



Sen. James F. Clayborne, Jr.

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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 General Assembly declares that the State of
11 Illinois supports the hiring of a workforce on construction
12 contracts to reflect the diversity of the communities where the
13 contracts are performed, in accordance with the State
14 Construction Minority and Female Building Trades Act.

15 (2) The following entities that do business in Illinois or
16 serve Illinois customers shall be subject to this Section:

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

19 (ii) cable and video providers, as defined in Section
20 21-201 of the Public Utilities Act;

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

23 (iv) wireless service providers;

24 (v) broadband internet access services providers; and

25 (vi) any other entity that provides messaging, voice,

1 or video services via the Internet or a social media
2 platform.

3 (3) Each entity listed in subsection (1) of this Section
4 may submit to the Illinois Commerce Commission and the Business
5 Enterprise Council an annual report by April 15, 2018, and
6 every April 15 thereafter, which provides, for the previous
7 calendar year, information and data on diversity goals, and
8 progress toward achieving those goals, by certified businesses
9 owned by minorities, women, persons with disabilities, and
10 service-disabled veterans, provided that if the entity does not
11 track such information and data for businesses owned by
12 service-disabled veterans, the entity may provide information
13 and data for businesses owned by veterans.

14 The diversity report shall include the following:

15 (i) Overall spending on all certified businesses.

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

18 (iii) The entity's best estimate of its annual spending
19 in professional services and spending with certified
20 businesses owned by minorities, women, persons with
21 disabilities, and service-disabled veterans (or veterans,
22 if the reporting entity does not track spending with
23 service-disabled veterans), including, but not limited to,
24 the following professional services categories:
25 accounting; architecture and engineering; consulting;
26 information technology; insurance; financial, legal, and

1 marketing services; and other professional services.

2 (iv) The entity's overall annual spending in the listed
3 professional service categories. For the diversity reports
4 due on April 15, 2018 and April 15, 2019, the information
5 on annual spending with certified businesses for
6 professional services required by this Section may be
7 provided for all professional services on an aggregated
8 basis.

9 (v) The total number and percentage of women and
10 minorities that provided services for each construction
11 and professional services project in the State.

12 An entity subject to this Section which is part of an
13 affiliated group of entities may provide information for the
14 affiliated group as a whole.

15 (4) Any entity that is subject to this Section that does
16 not submit a report shall be reported by the Business
17 Enterprise Council to each chief procurement officer. Upon
18 receiving a report from the Business Enterprise Council, the
19 chief procurement officer shall prohibit any entities that do
20 not submit a report from bidding on State contracts for a
21 period of one year beginning the first day of the following
22 fiscal year and post on its respective bulletin the names of
23 all entities that fail to comply with the provisions of this
24 Section.

25 (5) The decisions of the Council under this Section are
26 final and are subject to review as final decisions under the

1 provisions of the Administrative Review Law, and shall only be
2 overturned if the court finds that they are against the
3 manifest weight of the evidence.

4 (30 ILCS 575/8i new)

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

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

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

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

18 (d) review existing contracts with no diversity goal to
19 determine if a diversity goal should be established; if it
20 is determined that a diversity goal should be established,
21 the State agency or public institution of higher education
22 shall amend the contract to include the diversity goal;
23 prime contractors shall be required to complete a
24 utilization plan to demonstrate how it intends to meet the
25 diversity goal; and

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

5 Section 75. The Film Production Services Tax Credit Act of
6 2008 is amended by changing Sections 30 and 45 as follows:

7 (35 ILCS 16/30)

8 Sec. 30. Review of application for accredited production
9 certificate.

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

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

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

19 (3) The applicant has filed a diversity plan with the
20 Department outlining specific goals (i) for hiring
21 minority persons and women ~~females~~, as defined in the
22 Business Enterprise for Minorities, Women ~~Females~~, and
23 Persons with Disabilities Act, and (ii) for using vendors
24 receiving certification under the Business Enterprise for

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

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

18 (5) That, if not for the credit, the applicant's
19 production would not occur in Illinois, which may be
20 demonstrated by any means including, but not limited to,
21 evidence that the applicant has multi-state or
22 international location options and could reasonably and
23 efficiently locate outside of the State, or demonstration
24 that at least one other state or nation is being considered
25 for the production, or evidence that the receipt of the
26 credit is a major factor in the applicant's decision and

1 that without the credit the applicant likely would not
2 create or retain jobs in Illinois, or demonstration that
3 receiving the credit is essential to the applicant's
4 decision to create or retain new jobs in the State.

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

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

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

13 (35 ILCS 16/45)

14 Sec. 45. Evaluation of tax credit program; reports to the
15 General Assembly.

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

25 (b) At the end of each fiscal quarter, the Department must

1 submit to the General Assembly a report that includes, without
2 limitation, the following information:

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

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

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

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

19 (1) an identification of each vendor that provided
20 goods or services that were included in an accredited
21 production's Illinois production spending;

22 (2) the amount paid to each identified vendor by the
23 accredited production;

24 (3) for each identified vendor, a statement as to
25 whether the vendor is a minority-owned ~~minority-owned~~
26 business or a women-owned ~~female-owned~~ business, as defined

1 under Section 2 of the Business Enterprise for Minorities,
2 Women Females, and Persons with Disabilities Act; and

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

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

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

10 (35 ILCS 17/10-30)

11 Sec. 10-30. Review of application for accredited theater
12 production certificate.

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

16 (1) the applicant intends to make the expenditure in
17 the State required for certification of the accredited
18 theater production;

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

23 (3) the following requirements related to the
24 implementation of a diversity plan have been met: (i) the

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

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

25 (5) if not for the tax credit award, the applicant's
26 accredited theater production would not occur in Illinois,

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

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

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

23 (c) The Department shall act expeditiously regarding
24 approval of applications for accredited theater production
25 certificates so as to accommodate the pre-production work,
26 booking, commencement of ticket sales, determination of

1 performance dates, load in, and other matters relating to the
2 live theater productions for which approval is sought.

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

4 (35 ILCS 17/10-50)

5 Sec. 10-50. Live theater tax credit award program
6 evaluation and reports.

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

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

11 (ii) an assessment of the revenue impact of the
12 program;

13 (iii) in the discretion of the Department, a review of
14 the practices and experiences of other states or nations
15 with similar programs; and

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

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

23 (i) an assessment of the economic impact of the
24 program, including the number of jobs created and retained,
25 and whether the job positions are entry level, management,

1 vendor, or production related;

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

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

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

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

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

22 (iii) a description of the steps taken by the
23 Department to encourage accredited theater productions to
24 use vendors who are minority-owned ~~minority~~ or women-owned
25 ~~female-owned~~ businesses.

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

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

3 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

4 Sec. 1-109.1. Allocation and delegation of fiduciary
5 duties.

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

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

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

18 (2) The board of trustees of a pension fund established
19 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
20 transfer its investment authority, nor transfer the assets of
21 the fund to any other person or entity for the purpose of
22 consolidating or merging its assets and management with any
23 other pension fund or public investment authority, unless the
24 board resolution authorizing such transfer is submitted for

1 approval to the contributors and pensioners of the fund at
2 elections held not less than 30 days after the adoption of such
3 resolution by the board, and such resolution is approved by a
4 majority of the votes cast on the question in both the
5 contributors election and the pensioners election. The
6 election procedures and qualifications governing the election
7 of trustees shall govern the submission of resolutions for
8 approval under this paragraph, insofar as they may be made
9 applicable.

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

18 (4) For the purposes of this Code, "emerging investment
19 manager" means a qualified investment adviser that manages an
20 investment portfolio of at least \$10,000,000 but less than
21 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~
22 business", "women-owned ~~female-owned~~ business" or "business
23 owned by a person with a disability" as those terms are defined
24 in the Business Enterprise for Minorities, Women ~~Females~~, and
25 Persons with Disabilities Act.

26 It is hereby declared to be the public policy of the State

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

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

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

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

16 The use of an emerging investment manager does not
17 constitute a transfer of investment authority for the purposes
18 of subsection (2) of this Section.

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

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

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

1 investment board shall annually review the goals established
2 under this Section.

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

21 (9) On or before February 1, 2015, a retirement system,
22 pension fund, or investment board subject to this Code, except
23 those whose investments are restricted by Section 1-113.2 of
24 this Code, shall adopt a policy that sets forth goals for
25 increasing the utilization of minority investment managers.
26 For the purposes of this Code, "minority investment manager"

1 means a qualified investment manager that manages an investment
2 portfolio and meets the definition of "minority-owned ~~minority~~
3 ~~owned~~ business", "women-owned ~~female-owned~~ business", or
4 "business owned by a person with a disability", as those terms
5 are defined in the Business Enterprise for Minorities, Women
6 ~~Females~~, and Persons with Disabilities Act.

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

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

26 If in any case a minority investment manager meets the

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

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

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

1 services" as those terms are defined in the Act.

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

3 (40 ILCS 5/1-113.21)

4 Sec. 1-113.21. Contracts for services.

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

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

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

22 (3) the number of contracts, oral or written, for
23 investment services, consulting services, and professional
24 and artistic services the investment advisor, consultant,
25 or private market fund has with a business other than (i) a

1 minority-owned ~~minority-owned~~ business, (ii) a women-owned
2 ~~female-owned~~ business or (iii) a business owned by a person
3 with a disability, if more than 50% of services performed
4 pursuant to the contract are performed by (i) a minority
5 person, (ii) a woman ~~female~~, and (iii) a person with a
6 disability.

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

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

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

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

25 Section 90. The Counties Code is amended by changing

1 Section 5-1134 as follows:

2 (55 ILCS 5/5-1134)

3 Sec. 5-1134. Project labor agreements.

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

15 (b) The project labor agreements must include the
16 following:

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

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

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

23 The county, taxing bodies, municipalities, and the labor
24 organizations shall have the authority to include other terms
25 and conditions as they deem necessary.

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

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

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

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

1 (65 ILCS 115/10-5.3)

2 Sec. 10-5.3. Certification of River Edge Redevelopment
3 Zones.

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

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

23 (c) A River Edge Redevelopment Zone shall be in effect for
24 the period stated in the certificate, which shall in no event
25 exceed 30 calendar years. Zones shall terminate at midnight of
26 December 31 of the final calendar year of the certified term,

1 except as provided in Section 10-5.4.

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

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

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

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

1 be given to the previously designated area.

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

14 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;
15 97-905, eff. 8-7-12.)

16 Section 100. The Metropolitan Pier and Exposition
17 Authority Act is amended by changing Sections 10.2 and 23.1 as
18 follows:

19 (70 ILCS 210/10.2)

20 Sec. 10.2. Bonding disclosure.

21 (a) Truth in borrowing disclosure. Within 60 business days
22 after the issuance of any bonds under this Act, the Authority
23 shall disclose the total principal and interest payments to be
24 paid on the bonds over the full stated term of the bonds. The

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

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

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

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

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

19 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

20 Sec. 23.1. Affirmative action.

21 (a) The Authority shall, within 90 days after the effective
22 date of this amendatory Act of 1984, establish and maintain an
23 affirmative action program designed to promote equal
24 employment opportunity and eliminate the effects of past
25 discrimination. Such program shall include a plan, including

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

21 (b) The Authority shall adopt and maintain minority-owned
22 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
23 procurement programs under the affirmative action program
24 described in subsection (a) for any and all work, including all
25 contracting related to the planning, organization, and staging
26 of the games, undertaken by the Authority. That work shall

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

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

1 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

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

12 (d) In connection with the Expansion Project, the Authority
13 shall incorporate the following elements into its
14 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business
15 procurement programs to the extent feasible: (1) a major
16 contractors program that permits minority-owned ~~minority-owned~~
17 businesses and women-owned ~~female-owned~~ businesses to bear
18 significant responsibility and risk for a portion of the
19 project; (2) a mentor/protege program that provides financial,
20 technical, managerial, equipment, and personnel support to
21 minority-owned ~~minority-owned~~ businesses and women-owned
22 ~~female-owned~~ businesses; (3) an emerging firms program that
23 includes minority-owned ~~minority-owned~~ businesses and
24 women-owned ~~female-owned~~ businesses that would not otherwise
25 qualify for the project due to inexperience or limited
26 resources; (4) a small projects program that includes

1 participation by smaller minority-owned ~~minority-owned~~
2 businesses and women-owned ~~female-owned~~ businesses on jobs
3 where the total dollar value is \$5,000,000 or less; and (5) a
4 set-aside program that will identify contracts requiring the
5 expenditure of funds less than \$50,000 for bids to be submitted
6 solely by minority-owned ~~minority-owned~~ businesses and
7 women-owned ~~female-owned~~ businesses.

