in Section 9-201 of this Act, in subsection (a) of

1 this Section or in any rules or regulations promulgated by the  
2 Commission pursuant to subsection (g) of this Section, a public  
3 utility providing electric service, other than a public utility  
4 described in subsection (e) or (f) of this Section, may at any  
5 time during the mandatory transition period file with the  
6 Commission proposed tariff sheets that establish the rate per  
7 kilowatt-hour to be applied pursuant to the public utility's  
8 fuel adjustment clause at the average value for such rate  
9 during the preceding 24 months, provided that such average rate  
10 results in a credit to customers' bills, without making any  
11 revisions to the public utility's base rate tariffs. The  
12 proposed tariff sheets shall establish the fuel adjustment rate  
13 for a specific time period of at least 3 years but not more  
14 than 5 years, provided that the terms and conditions for any  
15 reinstatement earlier than 5 years shall be set forth in the  
16 proposed tariff sheets and subject to modification or approval  
17 by the Commission. The Commission shall review and shall by  
18 order approve the proposed tariff sheets if it finds that the  
19 requirements of this subsection are met. The Commission shall  
20 not conduct the annual hearings specified in the last 3  
21 sentences of subsection (a) of this Section for the utility for  
22 the period that the factor established pursuant to this  
23 subsection is in effect.

24 (d) A public utility providing electric service, or a  
25 public utility providing gas service may file with the  
26 Commission proposed tariff sheets that eliminate the public

1 utility's fuel or purchased gas adjustment clause and adjust  
2 the public utility's base rate tariffs to provide for recovery  
3 of power supply costs or gas supply costs that would have been  
4 recovered through such clause; provided, that the provisions of  
5 this subsection (d) shall not be available to a public utility  
6 described in subsections (e) or (f) of this Section to  
7 eliminate its fuel adjustment clause. Notwithstanding any  
8 contrary or inconsistent provisions in Section 9-201 of this  
9 Act, in subsection (a) of this Section, or in any rules or  
10 regulations promulgated by the Commission pursuant to  
11 subsection (g) of this Section, the Commission shall review and  
12 shall by order approve, or approve as modified in the  
13 Commission's order, the proposed tariff sheets within 240 days  
14 after the date of the public utility's filing. The Commission's  
15 order shall approve rates and charges that the Commission,  
16 based on information in the public utility's filing or on the  
17 record if a hearing is held by the Commission, finds will  
18 recover the reasonable, prudent and necessary jurisdictional  
19 power supply costs or gas supply costs incurred or to be  
20 incurred by the public utility during a 12 month period found  
21 by the Commission to be appropriate for these purposes,  
22 provided, that such period shall be either (i) a 12 month  
23 historical period occurring during the 15 months ending on the  
24 date of the public utility's filing, or (ii) a 12 month future  
25 period ending no later than 15 months following the date of the  
26 public utility's filing. The public utility shall include with

1 its tariff filing information showing both (1) its actual  
2 jurisdictional power supply costs or gas supply costs for a 12  
3 month historical period conforming to (i) above and (2) its  
4 projected jurisdictional power supply costs or gas supply costs  
5 for a future 12 month period conforming to (ii) above. If the  
6 Commission's order requires modifications in the tariff sheets  
7 filed by the public utility, the public utility shall have 7  
8 days following the date of the order to notify the Commission  
9 whether the public utility will implement the modified tariffs  
10 or elect to continue its fuel or purchased gas adjustment  
11 clause in force as though no order had been entered. The  
12 Commission's order shall provide for any reconciliation of  
13 power supply costs or gas supply costs, as the case may be, and  
14 associated revenues through the date that the public utility's  
15 fuel or purchased gas adjustment clause is eliminated. During  
16 the 5 years following the date of the Commission's order, a  
17 public utility whose fuel or purchased gas adjustment clause  
18 has been eliminated pursuant to this subsection shall not file  
19 proposed tariff sheets seeking, or otherwise petition the  
20 Commission for, reinstatement or adoption of a fuel or  
21 purchased gas adjustment clause. Nothing in this subsection (d)  
22 shall be construed as limiting the Commission's authority to  
23 eliminate a public utility's fuel adjustment clause or  
24 purchased gas adjustment clause in accordance with any other  
25 applicable provisions of this Act.

26 (e) Notwithstanding any contrary or inconsistent

1 provisions in Section 9-201 of this Act, in subsection (a) of  
2 this Section, or in any rules promulgated by the Commission  
3 pursuant to subsection (g) of this Section, a public utility  
4 providing electric service to more than 1,000,000 customers in  
5 this State may, within the first 6 months after the effective  
6 date of this amendatory Act of 1997, file with the Commission  
7 proposed tariff sheets that eliminate, effective January 1,  
8 1997, the public utility's fuel adjustment clause without  
9 adjusting its base rates, and such tariff sheets shall be  
10 effective upon filing. To the extent the application of the  
11 fuel adjustment clause had resulted in net charges to customers  
12 after January 1, 1997, the utility shall also file a tariff  
13 sheet that provides for a refund stated on a per kilowatt-hour  
14 basis of such charges over a period not to exceed 6 months;  
15 provided however, that such refund shall not include the  
16 proportional amounts of taxes paid under the Use Tax Act,  
17 Service Use Tax Act, Service Occupation Tax Act, and Retailers'  
18 Occupation Tax Act on fuel used in generation. The Commission  
19 shall issue an order within 45 days after the date of the  
20 public utility's filing approving or approving as modified such  
21 tariff sheet. If the fuel adjustment clause is eliminated  
22 pursuant to this subsection, the Commission shall not conduct  
23 the annual hearings specified in the last 3 sentences of  
24 subsection (a) of this Section for the utility for any period  
25 after December 31, 1996 and prior to any reinstatement of such  
26 clause. A public utility whose fuel adjustment clause has been



1 eliminated pursuant to this subsection shall not file a  
2 proposed tariff sheet seeking, or otherwise petition the  
3 Commission for, reinstatement of the fuel adjustment clause  
4 prior to January 1, 2007.

5 (f) Notwithstanding any contrary or inconsistent  
6 provisions in Section 9-201 of this Act, in subsection (a) of  
7 this Section, or in any rules or regulations promulgated by the  
8 Commission pursuant to subsection (g) of this Section, a public  
9 utility providing electric service to more than 500,000  
10 customers but fewer than 1,000,000 customers in this State may,  
11 within the first 6 months after the effective date of this  
12 amendatory Act of 1997, file with the Commission proposed  
13 tariff sheets that eliminate, effective January 1, 1997, the  
14 public utility's fuel adjustment clause and adjust its base  
15 rates by the amount necessary for the base fuel component of  
16 the base rates to recover 91% of the public utility's average  
17 fuel and power supply costs for the 2 most recent years for  
18 which the Commission, as of January 1, 1997, has issued final  
19 orders in annual proceedings pursuant to subsection (a), where  
20 the average fuel and power supply costs per kilowatt-hour shall  
21 be calculated as the sum of the public utility's prudent and  
22 allowable fuel and power supply costs as found by the  
23 Commission in the 2 proceedings divided by the public utility's  
24 actual jurisdictional kilowatt-hour sales for those 2 years,  
25 provided, that such tariff sheets shall be effective upon  
26 filing. To the extent the application of the fuel adjustment

1 clause had resulted in net charges to customers after January  
2 1, 1997, the utility shall also file a tariff sheet that  
3 provides for a refund stated on a per kilowatt-hour basis of  
4 such charges over a period not to exceed 6 months. Provided  
5 however, that such refund shall not include the proportional  
6 amounts of taxes paid under the Use Tax Act, Service Use Tax  
7 Act, Service Occupation Tax Act, and Retailers' Occupation Tax  
8 Act on fuel used in generation. The Commission shall issue an  
9 order within 45 days after the date of the public utility's  
10 filing approving or approving as modified such tariff sheet. If  
11 the fuel adjustment clause is eliminated pursuant to this  
12 subsection, the Commission shall not conduct the annual  
13 hearings specified in the last 3 sentences of subsection (a) of  
14 this Section for the utility for any period after December 31,  
15 1996 and prior to any reinstatement of such clause. A public  
16 utility whose fuel adjustment clause has been eliminated  
17 pursuant to this subsection shall not file a proposed tariff  
18 sheet seeking, or otherwise petition the Commission for,  
19 reinstatement of the fuel adjustment clause prior to January 1,  
20 2007.

21 (g) The Commission shall have authority to promulgate rules  
22 and regulations to carry out the provisions of this Section.

23 (h) Any Illinois gas utility may enter into a contract on  
24 or before September 30, 2011 for up to 10 years of supply with  
25 any company for the purchase of substitute natural gas (SNG)  
26 produced from coal through the gasification process if the

1 company has commenced construction of a clean coal SNG facility  
2 by July 1, 2012 and commencement of construction shall mean  
3 that material physical site work has occurred, such as site  
4 clearing and excavation, water runoff prevention, water  
5 retention reservoir preparation, or foundation development.  
6 The contract shall contain the following provisions: (i) at  
7 least 90% of feedstock to be used in the gasification process  
8 shall be coal with a high volatile bituminous rank and greater  
9 than 1.7 pounds of sulfur per million Btu content; (ii) at the  
10 time the contract term commences, the price per million Btu may  
11 not exceed \$7.95 in 2008 dollars, adjusted annually based on  
12 the change in the Annual Consumer Price Index for All Urban  
13 Consumers for the Midwest Region as published in April by the  
14 United States Department of Labor, Bureau of Labor Statistics  
15 (or a suitable Consumer Price Index calculation if this  
16 Consumer Price Index is not available) for the previous  
17 calendar year; provided that the price per million Btu shall  
18 not exceed \$9.95 at any time during the contract; (iii) the  
19 utility's supply contract for the purchase of SNG does not  
20 exceed 15% of the annual system supply requirements of the  
21 utility as of 2008; and (iv) the contract costs pursuant to  
22 subsection (h-10) of this Section shall not include any  
23 lobbying expenses, charitable contributions, advertising,  
24 organizational memberships, carbon dioxide pipeline or  
25 sequestration expenses, or marketing expenses.

26 Any gas utility that is providing service to more than

1 150,000 customers on August 2, 2011 (the effective date of  
2 Public Act 97-239) shall either elect to enter into a contract  
3 on or before September 30, 2011 for 10 years of SNG supply with  
4 the owner of a clean coal SNG facility or to file biennial rate  
5 proceedings before the Commission in the years 2012, 2014, and  
6 2016, with such filings made after August 2, 2011 and no later  
7 than September 30 of the years 2012, 2014, and 2016 consistent  
8 with all requirements of 83 Ill. Adm. Code 255 and 285 as  
9 though the gas utility were filing for an increase in its  
10 rates, without regard to whether such filing would produce an  
11 increase, a decrease, or no change in the gas utility's rates,  
12 and the Commission shall review the gas utility's filing and  
13 shall issue its order in accordance with the provisions of  
14 Section 9-201 of this Act.

15 Within 7 days after August 2, 2011, the owner of the clean  
16 coal SNG facility shall submit to the Illinois Power Agency and  
17 each gas utility that is providing service to more than 150,000  
18 customers on August 2, 2011 a copy of a draft contract. Within  
19 30 days after the receipt of the draft contract, each such gas  
20 utility shall provide the Illinois Power Agency and the owner  
21 of the clean coal SNG facility with its comments and  
22 recommended revisions to the draft contract. Within 7 days  
23 after the receipt of the gas utility's comments and recommended  
24 revisions, the owner of the facility shall submit its  
25 responsive comments and a further revised draft of the contract  
26 to the Illinois Power Agency. The Illinois Power Agency shall

1 review the draft contract and comments.

2 During its review of the draft contract, the Illinois Power  
3 Agency shall:

4 (1) review and confirm in writing that the terms stated  
5 in this subsection (h) are incorporated in the SNG  
6 contract;

7 (2) review the SNG pricing formula included in the  
8 contract and approve that formula if the Illinois Power  
9 Agency determines that the formula, at the time the  
10 contract term commences: (A) starts with a price of \$6.50  
11 per MMBtu adjusted by the adjusted final capitalized plant  
12 cost; (B) takes into account budgeted miscellaneous net  
13 revenue after cost allowance, including sale of SNG  
14 produced by the clean coal SNG facility above the nameplate  
15 capacity of the facility and other by-products produced by  
16 the facility, as approved by the Illinois Power Agency; (C)  
17 does not include carbon dioxide transportation or  
18 sequestration expenses; and (D) includes all provisions  
19 required under this subsection (h); if the Illinois Power  
20 Agency does not approve of the SNG pricing formula, then  
21 the Illinois Power Agency shall modify the formula to  
22 ensure that it meets the requirements of this subsection  
23 (h);

24 (3) review and approve the amount of budgeted  
25 miscellaneous net revenue after cost allowance, including  
26 sale of SNG produced by the clean coal SNG facility above

1 the nameplate capacity of the facility and other  
2 by-products produced by the facility, to be included in the  
3 pricing formula; the Illinois Power Agency shall approve  
4 the amount of budgeted miscellaneous net revenue to be  
5 included in the pricing formula if it determines the  
6 budgeted amount to be reasonable and accurate;

7 (4) review and confirm in writing that using the EIA  
8 Annual Energy Outlook-2011 Henry Hub Spot Price, the  
9 contract terms set out in subsection (h), the  
10 reconciliation account terms as set out in subsection  
11 (h-15), and an estimated inflation rate of 2.5% for each  
12 corresponding year, that there will be no cumulative  
13 estimated increase for residential customers; and

14 (5) allocate the nameplate capacity of the clean coal  
15 SNG by total therms sold to ultimate customers by each gas  
16 utility in 2008; provided, however, no utility shall be  
17 required to purchase more than 42% of the projected annual  
18 output of the facility; additionally, the Illinois Power  
19 Agency shall further adjust the allocation only as required  
20 to take into account (A) adverse consolidation,  
21 derivative, or lease impacts to the balance sheet or income  
22 statement of any gas utility or (B) the physical capacity  
23 of the gas utility to accept SNG.

24 If the parties to the contract do not agree on the terms  
25 therein, then the Illinois Power Agency shall retain an  
26 independent mediator to mediate the dispute between the

1 parties. If the parties are in agreement on the terms of the  
2 contract, then the Illinois Power Agency shall approve the  
3 contract. If after mediation the parties have failed to come to  
4 agreement, then the Illinois Power Agency shall revise the  
5 draft contract as necessary to confirm that the contract  
6 contains only terms that are reasonable and equitable. The  
7 Illinois Power Agency may, in its discretion, retain an  
8 independent, qualified, and experienced expert to assist in its  
9 obligations under this subsection (h). The Illinois Power  
10 Agency shall adopt and make public policies detailing the  
11 processes for retaining a mediator and an expert under this  
12 subsection (h). Any mediator or expert retained under this  
13 subsection (h) shall be retained no later than 60 days after  
14 August 2, 2011.

15 The Illinois Power Agency shall complete all of its  
16 responsibilities under this subsection (h) within 60 days after  
17 August 2, 2011. The clean coal SNG facility shall pay a  
18 reasonable fee as required by the Illinois Power Agency for its  
19 services under this subsection (h) and shall pay the mediator's  
20 and expert's reasonable fees, if any. A gas utility and its  
21 customers shall have no obligation to reimburse the clean coal  
22 SNG facility or the Illinois Power Agency of any such costs.

23 Within 30 days after commercial production of SNG has  
24 begun, the Commission shall initiate a review to determine  
25 whether the final capitalized plant cost of the clean coal SNG  
26 facility reflects actual incurred costs and whether the

1 incurred costs were reasonable. In determining the actual  
2 incurred costs included in the final capitalized plant cost and  
3 the reasonableness of those costs, the Commission may in its  
4 discretion retain independent, qualified, and experienced  
5 experts to assist in its determination. The expert shall not  
6 own or control any direct or indirect interest in the clean  
7 coal SNG facility and shall have no contractual relationship  
8 with the clean coal SNG facility. If an expert is retained by  
9 the Commission, then the clean coal SNG facility shall pay the  
10 expert's reasonable fees. The fees shall not be passed on to a  
11 utility or its customers. The Commission shall adopt and make  
12 public a policy detailing the process for retaining experts  
13 under this subsection (h).

14 Within 30 days after completion of its review, the  
15 Commission shall initiate a formal proceeding on the final  
16 capitalized plant cost of the clean coal SNG facility at which  
17 comments and testimony may be submitted by any interested  
18 parties and the public. If the Commission finds that the final  
19 capitalized plant cost includes costs that were not actually  
20 incurred or costs that were unreasonably incurred, then the  
21 Commission shall disallow the amount of non-incurred or  
22 unreasonable costs from the SNG price under contracts entered  
23 into under this subsection (h). If the Commission disallows any  
24 costs, then the Commission shall adjust the SNG price using the  
25 price formula in the contract approved by the Illinois Power  
26 Agency under this subsection (h) to reflect the disallowed



1 costs and shall enter an order specifying the revised price. In  
2 addition, the Commission's order shall direct the clean coal  
3 SNG facility to issue refunds of such sums as shall represent  
4 the difference between actual gross revenues and the gross  
5 revenue that would have been obtained based upon the same  
6 volume, from the price revised by the Commission. Any refund  
7 shall include interest calculated at a rate determined by the  
8 Commission and shall be returned according to procedures  
9 prescribed by the Commission.

10 Nothing in this subsection (h) shall preclude any party  
11 affected by a decision of the Commission under this subsection  
12 (h) from seeking judicial review of the Commission's decision.

13 (h-1) Any Illinois gas utility may enter into a sourcing  
14 agreement for up to 30 years of supply with the clean coal SNG  
15 brownfield facility if the clean coal SNG brownfield facility  
16 has commenced construction. Any gas utility that is providing  
17 service to more than 150,000 customers on July 13, 2011 (the  
18 effective date of Public Act 97-096) shall either elect to file  
19 biennial rate proceedings before the Commission in the years  
20 2012, 2014, and 2016 or enter into a sourcing agreement or  
21 sourcing agreements with a clean coal SNG brownfield facility  
22 with an initial term of 30 years for either (i) a percentage of  
23 43,500,000,000 cubic feet per year, such that the utilities  
24 entering into sourcing agreements with the clean coal SNG  
25 brownfield facility purchase 100%, allocated by total therms  
26 sold to ultimate customers by each gas utility in 2008 or (ii)

1 such lesser amount as may be available from the clean coal SNG  
2 brownfield facility; provided that no utility shall be required  
3 to purchase more than 42% of the projected annual output of the  
4 clean coal SNG brownfield facility, with the remainder of such  
5 utility's obligation to be divided proportionately between the  
6 other utilities, and provided that the Illinois Power Agency  
7 shall further adjust the allocation only as required to take  
8 into account adverse consolidation, derivative, or lease  
9 impacts to the balance sheet or income statement of any gas  
10 utility.