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

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

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

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

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

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

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

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

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

4 Members of the McCormick Place Advisory Board shall serve
5 2-year terms and until their successors are appointed, except
6 members who serve as a result of their elected position whose
7 terms shall continue as long as they hold their designated
8 elected positions. Vacancies shall be filled by appointment for
9 the unexpired term in the same manner as original appointments
10 are made. The McCormick Place Advisory Board shall elect its
11 own chairperson.

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

16 The McCormick Place Advisory Board shall meet quarterly, or
17 as needed, shall produce any reports it deems necessary, and
18 shall:

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

21 (2) Work with the Authority regarding potential means
22 for providing increased economic opportunities to
23 minorities and women produced indirectly or directly from
24 the construction and operation of the Expansion Project;

25 (3) Work with the Authority to minimize any potential
26 impact on the area surrounding the McCormick Place

1 Expansion Project, including any impact on minority-owned
2 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting
3 from the construction and operation of the Expansion
4 Project;

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

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

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

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

25 Section 105. The Illinois Sports Facilities Authority Act

1 is amended by changing Section 9 as follows:

2 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

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

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

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

23 (3) With respect to a facility owned or to be owned by
24 a governmental owner other than the Authority, enter into
25 an assistance agreement with either a governmental owner of

1 a facility or its tenant, or both, that requires the
2 tenant, or if the tenant is not a party to the assistance
3 agreement requires the governmental owner to enter into an
4 agreement with the tenant that requires the tenant to use
5 the facility for a period at least as long as the term of
6 any bonds issued to finance the reconstruction,
7 renovation, remodeling, extension or improvement of all or
8 substantially all of the facility.

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

17 (5) In connection with prequalification of general
18 contractors for the construction of a new stadium facility
19 or the reconstruction, renovation, remodeling, extension,
20 or improvement of all or substantially all of an existing
21 facility, the Authority shall require submission of a
22 commitment detailing how the general contractor will
23 expend 25% or more of the dollar value of the general
24 contract with one or more minority-owned businesses
25 ~~minority business enterprises~~ and 5% or more of the dollar
26 value with one or more women-owned businesses ~~female~~

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

1 "business owned by a person with a disability" have the
2 meanings given to those terms ~~The terms "minority business~~
3 ~~enterprise" and "female business enterprise" shall have~~
4 ~~the same meanings as "minority owned business" and "female~~
5 ~~owned business", respectively, as defined in the Business~~
6 Enterprise for Minorities, Women ~~Females~~, and Persons with
7 Disabilities Act.

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

14 In connection with any assistance agreement with a
15 governmental owner that provides financial assistance for a
16 facility to be used by a National Football League team, the
17 assistance agreement shall provide that the Authority or its
18 agent shall enter into the contract or contracts for the design
19 and construction services or design/build services for such
20 facility and thereafter transfer its rights and obligations
21 under the contract or contracts to the governmental owner of
22 the facility. In seeking parties to provide design and
23 construction services or design/build services with respect to
24 such facility, the Authority may use such procurement
25 procedures as it may determine, including, without limitation,
26 the selection of design professionals and construction

1 managers or design/builders as may be required by a team that
2 is at risk, in whole or in part, for the cost of design and
3 construction of the facility.

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

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

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

12 (70 ILCS 3210/40)

13 Sec. 40. Duties.

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

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

22 (2) Enter into a loan agreement with an owner of a
23 facility to finance the acquisition, construction,
24 maintenance, or rehabilitation of the facility. The

1 agreement shall contain appropriate and reasonable
2 provisions with respect to termination, default, and legal
3 remedies. The loan may be at below-market interest rates.

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

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

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

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

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

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

3 (70 ILCS 3605/12c)

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

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

17 (b) (1) After its receipt of a certified copy of a report of
18 the Auditor General of the State of Illinois meeting the
19 requirements of Section 3-2.3 of the Illinois State Auditing
20 Act, the Authority may issue \$1,348,550,000 aggregate original
21 principal amount of bonds and notes. After payment of the costs
22 of issuance and necessary deposits to funds and accounts
23 established with respect to debt service, the net proceeds of
24 such bonds or notes shall be deposited only in the Retirement
25 Plan for Chicago Transit Authority Employees and used only for

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

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

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

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

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

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

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

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

23 (d) The Authority is authorized to cause the proceeds of
24 the bonds or notes, and any interest or investment earnings on
25 the bonds or notes, and of any Swaps, to be invested until the
26 proceeds and any interest or investment earnings have been

1 deposited with the Retirement Plan or the Retiree Health Care
2 Trust.

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

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

1 ordinance authorizing the issuance of any such bonds or notes
2 authorized under this Section 12c may contain provisions for
3 the creation of a separate fund to provide for the payment of
4 principal of and interest on those bonds or notes and related
5 agreements. The ordinance may also provide limitations on the
6 issuance of additional bonds or notes of the Authority.

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

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

1 ordinance may provide for a trust indenture to set forth terms
2 of, sources of payment for and security for the bonds and
3 notes.

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

21 (i) For purposes of this Section, "Debt Service" with
22 respect to bonds or notes includes, without limitation,
23 principal (at maturity or upon mandatory redemption),
24 redemption premium, interest, periodic, upfront, and
25 termination payments on Swaps, fees for bond insurance or other
26 credit enhancement, liquidity facilities, the funding of bond

1 or note reserves, bond trustee fees, and all other costs of
2 providing for the security or payment of the bonds or notes.

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

1 selected by the Authority pursuant to this Section.

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

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

11 Section 120. The School Code is amended by changing Section
12 10-20.44 as follows:

13 (105 ILCS 5/10-20.44)

14 Sec. 10-20.44. Report on contracts.

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

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

21 (c) Each year, in conjunction with the submission of the
22 Statement of Affairs to the State Board of Education prior to
23 December 1, provided for in Section 10-17, each school district
24 shall submit to the State Board of Education an annual report

1 on all contracts over \$25,000 awarded by the school district
2 during the previous fiscal year. The report shall include at
3 least the following:

4 (1) the total number of all contracts awarded by the
5 school district;

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

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

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

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

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

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

24 (110 ILCS 62/3)

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

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

17 (110 ILCS 62/5-10)

18 Sec. 5-10. Energy conservation measure.

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

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

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

9 (3) Automated or computerized energy control systems.

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

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

18 (6) Energy recovery systems.

19 (7) Energy conservation measures that provide
20 long-term operating cost reductions.

21 (b) From the effective date of this amendatory Act of the
22 96th General Assembly until January 1, 2015, "energy
23 conservation measure" includes a renewable energy center pilot
24 project at Eastern Illinois University, provided that:

25 (1) the University signs a partnership contract with a
26 qualified energy conservation measure provider as provided

1 in this Act;

2 (2) the University has responsibility for the
3 qualified provider's actions with regard to applicable
4 laws;

5 (3) the University obtains a performance bond in
6 accordance with this Act;

7 (4) the University and the qualified provider follow
8 all aspects of the Prevailing Wage Act as provided by this
9 Act;

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

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

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

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

26 (9) the University includes in its contract with the

1 qualified provider a requirement that the qualified
2 provider name the sub-contractors that it will use, and the
3 qualified provider may not change these without the
4 University's written approval;

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

12 (11) the University follows, to the extent possible,
13 the Architectural, Engineering, and Land Surveying
14 Qualifications Based Selection Act;

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

21 (13) the University produces annual reports and a final
22 report describing the project upon completion and files the
23 reports with the Procurement Policy Board, CDB, and the
24 General Assembly.

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

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

2 (110 ILCS 320/1.1 rep.)

3 Section 130. The University of Illinois at Chicago Act is
4 amended by repealing Section 1.1.

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

7 (110 ILCS 675/20-115)

8 Sec. 20-115. Illinois Institute for Entrepreneurship
9 Education.

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

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

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

26 (c) The purpose of the Institute shall be to foster the

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

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

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

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

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

5 (4) To request and receive the cooperation and
6 assistance of all State departments and agencies in the
7 furtherance of its purpose.

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

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

1 under this Section 20-115 shall have, with respect to the
2 predecessor Institute so abolished, all authority, powers, and
3 duties of a successor agency under Section 10-15 of the
4 Successor Agency Act.

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

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

8 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

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

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

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

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

17 (b) A public utility providing electric service, other than
18 a public utility described in subsections (e) or (f) of this
19 Section, may at any time during the mandatory transition period
20 file with the Commission proposed tariff sheets that eliminate
21 the public utility's fuel adjustment clause and adjust the
22 public utility's base rate tariffs by the amount necessary for
23 the base fuel component of the base rates to recover the public
24 utility's average fuel and power supply costs per kilowatt-hour
25 for the 2 most recent years for which the Commission has issued
26 final orders in annual proceedings pursuant to subsection (a),

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

22 (c) Notwithstanding any contrary or inconsistent
23 provisions in Section 9-201 of this Act, in subsection (a) of
24 this Section or in any rules or regulations promulgated by the
25 Commission pursuant to subsection (g) of this Section, a public
26 utility providing electric service, other than a public utility

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

21 (d) A public utility providing electric service, or a
22 public utility providing gas service may file with the
23 Commission proposed tariff sheets that eliminate the public
24 utility's fuel or purchased gas adjustment clause and adjust
25 the public utility's base rate tariffs to provide for recovery
26 of power supply costs or gas supply costs that would have been

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

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

23 (e) Notwithstanding any contrary or inconsistent
24 provisions in Section 9-201 of this Act, in subsection (a) of
25 this Section, or in any rules promulgated by the Commission
26 pursuant to subsection (g) of this Section, a public utility

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

1 prior to January 1, 2007.

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

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

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

20 (h) Any Illinois gas utility may enter into a contract on
21 or before September 30, 2011 for up to 10 years of supply with
22 any company for the purchase of substitute natural gas (SNG)
23 produced from coal through the gasification process if the
24 company has commenced construction of a clean coal SNG facility
25 by July 1, 2012 and commencement of construction shall mean
26 that material physical site work has occurred, such as site

1 clearing and excavation, water runoff prevention, water
2 retention reservoir preparation, or foundation development.
3 The contract shall contain the following provisions: (i) at
4 least 90% of feedstock to be used in the gasification process
5 shall be coal with a high volatile bituminous rank and greater
6 than 1.7 pounds of sulfur per million Btu content; (ii) at the
7 time the contract term commences, the price per million Btu may
8 not exceed \$7.95 in 2008 dollars, adjusted annually based on
9 the change in the Annual Consumer Price Index for All Urban
10 Consumers for the Midwest Region as published in April by the
11 United States Department of Labor, Bureau of Labor Statistics
12 (or a suitable Consumer Price Index calculation if this
13 Consumer Price Index is not available) for the previous
14 calendar year; provided that the price per million Btu shall
15 not exceed \$9.95 at any time during the contract; (iii) the
16 utility's supply contract for the purchase of SNG does not
17 exceed 15% of the annual system supply requirements of the
18 utility as of 2008; and (iv) the contract costs pursuant to
19 subsection (h-10) of this Section shall not include any
20 lobbying expenses, charitable contributions, advertising,
21 organizational memberships, carbon dioxide pipeline or
22 sequestration expenses, or marketing expenses.

23 Any gas utility that is providing service to more than
24 150,000 customers on August 2, 2011 (the effective date of
25 Public Act 97-239) shall either elect to enter into a contract
26 on or before September 30, 2011 for 10 years of SNG supply with

1 the owner of a clean coal SNG facility or to file biennial rate
2 proceedings before the Commission in the years 2012, 2014, and
3 2016, with such filings made after August 2, 2011 and no later
4 than September 30 of the years 2012, 2014, and 2016 consistent
5 with all requirements of 83 Ill. Adm. Code 255 and 285 as
6 though the gas utility were filing for an increase in its
7 rates, without regard to whether such filing would produce an
8 increase, a decrease, or no change in the gas utility's rates,
9 and the Commission shall review the gas utility's filing and
10 shall issue its order in accordance with the provisions of
11 Section 9-201 of this Act.

12 Within 7 days after August 2, 2011, the owner of the clean
13 coal SNG facility shall submit to the Illinois Power Agency and
14 each gas utility that is providing service to more than 150,000
15 customers on August 2, 2011 a copy of a draft contract. Within
16 30 days after the receipt of the draft contract, each such gas
17 utility shall provide the Illinois Power Agency and the owner
18 of the clean coal SNG facility with its comments and
19 recommended revisions to the draft contract. Within 7 days
20 after the receipt of the gas utility's comments and recommended
21 revisions, the owner of the facility shall submit its
22 responsive comments and a further revised draft of the contract
23 to the Illinois Power Agency. The Illinois Power Agency shall
24 review the draft contract and comments.

25 During its review of the draft contract, the Illinois Power
26 Agency shall:

1 (1) review and confirm in writing that the terms stated
2 in this subsection (h) are incorporated in the SNG
3 contract;

4 (2) review the SNG pricing formula included in the
5 contract and approve that formula if the Illinois Power
6 Agency determines that the formula, at the time the
7 contract term commences: (A) starts with a price of \$6.50
8 per MMBtu adjusted by the adjusted final capitalized plant
9 cost; (B) takes into account budgeted miscellaneous net
10 revenue after cost allowance, including sale of SNG
11 produced by the clean coal SNG facility above the nameplate
12 capacity of the facility and other by-products produced by
13 the facility, as approved by the Illinois Power Agency; (C)
14 does not include carbon dioxide transportation or
15 sequestration expenses; and (D) includes all provisions
16 required under this subsection (h); if the Illinois Power
17 Agency does not approve of the SNG pricing formula, then
18 the Illinois Power Agency shall modify the formula to
19 ensure that it meets the requirements of this subsection
20 (h);

21 (3) review and approve the amount of budgeted
22 miscellaneous net revenue after cost allowance, including
23 sale of SNG produced by the clean coal SNG facility above
24 the nameplate capacity of the facility and other
25 by-products produced by the facility, to be included in the
26 pricing formula; the Illinois Power Agency shall approve

1 the amount of budgeted miscellaneous net revenue to be
2 included in the pricing formula if it determines the
3 budgeted amount to be reasonable and accurate;

4 (4) review and confirm in writing that using the EIA
5 Annual Energy Outlook-2011 Henry Hub Spot Price, the
6 contract terms set out in subsection (h), the
7 reconciliation account terms as set out in subsection
8 (h-15), and an estimated inflation rate of 2.5% for each
9 corresponding year, that there will be no cumulative
10 estimated increase for residential customers; and

11 (5) allocate the nameplate capacity of the clean coal
12 SNG by total therms sold to ultimate customers by each gas
13 utility in 2008; provided, however, no utility shall be
14 required to purchase more than 42% of the projected annual
15 output of the facility; additionally, the Illinois Power
16 Agency shall further adjust the allocation only as required
17 to take into account (A) adverse consolidation,
18 derivative, or lease impacts to the balance sheet or income
19 statement of any gas utility or (B) the physical capacity
20 of the gas utility to accept SNG.

21 If the parties to the contract do not agree on the terms
22 therein, then the Illinois Power Agency shall retain an
23 independent mediator to mediate the dispute between the
24 parties. If the parties are in agreement on the terms of the
25 contract, then the Illinois Power Agency shall approve the
26 contract. If after mediation the parties have failed to come to

1 agreement, then the Illinois Power Agency shall revise the
2 draft contract as necessary to confirm that the contract
3 contains only terms that are reasonable and equitable. The
4 Illinois Power Agency may, in its discretion, retain an
5 independent, qualified, and experienced expert to assist in its
6 obligations under this subsection (h). The Illinois Power
7 Agency shall adopt and make public policies detailing the
8 processes for retaining a mediator and an expert under this
9 subsection (h). Any mediator or expert retained under this
10 subsection (h) shall be retained no later than 60 days after
11 August 2, 2011.

12 The Illinois Power Agency shall complete all of its
13 responsibilities under this subsection (h) within 60 days after
14 August 2, 2011. The clean coal SNG facility shall pay a
15 reasonable fee as required by the Illinois Power Agency for its
16 services under this subsection (h) and shall pay the mediator's
17 and expert's reasonable fees, if any. A gas utility and its
18 customers shall have no obligation to reimburse the clean coal
19 SNG facility or the Illinois Power Agency of any such costs.

20 Within 30 days after commercial production of SNG has
21 begun, the Commission shall initiate a review to determine
22 whether the final capitalized plant cost of the clean coal SNG
23 facility reflects actual incurred costs and whether the
24 incurred costs were reasonable. In determining the actual
25 incurred costs included in the final capitalized plant cost and
26 the reasonableness of those costs, the Commission may in its

1 discretion retain independent, qualified, and experienced
2 experts to assist in its determination. The expert shall not
3 own or control any direct or indirect interest in the clean
4 coal SNG facility and shall have no contractual relationship
5 with the clean coal SNG facility. If an expert is retained by
6 the Commission, then the clean coal SNG facility shall pay the
7 expert's reasonable fees. The fees shall not be passed on to a
8 utility or its customers. The Commission shall adopt and make
9 public a policy detailing the process for retaining experts
10 under this subsection (h).

11 Within 30 days after completion of its review, the
12 Commission shall initiate a formal proceeding on the final
13 capitalized plant cost of the clean coal SNG facility at which
14 comments and testimony may be submitted by any interested
15 parties and the public. If the Commission finds that the final
16 capitalized plant cost includes costs that were not actually
17 incurred or costs that were unreasonably incurred, then the
18 Commission shall disallow the amount of non-incurred or
19 unreasonable costs from the SNG price under contracts entered
20 into under this subsection (h). If the Commission disallows any
21 costs, then the Commission shall adjust the SNG price using the
22 price formula in the contract approved by the Illinois Power
23 Agency under this subsection (h) to reflect the disallowed
24 costs and shall enter an order specifying the revised price. In
25 addition, the Commission's order shall direct the clean coal
26 SNG facility to issue refunds of such sums as shall represent

1 the difference between actual gross revenues and the gross
2 revenue that would have been obtained based upon the same
3 volume, from the price revised by the Commission. Any refund
4 shall include interest calculated at a rate determined by the
5 Commission and shall be returned according to procedures
6 prescribed by the Commission.

7 Nothing in this subsection (h) shall preclude any party
8 affected by a decision of the Commission under this subsection
9 (h) from seeking judicial review of the Commission's decision.

10 (h-1) Any Illinois gas utility may enter into a sourcing
11 agreement for up to 30 years of supply with the clean coal SNG
12 brownfield facility if the clean coal SNG brownfield facility
13 has commenced construction. Any gas utility that is providing
14 service to more than 150,000 customers on July 13, 2011 (the
15 effective date of Public Act 97-096) shall either elect to file
16 biennial rate proceedings before the Commission in the years
17 2012, 2014, and 2016 or enter into a sourcing agreement or
18 sourcing agreements with a clean coal SNG brownfield facility
19 with an initial term of 30 years for either (i) a percentage of
20 43,500,000,000 cubic feet per year, such that the utilities
21 entering into sourcing agreements with the clean coal SNG
22 brownfield facility purchase 100%, allocated by total therms
23 sold to ultimate customers by each gas utility in 2008 or (ii)
24 such lesser amount as may be available from the clean coal SNG
25 brownfield facility; provided that no utility shall be required
26 to purchase more than 42% of the projected annual output of the

1 clean coal SNG brownfield facility, with the remainder of such
2 utility's obligation to be divided proportionately between the
3 other utilities, and provided that the Illinois Power Agency
4 shall further adjust the allocation only as required to take
5 into account adverse consolidation, derivative, or lease
6 impacts to the balance sheet or income statement of any gas
7 utility.

8 A gas utility electing to file biennial rate proceedings
9 before the Commission must file a notice of its election with
10 the Commission within 60 days after July 13, 2011 or its right
11 to make the election is irrevocably waived. A gas utility
12 electing to file biennial rate proceedings shall make such
13 filings no later than August 1 of the years 2012, 2014, and
14 2016, consistent with all requirements of 83 Ill. Adm. Code 255
15 and 285 as though the gas utility were filing for an increase
16 in its rates, without regard to whether such filing would
17 produce an increase, a decrease, or no change in the gas
18 utility's rates, and notwithstanding any other provisions of
19 this Act, the Commission shall fully review the gas utility's
20 filing and shall issue its order in accordance with the
21 provisions of Section 9-201 of this Act, regardless of whether
22 the Commission has approved a formula rate for the gas utility.

23 Within 15 days after July 13, 2011, the owner of the clean
24 coal SNG brownfield facility shall submit to the Illinois Power
25 Agency and each gas utility that is providing service to more
26 than 150,000 customers on July 13, 2011 a copy of a draft

1 sourcing agreement. Within 45 days after receipt of the draft
2 sourcing agreement, each such gas utility shall provide the
3 Illinois Power Agency and the owner of a clean coal SNG
4 brownfield facility with its comments and recommended
5 revisions to the draft sourcing agreement. Within 15 days after
6 the receipt of the gas utility's comments and recommended
7 revisions, the owner of the clean coal SNG brownfield facility
8 shall submit its responsive comments and a further revised
9 draft of the sourcing agreement to the Illinois Power Agency.
10 The Illinois Power Agency shall review the draft sourcing
11 agreement and comments.

12 If the parties to the sourcing agreement do not agree on
13 the terms therein, then the Illinois Power Agency shall retain
14 an independent mediator to mediate the dispute between the
15 parties. If the parties are in agreement on the terms of the
16 sourcing agreement, the Illinois Power Agency shall approve the
17 final draft sourcing agreement. If after mediation the parties
18 have failed to come to agreement, then the Illinois Power
19 Agency shall revise the draft sourcing agreement as necessary
20 to confirm that the final draft sourcing agreement contains
21 only terms that are reasonable and equitable. The Illinois
22 Power Agency shall adopt and make public a policy detailing the
23 process for retaining a mediator under this subsection (h-1).
24 Any mediator retained to assist with mediating disputes between
25 the parties regarding the sourcing agreement shall be retained
26 no later than 60 days after July 13, 2011.

1 Upon approval of a final draft agreement, the Illinois
2 Power Agency shall submit the final draft agreement to the
3 Capital Development Board and the Commission no later than 90
4 days after July 13, 2011. The gas utility and the clean coal
5 SNG brownfield facility shall pay a reasonable fee as required
6 by the Illinois Power Agency for its services under this
7 subsection (h-1) and shall pay the mediator's reasonable fees,
8 if any. The Illinois Power Agency shall adopt and make public a
9 policy detailing the process for retaining a mediator under
10 this Section.

11 The sourcing agreement between a gas utility and the clean
12 coal SNG brownfield facility shall contain the following
13 provisions:

14 (1) Any and all coal used in the gasification process
15 must be coal that has high volatile bituminous rank and
16 greater than 1.7 pounds of sulfur per million Btu content.

17 (2) Coal and petroleum coke are feedstocks for the
18 gasification process, with coal comprising at least 50% of
19 the total feedstock over the term of the sourcing agreement
20 unless the facility reasonably determines that it is
21 necessary to use additional petroleum coke to deliver net
22 consumer savings, in which case the facility shall use coal
23 for at least 35% of the total feedstock over the term of
24 any sourcing agreement and with the feedstocks to be
25 procured in accordance with requirements of Section 1-78 of
26 the Illinois Power Agency Act.

1 (3) The sourcing agreement has an initial term that
2 once entered into terminates no more than 30 years after
3 the commencement of the commercial production of SNG at the
4 clean coal SNG brownfield facility.

5 (4) The clean coal SNG brownfield facility guarantees a
6 minimum of \$100,000,000 in consumer savings to customers of
7 the utilities that have entered into sourcing agreements
8 with the clean coal SNG brownfield facility, calculated in
9 real 2010 dollars at the conclusion of the term of the
10 sourcing agreement by comparing the delivered SNG price to
11 the Chicago City-gate price on a weighted daily basis for
12 each day over the entire term of the sourcing agreement, to
13 be provided in accordance with subsection (h-2) of this
14 Section.