11 A gas utility electing to file biennial rate proceedings  
12 before the Commission must file a notice of its election with  
13 the Commission within 60 days after July 13, 2011 or its right  
14 to make the election is irrevocably waived. A gas utility  
15 electing to file biennial rate proceedings shall make such  
16 filings no later than August 1 of the years 2012, 2014, and  
17 2016, consistent with all requirements of 83 Ill. Adm. Code 255  
18 and 285 as though the gas utility were filing for an increase  
19 in its rates, without regard to whether such filing would  
20 produce an increase, a decrease, or no change in the gas  
21 utility's rates, and notwithstanding any other provisions of  
22 this Act, the Commission shall fully review the gas utility's  
23 filing and shall issue its order in accordance with the  
24 provisions of Section 9-201 of this Act, regardless of whether  
25 the Commission has approved a formula rate for the gas utility.

26 Within 15 days after July 13, 2011, the owner of the clean

1 coal SNG brownfield facility shall submit to the Illinois Power  
2 Agency and each gas utility that is providing service to more  
3 than 150,000 customers on July 13, 2011 a copy of a draft  
4 sourcing agreement. Within 45 days after receipt of the draft  
5 sourcing agreement, each such gas utility shall provide the  
6 Illinois Power Agency and the owner of a clean coal SNG  
7 brownfield facility with its comments and recommended  
8 revisions to the draft sourcing agreement. Within 15 days after  
9 the receipt of the gas utility's comments and recommended  
10 revisions, the owner of the clean coal SNG brownfield facility  
11 shall submit its responsive comments and a further revised  
12 draft of the sourcing agreement to the Illinois Power Agency.  
13 The Illinois Power Agency shall review the draft sourcing  
14 agreement and comments.

15 If the parties to the sourcing agreement do not agree on  
16 the terms therein, then the Illinois Power Agency shall retain  
17 an independent mediator to mediate the dispute between the  
18 parties. If the parties are in agreement on the terms of the  
19 sourcing agreement, the Illinois Power Agency shall approve the  
20 final draft sourcing agreement. If after mediation the parties  
21 have failed to come to agreement, then the Illinois Power  
22 Agency shall revise the draft sourcing agreement as necessary  
23 to confirm that the final draft sourcing agreement contains  
24 only terms that are reasonable and equitable. The Illinois  
25 Power Agency shall adopt and make public a policy detailing the  
26 process for retaining a mediator under this subsection (h-1).

1 Any mediator retained to assist with mediating disputes between  
2 the parties regarding the sourcing agreement shall be retained  
3 no later than 60 days after July 13, 2011.

4 Upon approval of a final draft agreement, the Illinois  
5 Power Agency shall submit the final draft agreement to the  
6 Capital Development Board and the Commission no later than 90  
7 days after July 13, 2011. The gas utility and the clean coal  
8 SNG brownfield facility shall pay a reasonable fee as required  
9 by the Illinois Power Agency for its services under this  
10 subsection (h-1) and shall pay the mediator's reasonable fees,  
11 if any. The Illinois Power Agency shall adopt and make public a  
12 policy detailing the process for retaining a mediator under  
13 this Section.

14 The sourcing agreement between a gas utility and the clean  
15 coal SNG brownfield facility shall contain the following  
16 provisions:

17 (1) Any and all coal used in the gasification process  
18 must be coal that has high volatile bituminous rank and  
19 greater than 1.7 pounds of sulfur per million Btu content.

20 (2) Coal and petroleum coke are feedstocks for the  
21 gasification process, with coal comprising at least 50% of  
22 the total feedstock over the term of the sourcing agreement  
23 unless the facility reasonably determines that it is  
24 necessary to use additional petroleum coke to deliver net  
25 consumer savings, in which case the facility shall use coal  
26 for at least 35% of the total feedstock over the term of

1 any sourcing agreement and with the feedstocks to be  
2 procured in accordance with requirements of Section 1-78 of  
3 the Illinois Power Agency Act.

4 (3) The sourcing agreement has an initial term that  
5 once entered into terminates no more than 30 years after  
6 the commencement of the commercial production of SNG at the  
7 clean coal SNG brownfield facility.

8 (4) The clean coal SNG brownfield facility guarantees a  
9 minimum of \$100,000,000 in consumer savings to customers of  
10 the utilities that have entered into sourcing agreements  
11 with the clean coal SNG brownfield facility, calculated in  
12 real 2010 dollars at the conclusion of the term of the  
13 sourcing agreement by comparing the delivered SNG price to  
14 the Chicago City-gate price on a weighted daily basis for  
15 each day over the entire term of the sourcing agreement, to  
16 be provided in accordance with subsection (h-2) of this  
17 Section.

18 (5) Prior to the clean coal SNG brownfield facility  
19 issuing a notice to proceed to construction, the clean coal  
20 SNG brownfield facility shall establish a consumer  
21 protection reserve account for the benefit of the customers  
22 of the utilities that have entered into sourcing agreements  
23 with the clean coal SNG brownfield facility pursuant to  
24 this subsection (h-1), with cash principal in the amount of  
25 \$150,000,000. This cash principal shall only be  
26 recoverable through the consumer protection reserve

1 account and not as a cost to be recovered in the delivered  
2 SNG price pursuant to subsection (h-3) of this Section. The  
3 consumer protection reserve account shall be maintained  
4 and administered by an independent trustee that is mutually  
5 agreed upon by the clean coal SNG brownfield facility, the  
6 utilities, and the Commission in an interest-bearing  
7 account in accordance with subsection (h-2) of this  
8 Section.

9 "Consumer protection reserve account principal maximum  
10 amount" shall mean the maximum amount of principal to be  
11 maintained in the consumer protection reserve account.  
12 During the first 2 years of operation of the facility,  
13 there shall be no consumer protection reserve account  
14 maximum amount. After the first 2 years of operation of the  
15 facility, the consumer protection reserve account maximum  
16 amount shall be \$150,000,000. After 5 years of operation,  
17 and every 5 years thereafter, the trustee shall calculate  
18 the 5-year average balance of the consumer protection  
19 reserve account. If the trustee determines that during the  
20 prior 5 years the consumer protection reserve account has  
21 had an average account balance of less than \$75,000,000,  
22 then the consumer protection reserve account principal  
23 maximum amount shall be increased by \$5,000,000. If the  
24 trustee determines that during the prior 5 years the  
25 consumer protection reserve account has had an average  
26 account balance of more than \$75,000,000, then the consumer

1 protection reserve account principal maximum amount shall  
2 be decreased by \$5,000,000.

3 (6) The clean coal SNG brownfield facility shall  
4 identify and sell economically viable by-products produced  
5 by the facility.

6 (7) Fifty percent of all additional net revenue,  
7 defined as miscellaneous net revenue from products  
8 produced by the facility and delivered during the month  
9 after cost allowance for costs associated with additional  
10 net revenue that are not otherwise recoverable pursuant to  
11 subsection (h-3) of this Section, including net revenue  
12 from sales of substitute natural gas derived from the  
13 facility above the nameplate capacity of the facility and  
14 other by-products produced by the facility, shall be  
15 credited to the consumer protection reserve account  
16 pursuant to subsection (h-2) of this Section.

17 (8) The delivered SNG price per million btu to be paid  
18 monthly by the utility to the clean coal SNG brownfield  
19 facility, which shall be based only upon the following: (A)  
20 a capital recovery charge, operations and maintenance  
21 costs, and sequestration costs, only to the extent approved  
22 by the Commission pursuant to paragraphs (1), (2), and (3)  
23 of subsection (h-3) of this Section; (B) the actual  
24 delivered and processed fuel costs pursuant to paragraph  
25 (4) of subsection (h-3) of this Section; (C) actual costs  
26 of SNG transportation pursuant to paragraph (6) of

1 subsection (h-3) of this Section; (D) certain taxes and  
2 fees imposed by the federal government, the State, or any  
3 unit of local government as provided in paragraph (6) of  
4 subsection (h-3) of this Section; and (E) the credit, if  
5 any, from the consumer protection reserve account pursuant  
6 to subsection (h-2) of this Section. The delivered SNG  
7 price per million Btu shall proportionately reflect these  
8 elements over the term of the sourcing agreement.

9 (9) A formula to translate the recoverable costs and  
10 charges under subsection (h-3) of this Section into the  
11 delivered SNG price per million btu.

12 (10) Title to the SNG shall pass at a mutually  
13 agreeable point in Illinois, and may provide that, rather  
14 than the utility taking title to the SNG, a mutually agreed  
15 upon third-party gas marketer pursuant to a contract  
16 approved by the Illinois Power Agency or its designee may  
17 take title to the SNG pursuant to an agreement between the  
18 utility, the owner of the clean coal SNG brownfield  
19 facility, and the third-party gas marketer.

20 (11) A utility may exit the sourcing agreement without  
21 penalty if the clean coal SNG brownfield facility does not  
22 commence construction by July 1, 2015.

23 (12) A utility is responsible to pay only the  
24 Commission determined unit price cost of SNG that is  
25 purchased by the utility. Nothing in the sourcing agreement  
26 will obligate a utility to invest capital in a clean coal



1 SNG brownfield facility.

2 (13) The quality of SNG must, at a minimum, be  
3 equivalent to the quality required for interstate pipeline  
4 gas before a utility is required to accept and pay for SNG  
5 gas.

6 (14) Nothing in the sourcing agreement will require a  
7 utility to construct any facilities to accept delivery of  
8 SNG. Provided, however, if a utility is required by law or  
9 otherwise elects to connect the clean coal SNG brownfield  
10 facility to an interstate pipeline, then the utility shall  
11 be entitled to recover pursuant to its tariffs all just and  
12 reasonable costs that are prudently incurred. Any costs  
13 incurred by the utility to receive, deliver, manage, or  
14 otherwise accommodate purchases under the SNG sourcing  
15 agreement will be fully recoverable through a utility's  
16 purchased gas adjustment clause rider mechanism in  
17 conjunction with a SNG brownfield facility rider  
18 mechanism. The SNG brownfield facility rider mechanism (A)  
19 shall be applicable to all customers who receive  
20 transportation service from the utility, (B) shall be  
21 designed to have an equal percent impact on the  
22 transportation services rates of each class of the  
23 utility's customers, and (C) shall accurately reflect the  
24 net consumer savings, if any, and above-market costs, if  
25 any, associated with the utility receiving, delivering,  
26 managing, or otherwise accommodating purchases under the

1 SNG sourcing agreement.

2 (15) Remedies for the clean coal SNG brownfield  
3 facility's failure to deliver a designated amount for a  
4 designated period.

5 (16) The clean coal SNG brownfield facility shall make  
6 a good faith effort to ensure that an amount equal to not  
7 less than 15% of the value of its prime construction  
8 contract for the facility shall be established as a goal to  
9 be awarded to minority-owned ~~minority-owned~~ businesses,  
10 women-owned ~~female-owned~~ businesses, and businesses owned  
11 by a person with a disability; provided that at least 75%  
12 of the amount of such total goal shall be for  
13 minority-owned ~~minority-owned~~ businesses. "Minority-owned  
14 ~~Minority-owned~~ business", "women-owned ~~female-owned~~  
15 business", and "business owned by a person with a  
16 disability" shall have the meanings ascribed to them in  
17 Section 2 of the Business Enterprise for Minorities, Women,  
18 ~~Females~~ and Persons with Disabilities Act.

19 (17) Prior to the clean coal SNG brownfield facility  
20 issuing a notice to proceed to construction, the clean coal  
21 SNG brownfield facility shall file with the Commission a  
22 certificate from an independent engineer that the clean  
23 coal SNG brownfield facility has (A) obtained all  
24 applicable State and federal environmental permits  
25 required for construction; (B) obtained approval from the  
26 Commission of a carbon capture and sequestration plan; and

1 (C) obtained all necessary permits required for  
2 construction for the transportation and sequestration of  
3 carbon dioxide as set forth in the Commission-approved  
4 carbon capture and sequestration plan.

5 (h-2) Consumer protection reserve account. The clean coal  
6 SNG brownfield facility shall guarantee a minimum of  
7 \$100,000,000 in consumer savings to customers of the utilities  
8 that have entered into sourcing agreements with the clean coal  
9 SNG brownfield facility, calculated in real 2010 dollars at the  
10 conclusion of the term of the sourcing agreement by comparing  
11 the delivered SNG price to the Chicago City-gate price on a  
12 weighted daily basis for each day over the entire term of the  
13 sourcing agreement. Prior to the clean coal SNG brownfield  
14 facility issuing a notice to proceed to construction, the clean  
15 coal SNG brownfield facility shall establish a consumer  
16 protection reserve account for the benefit of the retail  
17 customers of the utilities that have entered into sourcing  
18 agreements with the clean coal SNG brownfield facility pursuant  
19 to subsection (h-1), with cash principal in the amount of  
20 \$150,000,000. Such cash principal shall only be recovered  
21 through the consumer protection reserve account and not as a  
22 cost to be recovered in the delivered SNG price pursuant to  
23 subsection (h-3) of this Section. The consumer protection  
24 reserve account shall be maintained and administered by an  
25 independent trustee that is mutually agreed upon by the clean  
26 coal SNG brownfield facility, the utilities, and the Commission

1 in an interest-bearing account in accordance with the  
2 following:

3 (1) The clean coal SNG brownfield facility monthly  
4 shall calculate (A) the difference between the monthly  
5 delivered SNG price and the Chicago City-gate price, by  
6 comparing the delivered SNG price, which shall include the  
7 cost of transportation to the delivery point, if any, to  
8 the Chicago City-gate price on a weighted daily basis for  
9 each day of the prior month based upon a mutually agreed  
10 upon published index and (B) the overage amount, if any, by  
11 calculating the annualized incremental additional cost, if  
12 any, of the delivered SNG in excess of 2.015% of the  
13 average annual inflation-adjusted amounts paid by all gas  
14 distribution customers in connection with natural gas  
15 service during the 5 years ending May 31, 2010.

16 (2) During the first 2 years of operation of the  
17 facility:

18 (A) to the extent there is an overage amount, the  
19 consumer protection reserve account shall be used to  
20 provide a credit to reduce the SNG price by an amount  
21 equal to the overage amount; and

22 (B) to the extent the monthly delivered SNG price  
23 is less than or equal to the Chicago City-gate price,  
24 the utility shall credit the difference between the  
25 monthly delivered SNG price and the monthly Chicago  
26 City-gate price, if any, to the consumer protection

1           reserve account. Such credit issued pursuant to this  
2           paragraph (B) shall be deemed prudent and reasonable  
3           and not subject to a Commission prudence review;

4           (3) After 2 years of operation of the facility, and  
5           monthly, on an on-going basis, thereafter:

6           (A) to the extent that the monthly delivered SNG  
7           price is less than or equal to the Chicago City-gate  
8           price, calculated using the weighted average of the  
9           daily Chicago City-gate price on a daily basis over the  
10          entire month, the utility shall credit the difference,  
11          if any, to the consumer protection reserve account.  
12          Such credit issued pursuant to this subparagraph (A)  
13          shall be deemed prudent and reasonable and not subject  
14          to a Commission prudence review;

15          (B) any amounts in the consumer protection reserve  
16          account in excess of the consumer protection reserve  
17          account principal maximum amount shall be distributed  
18          as follows: (i) if retail customers have not realized  
19          net consumer savings, calculated by comparing the  
20          delivered SNG price to the weighted average of the  
21          daily Chicago City-gate price on a daily basis over the  
22          entire term of the sourcing agreement to date, then 50%  
23          of any amounts in the consumer protection reserve  
24          account in excess of the consumer protection reserve  
25          account principal maximum shall be distributed to the  
26          clean coal SNG brownfield facility, with the remaining

1           50% of any such additional amounts being credited to  
2           retail customers, and (ii) if retail customers have  
3           realized net consumer savings, then 100% of any amounts  
4           in the consumer protection reserve account in excess of  
5           the consumer protection reserve account principal  
6           maximum shall be distributed to the clean coal SNG  
7           brownfield facility; provided, however, that under no  
8           circumstances shall the total cumulative amount  
9           distributed to the clean coal SNG brownfield facility  
10          under this subparagraph (B) exceed \$150,000,000;

11           (C) to the extent there is an overage amount, after  
12          distributing the amounts pursuant to subparagraph (B)  
13          of this paragraph (3), if any, the consumer protection  
14          reserve account shall be used to provide a credit to  
15          reduce the SNG price by an amount equal to the overage  
16          amount;

17           (D) if retail customers have realized net consumer  
18          savings, calculated by comparing the delivered SNG  
19          price to the weighted average of the daily Chicago  
20          City-gate price on a daily basis over the entire term  
21          of the sourcing agreement to date, then after  
22          distributing the amounts pursuant to subparagraphs (B)  
23          and (C) of this paragraph (3), 50% of any additional  
24          amounts in the consumer protection reserve account in  
25          excess of the consumer protection reserve account  
26          principal maximum shall be distributed to the clean

1 coal SNG brownfield facility, with the remaining 50% of  
2 any such additional amounts being credited to retail  
3 customers; provided, however, that if retail customers  
4 have not realized such net consumer savings, no such  
5 distribution shall be made to the clean coal SNG  
6 brownfield facility, and 100% of such additional  
7 amounts shall be credited to the retail customers to  
8 the extent the consumer protection reserve account  
9 exceeds the consumer protection reserve account  
10 principal maximum amount.

11 (4) Fifty percent of all additional net revenue,  
12 defined as miscellaneous net revenue after cost allowance  
13 for costs associated with additional net revenue that are  
14 not otherwise recoverable pursuant to subsection (h-3) of  
15 this Section, including net revenue from sales of  
16 substitute natural gas derived from the facility above the  
17 nameplate capacity of the facility and other by-products  
18 produced by the facility, shall be credited to the consumer  
19 protection reserve account.

20 (5) At the conclusion of the term of the sourcing  
21 agreement, to the extent retail customers have not saved  
22 the minimum of \$100,000,000 in consumer savings as  
23 guaranteed in this subsection (h-2), amounts in the  
24 consumer protection reserve account shall be credited to  
25 retail customers to the extent the retail customers have  
26 saved the minimum of \$100,000,000; 50% of any additional

1 amounts in the consumer protection reserve account shall be  
2 distributed to the company, and the remaining 50% shall be  
3 distributed to retail customers.