15 (5) Prior to the clean coal SNG brownfield facility
16 issuing a notice to proceed to construction, the clean coal
17 SNG brownfield facility shall establish a consumer
18 protection reserve account for the benefit of the customers
19 of the utilities that have entered into sourcing agreements
20 with the clean coal SNG brownfield facility pursuant to
21 this subsection (h-1), with cash principal in the amount of
22 \$150,000,000. This cash principal shall only be
23 recoverable through the consumer protection reserve
24 account and not as a cost to be recovered in the delivered
25 SNG price pursuant to subsection (h-3) of this Section. The
26 consumer protection reserve account shall be maintained

1 and administered by an independent trustee that is mutually
2 agreed upon by the clean coal SNG brownfield facility, the
3 utilities, and the Commission in an interest-bearing
4 account in accordance with subsection (h-2) of this
5 Section.

6 "Consumer protection reserve account principal maximum
7 amount" shall mean the maximum amount of principal to be
8 maintained in the consumer protection reserve account.
9 During the first 2 years of operation of the facility,
10 there shall be no consumer protection reserve account
11 maximum amount. After the first 2 years of operation of the
12 facility, the consumer protection reserve account maximum
13 amount shall be \$150,000,000. After 5 years of operation,
14 and every 5 years thereafter, the trustee shall calculate
15 the 5-year average balance of the consumer protection
16 reserve account. If the trustee determines that during the
17 prior 5 years the consumer protection reserve account has
18 had an average account balance of less than \$75,000,000,
19 then the consumer protection reserve account principal
20 maximum amount shall be increased by \$5,000,000. If the
21 trustee determines that during the prior 5 years the
22 consumer protection reserve account has had an average
23 account balance of more than \$75,000,000, then the consumer
24 protection reserve account principal maximum amount shall
25 be decreased by \$5,000,000.

26 (6) The clean coal SNG brownfield facility shall

1 identify and sell economically viable by-products produced
2 by the facility.

3 (7) Fifty percent of all additional net revenue,
4 defined as miscellaneous net revenue from products
5 produced by the facility and delivered during the month
6 after cost allowance for costs associated with additional
7 net revenue that are not otherwise recoverable pursuant to
8 subsection (h-3) of this Section, including net revenue
9 from sales of substitute natural gas derived from the
10 facility above the nameplate capacity of the facility and
11 other by-products produced by the facility, shall be
12 credited to the consumer protection reserve account
13 pursuant to subsection (h-2) of this Section.

14 (8) The delivered SNG price per million btu to be paid
15 monthly by the utility to the clean coal SNG brownfield
16 facility, which shall be based only upon the following: (A)
17 a capital recovery charge, operations and maintenance
18 costs, and sequestration costs, only to the extent approved
19 by the Commission pursuant to paragraphs (1), (2), and (3)
20 of subsection (h-3) of this Section; (B) the actual
21 delivered and processed fuel costs pursuant to paragraph
22 (4) of subsection (h-3) of this Section; (C) actual costs
23 of SNG transportation pursuant to paragraph (6) of
24 subsection (h-3) of this Section; (D) certain taxes and
25 fees imposed by the federal government, the State, or any
26 unit of local government as provided in paragraph (6) of

1 subsection (h-3) of this Section; and (E) the credit, if
2 any, from the consumer protection reserve account pursuant
3 to subsection (h-2) of this Section. The delivered SNG
4 price per million Btu shall proportionately reflect these
5 elements over the term of the sourcing agreement.

6 (9) A formula to translate the recoverable costs and
7 charges under subsection (h-3) of this Section into the
8 delivered SNG price per million btu.

9 (10) Title to the SNG shall pass at a mutually
10 agreeable point in Illinois, and may provide that, rather
11 than the utility taking title to the SNG, a mutually agreed
12 upon third-party gas marketer pursuant to a contract
13 approved by the Illinois Power Agency or its designee may
14 take title to the SNG pursuant to an agreement between the
15 utility, the owner of the clean coal SNG brownfield
16 facility, and the third-party gas marketer.

17 (11) A utility may exit the sourcing agreement without
18 penalty if the clean coal SNG brownfield facility does not
19 commence construction by July 1, 2015.

20 (12) A utility is responsible to pay only the
21 Commission determined unit price cost of SNG that is
22 purchased by the utility. Nothing in the sourcing agreement
23 will obligate a utility to invest capital in a clean coal
24 SNG brownfield facility.

25 (13) The quality of SNG must, at a minimum, be
26 equivalent to the quality required for interstate pipeline

1 gas before a utility is required to accept and pay for SNG
2 gas.

3 (14) Nothing in the sourcing agreement will require a
4 utility to construct any facilities to accept delivery of
5 SNG. Provided, however, if a utility is required by law or
6 otherwise elects to connect the clean coal SNG brownfield
7 facility to an interstate pipeline, then the utility shall
8 be entitled to recover pursuant to its tariffs all just and
9 reasonable costs that are prudently incurred. Any costs
10 incurred by the utility to receive, deliver, manage, or
11 otherwise accommodate purchases under the SNG sourcing
12 agreement will be fully recoverable through a utility's
13 purchased gas adjustment clause rider mechanism in
14 conjunction with a SNG brownfield facility rider
15 mechanism. The SNG brownfield facility rider mechanism (A)
16 shall be applicable to all customers who receive
17 transportation service from the utility, (B) shall be
18 designed to have an equal percent impact on the
19 transportation services rates of each class of the
20 utility's customers, and (C) shall accurately reflect the
21 net consumer savings, if any, and above-market costs, if
22 any, associated with the utility receiving, delivering,
23 managing, or otherwise accommodating purchases under the
24 SNG sourcing agreement.

25 (15) Remedies for the clean coal SNG brownfield
26 facility's failure to deliver a designated amount for a

1 designated period.

2 (16) The clean coal SNG brownfield facility shall make
3 a good faith effort to ensure that an amount equal to not
4 less than 15% of the value of its prime construction
5 contract for the facility shall be established as a goal to
6 be awarded to minority-owned ~~minority-owned~~ businesses,
7 women-owned ~~female-owned~~ businesses, and businesses owned
8 by a person with a disability; provided that at least 75%
9 of the amount of such total goal shall be for
10 minority-owned ~~minority-owned~~ businesses. "Minority-owned
11 ~~Minority-owned~~ business", "women-owned ~~female-owned~~
12 business", and "business owned by a person with a
13 disability" shall have the meanings ascribed to them in
14 Section 2 of the Business Enterprise for Minorities, Women,
15 ~~Females~~ and Persons with Disabilities Act.

16 (17) Prior to the clean coal SNG brownfield facility
17 issuing a notice to proceed to construction, the clean coal
18 SNG brownfield facility shall file with the Commission a
19 certificate from an independent engineer that the clean
20 coal SNG brownfield facility has (A) obtained all
21 applicable State and federal environmental permits
22 required for construction; (B) obtained approval from the
23 Commission of a carbon capture and sequestration plan; and
24 (C) obtained all necessary permits required for
25 construction for the transportation and sequestration of
26 carbon dioxide as set forth in the Commission-approved

1 carbon capture and sequestration plan.

2 (h-2) Consumer protection reserve account. The clean coal
3 SNG brownfield facility shall guarantee a minimum of
4 \$100,000,000 in consumer savings to customers of the utilities
5 that have entered into sourcing agreements with the clean coal
6 SNG brownfield facility, calculated in real 2010 dollars at the
7 conclusion of the term of the sourcing agreement by comparing
8 the delivered SNG price to the Chicago City-gate price on a
9 weighted daily basis for each day over the entire term of the
10 sourcing agreement. Prior to the clean coal SNG brownfield
11 facility issuing a notice to proceed to construction, the clean
12 coal SNG brownfield facility shall establish a consumer
13 protection reserve account for the benefit of the retail
14 customers of the utilities that have entered into sourcing
15 agreements with the clean coal SNG brownfield facility pursuant
16 to subsection (h-1), with cash principal in the amount of
17 \$150,000,000. Such cash principal shall only be recovered
18 through the consumer protection reserve account and not as a
19 cost to be recovered in the delivered SNG price pursuant to
20 subsection (h-3) of this Section. The consumer protection
21 reserve account shall be maintained and administered by an
22 independent trustee that is mutually agreed upon by the clean
23 coal SNG brownfield facility, the utilities, and the Commission
24 in an interest-bearing account in accordance with the
25 following:

26 (1) The clean coal SNG brownfield facility monthly

1 shall calculate (A) the difference between the monthly
2 delivered SNG price and the Chicago City-gate price, by
3 comparing the delivered SNG price, which shall include the
4 cost of transportation to the delivery point, if any, to
5 the Chicago City-gate price on a weighted daily basis for
6 each day of the prior month based upon a mutually agreed
7 upon published index and (B) the overage amount, if any, by
8 calculating the annualized incremental additional cost, if
9 any, of the delivered SNG in excess of 2.015% of the
10 average annual inflation-adjusted amounts paid by all gas
11 distribution customers in connection with natural gas
12 service during the 5 years ending May 31, 2010.

13 (2) During the first 2 years of operation of the
14 facility:

15 (A) to the extent there is an overage amount, the
16 consumer protection reserve account shall be used to
17 provide a credit to reduce the SNG price by an amount
18 equal to the overage amount; and

19 (B) to the extent the monthly delivered SNG price
20 is less than or equal to the Chicago City-gate price,
21 the utility shall credit the difference between the
22 monthly delivered SNG price and the monthly Chicago
23 City-gate price, if any, to the consumer protection
24 reserve account. Such credit issued pursuant to this
25 paragraph (B) shall be deemed prudent and reasonable
26 and not subject to a Commission prudence review;

1 (3) After 2 years of operation of the facility, and
2 monthly, on an on-going basis, thereafter:

3 (A) to the extent that the monthly delivered SNG
4 price is less than or equal to the Chicago City-gate
5 price, calculated using the weighted average of the
6 daily Chicago City-gate price on a daily basis over the
7 entire month, the utility shall credit the difference,
8 if any, to the consumer protection reserve account.
9 Such credit issued pursuant to this subparagraph (A)
10 shall be deemed prudent and reasonable and not subject
11 to a Commission prudence review;

12 (B) any amounts in the consumer protection reserve
13 account in excess of the consumer protection reserve
14 account principal maximum amount shall be distributed
15 as follows: (i) if retail customers have not realized
16 net consumer savings, calculated by comparing the
17 delivered SNG price to the weighted average of the
18 daily Chicago City-gate price on a daily basis over the
19 entire term of the sourcing agreement to date, then 50%
20 of any amounts in the consumer protection reserve
21 account in excess of the consumer protection reserve
22 account principal maximum shall be distributed to the
23 clean coal SNG brownfield facility, with the remaining
24 50% of any such additional amounts being credited to
25 retail customers, and (ii) if retail customers have
26 realized net consumer savings, then 100% of any amounts

1 in the consumer protection reserve account in excess of
2 the consumer protection reserve account principal
3 maximum shall be distributed to the clean coal SNG
4 brownfield facility; provided, however, that under no
5 circumstances shall the total cumulative amount
6 distributed to the clean coal SNG brownfield facility
7 under this subparagraph (B) exceed \$150,000,000;

8 (C) to the extent there is an overage amount, after
9 distributing the amounts pursuant to subparagraph (B)
10 of this paragraph (3), if any, the consumer protection
11 reserve account shall be used to provide a credit to
12 reduce the SNG price by an amount equal to the overage
13 amount;

14 (D) if retail customers have realized net consumer
15 savings, calculated by comparing the delivered SNG
16 price to the weighted average of the daily Chicago
17 City-gate price on a daily basis over the entire term
18 of the sourcing agreement to date, then after
19 distributing the amounts pursuant to subparagraphs (B)
20 and (C) of this paragraph (3), 50% of any additional
21 amounts in the consumer protection reserve account in
22 excess of the consumer protection reserve account
23 principal maximum shall be distributed to the clean
24 coal SNG brownfield facility, with the remaining 50% of
25 any such additional amounts being credited to retail
26 customers; provided, however, that if retail customers

1 have not realized such net consumer savings, no such
2 distribution shall be made to the clean coal SNG
3 brownfield facility, and 100% of such additional
4 amounts shall be credited to the retail customers to
5 the extent the consumer protection reserve account
6 exceeds the consumer protection reserve account
7 principal maximum amount.

8 (4) Fifty percent of all additional net revenue,
9 defined as miscellaneous net revenue after cost allowance
10 for costs associated with additional net revenue that are
11 not otherwise recoverable pursuant to subsection (h-3) of
12 this Section, including net revenue from sales of
13 substitute natural gas derived from the facility above the
14 nameplate capacity of the facility and other by-products
15 produced by the facility, shall be credited to the consumer
16 protection reserve account.

17 (5) At the conclusion of the term of the sourcing
18 agreement, to the extent retail customers have not saved
19 the minimum of \$100,000,000 in consumer savings as
20 guaranteed in this subsection (h-2), amounts in the
21 consumer protection reserve account shall be credited to
22 retail customers to the extent the retail customers have
23 saved the minimum of \$100,000,000; 50% of any additional
24 amounts in the consumer protection reserve account shall be
25 distributed to the company, and the remaining 50% shall be
26 distributed to retail customers.

1 (6) If, at the conclusion of the term of the sourcing
2 agreement, the customers have not saved the minimum
3 \$100,000,000 in savings as guaranteed in this subsection
4 (h-2) and the consumer protection reserve account has been
5 depleted, then the clean coal SNG brownfield facility shall
6 be liable for any remaining amount owed to the retail
7 customers to the extent that the customers are provided
8 with the \$100,000,000 in savings as guaranteed in this
9 subsection (h-2). The retail customers shall have first
10 priority in recovering that debt above any creditors,
11 except the original senior secured lender to the extent
12 that the original senior secured lender has any senior
13 secured debt outstanding, including any clean coal SNG
14 brownfield facility parent companies or affiliates.

15 (7) The clean coal SNG brownfield facility, the
16 utilities, and the trustee shall work together to take
17 commercially reasonable steps to minimize the tax impact of
18 these transactions, while preserving the consumer
19 benefits.

20 (8) The clean coal SNG brownfield facility shall each
21 month, starting in the facility's first year of commercial
22 operation, file with the Commission, in such form as the
23 Commission shall require, a report as to the consumer
24 protection reserve account. The monthly report must
25 contain the following information:

26 (A) the extent the monthly delivered SNG price is

1 greater than, less than, or equal to the Chicago
2 City-gate price;

3 (B) the amount credited or debited to the consumer
4 protection reserve account during the month;

5 (C) the amounts credited to consumers and
6 distributed to the clean coal SNG brownfield facility
7 during the month;

8 (D) the total amount of the consumer protection
9 reserve account at the beginning and end of the month;

10 (E) the total amount of consumer savings to date;

11 (F) a confidential summary of the inputs used to
12 calculate the additional net revenue; and

13 (G) any other additional information the
14 Commission shall require.

15 When any report is erroneous or defective or appears to
16 the Commission to be erroneous or defective, the Commission
17 may notify the clean coal SNG brownfield facility to amend
18 the report within 30 days, and, before or after the
19 termination of the 30-day period, the Commission may
20 examine the trustee of the consumer protection reserve
21 account or the officers, agents, employees, books,
22 records, or accounts of the clean coal SNG brownfield
23 facility and correct such items in the report as upon such
24 examination the Commission may find defective or
25 erroneous. All reports shall be under oath.

26 All reports made to the Commission by the clean coal

1 SNG brownfield facility and the contents of the reports
2 shall be open to public inspection and shall be deemed a
3 public record under the Freedom of Information Act. Such
4 reports shall be preserved in the office of the Commission.
5 The Commission shall publish an annual summary of the
6 reports prior to February 1 of the following year. The
7 annual summary shall be made available to the public on the
8 Commission's website and shall be submitted to the General
9 Assembly.

10 Any facility that fails to file a report required under
11 this paragraph (8) to the Commission within the time
12 specified or to make specific answer to any question
13 propounded by the Commission within 30 days from the time
14 it is lawfully required to do so, or within such further
15 time not to exceed 90 days as may in its discretion be
16 allowed by the Commission, shall pay a penalty of \$500 to
17 the Commission for each day it is in default.

18 Any person who willfully makes any false report to the
19 Commission or to any member, officer, or employee thereof,
20 any person who willfully in a report withholds or fails to
21 provide material information to which the Commission is
22 entitled under this paragraph (8) and which information is
23 either required to be filed by statute, rule, regulation,
24 order, or decision of the Commission or has been requested
25 by the Commission, and any person who willfully aids or
26 abets such person shall be guilty of a Class A misdemeanor.

1 (h-3) Recoverable costs and revenue by the clean coal SNG
2 brownfield facility.

3 (1) A capital recovery charge approved by the
4 Commission shall be recoverable by the clean coal SNG
5 brownfield facility under a sourcing agreement. The
6 capital recovery charge shall be comprised of capital costs
7 and a reasonable rate of return. "Capital costs" means
8 costs to be incurred in connection with the construction
9 and development of a facility, as defined in Section 1-10
10 of the Illinois Power Agency Act, and such other costs as
11 the Capital Development Board deems appropriate to be
12 recovered in the capital recovery charge.

13 (A) Capital costs. The Capital Development Board
14 shall calculate a range of capital costs that it
15 believes would be reasonable for the clean coal SNG
16 brownfield facility to recover under the sourcing
17 agreement. In making this determination, the Capital
18 Development Board shall review the facility cost
19 report, if any, of the clean coal SNG brownfield
20 facility, adjusting the results based on the change in
21 the Annual Consumer Price Index for All Urban Consumers
22 for the Midwest Region as published in April by the
23 United States Department of Labor, Bureau of Labor
24 Statistics, the final draft of the sourcing agreement,
25 and the rate of return approved by the Commission. In
26 addition, the Capital Development Board may consult as

1 much as it deems necessary with the clean coal SNG
2 brownfield facility and conduct whatever research and
3 investigation it deems necessary.

4 The Capital Development Board shall retain an
5 engineering expert to assist in determining both the
6 range of capital costs and the range of operations and
7 maintenance costs that it believes would be reasonable
8 for the clean coal SNG brownfield facility to recover
9 under the sourcing agreement. Provided, however, that
10 such expert shall: (i) not have been involved in the
11 clean coal SNG brownfield facility's facility cost
12 report, if any, (ii) not own or control any direct or
13 indirect interest in the initial clean coal facility,
14 and (iii) have no contractual relationship with the
15 clean coal SNG brownfield facility. In order to qualify
16 as an independent expert, a person or company must
17 have:

18 (i) direct previous experience conducting
19 front-end engineering and design studies for
20 large-scale energy facilities and administering
21 large-scale energy operations and maintenance
22 contracts, which may be particularized to the
23 specific type of financing associated with the
24 clean coal SNG brownfield facility;

25 (ii) an advanced degree in economics,
26 mathematics, engineering, or a related area of

1 study;

2 (iii) ten years of experience in the energy
3 sector, including construction and risk management
4 experience;

5 (iv) expertise in assisting companies with
6 obtaining financing for large-scale energy
7 projects, which may be particularized to the
8 specific type of financing associated with the
9 clean coal SNG brownfield facility;

10 (v) expertise in operations and maintenance
11 which may be particularized to the specific type of
12 operations and maintenance associated with the
13 clean coal SNG brownfield facility;

14 (vi) expertise in credit and contract
15 protocols;

16 (vii) adequate resources to perform and
17 fulfill the required functions and
18 responsibilities; and

19 (viii) the absence of a conflict of interest
20 and inappropriate bias for or against an affected
21 gas utility or the clean coal SNG brownfield
22 facility.

23 The clean coal SNG brownfield facility and the
24 Illinois Power Agency shall cooperate with the Capital
25 Development Board in any investigation it deems
26 necessary. The Capital Development Board shall make

1 its final determination of the range of capital costs
2 confidentially and shall submit that range to the
3 Commission in a confidential filing within 120 days
4 after July 13, 2011 (the effective date of Public Act
5 97-096). The clean coal SNG brownfield facility shall
6 submit to the Commission its estimate of the capital
7 costs to be recovered under the sourcing agreement.
8 Only after the clean coal SNG brownfield facility has
9 submitted this estimate shall the Commission publicly
10 announce the range of capital costs submitted by the
11 Capital Development Board.

12 In the event that the estimate submitted by the
13 clean coal SNG brownfield facility is within or below
14 the range submitted by the Capital Development Board,
15 the clean coal SNG brownfield facility's estimate
16 shall be approved by the Commission as the amount of
17 capital costs to be recovered under the sourcing
18 agreement. In the event that the estimate submitted by
19 the clean coal SNG brownfield facility is above the
20 range submitted by the Capital Development Board, the
21 amount of capital costs at the lowest end of the range
22 submitted by the Capital Development Board shall be
23 approved by the Commission as the amount of capital
24 costs to be recovered under the sourcing agreement.
25 Within 15 days after the Capital Development Board has
26 submitted its range and the clean coal SNG brownfield

1 facility has submitted its estimate, the Commission
2 shall approve the capital costs for the clean coal SNG
3 brownfield facility.

4 The Capital Development Board shall monitor the
5 construction of the clean coal SNG brownfield facility
6 for the full duration of construction to assess
7 potential cost overruns. The Capital Development
8 Board, in its discretion, may retain an expert to
9 facilitate such monitoring. The clean coal SNG
10 brownfield facility shall pay a reasonable fee as
11 required by the Capital Development Board for the
12 Capital Development Board's services under this
13 subsection (h-3) to be deposited into the Capital
14 Development Board Revolving Fund, and such fee shall
15 not be passed through to a utility or its customers. If
16 an expert is retained by the Capital Development Board
17 for monitoring of construction, then the clean coal SNG
18 brownfield facility must pay for the expert's
19 reasonable fees and such costs shall not be passed
20 through to a utility or its customers.

21 (B) Rate of Return. No later than 30 days after the
22 date on which the Illinois Power Agency submits a final
23 draft sourcing agreement, the Commission shall hold a
24 public hearing to determine the rate of return to be
25 recovered under the sourcing agreement. Rate of return
26 shall be comprised of the clean coal SNG brownfield

1 facility's actual cost of debt, including
2 mortgage-style amortization, and a reasonable return
3 on equity. The Commission shall post notice of the
4 hearing on its website no later than 10 days prior to
5 the date of the hearing. The Commission shall provide
6 the public and all interested parties, including the
7 gas utilities, the Attorney General, and the Illinois
8 Power Agency, an opportunity to be heard.

9 In determining the return on equity, the
10 Commission shall select a commercially reasonable
11 return on equity taking into account the return on
12 equity being received by developers of similar
13 facilities in or outside of Illinois, the need to
14 balance an incentive for clean-coal technology with
15 the need to protect ratepayers from high gas prices,
16 the risks being borne by the clean coal SNG brownfield
17 facility in the final draft sourcing agreement, and any
18 other information that the Commission may deem
19 relevant. The Commission may establish a return on
20 equity that varies with the amount of savings, if any,
21 to customers during the term of the sourcing agreement,
22 comparing the delivered SNG price to a daily weighted
23 average price of natural gas, based upon an index. The
24 Illinois Power Agency shall recommend a return on
25 equity to the Commission using the same criteria.
26 Within 60 days after receiving the final draft sourcing

1 agreement from the Illinois Power Agency, the
2 Commission shall approve the rate of return for the
3 clean coal brownfield facility. Within 30 days after
4 obtaining debt financing for the clean coal SNG
5 brownfield facility, the clean coal SNG brownfield
6 facility shall file a notice with the Commission
7 identifying the actual cost of debt.

8 (2) Operations and maintenance costs approved by the
9 Commission shall be recoverable by the clean coal SNG
10 brownfield facility under the sourcing agreement. The
11 operations and maintenance costs mean costs that have been
12 incurred for the administration, supervision, operation,
13 maintenance, preservation, and protection of the clean
14 coal SNG brownfield facility's physical plant.

15 The Capital Development Board shall calculate a range
16 of operations and maintenance costs that it believes would
17 be reasonable for the clean coal SNG brownfield facility to
18 recover under the sourcing agreement, incorporating an
19 inflation index or combination of inflation indices to most
20 accurately reflect the actual costs of operating the clean
21 coal SNG brownfield facility. In making this
22 determination, the Capital Development Board shall review
23 the facility cost report, if any, of the clean coal SNG
24 brownfield facility, adjusting the results for inflation
25 based on the change in the Annual Consumer Price Index for
26 All Urban Consumers for the Midwest Region as published in

1 April by the United States Department of Labor, Bureau of
2 Labor Statistics, the final draft of the sourcing
3 agreement, and the rate of return approved by the
4 Commission. In addition, the Capital Development Board may
5 consult as much as it deems necessary with the clean coal
6 SNG brownfield facility and conduct whatever research and
7 investigation it deems necessary. As set forth in
8 subparagraph (A) of paragraph (1) of this subsection (h-3),
9 the Capital Development Board shall retain an independent
10 engineering expert to assist in determining both the range
11 of operations and maintenance costs that it believes would
12 be reasonable for the clean coal SNG brownfield facility to
13 recover under the sourcing agreement. The clean coal SNG
14 brownfield facility and the Illinois Power Agency shall
15 cooperate with the Capital Development Board in any
16 investigation it deems necessary. The Capital Development
17 Board shall make its final determination of the range of
18 operations and maintenance costs confidentially and shall
19 submit that range to the Commission in a confidential
20 filing within 120 days after July 13, 2011.