4 (6) If, at the conclusion of the term of the sourcing  
5 agreement, the customers have not saved the minimum  
6 \$100,000,000 in savings as guaranteed in this subsection  
7 (h-2) and the consumer protection reserve account has been  
8 depleted, then the clean coal SNG brownfield facility shall  
9 be liable for any remaining amount owed to the retail  
10 customers to the extent that the customers are provided  
11 with the \$100,000,000 in savings as guaranteed in this  
12 subsection (h-2). The retail customers shall have first  
13 priority in recovering that debt above any creditors,  
14 except the original senior secured lender to the extent  
15 that the original senior secured lender has any senior  
16 secured debt outstanding, including any clean coal SNG  
17 brownfield facility parent companies or affiliates.

18 (7) The clean coal SNG brownfield facility, the  
19 utilities, and the trustee shall work together to take  
20 commercially reasonable steps to minimize the tax impact of  
21 these transactions, while preserving the consumer  
22 benefits.

23 (8) The clean coal SNG brownfield facility shall each  
24 month, starting in the facility's first year of commercial  
25 operation, file with the Commission, in such form as the  
26 Commission shall require, a report as to the consumer



1 protection reserve account. The monthly report must  
2 contain the following information:

3 (A) the extent the monthly delivered SNG price is  
4 greater than, less than, or equal to the Chicago  
5 City-gate price;

6 (B) the amount credited or debited to the consumer  
7 protection reserve account during the month;

8 (C) the amounts credited to consumers and  
9 distributed to the clean coal SNG brownfield facility  
10 during the month;

11 (D) the total amount of the consumer protection  
12 reserve account at the beginning and end of the month;

13 (E) the total amount of consumer savings to date;

14 (F) a confidential summary of the inputs used to  
15 calculate the additional net revenue; and

16 (G) any other additional information the  
17 Commission shall require.

18 When any report is erroneous or defective or appears to  
19 the Commission to be erroneous or defective, the Commission  
20 may notify the clean coal SNG brownfield facility to amend  
21 the report within 30 days, and, before or after the  
22 termination of the 30-day period, the Commission may  
23 examine the trustee of the consumer protection reserve  
24 account or the officers, agents, employees, books,  
25 records, or accounts of the clean coal SNG brownfield  
26 facility and correct such items in the report as upon such

1 examination the Commission may find defective or  
2 erroneous. All reports shall be under oath.

3 All reports made to the Commission by the clean coal  
4 SNG brownfield facility and the contents of the reports  
5 shall be open to public inspection and shall be deemed a  
6 public record under the Freedom of Information Act. Such  
7 reports shall be preserved in the office of the Commission.  
8 The Commission shall publish an annual summary of the  
9 reports prior to February 1 of the following year. The  
10 annual summary shall be made available to the public on the  
11 Commission's website and shall be submitted to the General  
12 Assembly.

13 Any facility that fails to file a report required under  
14 this paragraph (8) to the Commission within the time  
15 specified or to make specific answer to any question  
16 propounded by the Commission within 30 days from the time  
17 it is lawfully required to do so, or within such further  
18 time not to exceed 90 days as may in its discretion be  
19 allowed by the Commission, shall pay a penalty of \$500 to  
20 the Commission for each day it is in default.

21 Any person who willfully makes any false report to the  
22 Commission or to any member, officer, or employee thereof,  
23 any person who willfully in a report withholds or fails to  
24 provide material information to which the Commission is  
25 entitled under this paragraph (8) and which information is  
26 either required to be filed by statute, rule, regulation,

1 order, or decision of the Commission or has been requested  
2 by the Commission, and any person who willfully aids or  
3 abets such person shall be guilty of a Class A misdemeanor.

4 (h-3) Recoverable costs and revenue by the clean coal SNG  
5 brownfield facility.

6 (1) A capital recovery charge approved by the  
7 Commission shall be recoverable by the clean coal SNG  
8 brownfield facility under a sourcing agreement. The  
9 capital recovery charge shall be comprised of capital costs  
10 and a reasonable rate of return. "Capital costs" means  
11 costs to be incurred in connection with the construction  
12 and development of a facility, as defined in Section 1-10  
13 of the Illinois Power Agency Act, and such other costs as  
14 the Capital Development Board deems appropriate to be  
15 recovered in the capital recovery charge.

16 (A) Capital costs. The Capital Development Board  
17 shall calculate a range of capital costs that it  
18 believes would be reasonable for the clean coal SNG  
19 brownfield facility to recover under the sourcing  
20 agreement. In making this determination, the Capital  
21 Development Board shall review the facility cost  
22 report, if any, of the clean coal SNG brownfield  
23 facility, adjusting the results based on the change in  
24 the Annual Consumer Price Index for All Urban Consumers  
25 for the Midwest Region as published in April by the  
26 United States Department of Labor, Bureau of Labor

1           Statistics, the final draft of the sourcing agreement,  
2           and the rate of return approved by the Commission. In  
3           addition, the Capital Development Board may consult as  
4           much as it deems necessary with the clean coal SNG  
5           brownfield facility and conduct whatever research and  
6           investigation it deems necessary.

7           The Capital Development Board shall retain an  
8           engineering expert to assist in determining both the  
9           range of capital costs and the range of operations and  
10          maintenance costs that it believes would be reasonable  
11          for the clean coal SNG brownfield facility to recover  
12          under the sourcing agreement. Provided, however, that  
13          such expert shall: (i) not have been involved in the  
14          clean coal SNG brownfield facility's facility cost  
15          report, if any, (ii) not own or control any direct or  
16          indirect interest in the initial clean coal facility,  
17          and (iii) have no contractual relationship with the  
18          clean coal SNG brownfield facility. In order to qualify  
19          as an independent expert, a person or company must  
20          have:

21                   (i) direct previous experience conducting  
22                   front-end engineering and design studies for  
23                   large-scale energy facilities and administering  
24                   large-scale energy operations and maintenance  
25                   contracts, which may be particularized to the  
26                   specific type of financing associated with the

1 clean coal SNG brownfield facility;

2 (ii) an advanced degree in economics,  
3 mathematics, engineering, or a related area of  
4 study;

5 (iii) ten years of experience in the energy  
6 sector, including construction and risk management  
7 experience;

8 (iv) expertise in assisting companies with  
9 obtaining financing for large-scale energy  
10 projects, which may be particularized to the  
11 specific type of financing associated with the  
12 clean coal SNG brownfield facility;

13 (v) expertise in operations and maintenance  
14 which may be particularized to the specific type of  
15 operations and maintenance associated with the  
16 clean coal SNG brownfield facility;

17 (vi) expertise in credit and contract  
18 protocols;

19 (vii) adequate resources to perform and  
20 fulfill the required functions and  
21 responsibilities; and

22 (viii) the absence of a conflict of interest  
23 and inappropriate bias for or against an affected  
24 gas utility or the clean coal SNG brownfield  
25 facility.

26 The clean coal SNG brownfield facility and the

1 Illinois Power Agency shall cooperate with the Capital  
2 Development Board in any investigation it deems  
3 necessary. The Capital Development Board shall make  
4 its final determination of the range of capital costs  
5 confidentially and shall submit that range to the  
6 Commission in a confidential filing within 120 days  
7 after July 13, 2011 (the effective date of Public Act  
8 97-096). The clean coal SNG brownfield facility shall  
9 submit to the Commission its estimate of the capital  
10 costs to be recovered under the sourcing agreement.  
11 Only after the clean coal SNG brownfield facility has  
12 submitted this estimate shall the Commission publicly  
13 announce the range of capital costs submitted by the  
14 Capital Development Board.

15 In the event that the estimate submitted by the  
16 clean coal SNG brownfield facility is within or below  
17 the range submitted by the Capital Development Board,  
18 the clean coal SNG brownfield facility's estimate  
19 shall be approved by the Commission as the amount of  
20 capital costs to be recovered under the sourcing  
21 agreement. In the event that the estimate submitted by  
22 the clean coal SNG brownfield facility is above the  
23 range submitted by the Capital Development Board, the  
24 amount of capital costs at the lowest end of the range  
25 submitted by the Capital Development Board shall be  
26 approved by the Commission as the amount of capital

1 costs to be recovered under the sourcing agreement.  
2 Within 15 days after the Capital Development Board has  
3 submitted its range and the clean coal SNG brownfield  
4 facility has submitted its estimate, the Commission  
5 shall approve the capital costs for the clean coal SNG  
6 brownfield facility.

7 The Capital Development Board shall monitor the  
8 construction of the clean coal SNG brownfield facility  
9 for the full duration of construction to assess  
10 potential cost overruns. The Capital Development  
11 Board, in its discretion, may retain an expert to  
12 facilitate such monitoring. The clean coal SNG  
13 brownfield facility shall pay a reasonable fee as  
14 required by the Capital Development Board for the  
15 Capital Development Board's services under this  
16 subsection (h-3) to be deposited into the Capital  
17 Development Board Revolving Fund, and such fee shall  
18 not be passed through to a utility or its customers. If  
19 an expert is retained by the Capital Development Board  
20 for monitoring of construction, then the clean coal SNG  
21 brownfield facility must pay for the expert's  
22 reasonable fees and such costs shall not be passed  
23 through to a utility or its customers.

24 (B) Rate of Return. No later than 30 days after the  
25 date on which the Illinois Power Agency submits a final  
26 draft sourcing agreement, the Commission shall hold a

1 public hearing to determine the rate of return to be  
2 recovered under the sourcing agreement. Rate of return  
3 shall be comprised of the clean coal SNG brownfield  
4 facility's actual cost of debt, including  
5 mortgage-style amortization, and a reasonable return  
6 on equity. The Commission shall post notice of the  
7 hearing on its website no later than 10 days prior to  
8 the date of the hearing. The Commission shall provide  
9 the public and all interested parties, including the  
10 gas utilities, the Attorney General, and the Illinois  
11 Power Agency, an opportunity to be heard.

12 In determining the return on equity, the  
13 Commission shall select a commercially reasonable  
14 return on equity taking into account the return on  
15 equity being received by developers of similar  
16 facilities in or outside of Illinois, the need to  
17 balance an incentive for clean-coal technology with  
18 the need to protect ratepayers from high gas prices,  
19 the risks being borne by the clean coal SNG brownfield  
20 facility in the final draft sourcing agreement, and any  
21 other information that the Commission may deem  
22 relevant. The Commission may establish a return on  
23 equity that varies with the amount of savings, if any,  
24 to customers during the term of the sourcing agreement,  
25 comparing the delivered SNG price to a daily weighted  
26 average price of natural gas, based upon an index. The



1 Illinois Power Agency shall recommend a return on  
2 equity to the Commission using the same criteria.  
3 Within 60 days after receiving the final draft sourcing  
4 agreement from the Illinois Power Agency, the  
5 Commission shall approve the rate of return for the  
6 clean coal brownfield facility. Within 30 days after  
7 obtaining debt financing for the clean coal SNG  
8 brownfield facility, the clean coal SNG brownfield  
9 facility shall file a notice with the Commission  
10 identifying the actual cost of debt.

11 (2) Operations and maintenance costs approved by the  
12 Commission shall be recoverable by the clean coal SNG  
13 brownfield facility under the sourcing agreement. The  
14 operations and maintenance costs mean costs that have been  
15 incurred for the administration, supervision, operation,  
16 maintenance, preservation, and protection of the clean  
17 coal SNG brownfield facility's physical plant.

18 The Capital Development Board shall calculate a range  
19 of operations and maintenance costs that it believes would  
20 be reasonable for the clean coal SNG brownfield facility to  
21 recover under the sourcing agreement, incorporating an  
22 inflation index or combination of inflation indices to most  
23 accurately reflect the actual costs of operating the clean  
24 coal SNG brownfield facility. In making this  
25 determination, the Capital Development Board shall review  
26 the facility cost report, if any, of the clean coal SNG

1 brownfield facility, adjusting the results for inflation  
2 based on the change in the Annual Consumer Price Index for  
3 All Urban Consumers for the Midwest Region as published in  
4 April by the United States Department of Labor, Bureau of  
5 Labor Statistics, the final draft of the sourcing  
6 agreement, and the rate of return approved by the  
7 Commission. In addition, the Capital Development Board may  
8 consult as much as it deems necessary with the clean coal  
9 SNG brownfield facility and conduct whatever research and  
10 investigation it deems necessary. As set forth in  
11 subparagraph (A) of paragraph (1) of this subsection (h-3),  
12 the Capital Development Board shall retain an independent  
13 engineering expert to assist in determining both the range  
14 of operations and maintenance costs that it believes would  
15 be reasonable for the clean coal SNG brownfield facility to  
16 recover under the sourcing agreement. The clean coal SNG  
17 brownfield facility and the Illinois Power Agency shall  
18 cooperate with the Capital Development Board in any  
19 investigation it deems necessary. The Capital Development  
20 Board shall make its final determination of the range of  
21 operations and maintenance costs confidentially and shall  
22 submit that range to the Commission in a confidential  
23 filing within 120 days after July 13, 2011.

24 The clean coal SNG brownfield facility shall submit to  
25 the Commission its estimate of the operations and  
26 maintenance costs to be recovered under the sourcing

1 agreement. Only after the clean coal SNG brownfield  
2 facility has submitted this estimate shall the Commission  
3 publicly announce the range of operations and maintenance  
4 costs submitted by the Capital Development Board. In the  
5 event that the estimate submitted by the clean coal SNG  
6 brownfield facility is within or below the range submitted  
7 by the Capital Development Board, the clean coal SNG  
8 brownfield facility's estimate shall be approved by the  
9 Commission as the amount of operations and maintenance  
10 costs to be recovered under the sourcing agreement. In the  
11 event that the estimate submitted by the clean coal SNG  
12 brownfield facility is above the range submitted by the  
13 Capital Development Board, the amount of operations and  
14 maintenance costs at the lowest end of the range submitted  
15 by the Capital Development Board shall be approved by the  
16 Commission as the amount of operations and maintenance  
17 costs to be recovered under the sourcing agreement. Within  
18 15 days after the Capital Development Board has submitted  
19 its range and the clean coal SNG brownfield facility has  
20 submitted its estimate, the Commission shall approve the  
21 operations and maintenance costs for the clean coal SNG  
22 brownfield facility.

23 The clean coal SNG brownfield facility shall pay for  
24 the independent engineering expert's reasonable fees and  
25 such costs shall not be passed through to a utility or its  
26 customers. The clean coal SNG brownfield facility shall pay

1 a reasonable fee as required by the Capital Development  
2 Board for the Capital Development Board's services under  
3 this subsection (h-3) to be deposited into the Capital  
4 Development Board Revolving Fund, and such fee shall not be  
5 passed through to a utility or its customers.

6 (3) Sequestration costs approved by the Commission  
7 shall be recoverable by the clean coal SNG brownfield  
8 facility. "Sequestration costs" means costs to be incurred  
9 by the clean coal SNG brownfield facility in accordance  
10 with its Commission-approved carbon capture and  
11 sequestration plan to:

12 (A) capture carbon dioxide;

13 (B) build, operate, and maintain a sequestration  
14 site in which carbon dioxide may be injected;

15 (C) build, operate, and maintain a carbon dioxide  
16 pipeline; and

17 (D) transport the carbon dioxide to the  
18 sequestration site or a pipeline.

19 The Commission shall assess the prudence of the  
20 sequestration costs for the clean coal SNG brownfield  
21 facility before construction commences at the  
22 sequestration site or pipeline. Any revenues the clean coal  
23 SNG brownfield facility receives as a result of the  
24 capture, transportation, or sequestration of carbon  
25 dioxide shall be first credited against all sequestration  
26 costs, with the positive balance, if any, treated as

1 additional net revenue.

2 The Commission may, in its discretion, retain an expert  
3 to assist in its review of sequestration costs. The clean  
4 coal SNG brownfield facility shall pay for the expert's  
5 reasonable fees if an expert is retained by the Commission,  
6 and such costs shall not be passed through to a utility or  
7 its customers. Once made, the Commission's determination  
8 of the amount of recoverable sequestration costs shall not  
9 be increased unless the clean coal SNG brownfield facility  
10 can show by clear and convincing evidence that (i) the  
11 costs were not reasonably foreseeable; (ii) the costs were  
12 due to circumstances beyond the clean coal SNG brownfield  
13 facility's control; and (iii) the clean coal SNG brownfield  
14 facility took all reasonable steps to mitigate the costs.  
15 If the Commission determines that sequestration costs may  
16 be increased, the Commission shall provide for notice and a  
17 public hearing for approval of the increased sequestration  
18 costs.

19 (4) Actual delivered and processed fuel costs shall be  
20 set by the Illinois Power Agency through a SNG feedstock  
21 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of  
22 the Illinois Power Agency Act, to be performed at least  
23 every 5 years and purchased by the clean coal SNG  
24 brownfield facility pursuant to feedstock procurement  
25 contracts developed by the Illinois Power Agency, with coal  
26 comprising at least 50% of the total feedstock over the

1 term of the sourcing agreement and petroleum coke  
2 comprising the remainder of the SNG feedstock. If the  
3 Commission fails to approve a feedstock procurement plan or  
4 fails to approve the results of a feedstock procurement  
5 event, then the fuel shall be purchased by the company  
6 month-by-month on the spot market and those actual  
7 delivered and processed fuel costs shall be recoverable  
8 under the sourcing agreement. If a supplier defaults under  
9 the terms of a procurement contract, then the Illinois  
10 Power Agency shall immediately initiate a feedstock  
11 procurement process to obtain a replacement supply, and,  
12 prior to the conclusion of that process, fuel shall be  
13 purchased by the company month-by-month on the spot market  
14 and those actual delivered and processed fuel costs shall  
15 be recoverable under the sourcing agreement.

16 (5) Taxes and fees imposed by the federal government,  
17 the State, or any unit of local government applicable to  
18 the clean coal SNG brownfield facility, excluding income  
19 tax, shall be recoverable by the clean coal SNG brownfield  
20 facility under the sourcing agreement to the extent such  
21 taxes and fees were not applicable to the facility on July  
22 13, 2011.

23 (6) The actual transportation costs, in accordance  
24 with the applicable utility's tariffs, and third-party  
25 marketer costs incurred by the company, if any, associated  
26 with transporting the SNG from the clean coal SNG

1 brownfield facility to the Chicago City-gate to sell such  
2 SNG into the natural gas markets shall be recoverable under  
3 the sourcing agreement.

4 (7) Unless otherwise provided, within 30 days after a  
5 decision of the Commission on recoverable costs under this  
6 Section, any interested party to the Commission's decision  
7 may apply for a rehearing with respect to the decision. The  
8 Commission shall receive and consider the application for  
9 rehearing and shall grant or deny the application in whole  
10 or in part within 20 days after the date of the receipt of  
11 the application by the Commission. If no rehearing is  
12 applied for within the required 30 days or an application  
13 for rehearing is denied, then the Commission decision shall  
14 be final. If an application for rehearing is granted, then  
15 the Commission shall hold a rehearing within 30 days after  
16 granting the application. The decision of the Commission  
17 upon rehearing shall be final.