21 The clean coal SNG brownfield facility shall submit to
22 the Commission its estimate of the operations and
23 maintenance costs to be recovered under the sourcing
24 agreement. Only after the clean coal SNG brownfield
25 facility has submitted this estimate shall the Commission
26 publicly announce the range of operations and maintenance

1 costs submitted by the Capital Development Board. In the
2 event that the estimate submitted by the clean coal SNG
3 brownfield facility is within or below the range submitted
4 by the Capital Development Board, the clean coal SNG
5 brownfield facility's estimate shall be approved by the
6 Commission as the amount of operations and maintenance
7 costs to be recovered under the sourcing agreement. In the
8 event that the estimate submitted by the clean coal SNG
9 brownfield facility is above the range submitted by the
10 Capital Development Board, the amount of operations and
11 maintenance costs at the lowest end of the range submitted
12 by the Capital Development Board shall be approved by the
13 Commission as the amount of operations and maintenance
14 costs to be recovered under the sourcing agreement. Within
15 15 days after the Capital Development Board has submitted
16 its range and the clean coal SNG brownfield facility has
17 submitted its estimate, the Commission shall approve the
18 operations and maintenance costs for the clean coal SNG
19 brownfield facility.

20 The clean coal SNG brownfield facility shall pay for
21 the independent engineering expert's reasonable fees and
22 such costs shall not be passed through to a utility or its
23 customers. The clean coal SNG brownfield facility shall pay
24 a reasonable fee as required by the Capital Development
25 Board for the Capital Development Board's services under
26 this subsection (h-3) to be deposited into the Capital

1 Development Board Revolving Fund, and such fee shall not be
2 passed through to a utility or its customers.

3 (3) Sequestration costs approved by the Commission
4 shall be recoverable by the clean coal SNG brownfield
5 facility. "Sequestration costs" means costs to be incurred
6 by the clean coal SNG brownfield facility in accordance
7 with its Commission-approved carbon capture and
8 sequestration plan to:

9 (A) capture carbon dioxide;

10 (B) build, operate, and maintain a sequestration
11 site in which carbon dioxide may be injected;

12 (C) build, operate, and maintain a carbon dioxide
13 pipeline; and

14 (D) transport the carbon dioxide to the
15 sequestration site or a pipeline.

16 The Commission shall assess the prudence of the
17 sequestration costs for the clean coal SNG brownfield
18 facility before construction commences at the
19 sequestration site or pipeline. Any revenues the clean coal
20 SNG brownfield facility receives as a result of the
21 capture, transportation, or sequestration of carbon
22 dioxide shall be first credited against all sequestration
23 costs, with the positive balance, if any, treated as
24 additional net revenue.

25 The Commission may, in its discretion, retain an expert
26 to assist in its review of sequestration costs. The clean

1 coal SNG brownfield facility shall pay for the expert's
2 reasonable fees if an expert is retained by the Commission,
3 and such costs shall not be passed through to a utility or
4 its customers. Once made, the Commission's determination
5 of the amount of recoverable sequestration costs shall not
6 be increased unless the clean coal SNG brownfield facility
7 can show by clear and convincing evidence that (i) the
8 costs were not reasonably foreseeable; (ii) the costs were
9 due to circumstances beyond the clean coal SNG brownfield
10 facility's control; and (iii) the clean coal SNG brownfield
11 facility took all reasonable steps to mitigate the costs.
12 If the Commission determines that sequestration costs may
13 be increased, the Commission shall provide for notice and a
14 public hearing for approval of the increased sequestration
15 costs.

16 (4) Actual delivered and processed fuel costs shall be
17 set by the Illinois Power Agency through a SNG feedstock
18 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
19 the Illinois Power Agency Act, to be performed at least
20 every 5 years and purchased by the clean coal SNG
21 brownfield facility pursuant to feedstock procurement
22 contracts developed by the Illinois Power Agency, with coal
23 comprising at least 50% of the total feedstock over the
24 term of the sourcing agreement and petroleum coke
25 comprising the remainder of the SNG feedstock. If the
26 Commission fails to approve a feedstock procurement plan or

1 fails to approve the results of a feedstock procurement
2 event, then the fuel shall be purchased by the company
3 month-by-month on the spot market and those actual
4 delivered and processed fuel costs shall be recoverable
5 under the sourcing agreement. If a supplier defaults under
6 the terms of a procurement contract, then the Illinois
7 Power Agency shall immediately initiate a feedstock
8 procurement process to obtain a replacement supply, and,
9 prior to the conclusion of that process, fuel shall be
10 purchased by the company month-by-month on the spot market
11 and those actual delivered and processed fuel costs shall
12 be recoverable under the sourcing agreement.

13 (5) Taxes and fees imposed by the federal government,
14 the State, or any unit of local government applicable to
15 the clean coal SNG brownfield facility, excluding income
16 tax, shall be recoverable by the clean coal SNG brownfield
17 facility under the sourcing agreement to the extent such
18 taxes and fees were not applicable to the facility on July
19 13, 2011.

20 (6) The actual transportation costs, in accordance
21 with the applicable utility's tariffs, and third-party
22 marketer costs incurred by the company, if any, associated
23 with transporting the SNG from the clean coal SNG
24 brownfield facility to the Chicago City-gate to sell such
25 SNG into the natural gas markets shall be recoverable under
26 the sourcing agreement.

1 (7) Unless otherwise provided, within 30 days after a
2 decision of the Commission on recoverable costs under this
3 Section, any interested party to the Commission's decision
4 may apply for a rehearing with respect to the decision. The
5 Commission shall receive and consider the application for
6 rehearing and shall grant or deny the application in whole
7 or in part within 20 days after the date of the receipt of
8 the application by the Commission. If no rehearing is
9 applied for within the required 30 days or an application
10 for rehearing is denied, then the Commission decision shall
11 be final. If an application for rehearing is granted, then
12 the Commission shall hold a rehearing within 30 days after
13 granting the application. The decision of the Commission
14 upon rehearing shall be final.

15 Any person affected by a decision of the Commission
16 under this subsection (h-3) may have the decision reviewed
17 only under and in accordance with the Administrative Review
18 Law. Unless otherwise provided, the provisions of the
19 Administrative Review Law, all amendments and
20 modifications to that Law, and the rules adopted pursuant
21 to that Law shall apply to and govern all proceedings for
22 the judicial review of final administrative decisions of
23 the Commission under this subsection (h-3). The term
24 "administrative decision" is defined as in Section 3-101 of
25 the Code of Civil Procedure.

26 (8) The Capital Development Board shall adopt and make

1 public a policy detailing the process for retaining experts
2 under this Section. Any experts retained to assist with
3 calculating the range of capital costs or operations and
4 maintenance costs shall be retained no later than 45 days
5 after July 13, 2011.

6 (h-4) No later than 90 days after the Illinois Power Agency
7 submits the final draft sourcing agreement pursuant to
8 subsection (h-1), the Commission shall approve a sourcing
9 agreement containing (i) the capital costs, rate of return, and
10 operations and maintenance costs established pursuant to
11 subsection (h-3) and (ii) all other terms and conditions,
12 rights, provisions, exceptions, and limitations contained in
13 the final draft sourcing agreement; provided, however, the
14 Commission shall correct typographical and scrivener's errors
15 and modify the contract only as necessary to provide that the
16 gas utility does not have the right to terminate the sourcing
17 agreement due to any future events that may occur other than
18 the clean coal SNG brownfield facility's failure to timely meet
19 milestones, uncured default, extended force majeure, or
20 abandonment. Once the sourcing agreement is approved, then the
21 gas utility subject to that sourcing agreement shall have 45
22 days after the date of the Commission's approval to enter into
23 the sourcing agreement.

24 (h-5) Sequestration enforcement.

25 (A) All contracts entered into under subsection (h) of
26 this Section and all sourcing agreements under subsection

1 (h-1) of this Section, regardless of duration, shall
2 require the owner of any facility supplying SNG under the
3 contract or sourcing agreement to provide certified
4 documentation to the Commission each year, starting in the
5 facility's first year of commercial operation, accurately
6 reporting the quantity of carbon dioxide emissions from the
7 facility that have been captured and sequestered and
8 reporting any quantities of carbon dioxide released from
9 the site or sites at which carbon dioxide emissions were
10 sequestered in prior years, based on continuous monitoring
11 of those sites.

12 (B) If, in any year, the owner of the clean coal SNG
13 facility fails to demonstrate that the SNG facility
14 captured and sequestered at least 90% of the total carbon
15 dioxide emissions that the facility would otherwise emit or
16 that sequestration of emissions from prior years has
17 failed, resulting in the release of carbon dioxide into the
18 atmosphere, then the owner of the clean coal SNG facility
19 must pay a penalty of \$20 per ton of excess carbon dioxide
20 emissions not to exceed \$40,000,000, in any given year
21 which shall be deposited into the Energy Efficiency Trust
22 Fund and distributed pursuant to subsection (b) of Section
23 6-6 of the Renewable Energy, Energy Efficiency, and Coal
24 Resources Development Law of 1997. On or before the 5-year
25 anniversary of the execution of the contract and every 5
26 years thereafter, an expert hired by the owner of the

1 facility with the approval of the Attorney General shall
2 conduct an analysis to determine the cost of sequestration
3 of at least 90% of the total carbon dioxide emissions the
4 plant would otherwise emit. If the analysis shows that the
5 actual annual cost is greater than the penalty, then the
6 penalty shall be increased to equal the actual cost.
7 Provided, however, to the extent that the owner of the
8 facility described in subsection (h) of this Section can
9 demonstrate that the failure was as a result of acts of God
10 (including fire, flood, earthquake, tornado, lightning,
11 hurricane, or other natural disaster); any amendment,
12 modification, or abrogation of any applicable law or
13 regulation that would prevent performance; war; invasion;
14 act of foreign enemies; hostilities (regardless of whether
15 war is declared); civil war; rebellion; revolution;
16 insurrection; military or usurped power or confiscation;
17 terrorist activities; civil disturbance; riots;
18 nationalization; sabotage; blockage; or embargo, the owner
19 of the facility described in subsection (h) of this Section
20 shall not be subject to a penalty if and only if (i) it
21 promptly provides notice of its failure to the Commission;
22 (ii) as soon as practicable and consistent with any order
23 or direction from the Commission, it submits to the
24 Commission proposed modifications to its carbon capture
25 and sequestration plan; and (iii) it carries out its
26 proposed modifications in the manner and time directed by

1 the Commission.

2 If the Commission finds that the facility has not
3 satisfied each of these requirements, then the facility
4 shall be subject to the penalty. If the owner of the clean
5 coal SNG facility captured and sequestered more than 90% of
6 the total carbon dioxide emissions that the facility would
7 otherwise emit, then the owner of the facility may credit
8 such additional amounts to reduce the amount of any future
9 penalty to be paid. The penalty resulting from the failure
10 to capture and sequester at least the minimum amount of
11 carbon dioxide shall not be passed on to a utility or its
12 customers.

13 If the clean coal SNG facility fails to meet the
14 requirements specified in this subsection (h-5), then the
15 Attorney General, on behalf of the People of the State of
16 Illinois, shall bring an action to enforce the obligations
17 related to the facility set forth in this subsection (h-5),
18 including any penalty payments owed, but not including the
19 physical obligation to capture and sequester at least 90%
20 of the total carbon dioxide emissions that the facility
21 would otherwise emit. Such action may be filed in any
22 circuit court in Illinois. By entering into a contract
23 pursuant to subsection (h) of this Section, the clean coal
24 SNG facility agrees to waive any objections to venue or to
25 the jurisdiction of the court with regard to the Attorney
26 General's action under this subsection (h-5).