18 Any person affected by a decision of the Commission  
19 under this subsection (h-3) may have the decision reviewed  
20 only under and in accordance with the Administrative Review  
21 Law. Unless otherwise provided, the provisions of the  
22 Administrative Review Law, all amendments and  
23 modifications to that Law, and the rules adopted pursuant  
24 to that Law shall apply to and govern all proceedings for  
25 the judicial review of final administrative decisions of  
26 the Commission under this subsection (h-3). The term

1 "administrative decision" is defined as in Section 3-101 of  
2 the Code of Civil Procedure.

3 (8) The Capital Development Board shall adopt and make  
4 public a policy detailing the process for retaining experts  
5 under this Section. Any experts retained to assist with  
6 calculating the range of capital costs or operations and  
7 maintenance costs shall be retained no later than 45 days  
8 after July 13, 2011.

9 (h-4) No later than 90 days after the Illinois Power Agency  
10 submits the final draft sourcing agreement pursuant to  
11 subsection (h-1), the Commission shall approve a sourcing  
12 agreement containing (i) the capital costs, rate of return, and  
13 operations and maintenance costs established pursuant to  
14 subsection (h-3) and (ii) all other terms and conditions,  
15 rights, provisions, exceptions, and limitations contained in  
16 the final draft sourcing agreement; provided, however, the  
17 Commission shall correct typographical and scrivener's errors  
18 and modify the contract only as necessary to provide that the  
19 gas utility does not have the right to terminate the sourcing  
20 agreement due to any future events that may occur other than  
21 the clean coal SNG brownfield facility's failure to timely meet  
22 milestones, uncured default, extended force majeure, or  
23 abandonment. Once the sourcing agreement is approved, then the  
24 gas utility subject to that sourcing agreement shall have 45  
25 days after the date of the Commission's approval to enter into  
26 the sourcing agreement.



1 (h-5) Sequestration enforcement.

2 (A) All contracts entered into under subsection (h) of  
3 this Section and all sourcing agreements under subsection  
4 (h-1) of this Section, regardless of duration, shall  
5 require the owner of any facility supplying SNG under the  
6 contract or sourcing agreement to provide certified  
7 documentation to the Commission each year, starting in the  
8 facility's first year of commercial operation, accurately  
9 reporting the quantity of carbon dioxide emissions from the  
10 facility that have been captured and sequestered and  
11 reporting any quantities of carbon dioxide released from  
12 the site or sites at which carbon dioxide emissions were  
13 sequestered in prior years, based on continuous monitoring  
14 of those sites.

15 (B) If, in any year, the owner of the clean coal SNG  
16 facility fails to demonstrate that the SNG facility  
17 captured and sequestered at least 90% of the total carbon  
18 dioxide emissions that the facility would otherwise emit or  
19 that sequestration of emissions from prior years has  
20 failed, resulting in the release of carbon dioxide into the  
21 atmosphere, then the owner of the clean coal SNG facility  
22 must pay a penalty of \$20 per ton of excess carbon dioxide  
23 emissions not to exceed \$40,000,000, in any given year  
24 which shall be deposited into the Energy Efficiency Trust  
25 Fund and distributed pursuant to subsection (b) of Section  
26 6-6 of the Renewable Energy, Energy Efficiency, and Coal

1 Resources Development Law of 1997. On or before the 5-year  
2 anniversary of the execution of the contract and every 5  
3 years thereafter, an expert hired by the owner of the  
4 facility with the approval of the Attorney General shall  
5 conduct an analysis to determine the cost of sequestration  
6 of at least 90% of the total carbon dioxide emissions the  
7 plant would otherwise emit. If the analysis shows that the  
8 actual annual cost is greater than the penalty, then the  
9 penalty shall be increased to equal the actual cost.  
10 Provided, however, to the extent that the owner of the  
11 facility described in subsection (h) of this Section can  
12 demonstrate that the failure was as a result of acts of God  
13 (including fire, flood, earthquake, tornado, lightning,  
14 hurricane, or other natural disaster); any amendment,  
15 modification, or abrogation of any applicable law or  
16 regulation that would prevent performance; war; invasion;  
17 act of foreign enemies; hostilities (regardless of whether  
18 war is declared); civil war; rebellion; revolution;  
19 insurrection; military or usurped power or confiscation;  
20 terrorist activities; civil disturbance; riots;  
21 nationalization; sabotage; blockage; or embargo, the owner  
22 of the facility described in subsection (h) of this Section  
23 shall not be subject to a penalty if and only if (i) it  
24 promptly provides notice of its failure to the Commission;  
25 (ii) as soon as practicable and consistent with any order  
26 or direction from the Commission, it submits to the

1 Commission proposed modifications to its carbon capture  
2 and sequestration plan; and (iii) it carries out its  
3 proposed modifications in the manner and time directed by  
4 the Commission.

5 If the Commission finds that the facility has not  
6 satisfied each of these requirements, then the facility  
7 shall be subject to the penalty. If the owner of the clean  
8 coal SNG facility captured and sequestered more than 90% of  
9 the total carbon dioxide emissions that the facility would  
10 otherwise emit, then the owner of the facility may credit  
11 such additional amounts to reduce the amount of any future  
12 penalty to be paid. The penalty resulting from the failure  
13 to capture and sequester at least the minimum amount of  
14 carbon dioxide shall not be passed on to a utility or its  
15 customers.

16 If the clean coal SNG facility fails to meet the  
17 requirements specified in this subsection (h-5), then the  
18 Attorney General, on behalf of the People of the State of  
19 Illinois, shall bring an action to enforce the obligations  
20 related to the facility set forth in this subsection (h-5),  
21 including any penalty payments owed, but not including the  
22 physical obligation to capture and sequester at least 90%  
23 of the total carbon dioxide emissions that the facility  
24 would otherwise emit. Such action may be filed in any  
25 circuit court in Illinois. By entering into a contract  
26 pursuant to subsection (h) of this Section, the clean coal

1 SNG facility agrees to waive any objections to venue or to  
2 the jurisdiction of the court with regard to the Attorney  
3 General's action under this subsection (h-5).

4 Compliance with the sequestration requirements and any  
5 penalty requirements specified in this subsection (h-5)  
6 for the clean coal SNG facility shall be assessed annually  
7 by the Commission, which may in its discretion retain an  
8 expert to facilitate its assessment. If any expert is  
9 retained by the Commission, then the clean coal SNG  
10 facility shall pay for the expert's reasonable fees, and  
11 such costs shall not be passed through to the utility or  
12 its customers.

13 In addition, carbon dioxide emission credits received  
14 by the clean coal SNG facility in connection with  
15 sequestration of carbon dioxide from the facility must be  
16 sold in a timely fashion with any revenue, less applicable  
17 fees and expenses and any expenses required to be paid by  
18 facility for carbon dioxide transportation or  
19 sequestration, deposited into the reconciliation account  
20 within 30 days after receipt of such funds by the owner of  
21 the clean coal SNG facility.

22 The clean coal SNG facility is prohibited from  
23 transporting or sequestering carbon dioxide unless the  
24 owner of the carbon dioxide pipeline that transfers the  
25 carbon dioxide from the facility and the owner of the  
26 sequestration site where the carbon dioxide captured by the

1 facility is stored has acquired all applicable permits  
2 under applicable State and federal laws, statutes, rules,  
3 or regulations prior to the transfer or sequestration of  
4 carbon dioxide. The responsibility for compliance with the  
5 sequestration requirements specified in this subsection  
6 (h-5) for the clean coal SNG facility shall reside solely  
7 with the clean coal SNG facility, regardless of whether the  
8 facility has contracted with another party to capture,  
9 transport, or sequester carbon dioxide.

10 (C) If, in any year, the owner of a clean coal SNG  
11 brownfield facility fails to demonstrate that the clean  
12 coal SNG brownfield facility captured and sequestered at  
13 least 85% of the total carbon dioxide emissions that the  
14 facility would otherwise emit, then the owner of the clean  
15 coal SNG brownfield facility must pay a penalty of \$20 per  
16 ton of excess carbon emissions up to \$20,000,000, which  
17 shall be deposited into the Energy Efficiency Trust Fund  
18 and distributed pursuant to subsection (b) of Section 6-6  
19 of the Renewable Energy, Energy Efficiency, and Coal  
20 Resources Development Law of 1997. Provided, however, to  
21 the extent that the owner of the clean coal SNG brownfield  
22 facility can demonstrate that the failure was as a result  
23 of acts of God (including fire, flood, earthquake, tornado,  
24 lightning, hurricane, or other natural disaster); any  
25 amendment, modification, or abrogation of any applicable  
26 law or regulation that would prevent performance; war;

1 invasion; act of foreign enemies; hostilities (regardless  
2 of whether war is declared); civil war; rebellion;  
3 revolution; insurrection; military or usurped power or  
4 confiscation; terrorist activities; civil disturbances;  
5 riots; nationalization; sabotage; blockage; or embargo,  
6 the owner of the clean coal SNG brownfield facility shall  
7 not be subject to a penalty if and only if (i) it promptly  
8 provides notice of its failure to the Commission; (ii) as  
9 soon as practicable and consistent with any order or  
10 direction from the Commission, it submits to the Commission  
11 proposed modifications to its carbon capture and  
12 sequestration plan; and (iii) it carries out its proposed  
13 modifications in the manner and time directed by the  
14 Commission. If the Commission finds that the facility has  
15 not satisfied each of these requirements, then the facility  
16 shall be subject to the penalty. If the owner of a clean  
17 coal SNG brownfield facility demonstrates that the clean  
18 coal SNG brownfield facility captured and sequestered more  
19 than 85% of the total carbon emissions that the facility  
20 would otherwise emit, the owner of the clean coal SNG  
21 brownfield facility may credit such additional amounts to  
22 reduce the amount of any future penalty to be paid. The  
23 penalty resulting from the failure to capture and sequester  
24 at least the minimum amount of carbon dioxide shall not be  
25 passed on to a utility or its customers.

26 In addition to any penalty for the clean coal SNG

1 brownfield facility's failure to capture and sequester at  
2 least its minimum sequestration requirement, the Attorney  
3 General, on behalf of the People of the State of Illinois,  
4 shall bring an action for specific performance of this  
5 subsection (h-5). Such action may be filed in any circuit  
6 court in Illinois. By entering into a sourcing agreement  
7 pursuant to subsection (h-1) of this Section, the clean  
8 coal SNG brownfield facility agrees to waive any objections  
9 to venue or to the jurisdiction of the court with regard to  
10 the Attorney General's action for specific performance  
11 under this subsection (h-5).

12 Compliance with the sequestration requirements and  
13 penalty requirements specified in this subsection (h-5)  
14 for the clean coal SNG brownfield facility shall be  
15 assessed annually by the Commission, which may in its  
16 discretion retain an expert to facilitate its assessment.  
17 If an expert is retained by the Commission, then the clean  
18 coal SNG brownfield facility shall pay for the expert's  
19 reasonable fees, and such costs shall not be passed through  
20 to a utility or its customers. A SNG facility operating  
21 pursuant to this subsection (h-5) shall not forfeit its  
22 designation as a clean coal SNG facility or a clean coal  
23 SNG brownfield facility if the facility fails to fully  
24 comply with the applicable carbon sequestration  
25 requirements in any given year, provided the requisite  
26 offsets are purchased or requisite penalties are paid.

1           Responsibility for compliance with the sequestration  
2 requirements specified in this subsection (h-5) for the  
3 clean coal SNG brownfield facility shall reside solely with  
4 the clean coal SNG brownfield facility regardless of  
5 whether the facility has contracted with another party to  
6 capture, transport, or sequester carbon dioxide.

7           (h-7)     Sequestration     permitting,     oversight,     and  
8 investigations.

9           (1) No clean coal facility or clean coal SNG brownfield  
10 facility may transport or sequester carbon dioxide unless  
11 the Commission approves the method of carbon dioxide  
12 transportation or sequestration. Such approval shall be  
13 required regardless of whether the facility has contracted  
14 with another to transport or sequester the carbon dioxide.  
15 Nothing in this subsection (h-7) shall release the owner or  
16 operator of a carbon dioxide sequestration site or carbon  
17 dioxide pipeline from any other permitting requirements  
18 under applicable State and federal laws, statutes, rules,  
19 or regulations.

20           (2) The Commission shall review carbon dioxide  
21 transportation and sequestration methods proposed by a  
22 clean coal facility or a clean coal SNG brownfield facility  
23 and shall approve those methods it deems reasonable and  
24 cost-effective. For purposes of this review,  
25 "cost-effective" means a commercially reasonable price for  
26 similar carbon dioxide transportation or sequestration



1 techniques. In determining whether sequestration is  
2 reasonable and cost-effective, the Commission may consult  
3 with the Illinois State Geological Survey and retain third  
4 parties to assist in its determination, provided that such  
5 third parties shall not own or control any direct or  
6 indirect interest in the facility that is proposing the  
7 carbon dioxide transportation or the carbon dioxide  
8 sequestration method and shall have no contractual  
9 relationship with that facility. If a third party is  
10 retained by the Commission, then the facility proposing the  
11 carbon dioxide transportation or sequestration method  
12 shall pay for the expert's reasonable fees, and these costs  
13 shall not be passed through to a utility or its customers.

14 No later than 6 months prior to the date upon which the  
15 owner intends to commence construction of a clean coal  
16 facility or the clean coal SNG brownfield facility, the  
17 owner of the facility shall file with the Commission a  
18 carbon dioxide transportation or sequestration plan. The  
19 Commission shall hold a public hearing within 30 days after  
20 receipt of the facility's carbon dioxide transportation or  
21 sequestration plan. The Commission shall post notice of the  
22 review on its website upon submission of a carbon dioxide  
23 transportation or sequestration method and shall accept  
24 written public comments. The Commission shall take the  
25 comments into account when making its decision.

26 The Commission may not approve a carbon dioxide

1 sequestration method if the owner or operator of the  
2 sequestration site has not received (i) an Underground  
3 Injection Control permit from the United States  
4 Environmental Protection Agency, or from the Illinois  
5 Environmental Protection Agency pursuant to the  
6 Environmental Protection Act; (ii) an Underground  
7 Injection Control permit from the Illinois Department of  
8 Natural Resources pursuant to the Illinois Oil and Gas Act;  
9 or (iii) an Underground Injection Control permit from the  
10 United States Environmental Protection Agency or a permit  
11 similar to items (i) or (ii) from the state in which the  
12 sequestration site is located if the sequestration will  
13 take place outside of Illinois. The Commission shall  
14 approve or deny the carbon dioxide transportation or  
15 sequestration method within 90 days after the receipt of  
16 all required information.

17 (3) At least annually, the Illinois Environmental  
18 Protection Agency shall inspect all carbon dioxide  
19 sequestration sites in Illinois. The Illinois  
20 Environmental Protection Agency may, as often as deemed  
21 necessary, monitor and conduct investigations of those  
22 sites. The owner or operator of the sequestration site must  
23 cooperate with the Illinois Environmental Protection  
24 Agency investigations of carbon dioxide sequestration  
25 sites.

26 If the Illinois Environmental Protection Agency

1 determines at any time a site creates conditions that  
2 warrant the issuance of a seal order under Section 34 of  
3 the Environmental Protection Act, then the Illinois  
4 Environmental Protection Agency shall seal the site  
5 pursuant to the Environmental Protection Act. If the  
6 Illinois Environmental Protection Agency determines at any  
7 time a carbon dioxide sequestration site creates  
8 conditions that warrant the institution of a civil action  
9 for an injunction under Section 43 of the Environmental  
10 Protection Act, then the Illinois Environmental Protection  
11 Agency shall request the State's Attorney or the Attorney  
12 General institute such action. The Illinois Environmental  
13 Protection Agency shall provide notice of any such actions  
14 as soon as possible on its website. The SNG facility shall  
15 incur all reasonable costs associated with any such  
16 inspection or monitoring of the sequestration sites, and  
17 these costs shall not be recoverable from utilities or  
18 their customers.

19 (4) (Blank).

20 (h-9) The clean coal SNG brownfield facility shall have the  
21 right to recover prudently incurred increased costs or reduced  
22 revenue resulting from any new or amendatory legislation or  
23 other action. The State of Illinois pledges that the State will  
24 not enact any law or take any action to:

25 (1) break, or repeal the authority for, sourcing  
26 agreements approved by the Commission and entered into

1 between public utilities and the clean coal SNG brownfield  
2 facility;

3 (2) deny public utilities full cost recovery for their  
4 costs incurred under those sourcing agreements; or

5 (3) deny the clean coal SNG brownfield facility full  
6 cost and revenue recovery as provided under those sourcing  
7 agreements that are recoverable pursuant to subsection  
8 (h-3) of this Section.

9 These pledges are for the benefit of the parties to those  
10 sourcing agreements and the issuers and holders of bonds or  
11 other obligations issued or incurred to finance or refinance  
12 the clean coal SNG brownfield facility. The clean coal SNG  
13 brownfield facility is authorized to include and refer to these  
14 pledges in any financing agreement into which it may enter in  
15 regard to those sourcing agreements.

16 The State of Illinois retains and reserves all other rights  
17 to enact new or amendatory legislation or take any other  
18 action, without impairment of the right of the clean coal SNG  
19 brownfield facility to recover prudently incurred increased  
20 costs or reduced revenue resulting from the new or amendatory  
21 legislation or other action, including, but not limited to,  
22 such legislation or other action that would (i) directly or  
23 indirectly raise the costs the clean coal SNG brownfield  
24 facility must incur; (ii) directly or indirectly place  
25 additional restrictions, regulations, or requirements on the  
26 clean coal SNG brownfield facility; (iii) prohibit

1 sequestration in general or prohibit a specific sequestration  
2 method or project; or (iv) increase minimum sequestration  
3 requirements for the clean coal SNG brownfield facility to the  
4 extent technically feasible. The clean coal SNG brownfield  
5 facility shall have the right to recover prudently incurred  
6 increased costs or reduced revenue resulting from the new or  
7 amendatory legislation or other action as described in this  
8 subsection (h-9).

9 (h-10) Contract costs for SNG incurred by an Illinois gas  
10 utility are reasonable and prudent and recoverable through the  
11 purchased gas adjustment clause and are not subject to review  
12 or disallowance by the Commission. Contract costs are costs  
13 incurred by the utility under the terms of a contract that  
14 incorporates the terms stated in subsection (h) of this Section  
15 as confirmed in writing by the Illinois Power Agency as set  
16 forth in subsection (h) of this Section, which confirmation  
17 shall be deemed conclusive, or as a consequence of or condition  
18 to its performance under the contract, including (i) amounts  
19 paid for SNG under the SNG contract and (ii) costs of  
20 transportation and storage services of SNG purchased from  
21 interstate pipelines under federally approved tariffs. The  
22 Illinois gas utility shall initiate a clean coal SNG facility  
23 rider mechanism that (A) shall be applicable to all customers  
24 who receive transportation service from the utility, (B) shall  
25 be designed to have an equal percentage impact on the  
26 transportation services rates of each class of the utility's

1 total customers, and (C) shall accurately reflect the net  
2 customer savings, if any, and above market costs, if any, under  
3 the SNG contract. Any contract, the terms of which have been  
4 confirmed in writing by the Illinois Power Agency as set forth  
5 in subsection (h) of this Section and the performance of the  
6 parties under such contract cannot be grounds for challenging  
7 prudence or cost recovery by the utility through the purchased  
8 gas adjustment clause, and in such cases, the Commission is  
9 directed not to consider, and has no authority to consider, any  
10 attempted challenges.

11 The contracts entered into by Illinois gas utilities  
12 pursuant to subsection (h) of this Section shall provide that  
13 the utility retains the right to terminate the contract without  
14 further obligation or liability to any party if the contract  
15 has been impaired as a result of any legislative,  
16 administrative, judicial, or other governmental action that is  
17 taken that eliminates all or part of the prudence protection of  
18 this subsection (h-10) or denies the recoverability of all or  
19 part of the contract costs through the purchased gas adjustment  
20 clause. Should any Illinois gas utility exercise its right  
21 under this subsection (h-10) to terminate the contract, all  
22 contract costs incurred prior to termination are and will be  
23 deemed reasonable, prudent, and recoverable as and when  
24 incurred and not subject to review or disallowance by the  
25 Commission. Any order, issued by the State requiring or  
26 authorizing the discontinuation of the merchant function,

1 defined as the purchase and sale of natural gas by an Illinois  
2 gas utility for the ultimate consumer in its service territory  
3 shall include provisions necessary to prevent the impairment of  
4 the value of any contract hereunder over its full term.

5 (h-11) All costs incurred by an Illinois gas utility in  
6 procuring SNG from a clean coal SNG brownfield facility  
7 pursuant to subsection (h-1) or a third-party marketer pursuant  
8 to subsection (h-1) are reasonable and prudent and recoverable  
9 through the purchased gas adjustment clause in conjunction with  
10 a SNG brownfield facility rider mechanism and are not subject  
11 to review or disallowance by the Commission; provided that if a  
12 utility is required by law or otherwise elects to connect the  
13 clean coal SNG brownfield facility to an interstate pipeline,  
14 then the utility shall be entitled to recover pursuant to its  
15 tariffs all just and reasonable costs that are prudently  
16 incurred. Sourcing agreement costs are costs incurred by the  
17 utility under the terms of a sourcing agreement that  
18 incorporates the terms stated in subsection (h-1) of this  
19 Section as approved by the Commission as set forth in  
20 subsection (h-4) of this Section, which approval shall be  
21 deemed conclusive, or as a consequence of or condition to its  
22 performance under the contract, including (i) amounts paid for  
23 SNG under the SNG contract and (ii) costs of transportation and  
24 storage services of SNG purchased from interstate pipelines  
25 under federally approved tariffs. Any sourcing agreement, the  
26 terms of which have been approved by the Commission as set

1     forth in subsection (h-4) of this Section, and the performance  
2     of the parties under the sourcing agreement cannot be grounds  
3     for challenging prudence or cost recovery by the utility, and  
4     in these cases, the Commission is directed not to consider, and  
5     has no authority to consider, any attempted challenges.

6             (h-15) Reconciliation account. The clean coal SNG facility  
7     shall establish a reconciliation account for the benefit of the  
8     retail customers of the utilities that have entered into  
9     contracts with the clean coal SNG facility pursuant to  
10    subsection (h). The reconciliation account shall be maintained  
11    and administered by an independent trustee that is mutually  
12    agreed upon by the owners of the clean coal SNG facility, the  
13    utilities, and the Commission in an interest-bearing account in  
14    accordance with the following:

15            (1) The clean coal SNG facility shall conduct an  
16            analysis annually within 60 days after receiving the  
17            necessary cost information, which shall be provided by the  
18            gas utility within 6 months after the end of the preceding  
19            calendar year, to determine (i) the average annual contract  
20            SNG cost, which shall be calculated as the total amount  
21            paid for SNG purchased from the clean coal SNG facility  
22            over the preceding 12 months, plus the cost to the utility  
23            of the required transportation and storage services of SNG,  
24            divided by the total number of MMBtus of SNG actually  
25            purchased from the clean coal SNG facility in the preceding  
26            12 months under the utility contract; (ii) the average



1 annual natural gas purchase cost, which shall be calculated  
2 as the total annual supply costs paid for baseload natural  
3 gas (excluding any SNG) purchased by such utility over the  
4 preceding 12 months plus the costs of transportation and  
5 storage services of such natural gas (excluding such costs  
6 for SNG), divided by the total number of MMBtus of baseload  
7 natural gas (excluding SNG) actually purchased by the  
8 utility during the year; (iii) the cost differential, which  
9 shall be the difference between the average annual contract  
10 SNG cost and the average annual natural gas purchase cost;  
11 and (iv) the revenue share target which shall be the cost  
12 differential multiplied by the total amount of SNG  
13 purchased over the preceding 12 months under such utility  
14 contract.

15 (A) To the extent the annual average contract SNG  
16 cost is less than the annual average natural gas  
17 purchase cost, the utility shall credit an amount equal  
18 to the revenue share target to the reconciliation  
19 account. Such credit payment shall be made monthly  
20 starting within 30 days after the completed analysis in  
21 this subsection (h-15) and based on collections from  
22 all customers via a line item charge in all customer  
23 bills designed to have an equal percentage impact on  
24 the transportation services of each class of  
25 customers. Credit payments made pursuant to this  
26 subparagraph (A) shall be deemed prudent and

1 reasonable and not subject to Commission prudence  
2 review.

3 (B) To the extent the annual average contract SNG  
4 cost is greater than the annual average natural gas  
5 purchase cost, the reconciliation account shall be  
6 used to provide a credit equal to the revenue share  
7 target to the utilities to be used to reduce the  
8 utility's natural gas costs through the purchased gas  
9 adjustment clause. Such payment shall be made within 30  
10 days after the completed analysis pursuant to this  
11 subsection (h-15), but only to the extent that the  
12 reconciliation account has a positive balance.

13 (2) At the conclusion of the term of the SNG contracts  
14 pursuant to subsection (h) and the completion of the final  
15 annual analysis pursuant to this subsection (h-15), to the  
16 extent the facility owes any amount to retail customers,  
17 amounts in the account shall be credited to retail  
18 customers to the extent the owed amount is repaid; 50% of  
19 any additional amount in the reconciliation account shall  
20 be distributed to the utilities to be used to reduce the  
21 utilities' natural gas costs through the purchase gas  
22 adjustment clause with the remaining amount distributed to  
23 the clean coal SNG facility. Such payment shall be made  
24 within 30 days after the last completed analysis pursuant  
25 to this subsection (h-15). If the facility has repaid all  
26 owed amounts, if any, to retail customers and has

1 distributed 50% of any additional amount in the account to  
2 the utilities, then the owners of the clean coal SNG  
3 facility shall have no further obligation to the utility or  
4 the retail customers.

5 If, at the conclusion of the term of the contracts  
6 pursuant to subsection (h) and the completion of the final  
7 annual analysis pursuant to this subsection (h-15), the  
8 facility owes any amount to retail customers and the  
9 account has been depleted, then the clean coal SNG facility  
10 shall be liable for any remaining amount owed to the retail  
11 customers. The clean coal SNG facility shall market the  
12 daily production of SNG and distribute on a monthly basis  
13 5% of the amounts collected with respect to such future  
14 sales to the utilities in proportion to each utility's SNG  
15 contract to be used to reduce the utility's natural gas  
16 costs through the purchase gas adjustment clause; such  
17 payments to the utility shall continue until either 15  
18 years after the conclusion of the contract or such time as  
19 the sum of such payments equals the remaining amount owed  
20 to the retail customers at the end of the contract,  
21 whichever is earlier. If the debt to the retail customers  
22 is not repaid within 15 years after the conclusion of the  
23 contract, then the owner of the clean coal SNG facility  
24 must sell the facility, and all proceeds from that sale  
25 must be used to repay any amount owed to the retail  
26 customers under this subsection (h-15).

1           The retail customers shall have first priority in  
2 recovering that debt above any creditors, except the  
3 secured lenders to the extent that the secured lenders have  
4 any secured debt outstanding, including any parent  
5 companies or affiliates of the clean coal SNG facility.

6           (3) 50% of all additional net revenue, defined as  
7 miscellaneous net revenue after cost allowance and above  
8 the budgeted estimate established for revenue pursuant to  
9 subsection (h), including sale of substitute natural gas  
10 derived from the clean coal SNG facility above the  
11 nameplate capacity of the facility and other by-products  
12 produced by the facility, shall be credited to the  
13 reconciliation account on an annual basis with such payment  
14 made within 30 days after the end of each calendar year  
15 during the term of the contract.

16           (4) The clean coal SNG facility shall each year,  
17 starting in the facility's first year of commercial  
18 operation, file with the Commission, in such form as the  
19 Commission shall require, a report as to the reconciliation  
20 account. The annual report must contain the following  
21 information:

22                   (A) the revenue share target amount;

23                   (B) the amount credited or debited to the  
24 reconciliation account during the year;

25                   (C) the amount credited to the utilities to be used  
26 to reduce the utilities natural gas costs though the

1 purchase gas adjustment clause;

2 (D) the total amount of reconciliation account at  
3 the beginning and end of the year;

4 (E) the total amount of consumer savings to date;  
5 and

6 (F) any additional information the Commission may  
7 require.

8 When any report is erroneous or defective or appears to the  
9 Commission to be erroneous or defective, the Commission may  
10 notify the clean coal SNG facility to amend the report within  
11 30 days; before or after the termination of the 30-day period,  
12 the Commission may examine the trustee of the reconciliation  
13 account or the officers, agents, employees, books, records, or  
14 accounts of the clean coal SNG facility and correct such items  
15 in the report as upon such examination the Commission may find  
16 defective or erroneous. All reports shall be under oath.

17 All reports made to the Commission by the clean coal SNG  
18 facility and the contents of the reports shall be open to  
19 public inspection and shall be deemed a public record under the  
20 Freedom of Information Act. Such reports shall be preserved in  
21 the office of the Commission. The Commission shall publish an  
22 annual summary of the reports prior to February 1 of the  
23 following year. The annual summary shall be made available to  
24 the public on the Commission's website and shall be submitted  
25 to the General Assembly.

26 Any facility that fails to file the report required under

1 this paragraph (4) to the Commission within the time specified  
2 or to make specific answer to any question propounded by the  
3 Commission within 30 days after the time it is lawfully  
4 required to do so, or within such further time not to exceed 90  
5 days as may be allowed by the Commission in its discretion,  
6 shall pay a penalty of \$500 to the Commission for each day it  
7 is in default.

8 Any person who willfully makes any false report to the  
9 Commission or to any member, officer, or employee thereof, any  
10 person who willfully in a report withholds or fails to provide  
11 material information to which the Commission is entitled under  
12 this paragraph (4) and which information is either required to  
13 be filed by statute, rule, regulation, order, or decision of  
14 the Commission or has been requested by the Commission, and any  
15 person who willfully aids or abets such person shall be guilty  
16 of a Class A misdemeanor.

17 (h-20) The General Assembly authorizes the Illinois  
18 Finance Authority to issue bonds to the maximum extent  
19 permitted to finance coal gasification facilities described in  
20 this Section, which constitute both "industrial projects"  
21 under Article 801 of the Illinois Finance Authority Act and  
22 "clean coal and energy projects" under Sections 825-65 through  
23 825-75 of the Illinois Finance Authority Act.

24 Administrative costs incurred by the Illinois Finance  
25 Authority in performance of this subsection (h-20) shall be  
26 subject to reimbursement by the clean coal SNG facility on

1 terms as the Illinois Finance Authority and the clean coal SNG  
2 facility may agree. The utility and its customers shall have no  
3 obligation to reimburse the clean coal SNG facility or the  
4 Illinois Finance Authority for any such costs.

5 (h-25) The State of Illinois pledges that the State may not  
6 enact any law or take any action to (1) break or repeal the  
7 authority for SNG purchase contracts entered into between  
8 public gas utilities and the clean coal SNG facility pursuant  
9 to subsection (h) of this Section or (2) deny public gas  
10 utilities their full cost recovery for contract costs, as  
11 defined in subsection (h-10), that are incurred under such SNG  
12 purchase contracts. These pledges are for the benefit of the  
13 parties to such SNG purchase contracts and the issuers and  
14 holders of bonds or other obligations issued or incurred to  
15 finance or refinance the clean coal SNG facility. The  
16 beneficiaries are authorized to include and refer to these  
17 pledges in any finance agreement into which they may enter in  
18 regard to such contracts.

19 (h-30) The State of Illinois retains and reserves all other  
20 rights to enact new or amendatory legislation or take any other  
21 action, including, but not limited to, such legislation or  
22 other action that would (1) directly or indirectly raise the  
23 costs that the clean coal SNG facility must incur; (2) directly  
24 or indirectly place additional restrictions, regulations, or  
25 requirements on the clean coal SNG facility; (3) prohibit  
26 sequestration in general or prohibit a specific sequestration

1 method or project; or (4) increase minimum sequestration  
2 requirements.

3 (i) If a gas utility or an affiliate of a gas utility has  
4 an ownership interest in any entity that produces or sells  
5 synthetic natural gas, Article VII of this Act shall apply.

6 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,  
7 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;  
8 98-463, eff. 8-16-13.)

9 Section 145. The Illinois Horse Racing Act of 1975 is  
10 amended by changing Sections 12.1 and 12.2 as follows:

11 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

12 Sec. 12.1. (a) The General Assembly finds that the Illinois  
13 Racing Industry does not include a fair proportion of minority  
14 or female workers.

15 Therefore, the General Assembly urges that the job training  
16 institutes, trade associations and employers involved in the  
17 Illinois Horse Racing Industry take affirmative action to  
18 encourage equal employment opportunity to all workers  
19 regardless of race, color, creed or sex.

20 Before an organization license, inter-track wagering  
21 license or inter-track wagering location license can be  
22 granted, the applicant for any such license shall execute and  
23 file with the Board a good faith affirmative action plan to  
24 recruit, train and upgrade minorities and females in all



1 classifications with the applicant for license. One year after  
2 issuance of any such license, and each year thereafter, the  
3 licensee shall file a report with the Board evidencing and  
4 certifying compliance with the originally filed affirmative  
5 action plan.

6 (b) At least 10% of the total amount of all State contracts  
7 for the infrastructure improvement of any race track grounds in  
8 this State shall be let to minority-owned ~~minority-owned~~  
9 businesses or women-owned ~~female-owned~~ businesses. "State  
10 contract", "minority-owned ~~minority-owned~~ business" and  
11 "women-owned ~~female-owned~~ business" shall have the meanings  
12 ascribed to them under the Business Enterprise for Minorities,  
13 Women ~~Females~~, and Persons with Disabilities Act.

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

15 (230 ILCS 5/12.2)

16 Sec. 12.2. Business enterprise program.

17 (a) For the purposes of this Section, the terms "minority",  
18 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",  
19 "women-owned ~~female-owned~~ business", "person with a  
20 disability", and "business owned by a person with a disability"  
21 have the meanings ascribed to them in the Business Enterprise  
22 for Minorities, Women ~~Females~~, and Persons with Disabilities  
23 Act.

24 (b) The Board shall, by rule, establish goals for the award  
25 of contracts by each organization licensee or inter-track

1     wagering licensee to businesses owned by minorities, women  
2     ~~females~~, and persons with disabilities, expressed as  
3     percentages of an organization licensee's or inter-track  
4     wagering licensee's total dollar amount of contracts awarded  
5     during each calendar year. Each organization licensee or  
6     inter-track wagering licensee must make every effort to meet  
7     the goals established by the Board pursuant to this Section.  
8     When setting the goals for the award of contracts, the Board  
9     shall not include contracts where: (1) licensees are purchasing  
10    goods or services from vendors or suppliers or in markets where  
11    there are no or a limited number of minority-owned ~~minority~~  
12    ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or  
13    businesses owned by persons with disabilities that would be  
14    sufficient to satisfy the goal; (2) there are no or a limited  
15    number of suppliers licensed by the Board; (3) the licensee or  
16    its parent company owns a company that provides the goods or  
17    services; or (4) the goods or services are provided to the  
18    licensee by a publicly traded company.

19       (c) Each organization licensee or inter-track wagering  
20    licensee shall file with the Board an annual report of its  
21    utilization of minority-owned ~~minority-owned~~ businesses,  
22    women-owned ~~female-owned~~ businesses, and businesses owned by  
23    persons with disabilities during the preceding calendar year.  
24    The reports shall include a self-evaluation of the efforts of  
25    the organization licensee or inter-track wagering licensee to  
26    meet its goals under this Section.

1           (d) The organization licensee or inter-track wagering  
2 licensee shall have the right to request a waiver from the  
3 requirements of this Section. The Board shall grant the waiver  
4 where the organization licensee or inter-track wagering  
5 licensee demonstrates that there has been made a good faith  
6 effort to comply with the goals for participation by  
7 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~  
8 ~~owned~~ businesses, and businesses owned by persons with  
9 disabilities.

10           (e) If the Board determines that its goals and policies are  
11 not being met by any organization licensee or inter-track  
12 wagering licensee, then the Board may:

13                 (1) adopt remedies for such violations; and

14                 (2) recommend that the organization licensee or  
15 inter-track wagering licensee provide additional  
16 opportunities for participation by minority-owned ~~minority~~  
17 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and  
18 businesses owned by persons with disabilities; such  
19 recommendations may include, but shall not be limited to:

20                     (A) assurances of stronger and better focused  
21 solicitation efforts to obtain more minority-owned  
22 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
23 businesses, and businesses owned by persons with  
24 disabilities as potential sources of supply;

25                     (B) division of job or project requirements, when  
26 economically feasible, into tasks or quantities to

1 permit participation of minority-owned ~~minority-owned~~  
2 businesses, women-owned ~~female-owned~~ businesses, and  
3 businesses owned by persons with disabilities;

4 (C) elimination of extended experience or  
5 capitalization requirements, when programmatically  
6 feasible, to permit participation of minority-owned  
7 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
8 businesses, and businesses owned by persons with  
9 disabilities;

10 (D) identification of specific proposed contracts  
11 as particularly attractive or appropriate for  
12 participation by minority-owned ~~minority-owned~~  
13 businesses, women-owned ~~female-owned~~ businesses, and  
14 businesses owned by persons with disabilities, such  
15 identification to result from and be coupled with the  
16 efforts of items (A) through (C); and

17 (E) implementation of regulations established for  
18 the use of the sheltered market process.