1 Compliance with the sequestration requirements and any
2 penalty requirements specified in this subsection (h-5)
3 for the clean coal SNG facility shall be assessed annually
4 by the Commission, which may in its discretion retain an
5 expert to facilitate its assessment. If any expert is
6 retained by the Commission, then the clean coal SNG
7 facility shall pay for the expert's reasonable fees, and
8 such costs shall not be passed through to the utility or
9 its customers.

10 In addition, carbon dioxide emission credits received
11 by the clean coal SNG facility in connection with
12 sequestration of carbon dioxide from the facility must be
13 sold in a timely fashion with any revenue, less applicable
14 fees and expenses and any expenses required to be paid by
15 facility for carbon dioxide transportation or
16 sequestration, deposited into the reconciliation account
17 within 30 days after receipt of such funds by the owner of
18 the clean coal SNG facility.

19 The clean coal SNG facility is prohibited from
20 transporting or sequestering carbon dioxide unless the
21 owner of the carbon dioxide pipeline that transfers the
22 carbon dioxide from the facility and the owner of the
23 sequestration site where the carbon dioxide captured by the
24 facility is stored has acquired all applicable permits
25 under applicable State and federal laws, statutes, rules,
26 or regulations prior to the transfer or sequestration of

1 carbon dioxide. The responsibility for compliance with the
2 sequestration requirements specified in this subsection
3 (h-5) for the clean coal SNG facility shall reside solely
4 with the clean coal SNG facility, regardless of whether the
5 facility has contracted with another party to capture,
6 transport, or sequester carbon dioxide.

7 (C) If, in any year, the owner of a clean coal SNG
8 brownfield facility fails to demonstrate that the clean
9 coal SNG brownfield facility captured and sequestered at
10 least 85% of the total carbon dioxide emissions that the
11 facility would otherwise emit, then the owner of the clean
12 coal SNG brownfield facility must pay a penalty of \$20 per
13 ton of excess carbon emissions up to \$20,000,000, which
14 shall be deposited into the Energy Efficiency Trust Fund
15 and distributed pursuant to subsection (b) of Section 6-6
16 of the Renewable Energy, Energy Efficiency, and Coal
17 Resources Development Law of 1997. Provided, however, to
18 the extent that the owner of the clean coal SNG brownfield
19 facility can demonstrate that the failure was as a result
20 of acts of God (including fire, flood, earthquake, tornado,
21 lightning, hurricane, or other natural disaster); any
22 amendment, modification, or abrogation of any applicable
23 law or regulation that would prevent performance; war;
24 invasion; act of foreign enemies; hostilities (regardless
25 of whether war is declared); civil war; rebellion;
26 revolution; insurrection; military or usurped power or

1 confiscation; terrorist activities; civil disturbances;
2 riots; nationalization; sabotage; blockage; or embargo,
3 the owner of the clean coal SNG brownfield facility shall
4 not be subject to a penalty if and only if (i) it promptly
5 provides notice of its failure to the Commission; (ii) as
6 soon as practicable and consistent with any order or
7 direction from the Commission, it submits to the Commission
8 proposed modifications to its carbon capture and
9 sequestration plan; and (iii) it carries out its proposed
10 modifications in the manner and time directed by the
11 Commission. If the Commission finds that the facility has
12 not satisfied each of these requirements, then the facility
13 shall be subject to the penalty. If the owner of a clean
14 coal SNG brownfield facility demonstrates that the clean
15 coal SNG brownfield facility captured and sequestered more
16 than 85% of the total carbon emissions that the facility
17 would otherwise emit, the owner of the clean coal SNG
18 brownfield facility may credit such additional amounts to
19 reduce the amount of any future penalty to be paid. The
20 penalty resulting from the failure to capture and sequester
21 at least the minimum amount of carbon dioxide shall not be
22 passed on to a utility or its customers.

23 In addition to any penalty for the clean coal SNG
24 brownfield facility's failure to capture and sequester at
25 least its minimum sequestration requirement, the Attorney
26 General, on behalf of the People of the State of Illinois,

1 shall bring an action for specific performance of this
2 subsection (h-5). Such action may be filed in any circuit
3 court in Illinois. By entering into a sourcing agreement
4 pursuant to subsection (h-1) of this Section, the clean
5 coal SNG brownfield facility agrees to waive any objections
6 to venue or to the jurisdiction of the court with regard to
7 the Attorney General's action for specific performance
8 under this subsection (h-5).

9 Compliance with the sequestration requirements and
10 penalty requirements specified in this subsection (h-5)
11 for the clean coal SNG brownfield facility shall be
12 assessed annually by the Commission, which may in its
13 discretion retain an expert to facilitate its assessment.
14 If an expert is retained by the Commission, then the clean
15 coal SNG brownfield facility shall pay for the expert's
16 reasonable fees, and such costs shall not be passed through
17 to a utility or its customers. A SNG facility operating
18 pursuant to this subsection (h-5) shall not forfeit its
19 designation as a clean coal SNG facility or a clean coal
20 SNG brownfield facility if the facility fails to fully
21 comply with the applicable carbon sequestration
22 requirements in any given year, provided the requisite
23 offsets are purchased or requisite penalties are paid.

24 Responsibility for compliance with the sequestration
25 requirements specified in this subsection (h-5) for the
26 clean coal SNG brownfield facility shall reside solely with

1 the clean coal SNG brownfield facility regardless of
2 whether the facility has contracted with another party to
3 capture, transport, or sequester carbon dioxide.

4 (h-7) Sequestration permitting, oversight, and
5 investigations.

6 (1) No clean coal facility or clean coal SNG brownfield
7 facility may transport or sequester carbon dioxide unless
8 the Commission approves the method of carbon dioxide
9 transportation or sequestration. Such approval shall be
10 required regardless of whether the facility has contracted
11 with another to transport or sequester the carbon dioxide.
12 Nothing in this subsection (h-7) shall release the owner or
13 operator of a carbon dioxide sequestration site or carbon
14 dioxide pipeline from any other permitting requirements
15 under applicable State and federal laws, statutes, rules,
16 or regulations.

17 (2) The Commission shall review carbon dioxide
18 transportation and sequestration methods proposed by a
19 clean coal facility or a clean coal SNG brownfield facility
20 and shall approve those methods it deems reasonable and
21 cost-effective. For purposes of this review,
22 "cost-effective" means a commercially reasonable price for
23 similar carbon dioxide transportation or sequestration
24 techniques. In determining whether sequestration is
25 reasonable and cost-effective, the Commission may consult
26 with the Illinois State Geological Survey and retain third

1 parties to assist in its determination, provided that such
2 third parties shall not own or control any direct or
3 indirect interest in the facility that is proposing the
4 carbon dioxide transportation or the carbon dioxide
5 sequestration method and shall have no contractual
6 relationship with that facility. If a third party is
7 retained by the Commission, then the facility proposing the
8 carbon dioxide transportation or sequestration method
9 shall pay for the expert's reasonable fees, and these costs
10 shall not be passed through to a utility or its customers.

11 No later than 6 months prior to the date upon which the
12 owner intends to commence construction of a clean coal
13 facility or the clean coal SNG brownfield facility, the
14 owner of the facility shall file with the Commission a
15 carbon dioxide transportation or sequestration plan. The
16 Commission shall hold a public hearing within 30 days after
17 receipt of the facility's carbon dioxide transportation or
18 sequestration plan. The Commission shall post notice of the
19 review on its website upon submission of a carbon dioxide
20 transportation or sequestration method and shall accept
21 written public comments. The Commission shall take the
22 comments into account when making its decision.

23 The Commission may not approve a carbon dioxide
24 sequestration method if the owner or operator of the
25 sequestration site has not received (i) an Underground
26 Injection Control permit from the United States

1 Environmental Protection Agency, or from the Illinois
2 Environmental Protection Agency pursuant to the
3 Environmental Protection Act; (ii) an Underground
4 Injection Control permit from the Illinois Department of
5 Natural Resources pursuant to the Illinois Oil and Gas Act;
6 or (iii) an Underground Injection Control permit from the
7 United States Environmental Protection Agency or a permit
8 similar to items (i) or (ii) from the state in which the
9 sequestration site is located if the sequestration will
10 take place outside of Illinois. The Commission shall
11 approve or deny the carbon dioxide transportation or
12 sequestration method within 90 days after the receipt of
13 all required information.

14 (3) At least annually, the Illinois Environmental
15 Protection Agency shall inspect all carbon dioxide
16 sequestration sites in Illinois. The Illinois
17 Environmental Protection Agency may, as often as deemed
18 necessary, monitor and conduct investigations of those
19 sites. The owner or operator of the sequestration site must
20 cooperate with the Illinois Environmental Protection
21 Agency investigations of carbon dioxide sequestration
22 sites.

23 If the Illinois Environmental Protection Agency
24 determines at any time a site creates conditions that
25 warrant the issuance of a seal order under Section 34 of
26 the Environmental Protection Act, then the Illinois

1 Environmental Protection Agency shall seal the site
2 pursuant to the Environmental Protection Act. If the
3 Illinois Environmental Protection Agency determines at any
4 time a carbon dioxide sequestration site creates
5 conditions that warrant the institution of a civil action
6 for an injunction under Section 43 of the Environmental
7 Protection Act, then the Illinois Environmental Protection
8 Agency shall request the State's Attorney or the Attorney
9 General institute such action. The Illinois Environmental
10 Protection Agency shall provide notice of any such actions
11 as soon as possible on its website. The SNG facility shall
12 incur all reasonable costs associated with any such
13 inspection or monitoring of the sequestration sites, and
14 these costs shall not be recoverable from utilities or
15 their customers.

16 (4) (Blank).

17 (h-9) The clean coal SNG brownfield facility shall have the
18 right to recover prudently incurred increased costs or reduced
19 revenue resulting from any new or amendatory legislation or
20 other action. The State of Illinois pledges that the State will
21 not enact any law or take any action to:

22 (1) break, or repeal the authority for, sourcing
23 agreements approved by the Commission and entered into
24 between public utilities and the clean coal SNG brownfield
25 facility;

26 (2) deny public utilities full cost recovery for their

1 costs incurred under those sourcing agreements; or

2 (3) deny the clean coal SNG brownfield facility full
3 cost and revenue recovery as provided under those sourcing
4 agreements that are recoverable pursuant to subsection
5 (h-3) of this Section.

6 These pledges are for the benefit of the parties to those
7 sourcing agreements and the issuers and holders of bonds or
8 other obligations issued or incurred to finance or refinance
9 the clean coal SNG brownfield facility. The clean coal SNG
10 brownfield facility is authorized to include and refer to these
11 pledges in any financing agreement into which it may enter in
12 regard to those sourcing agreements.

13 The State of Illinois retains and reserves all other rights
14 to enact new or amendatory legislation or take any other
15 action, without impairment of the right of the clean coal SNG
16 brownfield facility to recover prudently incurred increased
17 costs or reduced revenue resulting from the new or amendatory
18 legislation or other action, including, but not limited to,
19 such legislation or other action that would (i) directly or
20 indirectly raise the costs the clean coal SNG brownfield
21 facility must incur; (ii) directly or indirectly place
22 additional restrictions, regulations, or requirements on the
23 clean coal SNG brownfield facility; (iii) prohibit
24 sequestration in general or prohibit a specific sequestration
25 method or project; or (iv) increase minimum sequestration
26 requirements for the clean coal SNG brownfield facility to the

1 extent technically feasible. The clean coal SNG brownfield
2 facility shall have the right to recover prudently incurred
3 increased costs or reduced revenue resulting from the new or
4 amendatory legislation or other action as described in this
5 subsection (h-9).

6 (h-10) Contract costs for SNG incurred by an Illinois gas
7 utility are reasonable and prudent and recoverable through the
8 purchased gas adjustment clause and are not subject to review
9 or disallowance by the Commission. Contract costs are costs
10 incurred by the utility under the terms of a contract that
11 incorporates the terms stated in subsection (h) of this Section
12 as confirmed in writing by the Illinois Power Agency as set
13 forth in subsection (h) of this Section, which confirmation
14 shall be deemed conclusive, or as a consequence of or condition
15 to its performance under the contract, including (i) amounts
16 paid for SNG under the SNG contract and (ii) costs of
17 transportation and storage services of SNG purchased from
18 interstate pipelines under federally approved tariffs. The
19 Illinois gas utility shall initiate a clean coal SNG facility
20 rider mechanism that (A) shall be applicable to all customers
21 who receive transportation service from the utility, (B) shall
22 be designed to have an equal percentage impact on the
23 transportation services rates of each class of the utility's
24 total customers, and (C) shall accurately reflect the net
25 customer savings, if any, and above market costs, if any, under
26 the SNG contract. Any contract, the terms of which have been

1 confirmed in writing by the Illinois Power Agency as set forth
2 in subsection (h) of this Section and the performance of the
3 parties under such contract cannot be grounds for challenging
4 prudence or cost recovery by the utility through the purchased
5 gas adjustment clause, and in such cases, the Commission is
6 directed not to consider, and has no authority to consider, any
7 attempted challenges.