19 (f) The Board shall file, no later than March 1 of each  
20 year, an annual report that shall detail the level of  
21 achievement toward the goals specified in this Section over the  
22 3 most recent fiscal years. The annual report shall include,  
23 but need not be limited to:

24 (1) a summary detailing expenditures subject to the  
25 goals, the actual goals specified, and the goals attained  
26 by each organization licensee or inter-track wagering

1 licensee;

2 (2) a summary of the number of contracts awarded and  
3 the average contract amount by each organization licensee  
4 or inter-track wagering licensee;

5 (3) an analysis of the level of overall goal  
6 achievement concerning purchases from minority-owned  
7 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
8 businesses, and businesses owned by persons with  
9 disabilities;

10 (4) an analysis of the number of minority-owned  
11 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
12 businesses, and businesses owned by persons with  
13 disabilities that are certified under the program as well  
14 as the number of those businesses that received State  
15 procurement contracts; and

16 (5) (blank).

17 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;  
18 99-891, eff. 1-1-17.)

19 Section 150. The Riverboat Gambling Act is amended by  
20 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

21 (230 ILCS 10/4) (from Ch. 120, par. 2404)

22 Sec. 4. Definitions. As used in this Act:

23 (a) "Board" means the Illinois Gaming Board.

24 (b) "Occupational license" means a license issued by the

1 Board to a person or entity to perform an occupation which the  
2 Board has identified as requiring a license to engage in  
3 riverboat gambling in Illinois.

4 (c) "Gambling game" includes, but is not limited to,  
5 baccarat, twenty-one, poker, craps, slot machine, video game of  
6 chance, roulette wheel, klondike table, punchboard, faro  
7 layout, keno layout, numbers ticket, push card, jar ticket, or  
8 pull tab which is authorized by the Board as a wagering device  
9 under this Act.

10 (d) "Riverboat" means a self-propelled excursion boat, a  
11 permanently moored barge, or permanently moored barges that are  
12 permanently fixed together to operate as one vessel, on which  
13 lawful gambling is authorized and licensed as provided in this  
14 Act.

15 (e) "Managers license" means a license issued by the Board  
16 to a person or entity to manage gambling operations conducted  
17 by the State pursuant to Section 7.3.

18 (f) "Dock" means the location where a riverboat moors for  
19 the purpose of embarking passengers for and disembarking  
20 passengers from the riverboat.

21 (g) "Gross receipts" means the total amount of money  
22 exchanged for the purchase of chips, tokens or electronic cards  
23 by riverboat patrons.

24 (h) "Adjusted gross receipts" means the gross receipts less  
25 winnings paid to wagerers.

26 (i) "Cheat" means to alter the selection of criteria which

1 determine the result of a gambling game or the amount or  
2 frequency of payment in a gambling game.

3 (j) (Blank).

4 (k) "Gambling operation" means the conduct of authorized  
5 gambling games upon a riverboat.

6 (l) "License bid" means the lump sum amount of money that  
7 an applicant bids and agrees to pay the State in return for an  
8 owners license that is re-issued on or after July 1, 2003.

9 (m) The terms "minority person", "woman ~~female~~", and  
10 "person with a disability" shall have the same meaning as  
11 defined in Section 2 of the Business Enterprise for Minorities,  
12 Women ~~Females~~, and Persons with Disabilities Act.

13 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

14 (230 ILCS 10/7) (from Ch. 120, par. 2407)

15 Sec. 7. Owners Licenses.

16 (a) The Board shall issue owners licenses to persons, firms  
17 or corporations which apply for such licenses upon payment to  
18 the Board of the non-refundable license fee set by the Board,  
19 upon payment of a \$25,000 license fee for the first year of  
20 operation and a \$5,000 license fee for each succeeding year and  
21 upon a determination by the Board that the applicant is  
22 eligible for an owners license pursuant to this Act and the  
23 rules of the Board. From the effective date of this amendatory  
24 Act of the 95th General Assembly until (i) 3 years after the  
25 effective date of this amendatory Act of the 95th General

1 Assembly, (ii) the date any organization licensee begins to  
2 operate a slot machine or video game of chance under the  
3 Illinois Horse Racing Act of 1975 or this Act, (iii) the date  
4 that payments begin under subsection (c-5) of Section 13 of the  
5 Act, or (iv) the wagering tax imposed under Section 13 of this  
6 Act is increased by law to reflect a tax rate that is at least  
7 as stringent or more stringent than the tax rate contained in  
8 subsection (a-3) of Section 13, whichever occurs first, as a  
9 condition of licensure and as an alternative source of payment  
10 for those funds payable under subsection (c-5) of Section 13 of  
11 the Riverboat Gambling Act, any owners licensee that holds or  
12 receives its owners license on or after the effective date of  
13 this amendatory Act of the 94th General Assembly, other than an  
14 owners licensee operating a riverboat with adjusted gross  
15 receipts in calendar year 2004 of less than \$200,000,000, must  
16 pay into the Horse Racing Equity Trust Fund, in addition to any  
17 other payments required under this Act, an amount equal to 3%  
18 of the adjusted gross receipts received by the owners licensee.  
19 The payments required under this Section shall be made by the  
20 owners licensee to the State Treasurer no later than 3:00  
21 o'clock p.m. of the day after the day when the adjusted gross  
22 receipts were received by the owners licensee. A person, firm  
23 or corporation is ineligible to receive an owners license if:

24 (1) the person has been convicted of a felony under the  
25 laws of this State, any other state, or the United States;

26 (2) the person has been convicted of any violation of



1 Article 28 of the Criminal Code of 1961 or the Criminal  
2 Code of 2012, or substantially similar laws of any other  
3 jurisdiction;

4 (3) the person has submitted an application for a  
5 license under this Act which contains false information;

6 (4) the person is a member of the Board;

7 (5) a person defined in (1), (2), (3) or (4) is an  
8 officer, director or managerial employee of the firm or  
9 corporation;

10 (6) the firm or corporation employs a person defined in  
11 (1), (2), (3) or (4) who participates in the management or  
12 operation of gambling operations authorized under this  
13 Act;

14 (7) (blank); or

15 (8) a license of the person, firm or corporation issued  
16 under this Act, or a license to own or operate gambling  
17 facilities in any other jurisdiction, has been revoked.

18 The Board is expressly prohibited from making changes to  
19 the requirement that licensees make payment into the Horse  
20 Racing Equity Trust Fund without the express authority of the  
21 Illinois General Assembly and making any other rule to  
22 implement or interpret this amendatory Act of the 95th General  
23 Assembly. For the purposes of this paragraph, "rules" is given  
24 the meaning given to that term in Section 1-70 of the Illinois  
25 Administrative Procedure Act.

26 (b) In determining whether to grant an owners license to an

1 applicant, the Board shall consider:

2 (1) the character, reputation, experience and  
3 financial integrity of the applicants and of any other or  
4 separate person that either:

5 (A) controls, directly or indirectly, such  
6 applicant, or

7 (B) is controlled, directly or indirectly, by such  
8 applicant or by a person which controls, directly or  
9 indirectly, such applicant;

10 (2) the facilities or proposed facilities for the  
11 conduct of riverboat gambling;

12 (3) the highest prospective total revenue to be derived  
13 by the State from the conduct of riverboat gambling;

14 (4) the extent to which the ownership of the applicant  
15 reflects the diversity of the State by including minority  
16 persons, women ~~females~~, and persons with a disability and  
17 the good faith affirmative action plan of each applicant to  
18 recruit, train and upgrade minority persons, women  
19 ~~females~~, and persons with a disability in all employment  
20 classifications;

21 (5) the financial ability of the applicant to purchase  
22 and maintain adequate liability and casualty insurance;

23 (6) whether the applicant has adequate capitalization  
24 to provide and maintain, for the duration of a license, a  
25 riverboat;

26 (7) the extent to which the applicant exceeds or meets

1 other standards for the issuance of an owners license which  
2 the Board may adopt by rule; and

3 (8) The amount of the applicant's license bid.

4 (c) Each owners license shall specify the place where  
5 riverboats shall operate and dock.

6 (d) Each applicant shall submit with his application, on  
7 forms provided by the Board, 2 sets of his fingerprints.

8 (e) The Board may issue up to 10 licenses authorizing the  
9 holders of such licenses to own riverboats. In the application  
10 for an owners license, the applicant shall state the dock at  
11 which the riverboat is based and the water on which the  
12 riverboat will be located. The Board shall issue 5 licenses to  
13 become effective not earlier than January 1, 1991. Three of  
14 such licenses shall authorize riverboat gambling on the  
15 Mississippi River, or, with approval by the municipality in  
16 which the riverboat was docked on August 7, 2003 and with Board  
17 approval, be authorized to relocate to a new location, in a  
18 municipality that (1) borders on the Mississippi River or is  
19 within 5 miles of the city limits of a municipality that  
20 borders on the Mississippi River and (2), on August 7, 2003,  
21 had a riverboat conducting riverboat gambling operations  
22 pursuant to a license issued under this Act; one of which shall  
23 authorize riverboat gambling from a home dock in the city of  
24 East St. Louis. One other license shall authorize riverboat  
25 gambling on the Illinois River south of Marshall County. The  
26 Board shall issue one additional license to become effective

1 not earlier than March 1, 1992, which shall authorize riverboat  
2 gambling on the Des Plaines River in Will County. The Board may  
3 issue 4 additional licenses to become effective not earlier  
4 than March 1, 1992. In determining the water upon which  
5 riverboats will operate, the Board shall consider the economic  
6 benefit which riverboat gambling confers on the State, and  
7 shall seek to assure that all regions of the State share in the  
8 economic benefits of riverboat gambling.

9 In granting all licenses, the Board may give favorable  
10 consideration to economically depressed areas of the State, to  
11 applicants presenting plans which provide for significant  
12 economic development over a large geographic area, and to  
13 applicants who currently operate non-gambling riverboats in  
14 Illinois. The Board shall review all applications for owners  
15 licenses, and shall inform each applicant of the Board's  
16 decision. The Board may grant an owners license to an applicant  
17 that has not submitted the highest license bid, but if it does  
18 not select the highest bidder, the Board shall issue a written  
19 decision explaining why another applicant was selected and  
20 identifying the factors set forth in this Section that favored  
21 the winning bidder.

22 In addition to any other revocation powers granted to the  
23 Board under this Act, the Board may revoke the owners license  
24 of a licensee which fails to begin conducting gambling within  
25 15 months of receipt of the Board's approval of the application  
26 if the Board determines that license revocation is in the best

1 interests of the State.

2 (f) The first 10 owners licenses issued under this Act  
3 shall permit the holder to own up to 2 riverboats and equipment  
4 thereon for a period of 3 years after the effective date of the  
5 license. Holders of the first 10 owners licenses must pay the  
6 annual license fee for each of the 3 years during which they  
7 are authorized to own riverboats.

8 (g) Upon the termination, expiration, or revocation of each  
9 of the first 10 licenses, which shall be issued for a 3 year  
10 period, all licenses are renewable annually upon payment of the  
11 fee and a determination by the Board that the licensee  
12 continues to meet all of the requirements of this Act and the  
13 Board's rules. However, for licenses renewed on or after May 1,  
14 1998, renewal shall be for a period of 4 years, unless the  
15 Board sets a shorter period.

16 (h) An owners license shall entitle the licensee to own up  
17 to 2 riverboats. A licensee shall limit the number of gambling  
18 participants to 1,200 for any such owners license. A licensee  
19 may operate both of its riverboats concurrently, provided that  
20 the total number of gambling participants on both riverboats  
21 does not exceed 1,200. Riverboats licensed to operate on the  
22 Mississippi River and the Illinois River south of Marshall  
23 County shall have an authorized capacity of at least 500  
24 persons. Any other riverboat licensed under this Act shall have  
25 an authorized capacity of at least 400 persons.

26 (i) A licensed owner is authorized to apply to the Board

1 for and, if approved therefor, to receive all licenses from the  
2 Board necessary for the operation of a riverboat, including a  
3 liquor license, a license to prepare and serve food for human  
4 consumption, and other necessary licenses. All use, occupation  
5 and excise taxes which apply to the sale of food and beverages  
6 in this State and all taxes imposed on the sale or use of  
7 tangible personal property apply to such sales aboard the  
8 riverboat.

9 (j) The Board may issue or re-issue a license authorizing a  
10 riverboat to dock in a municipality or approve a relocation  
11 under Section 11.2 only if, prior to the issuance or  
12 re-issuance of the license or approval, the governing body of  
13 the municipality in which the riverboat will dock has by a  
14 majority vote approved the docking of riverboats in the  
15 municipality. The Board may issue or re-issue a license  
16 authorizing a riverboat to dock in areas of a county outside  
17 any municipality or approve a relocation under Section 11.2  
18 only if, prior to the issuance or re-issuance of the license or  
19 approval, the governing body of the county has by a majority  
20 vote approved of the docking of riverboats within such areas.

21 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

22 (230 ILCS 10/7.1)

23 Sec. 7.1. Re-issuance of revoked or non-renewed owners  
24 licenses.

25 (a) If an owners license terminates or expires without

1 renewal or the Board revokes or determines not to renew an  
2 owners license (including, without limitation, an owners  
3 license for a licensee that was not conducting riverboat  
4 gambling operations on January 1, 1998) and that revocation or  
5 determination is final, the Board may re-issue such license to  
6 a qualified applicant pursuant to an open and competitive  
7 bidding process, as set forth in Section 7.5, and subject to  
8 the maximum number of authorized licenses set forth in Section  
9 7(e).

10 (b) To be a qualified applicant, a person, firm, or  
11 corporation cannot be ineligible to receive an owners license  
12 under Section 7(a) and must submit an application for an owners  
13 license that complies with Section 6. Each such applicant must  
14 also submit evidence to the Board that minority persons and  
15 women ~~females~~ hold ownership interests in the applicant of at  
16 least 16% and 4% respectively.

17 (c) Notwithstanding anything to the contrary in Section  
18 7(e), an applicant may apply to the Board for approval of  
19 relocation of a re-issued license to a new home dock location  
20 authorized under Section 3(c) upon receipt of the approval from  
21 the municipality or county, as the case may be, pursuant to  
22 Section 7(j).

23 (d) In determining whether to grant a re-issued owners  
24 license to an applicant, the Board shall consider all of the  
25 factors set forth in Sections 7(b) and (e) as well as the  
26 amount of the applicant's license bid. The Board may grant the

1 re-issued owners license to an applicant that has not submitted  
2 the highest license bid, but if it does not select the highest  
3 bidder, the Board shall issue a written decision explaining why  
4 another applicant was selected and identifying the factors set  
5 forth in Sections 7(b) and (e) that favored the winning bidder.

6 (e) Re-issued owners licenses shall be subject to annual  
7 license fees as provided for in Section 7(a) and shall be  
8 governed by the provisions of Sections 7(f), (g), (h), and (i).

9 (Source: P.A. 93-28, eff. 6-20-03.)

10 (230 ILCS 10/7.4)

11 Sec. 7.4. Managers licenses.

12 (a) A qualified person may apply to the Board for a  
13 managers license to operate and manage any gambling operation  
14 conducted by the State. The application shall be made on forms  
15 provided by the Board and shall contain such information as the  
16 Board prescribes, including but not limited to information  
17 required in Sections 6(a), (b), and (c) and information  
18 relating to the applicant's proposed price to manage State  
19 gambling operations and to provide the riverboat, gambling  
20 equipment, and supplies necessary to conduct State gambling  
21 operations.

22 (b) Each applicant must submit evidence to the Board that  
23 minority persons and women ~~females~~ hold ownership interests in  
24 the applicant of at least 16% and 4%, respectively.

25 (c) A person, firm, or corporation is ineligible to receive



1 a managers license if:

2 (1) the person has been convicted of a felony under the  
3 laws of this State, any other state, or the United States;

4 (2) the person has been convicted of any violation of  
5 Article 28 of the Criminal Code of 1961 or the Criminal  
6 Code of 2012, or substantially similar laws of any other  
7 jurisdiction;

8 (3) the person has submitted an application for a  
9 license under this Act which contains false information;

10 (4) the person is a member of the Board;

11 (5) a person defined in (1), (2), (3), or (4) is an  
12 officer, director, or managerial employee of the firm or  
13 corporation;

14 (6) the firm or corporation employs a person defined in  
15 (1), (2), (3), or (4) who participates in the management or  
16 operation of gambling operations authorized under this  
17 Act; or

18 (7) a license of the person, firm, or corporation  
19 issued under this Act, or a license to own or operate  
20 gambling facilities in any other jurisdiction, has been  
21 revoked.

22 (d) Each applicant shall submit with his or her  
23 application, on forms prescribed by the Board, 2 sets of his or  
24 her fingerprints.

25 (e) The Board shall charge each applicant a fee, set by the  
26 Board, to defray the costs associated with the background

1 investigation conducted by the Board.

2 (f) A person who knowingly makes a false statement on an  
3 application is guilty of a Class A misdemeanor.

4 (g) The managers license shall be for a term not to exceed  
5 10 years, shall be renewable at the Board's option, and shall  
6 contain such terms and provisions as the Board deems necessary  
7 to protect or enhance the credibility and integrity of State  
8 gambling operations, achieve the highest prospective total  
9 revenue to the State, and otherwise serve the interests of the  
10 citizens of Illinois.

11 (h) Issuance of a managers license shall be subject to an  
12 open and competitive bidding process. The Board may select an  
13 applicant other than the lowest bidder by price. If it does not  
14 select the lowest bidder, the Board shall issue a notice of who  
15 the lowest bidder was and a written decision as to why another  
16 bidder was selected.

17 (Source: P.A. 97-1150, eff. 1-25-13.)

18 (230 ILCS 10/7.6)

19 Sec. 7.6. Business enterprise program.

20 (a) For the purposes of this Section, the terms "minority",  
21 "minority-owned ~~minority-owned~~ business", "woman ~~female~~", "  
22 women-owned ~~female-owned~~ business", "person with a  
23 disability", and "business owned by a person with a disability"  
24 have the meanings ascribed to them in the Business Enterprise  
25 for Minorities, Women ~~Females~~, and Persons with Disabilities

1 Act.

2 (b) The Board shall, by rule, establish goals for the award  
3 of contracts by each owners licensee to businesses owned by  
4 minorities, women ~~females~~, and persons with disabilities,  
5 expressed as percentages of an owners licensee's total dollar  
6 amount of contracts awarded during each calendar year. Each  
7 owners licensee must make every effort to meet the goals  
8 established by the Board pursuant to this Section. When setting  
9 the goals for the award of contracts, the Board shall not  
10 include contracts where: (1) any purchasing mandates would be  
11 dependent upon the availability of minority-owned ~~minority~~  
12 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and  
13 businesses owned by persons with disabilities ready, willing,  
14 and able with capacity to provide quality goods and services to  
15 a gaming operation at reasonable prices; (2) there are no or a  
16 limited number of licensed suppliers as defined by this Act for  
17 the goods or services provided to the licensee; (3) the  
18 licensee or its parent company owns a company that provides the  
19 goods or services; or (4) the goods or services are provided to  
20 the licensee by a publicly traded company.

21 (c) Each owners licensee shall file with the Board an  
22 annual report of its utilization of minority-owned ~~minority~~  
23 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and  
24 businesses owned by persons with disabilities during the  
25 preceding calendar year. The reports shall include a  
26 self-evaluation of the efforts of the owners licensee to meet

1 its goals under this Section.

2 (d) The owners licensee shall have the right to request a  
3 waiver from the requirements of this Section. The Board shall  
4 grant the waiver where the owners licensee demonstrates that  
5 there has been made a good faith effort to comply with the  
6 goals for participation by minority-owned ~~minority-owned~~  
7 businesses, women-owned ~~female-owned~~ businesses, and  
8 businesses owned by persons with disabilities.

9 (e) If the Board determines that its goals and policies are  
10 not being met by any owners licensee, then the Board may:

11 (1) adopt remedies for such violations; and

12 (2) recommend that the owners licensee provide  
13 additional opportunities for participation by  
14 minority-owned ~~minority-owned~~ businesses, women-owned  
15 ~~female-owned~~ businesses, and businesses owned by persons  
16 with disabilities; such recommendations may include, but  
17 shall not be limited to:

18 (A) assurances of stronger and better focused  
19 solicitation efforts to obtain more minority-owned  
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
21 businesses, and businesses owned by persons with  
22 disabilities as potential sources of supply;

23 (B) division of job or project requirements, when  
24 economically feasible, into tasks or quantities to  
25 permit participation of minority-owned ~~minority-owned~~  
26 businesses, women-owned ~~female-owned~~ businesses, and

1 businesses owned by persons with disabilities;

2 (C) elimination of extended experience or  
3 capitalization requirements, when programmatically  
4 feasible, to permit participation of minority-owned  
5 ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
6 businesses, and businesses owned by persons with  
7 disabilities;

8 (D) identification of specific proposed contracts  
9 as particularly attractive or appropriate for  
10 participation by minority-owned ~~minority-owned~~  
11 businesses, women-owned ~~female-owned~~ businesses, and  
12 businesses owned by persons with disabilities, such  
13 identification to result from and be coupled with the  
14 efforts of items (A) through (C); and

15 (E) implementation of regulations established for  
16 the use of the sheltered market process.

17 (f) The Board shall file, no later than March 1 of each  
18 year, an annual report that shall detail the level of  
19 achievement toward the goals specified in this Section over the  
20 3 most recent fiscal years. The annual report shall include,  
21 but need not be limited to:

22 (1) a summary detailing expenditures subject to the  
23 goals, the actual goals specified, and the goals attained  
24 by each owners licensee; and

25 (2) an analysis of the level of overall goal  
26 achievement concerning purchases from minority-owned

1       ~~minority-owned~~ businesses, women-owned ~~female-owned~~  
2       businesses, and businesses owned by persons with  
3       disabilities.

4       (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

5             (230 ILCS 10/11.2)

6             Sec. 11.2. Relocation of riverboat home dock.

7             (a) A licensee that was not conducting riverboat gambling  
8       on January 1, 1998 may apply to the Board for renewal and  
9       approval of relocation to a new home dock location authorized  
10      under Section 3(c) and the Board shall grant the application  
11      and approval upon receipt by the licensee of approval from the  
12      new municipality or county, as the case may be, in which the  
13      licensee wishes to relocate pursuant to Section 7(j).

14            (b) Any licensee that relocates its home dock pursuant to  
15      this Section shall attain a level of at least 20% minority  
16      person and woman ~~female~~ ownership, at least 16% and 4%  
17      respectively, within a time period prescribed by the Board, but  
18      not to exceed 12 months from the date the licensee begins  
19      conducting gambling at the new home dock location. The 12-month  
20      period shall be extended by the amount of time necessary to  
21      conduct a background investigation pursuant to Section 6. For  
22      the purposes of this Section, the terms "woman ~~female~~" and  
23      "minority person" have the meanings provided in Section 2 of  
24      the Business Enterprise for Minorities, Women ~~Females~~, and  
25      Persons with Disabilities Act.

1 (Source: P.A. 91-40, eff. 6-25-99.)

2 Section 155. The Environmental Protection Act is amended by  
3 changing Section 14.7 as follows:

4 (415 ILCS 5/14.7)

5 (This Section may contain text from a Public Act with a  
6 delayed effective date)

7 Sec. 14.7. Preservation of community water supplies.

8 (a) The Agency shall adopt rules governing certain  
9 corrosion prevention projects carried out on community water  
10 supplies. Those rules shall not apply to buried pipelines  
11 including, but not limited to, pipes, mains, and joints. The  
12 rules shall exclude routine maintenance activities of  
13 community water supplies including, but not limited to, the use  
14 of protective coatings applied by the owner's utility personnel  
15 during the course of performing routine maintenance  
16 activities. The activities may include, but not be limited to,  
17 the painting of fire hydrants; routine over-coat painting of  
18 interior and exterior building surfaces such as floors, doors,  
19 windows, and ceilings; and routine touch-up and over-coat  
20 application of protective coatings typically found on water  
21 utility pumps, pipes, tanks, and other water treatment plant  
22 appurtenances and utility owned structures. Those rules shall  
23 include:

24 (1) standards for ensuring that community water

1 supplies carry out corrosion prevention and mitigation  
2 methods according to corrosion prevention industry  
3 standards adopted by the Agency;

4 (2) requirements that community water supplies use:

5 (A) protective coatings personnel to carry out  
6 corrosion prevention and mitigation methods on exposed  
7 water treatment tanks, exposed non-concrete water  
8 treatment structures, exposed water treatment pipe  
9 galleys; exposed pumps; and generators; the Agency  
10 shall not limit to protective coatings personnel any  
11 other work relating to prevention and mitigation  
12 methods on any other water treatment appurtenances  
13 where protective coatings are utilized for corrosion  
14 control and prevention to prolong the life of the water  
15 utility asset; and

16 (B) inspectors to ensure that best practices and  
17 standards are adhered to on each corrosion prevention  
18 project; and

19 (3) standards to prevent environmental degradation  
20 that might occur as a result of carrying out corrosion  
21 prevention and mitigation methods including, but not  
22 limited to, standards to prevent the improper handling and  
23 containment of hazardous materials, especially lead paint,  
24 removed from the exterior of a community water supply.

25 In adopting rules under this subsection (a), the Agency  
26 shall obtain input from corrosion industry experts



1 specializing in the training of personnel to carry out  
2 corrosion prevention and mitigation methods.

3 (b) As used in this Section:

4 "Community water supply" has the meaning ascribed to that  
5 term in Section 3.145 of this Act.

6 "Corrosion" means a naturally occurring phenomenon  
7 commonly defined as the deterioration of a metal that results  
8 from a chemical or electrochemical reaction with its  
9 environment.

10 "Corrosion prevention and mitigation methods" means the  
11 preparation, application, installation, removal, or general  
12 maintenance as necessary of a protective coating system,  
13 including any or more of the following:

14 (A) surface preparation and coating application on  
15 the exterior or interior of a community water supply;  
16 or

17 (B) shop painting of structural steel fabricated  
18 for installation as part of a community water supply.

19 "Corrosion prevention project" means carrying out  
20 corrosion prevention and mitigation methods. "Corrosion  
21 prevention project" does not include clean-up related to  
22 surface preparation.

23 "Protective coatings personnel" means personnel employed  
24 or retained by a contractor providing services covered by this  
25 Section to carry out corrosion prevention or mitigation methods  
26 or inspections.

1 (c) This Section shall apply to only those projects  
2 receiving 100% funding from the State.

3 (d) Each contract procured pursuant to the Illinois  
4 Procurement Code for the provision of services covered by this  
5 Section (1) shall comply with applicable provisions of the  
6 Illinois Procurement Code and (2) shall include provisions for  
7 reporting participation by minority persons, as defined by  
8 Section 2 of the Business Enterprise for Minorities, Women  
9 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as  
10 defined by Section 2 of the Business Enterprise for Minorities,  
11 Women ~~Females~~, and Persons with Disabilities Act; and veterans,  
12 as defined by Section 45-57 of the Illinois Procurement Code,  
13 in apprenticeship and training programs in which the contractor  
14 or his or her subcontractors participate. The requirements of  
15 this Section do not apply to an individual licensed under the  
16 Professional Engineering Practice Act of 1989 or the Structural  
17 Engineering Act of 1989.

18 (Source: P.A. 99-923, eff. 7-1-17.)

19 Section 160. The Public Private Agreements for the Illiana  
20 Expressway Act is amended by changing Section 20 as follows:

21 (605 ILCS 130/20)

22 Sec. 20. Procurement; request for proposals process.

23 (a) Notwithstanding any provision of law to the contrary,  
24 the Department on behalf of the State shall select a contractor

1 through a competitive request for proposals process governed by  
2 the Illinois Procurement Code and rules adopted under that Code  
3 and this Act.

4 (b) The competitive request for proposals process shall, at  
5 a minimum, solicit statements of qualification and proposals  
6 from offerors.

7 (c) The competitive request for proposals process shall, at  
8 a minimum, take into account the following criteria:

9 (1) The offeror's plans for the Illiana Expressway  
10 project;

11 (2) The offeror's current and past business practices;

12 (3) The offeror's poor or inadequate past performance  
13 in developing, financing, constructing, managing, or  
14 operating highways or other public assets;

15 (4) The offeror's ability to meet and past performance  
16 in meeting or exhausting good faith efforts to meet the  
17 utilization goals for business enterprises established in  
18 the Business Enterprise for Minorities, Women ~~Females~~, and  
19 Persons with Disabilities Act;

20 (5) The offeror's ability to comply with and past  
21 performance in complying with Section 2-105 of the Illinois  
22 Human Rights Act; and

23 (6) The offeror's plans to comply with the Business  
24 Enterprise for Minorities, Women ~~Females~~, and Persons with  
25 Disabilities Act and Section 2-105 of the Illinois Human  
26 Rights Act.

1           (d) The Department shall retain the services of an advisor  
2 or advisors with significant experience in the development,  
3 financing, construction, management, or operation of public  
4 assets to assist in the preparation of the request for  
5 proposals.

6           (e) The Department shall not include terms in the request  
7 for proposals that provide an advantage, whether directly or  
8 indirectly, to any contractor presently providing goods,  
9 services, or equipment to the Department.

10          (f) The Department shall select at least 2 offerors as  
11 finalists. The Department shall submit the offerors'  
12 statements of qualification and proposals to the Commission on  
13 Government Forecasting and Accountability and the Procurement  
14 Policy Board, which shall, within 30 days of the submission,  
15 complete a review of the statements of qualification and  
16 proposals and, jointly or separately, report on, at a minimum,  
17 the satisfaction of the criteria contained in the request for  
18 proposals, the qualifications of the offerors, and the value of  
19 the proposals to the State. The Department shall not select an  
20 offeror as the contractor for the Illiana Expressway project  
21 until it has received and considered the findings of the  
22 Commission on Government Forecasting and Accountability and  
23 the Procurement Policy Board as set forth in their respective  
24 reports.

25          (g) Before awarding a public private agreement to an  
26 offeror, the Department shall schedule and hold a public

1 hearing or hearings on the proposed public private agreement  
2 and publish notice of the hearing or hearings at least 7 days  
3 before the hearing and in accordance with Section 4-219 of the  
4 Illinois Highway Code. The notice must include the following:

5 (1) the date, time, and place of the hearing and the  
6 address of the Department;

7 (2) the subject matter of the hearing;

8 (3) a description of the agreement that may be awarded;  
9 and

10 (4) the recommendation that has been made to select an  
11 offeror as the contractor for the Illiana Expressway  
12 project.

13 At the hearing, the Department shall allow the public to be  
14 heard on the subject of the hearing.

15 (h) After the procedures required in this Section have been  
16 completed, the Department shall make a determination as to  
17 whether the offeror should be designated as the contractor for  
18 the Illiana Expressway project and shall submit the decision to  
19 the Governor and to the Governor's Office of Management and  
20 Budget. After review of the Department's determination, the  
21 Governor may accept or reject the determination. If the  
22 Governor accepts the determination of the Department, the  
23 Governor shall designate the offeror for the Illiana Expressway  
24 project.

25 (Source: P.A. 96-913, eff. 6-9-10.)

1           Section 165. The Public-Private Agreements for the South  
2 Suburban Airport Act is amended by changing Section 2-30 as  
3 follows:

4           (620 ILCS 75/2-30)

5           Sec. 2-30. Request for proposals process to enter into  
6 public-private agreements.

7           (a) Notwithstanding any provisions of the Illinois  
8 Procurement Code, the Department, on behalf of the State, shall  
9 select a contractor through a competitive request for proposals  
10 process governed by Section 2-30 of this Act. The Department  
11 will consult with the chief procurement officer for  
12 construction or construction-related activities designated  
13 pursuant to clause (2) of Section 1-15.15 of the Illinois  
14 Procurement Code on the competitive request for proposals  
15 process, and the Secretary will determine, in consultation with  
16 the chief procurement officer, which procedures to adopt and  
17 apply to the competitive request for proposals process in order  
18 to ensure an open, transparent, and efficient process that  
19 accomplishes the purposes of this Act.

20           (b) The competitive request for proposals process shall, at  
21 a minimum, solicit statements of qualification and proposals  
22 from offerors.

23           (c) The competitive request for proposals process shall, at  
24 a minimum, take into account the following criteria:

25           (1) the offeror's plans for the South Suburban Airport

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 airports or other public assets;

6 (4) the offeror's ability to meet the utilization goals  
7 for business enterprises established in the Business  
8 Enterprise for Minorities, Women ~~Females~~, and Persons with  
9 Disabilities Act;

10 (5) the offeror's ability to comply with Section 2-105  
11 of the Illinois Human Rights Act; and

12 (6) the offeror's plans to comply with the Business  
13 Enterprise for Minorities, Women ~~Females~~, and Persons with  
14 Disabilities Act and Section 2-105 of the Illinois Human  
15 Rights Act.

16 (d) The Department shall retain the services of an advisor  
17 or advisors with significant experience in the development,  
18 financing, construction, management, or operation of public  
19 assets to assist in the preparation of the request for  
20 proposals.

21 (e) The Department shall not include terms in the request  
22 for proposals that provide an advantage, whether directly or  
23 indirectly, to any contractor presently providing goods,  
24 services, or equipment to the Department.

25 (f) The Department shall select one or more offerors as  
26 finalists. The Department shall submit the offeror's

1 statements of qualification and proposals to the Commission on  
2 Government Forecasting and Accountability and the Procurement  
3 Policy Board, which shall, within 30 days after the submission,  
4 complete a review of the statements of qualification and  
5 proposals and, jointly or separately, report on, at a minimum,  
6 the satisfaction of the criteria contained in the request for  
7 proposals, the qualifications of the offerors, and the value of  
8 the proposals to the State. The Department shall not select an  
9 offeror as the contractor for the South Suburban Airport  
10 project until it has received and considered the findings of  
11 the Commission on Government Forecasting and Accountability  
12 and the Procurement Policy Board as set forth in their  
13 respective reports.

14 (g) Before awarding a public-private agreement to an  
15 offeror, the Department shall schedule and hold a public  
16 hearing or hearings on the proposed public-private agreement  
17 and publish notice of the hearing or hearings at least 7 days  
18 before the hearing. The notice shall include the following:

19 (1) the date, time, and place of the hearing and the  
20 address of the Department;

21 (2) the subject matter of the hearing;

22 (3) a description of the agreement that may be awarded;

23 and

24 (4) the recommendation that has been made to select an  
25 offeror as the contractor for the South Suburban Airport  
26 project.



1           At the hearing, the Department shall allow the public to be  
2 heard on the subject of the hearing.

3           (h) After the procedures required in this Section have been  
4 completed, the Department shall make a determination as to  
5 whether the offeror should be designated as the contractor for  
6 the South Suburban Airport project and shall submit the  
7 decision to the Governor and to the Governor's Office of  
8 Management and Budget. After review of the Department's  
9 determination, the Governor may accept or reject the  
10 determination. If the Governor accepts the determination of the  
11 Department, the Governor shall designate the offeror for the  
12 South Suburban Airport project.

13           (Source: P.A. 98-109, eff. 7-25-13.)

14           Section 170. The Public-Private Partnerships for  
15 Transportation Act is amended by changing Section 25 as  
16 follows:

17           (630 ILCS 5/25)

18           Sec. 25. Design-build procurement.

19           (a) This Section 25 shall apply only to transportation  
20 projects for which the Department or the Authority intends to  
21 execute a design-build agreement, in which case the Department  
22 or the Authority shall abide by the requirements and procedures  
23 of this Section 25 in addition to other applicable requirements  
24 and procedures set forth in this Act.

1           (b) (1) The transportation agency must issue a notice of  
2 intent to receive proposals for the project at least 14 days  
3 before issuing the request for the qualifications. The  
4 transportation agency must publish the advance notice in a  
5 daily newspaper of general circulation in the county where the  
6 transportation agency is located. The transportation agency is  
7 encouraged to use publication of the notice in related  
8 construction industry service publications. A brief  
9 description of the proposed procurement must be included in the  
10 notice. The transportation agency must provide a copy of the  
11 request for qualifications to any party requesting a copy.

12           (2) The request for qualifications shall be prepared for  
13 each project and must contain, without limitation, the  
14 following information: (i) the name of the transportation  
15 agency; (ii) a preliminary schedule for the completion of the  
16 contract; (iii) the proposed budget for the project and the  
17 source of funds, to the extent not already reflected in the  
18 Department's Multi-Year Highway Improvement Program; (iv) the  
19 shortlisting process for entities or groups of entities such as  
20 unincorporated joint ventures wishing to submit proposals (the  
21 transportation agency shall include, at a minimum, its normal  
22 prequalification, licensing, registration, and other  
23 requirements, but nothing contained herein precludes the use of  
24 additional criteria by the transportation agency); (v) a  
25 summary of anticipated material requirements of the contract,  
26 including but not limited to, the proposed terms and

1 conditions, required performance and payment bonds, insurance,  
2 and the utilization goals established by the transportation  
3 agency for minority and women business enterprises and  
4 compliance with Section 2-105 of the Illinois Human Rights Act;  
5 and (vi) the anticipated number of entities that will be  
6 shortlisted for the request for proposals phase.

7 (3) The transportation agency may include any other  
8 relevant information in the request for qualifications that it  
9 chooses to supply. The private entity shall be entitled to rely  
10 upon the accuracy of this documentation in the development of  
11 its statement of qualifications and its proposal only to the  
12 extent expressly warranted by the transportation agency.

13 (4) The date that statements of qualifications are due must  
14 be at least 21 calendar days after the date of the issuance of  
15 the request for qualifications. In the event the cost of the  
16 project is estimated to exceed \$12,000,000, then the statement  
17 of qualifications due date must be at least 28 calendar days  
18 after the date of the issuance of the request for  
19 qualifications. The transportation agency shall include in the  
20 request for proposals a minimum of 30 days to develop the  
21 proposals after the selection of entities from the evaluation  
22 of the statements of qualifications is completed.

23 (c)(1) The transportation agency shall develop, with the  
24 assistance of a licensed design professional, the request for  
25 qualifications and the request for proposals, which shall  
26 include scope and performance criteria. The scope and

1 performance criteria must be in sufficient detail and contain  
2 adequate information to reasonably apprise the private  
3 entities of the transportation agency's overall programmatic  
4 needs and goals, including criteria and preliminary design  
5 plans, general budget parameters, schedule, and delivery  
6 requirements.

7 (2) Each request for qualifications and request for  
8 proposals shall also include a description of the level of  
9 design to be provided in the proposals. This description must  
10 include the scope and type of renderings, drawings, and  
11 specifications that, at a minimum, will be required by the  
12 transportation agency to be produced by the private entities.

13 (3) The scope and performance criteria shall be prepared by  
14 a design professional who is an employee of the transportation  
15 agency, or the transportation agency may contract with an  
16 independent design professional selected under the  
17 Architectural, Engineering, and Land Surveying Qualifications  
18 Based Selection Act to provide these services.

19 (4) The design professional that prepares the scope and  
20 performance criteria is prohibited from participating in any  
21 private entity proposal for the project.

22 (d)(1) The transportation agency must use a two phase  
23 procedure for the selection of the successful design-build  
24 entity. The request for qualifications phase will evaluate and  
25 shortlist the private entities based on qualifications, and the  
26 request for proposals will evaluate the technical and cost

1 proposals.

2 (2) The transportation agency shall include in the request  
3 for qualifications the evaluating factors to be used in the  
4 request for qualifications phase. These factors are in addition  
5 to any prequalification requirements of private entities that  
6 the transportation agency has set forth. Each request for  
7 qualifications shall establish the relative importance  
8 assigned to each evaluation factor, including any weighting of  
9 criteria to be employed by the transportation agency. The  
10 transportation agency must maintain a record of the evaluation  
11 scoring to be disclosed in event of a protest regarding the  
12 solicitation.

13 The transportation agency shall include the following  
14 criteria in every request for qualifications phase evaluation  
15 of private entities: (i) experience of personnel; (ii)  
16 successful experience with similar project types; (iii)  
17 financial capability; (iv) timeliness of past performance; (v)  
18 experience with similarly sized projects; (vi) successful  
19 reference checks of the firm; (vii) commitment to assign  
20 personnel for the duration of the project and qualifications of  
21 the entity's consultants; and (viii) ability or past  
22 performance in meeting or exhausting good faith efforts to meet  
23 the utilization goals for business enterprises established in  
24 the Business Enterprise for Minorities, Women ~~Females~~, and  
25 Persons with Disabilities Act and in complying with Section  
26 2-105 of the Illinois Human Rights Act. No proposal shall be

1 considered that does not include an entity's plan to comply  
2 with the requirements regarding minority and women business  
3 enterprises and economically disadvantaged firms established  
4 by the transportation agency and with Section 2-105 of the  
5 Illinois Human Rights Act. The transportation agency may  
6 include any additional relevant criteria in the request for  
7 qualifications phase that it deems necessary for a proper  
8 qualification review.

9 Upon completion of the qualifications evaluation, the  
10 transportation agency shall create a shortlist of the most  
11 highly qualified private entities.

12 The transportation agency shall notify the entities  
13 selected for the shortlist in writing. This notification shall  
14 commence the period for the preparation of the request for  
15 proposals phase technical and cost evaluations. The  
16 transportation agency must allow sufficient time for the  
17 shortlist entities to prepare their proposals considering the  
18 scope and detail requested by the transportation agency.

19 (3) The transportation agency shall include in the request  
20 for proposals the evaluating factors to be used in the  
21 technical and cost submission components. Each request for  
22 proposals shall establish, for both the technical and cost  
23 submission components, the relative importance assigned to  
24 each evaluation factor, including any weighting of criteria to  
25 be employed by the transportation agency. The transportation  
26 agency must maintain a record of the evaluation scoring to be

1 disclosed in event of a protest regarding the solicitation.

2 The transportation agency shall include the following  
3 criteria in every request for proposals phase technical  
4 evaluation of private entities: (i) compliance with objectives  
5 of the project; (ii) compliance of proposed services to the  
6 request for proposal requirements; (iii) compliance with the  
7 request for proposal requirements of products or materials  
8 proposed; (iv) quality of design parameters; and (v) design  
9 concepts. The transportation agency may include any additional  
10 relevant technical evaluation factors it deems necessary for  
11 proper selection.

12 The transportation agency shall include the following  
13 criteria in every request for proposals phase cost evaluation:  
14 the total project cost and the time of completion. The  
15 transportation agency may include any additional relevant  
16 technical evaluation factors it deems necessary for proper  
17 selection. The guaranteed maximum project cost criteria  
18 weighing factor shall not exceed 30%.

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

23 (e) Statements of qualifications and proposals must be  
24 properly identified and sealed. Statements of qualifications  
25 and proposals may not be reviewed until after the deadline for  
26 submission has passed as set forth in the request for

1 qualifications or the request for proposals. All private  
2 entities submitting statements of qualifications or proposals  
3 shall be disclosed after the deadline for submission, and all  
4 private entities who are selected for request for proposals  
5 phase evaluation shall also be disclosed at the time of that  
6 determination.

7 Design-build proposals shall include a bid bond in the form  
8 and security as designated in the request for proposals.  
9 Proposals shall also contain a separate sealed envelope with  
10 the cost information within the overall proposal submission.  
11 Proposals shall include a list of all design professionals and  
12 other entities to which any work identified in Section 30-30 of  
13 the Illinois Procurement Code as a subdivision of construction  
14 work may be subcontracted during the performance of the  
15 contract to the extent known at the time of proposal. If the  
16 information is not known at the time of proposal, then the  
17 design-build agreement shall require the identification prior  
18 to a previously unlisted subcontractor commencing work on the  
19 transportation project.

20 Statements of qualifications and proposals must meet all  
21 material requirements of the request for qualifications or  
22 request for proposals, or else they may be rejected as  
23 non-responsive. The transportation agency shall have the right  
24 to reject any and all statements of qualifications and  
25 proposals.

26 The private entity's proprietary intellectual property



1 contained in the drawings and specifications of any  
2 unsuccessful statement of qualifications or proposal shall  
3 remain the property of the private entity.

4 The transportation agency shall review the statements of  
5 qualifications and the proposals for compliance with the  
6 performance criteria and evaluation factors.

7 Statements of qualifications and proposals may be  
8 withdrawn prior to the due date and time for submissions for  
9 any cause. After evaluation begins by the transportation  
10 agency, clear and convincing evidence of error is required for  
11 withdrawal.

12 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

13 Section 175. The Criminal Code of 2012 is amended by  
14 changing Sections 17-10.3 and 33E-2 as follows:

15 (720 ILCS 5/17-10.3)

16 Sec. 17-10.3. Deception relating to certification of  
17 disadvantaged business enterprises.

18 (a) Fraudulently obtaining or retaining certification. A  
19 person who, in the course of business, fraudulently obtains or  
20 retains certification as a minority-owned ~~minority-owned~~  
21 business, women-owned ~~female-owned~~ business, service-disabled  
22 veteran-owned small business, or veteran-owned small business  
23 commits a Class 2 felony.

24 (b) Willfully making a false statement. A person who, in

1 the course of business, willfully makes a false statement  
2 whether by affidavit, report or other representation, to an  
3 official or employee of a State agency or the ~~Minority and~~  
4 ~~Female~~ Business Enterprise Council for Minorities, Women, and  
5 Persons with Disabilities for the purpose of influencing the  
6 certification or denial of certification of any business entity  
7 as a minority-owned ~~minority-owned~~ business, women-owned  
8 ~~female-owned~~ business, service-disabled veteran-owned small  
9 business, or veteran-owned small business commits a Class 2  
10 felony.

11 (c) Willfully obstructing or impeding an official or  
12 employee of any agency in his or her investigation. Any person  
13 who, in the course of business, willfully obstructs or impedes  
14 an official or employee of any State agency or the ~~Minority and~~  
15 ~~Female~~ Business Enterprise Council for Minorities, Women, and  
16 Persons with Disabilities who is investigating the  
17 qualifications of a business entity which has requested  
18 certification as a minority-owned ~~minority-owned~~ business,  
19 women-owned ~~female-owned~~ business, service-disabled  
20 veteran-owned small business, or veteran-owned small business  
21 commits a Class 2 felony.

22 (d) Fraudulently obtaining public moneys reserved for  
23 disadvantaged business enterprises. Any person who, in the  
24 course of business, fraudulently obtains public moneys  
25 reserved for, or allocated or available to, minority-owned  
26 ~~minority-owned~~ businesses, women-owned ~~female-owned~~

1 businesses, service-disabled veteran-owned small businesses,  
2 or veteran-owned small businesses commits a Class 2 felony.

3 (e) Definitions. As used in this Article, "minority-owned  
4 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",  
5 "State agency" with respect to minority-owned ~~minority-owned~~  
6 businesses and women-owned ~~female-owned~~ businesses, and  
7 "certification" with respect to minority-owned ~~minority-owned~~  
8 businesses and women-owned ~~female-owned~~ businesses shall have  
9 the meanings ascribed to them in Section 2 of the Business  
10 Enterprise for Minorities, Women ~~Females~~, and Persons with  
11 Disabilities Act. As used in this Article, "service-disabled  
12 veteran-owned small business", "veteran-owned small business",  
13 "State agency" with respect to service-disabled veteran-owned  
14 small businesses and veteran-owned small businesses, and  
15 "certification" with respect to service-disabled veteran-owned  
16 small businesses and veteran-owned small businesses have the  
17 same meanings as in Section 45-57 of the Illinois Procurement  
18 Code.

19 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

20 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

21 Sec. 33E-2. Definitions. In this Act:

22 (a) "Public contract" means any contract for goods,  
23 services or construction let to any person with or without bid  
24 by any unit of State or local government.

25 (b) "Unit of State or local government" means the State,

1 any unit of state government or agency thereof, any county or  
2 municipal government or committee or agency thereof, or any  
3 other entity which is funded by or expends tax dollars or the  
4 proceeds of publicly guaranteed bonds.

5 (c) "Change order" means a change in a contract term other  
6 than as specifically provided for in the contract which  
7 authorizes or necessitates any increase or decrease in the cost  
8 of the contract or the time to completion.

9 (d) "Person" means any individual, firm, partnership,  
10 corporation, joint venture or other entity, but does not  
11 include a unit of State or local government.

12 (e) "Person employed by any unit of State or local  
13 government" means any employee of a unit of State or local  
14 government and any person defined in subsection (d) who is  
15 authorized by such unit of State or local government to act on  
16 its behalf in relation to any public contract.

17 (f) "Sheltered market" has the meaning ascribed to it in  
18 Section 8b of the Business Enterprise for Minorities, Women  
19 ~~Females~~, and Persons with Disabilities Act; except that, with  
20 respect to State contracts set aside for award to  
21 service-disabled veteran-owned small businesses and  
22 veteran-owned small businesses pursuant to Section 45-57 of the  
23 Illinois Procurement Code, "sheltered market" means  
24 procurements pursuant to that Section.

25 (g) "Kickback" means any money, fee, commission, credit,  
26 gift, gratuity, thing of value, or compensation of any kind

1 which is provided, directly or indirectly, to any prime  
2 contractor, prime contractor employee, subcontractor, or  
3 subcontractor employee for the purpose of improperly obtaining  
4 or rewarding favorable treatment in connection with a prime  
5 contract or in connection with a subcontract relating to a  
6 prime contract.

7 (h) "Prime contractor" means any person who has entered  
8 into a public contract.

9 (i) "Prime contractor employee" means any officer,  
10 partner, employee, or agent of a prime contractor.

11 (i-5) "Stringing" means knowingly structuring a contract  
12 or job order to avoid the contract or job order being subject  
13 to competitive bidding requirements.

14 (j) "Subcontract" means a contract or contractual action  
15 entered into by a prime contractor or subcontractor for the  
16 purpose of obtaining goods or services of any kind under a  
17 prime contract.

18 (k) "Subcontractor" (1) means any person, other than the  
19 prime contractor, who offers to furnish or furnishes any goods  
20 or services of any kind under a prime contract or a subcontract  
21 entered into in connection with such prime contract; and (2)  
22 includes any person who offers to furnish or furnishes goods or  
23 services to the prime contractor or a higher tier  
24 subcontractor.

25 (l) "Subcontractor employee" means any officer, partner,  
26 employee, or agent of a subcontractor.

1 (Source: P.A. 97-260, eff. 8-5-11.)

2 Section 180. The Business Corporation Act of 1983 is  
3 amended by changing Section 14.05 as follows:

4 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

5 Sec. 14.05. Annual report of domestic or foreign  
6 corporation. Each domestic corporation organized under any  
7 general law or special act of this State authorizing the  
8 corporation to issue shares, other than homestead  
9 associations, building and loan associations, banks and  
10 insurance companies (which includes a syndicate or limited  
11 syndicate regulated under Article V 1/2 of the Illinois  
12 Insurance Code or member of a group of underwriters regulated  
13 under Article V of that Code), and each foreign corporation  
14 (except members of a group of underwriters regulated under  
15 Article V of the Illinois Insurance Code) authorized to  
16 transact business in this State, shall file, within the time  
17 prescribed by this Act, an annual report setting forth:

18 (a) The name of the corporation.

19 (b) The address, including street and number, or rural  
20 route number, of its registered office in this State, and  
21 the name of its registered agent at that address.

22 (c) The address, including street and number, or rural  
23 route number, of its principal office.

24 (d) The names and respective addresses, including

1 street and number, or rural route number, of its directors  
2 and officers.

3 (e) A statement of the aggregate number of shares which  
4 the corporation has authority to issue, itemized by classes  
5 and series, if any, within a class.

6 (f) A statement of the aggregate number of issued  
7 shares, itemized by classes, and series, if any, within a  
8 class.

9 (g) A statement, expressed in dollars, of the amount of  
10 paid-in capital of the corporation as defined in this Act.

11 (h) Either a statement that (1) all the property of the  
12 corporation is located in this State and all of its  
13 business is transacted at or from places of business in  
14 this State, or the corporation elects to pay the annual  
15 franchise tax on the basis of its entire paid-in capital,  
16 or (2) a statement, expressed in dollars, of the value of  
17 all the property owned by the corporation, wherever  
18 located, and the value of the property located within this  
19 State, and a statement, expressed in dollars, of the gross  
20 amount of business transacted by the corporation and the  
21 gross amount thereof transacted by the corporation at or  
22 from places of business in this State as of the close of  
23 its fiscal year on or immediately preceding the last day of  
24 the third month prior to the anniversary month or in the  
25 case of a corporation which has established an extended  
26 filing month, as of the close of its fiscal year on or

1 immediately preceding the last day of the third month prior  
2 to the extended filing month; however, in the case of a  
3 domestic corporation that has not completed its first  
4 fiscal year, the statement with respect to property owned  
5 shall be as of the last day of the third month preceding  
6 the anniversary month and the statement with respect to  
7 business transacted shall be furnished for the period  
8 between the date of incorporation and the last day of the  
9 third month preceding the anniversary month. In the case of  
10 a foreign corporation that has not been authorized to  
11 transact business in this State for a period of 12 months  
12 and has not commenced transacting business prior to  
13 obtaining authority, the statement with respect to  
14 property owned shall be as of the last day of the third  
15 month preceding the anniversary month and the statement  
16 with respect to business transacted shall be furnished for  
17 the period between the date of its authorization to  
18 transact business in this State and the last day of the  
19 third month preceding the anniversary month. If the data  
20 referenced in item (2) of this subsection is not completed,  
21 the franchise tax provided for in this Act shall be  
22 computed on the basis of the entire paid-in capital.

23 (i) A statement, including the basis therefor, of  
24 status as a "minority-owned ~~minority-owned~~ business" or as  
25 a "women-owned ~~female-owned~~ business" as those terms are  
26 defined in the Business Enterprise for Minorities, Women



1 ~~Females~~, and Persons with Disabilities Act.

2 (j) Additional information as may be necessary or  
3 appropriate in order to enable the Secretary of State to  
4 administer this Act and to verify the proper amount of fees  
5 and franchise taxes payable by the corporation.

6 The annual report shall be made on forms prescribed and  
7 furnished by the Secretary of State, and the information  
8 therein required by paragraphs (a) through (d), both inclusive,  
9 of this Section, shall be given as of the date of the execution  
10 of the annual report and the information therein required by  
11 paragraphs (e), (f) and (g) of this Section shall be given as  
12 of the last day of the third month preceding the anniversary  
13 month, except that the information required by paragraphs (e),  
14 (f) and (g) shall, in the case of a corporation which has  
15 established an extended filing month, be given in its final  
16 transition annual report and each subsequent annual report as  
17 of the close of its fiscal year immediately preceding its  
18 extended filing month. It shall be executed by the corporation  
19 by its president, a vice-president, secretary, assistant  
20 secretary, treasurer or other officer duly authorized by the  
21 board of directors of the corporation to execute those reports,  
22 and verified by him or her, or, if the corporation is in the  
23 hands of a receiver or trustee, it shall be executed on behalf  
24 of the corporation and verified by the receiver or trustee.

25 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,  
26 7-1-03.)

1           Section 999. Effective date. This Act takes effect upon  
2    becoming law.".