8 The contracts entered into by Illinois gas utilities
9 pursuant to subsection (h) of this Section shall provide that
10 the utility retains the right to terminate the contract without
11 further obligation or liability to any party if the contract
12 has been impaired as a result of any legislative,
13 administrative, judicial, or other governmental action that is
14 taken that eliminates all or part of the prudence protection of
15 this subsection (h-10) or denies the recoverability of all or
16 part of the contract costs through the purchased gas adjustment
17 clause. Should any Illinois gas utility exercise its right
18 under this subsection (h-10) to terminate the contract, all
19 contract costs incurred prior to termination are and will be
20 deemed reasonable, prudent, and recoverable as and when
21 incurred and not subject to review or disallowance by the
22 Commission. Any order, issued by the State requiring or
23 authorizing the discontinuation of the merchant function,
24 defined as the purchase and sale of natural gas by an Illinois
25 gas utility for the ultimate consumer in its service territory
26 shall include provisions necessary to prevent the impairment of

1 the value of any contract hereunder over its full term.

2 (h-11) All costs incurred by an Illinois gas utility in
3 procuring SNG from a clean coal SNG brownfield facility
4 pursuant to subsection (h-1) or a third-party marketer pursuant
5 to subsection (h-1) are reasonable and prudent and recoverable
6 through the purchased gas adjustment clause in conjunction with
7 a SNG brownfield facility rider mechanism and are not subject
8 to review or disallowance by the Commission; provided that if a
9 utility is required by law or otherwise elects to connect the
10 clean coal SNG brownfield facility to an interstate pipeline,
11 then the utility shall be entitled to recover pursuant to its
12 tariffs all just and reasonable costs that are prudently
13 incurred. Sourcing agreement costs are costs incurred by the
14 utility under the terms of a sourcing agreement that
15 incorporates the terms stated in subsection (h-1) of this
16 Section as approved by the Commission as set forth in
17 subsection (h-4) of this Section, which approval shall be
18 deemed conclusive, or as a consequence of or condition to its
19 performance under the contract, including (i) amounts paid for
20 SNG under the SNG contract and (ii) costs of transportation and
21 storage services of SNG purchased from interstate pipelines
22 under federally approved tariffs. Any sourcing agreement, the
23 terms of which have been approved by the Commission as set
24 forth in subsection (h-4) of this Section, and the performance
25 of the parties under the sourcing agreement cannot be grounds
26 for challenging prudence or cost recovery by the utility, and

1 in these cases, the Commission is directed not to consider, and
2 has no authority to consider, any attempted challenges.

3 (h-15) Reconciliation account. The clean coal SNG facility
4 shall establish a reconciliation account for the benefit of the
5 retail customers of the utilities that have entered into
6 contracts with the clean coal SNG facility pursuant to
7 subsection (h). The reconciliation account shall be maintained
8 and administered by an independent trustee that is mutually
9 agreed upon by the owners of the clean coal SNG facility, the
10 utilities, and the Commission in an interest-bearing account in
11 accordance with the following:

12 (1) The clean coal SNG facility shall conduct an
13 analysis annually within 60 days after receiving the
14 necessary cost information, which shall be provided by the
15 gas utility within 6 months after the end of the preceding
16 calendar year, to determine (i) the average annual contract
17 SNG cost, which shall be calculated as the total amount
18 paid for SNG purchased from the clean coal SNG facility
19 over the preceding 12 months, plus the cost to the utility
20 of the required transportation and storage services of SNG,
21 divided by the total number of MMBtus of SNG actually
22 purchased from the clean coal SNG facility in the preceding
23 12 months under the utility contract; (ii) the average
24 annual natural gas purchase cost, which shall be calculated
25 as the total annual supply costs paid for baseload natural
26 gas (excluding any SNG) purchased by such utility over the

1 preceding 12 months plus the costs of transportation and
2 storage services of such natural gas (excluding such costs
3 for SNG), divided by the total number of MMBtus of baseload
4 natural gas (excluding SNG) actually purchased by the
5 utility during the year; (iii) the cost differential, which
6 shall be the difference between the average annual contract
7 SNG cost and the average annual natural gas purchase cost;
8 and (iv) the revenue share target which shall be the cost
9 differential multiplied by the total amount of SNG
10 purchased over the preceding 12 months under such utility
11 contract.

12 (A) To the extent the annual average contract SNG
13 cost is less than the annual average natural gas
14 purchase cost, the utility shall credit an amount equal
15 to the revenue share target to the reconciliation
16 account. Such credit payment shall be made monthly
17 starting within 30 days after the completed analysis in
18 this subsection (h-15) and based on collections from
19 all customers via a line item charge in all customer
20 bills designed to have an equal percentage impact on
21 the transportation services of each class of
22 customers. Credit payments made pursuant to this
23 subparagraph (A) shall be deemed prudent and
24 reasonable and not subject to Commission prudence
25 review.

26 (B) To the extent the annual average contract SNG

1 cost is greater than the annual average natural gas
2 purchase cost, the reconciliation account shall be
3 used to provide a credit equal to the revenue share
4 target to the utilities to be used to reduce the
5 utility's natural gas costs through the purchased gas
6 adjustment clause. Such payment shall be made within 30
7 days after the completed analysis pursuant to this
8 subsection (h-15), but only to the extent that the
9 reconciliation account has a positive balance.

10 (2) At the conclusion of the term of the SNG contracts
11 pursuant to subsection (h) and the completion of the final
12 annual analysis pursuant to this subsection (h-15), to the
13 extent the facility owes any amount to retail customers,
14 amounts in the account shall be credited to retail
15 customers to the extent the owed amount is repaid; 50% of
16 any additional amount in the reconciliation account shall
17 be distributed to the utilities to be used to reduce the
18 utilities' natural gas costs through the purchase gas
19 adjustment clause with the remaining amount distributed to
20 the clean coal SNG facility. Such payment shall be made
21 within 30 days after the last completed analysis pursuant
22 to this subsection (h-15). If the facility has repaid all
23 owed amounts, if any, to retail customers and has
24 distributed 50% of any additional amount in the account to
25 the utilities, then the owners of the clean coal SNG
26 facility shall have no further obligation to the utility or

1 the retail customers.

2 If, at the conclusion of the term of the contracts
3 pursuant to subsection (h) and the completion of the final
4 annual analysis pursuant to this subsection (h-15), the
5 facility owes any amount to retail customers and the
6 account has been depleted, then the clean coal SNG facility
7 shall be liable for any remaining amount owed to the retail
8 customers. The clean coal SNG facility shall market the
9 daily production of SNG and distribute on a monthly basis
10 5% of the amounts collected with respect to such future
11 sales to the utilities in proportion to each utility's SNG
12 contract to be used to reduce the utility's natural gas
13 costs through the purchase gas adjustment clause; such
14 payments to the utility shall continue until either 15
15 years after the conclusion of the contract or such time as
16 the sum of such payments equals the remaining amount owed
17 to the retail customers at the end of the contract,
18 whichever is earlier. If the debt to the retail customers
19 is not repaid within 15 years after the conclusion of the
20 contract, then the owner of the clean coal SNG facility
21 must sell the facility, and all proceeds from that sale
22 must be used to repay any amount owed to the retail
23 customers under this subsection (h-15).

24 The retail customers shall have first priority in
25 recovering that debt above any creditors, except the
26 secured lenders to the extent that the secured lenders have

1 any secured debt outstanding, including any parent
2 companies or affiliates of the clean coal SNG facility.

3 (3) 50% of all additional net revenue, defined as
4 miscellaneous net revenue after cost allowance and above
5 the budgeted estimate established for revenue pursuant to
6 subsection (h), including sale of substitute natural gas
7 derived from the clean coal SNG facility above the
8 nameplate capacity of the facility and other by-products
9 produced by the facility, shall be credited to the
10 reconciliation account on an annual basis with such payment
11 made within 30 days after the end of each calendar year
12 during the term of the contract.

13 (4) The clean coal SNG facility shall each year,
14 starting in the facility's first year of commercial
15 operation, file with the Commission, in such form as the
16 Commission shall require, a report as to the reconciliation
17 account. The annual report must contain the following
18 information:

19 (A) the revenue share target amount;

20 (B) the amount credited or debited to the
21 reconciliation account during the year;

22 (C) the amount credited to the utilities to be used
23 to reduce the utilities natural gas costs though the
24 purchase gas adjustment clause;

25 (D) the total amount of reconciliation account at
26 the beginning and end of the year;

1 (E) the total amount of consumer savings to date;
2 and
3 (F) any additional information the Commission may
4 require.

5 When any report is erroneous or defective or appears to the
6 Commission to be erroneous or defective, the Commission may
7 notify the clean coal SNG facility to amend the report within
8 30 days; before or after the termination of the 30-day period,
9 the Commission may examine the trustee of the reconciliation
10 account or the officers, agents, employees, books, records, or
11 accounts of the clean coal SNG facility and correct such items
12 in the report as upon such examination the Commission may find
13 defective or erroneous. All reports shall be under oath.

14 All reports made to the Commission by the clean coal SNG
15 facility and the contents of the reports shall be open to
16 public inspection and shall be deemed a public record under the
17 Freedom of Information Act. Such reports shall be preserved in
18 the office of the Commission. The Commission shall publish an
19 annual summary of the reports prior to February 1 of the
20 following year. The annual summary shall be made available to
21 the public on the Commission's website and shall be submitted
22 to the General Assembly.

23 Any facility that fails to file the report required under
24 this paragraph (4) to the Commission within the time specified
25 or to make specific answer to any question propounded by the
26 Commission within 30 days after the time it is lawfully

1 required to do so, or within such further time not to exceed 90
2 days as may be allowed by the Commission in its discretion,
3 shall pay a penalty of \$500 to the Commission for each day it
4 is in default.

5 Any person who willfully makes any false report to the
6 Commission or to any member, officer, or employee thereof, any
7 person who willfully in a report withholds or fails to provide
8 material information to which the Commission is entitled under
9 this paragraph (4) and which information is either required to
10 be filed by statute, rule, regulation, order, or decision of
11 the Commission or has been requested by the Commission, and any
12 person who willfully aids or abets such person shall be guilty
13 of a Class A misdemeanor.

14 (h-20) The General Assembly authorizes the Illinois
15 Finance Authority to issue bonds to the maximum extent
16 permitted to finance coal gasification facilities described in
17 this Section, which constitute both "industrial projects"
18 under Article 801 of the Illinois Finance Authority Act and
19 "clean coal and energy projects" under Sections 825-65 through
20 825-75 of the Illinois Finance Authority Act.

21 Administrative costs incurred by the Illinois Finance
22 Authority in performance of this subsection (h-20) shall be
23 subject to reimbursement by the clean coal SNG facility on
24 terms as the Illinois Finance Authority and the clean coal SNG
25 facility may agree. The utility and its customers shall have no
26 obligation to reimburse the clean coal SNG facility or the

1 Illinois Finance Authority for any such costs.

2 (h-25) The State of Illinois pledges that the State may not
3 enact any law or take any action to (1) break or repeal the
4 authority for SNG purchase contracts entered into between
5 public gas utilities and the clean coal SNG facility pursuant
6 to subsection (h) of this Section or (2) deny public gas
7 utilities their full cost recovery for contract costs, as
8 defined in subsection (h-10), that are incurred under such SNG
9 purchase contracts. These pledges are for the benefit of the
10 parties to such SNG purchase contracts and the issuers and
11 holders of bonds or other obligations issued or incurred to
12 finance or refinance the clean coal SNG facility. The
13 beneficiaries are authorized to include and refer to these
14 pledges in any finance agreement into which they may enter in
15 regard to such contracts.

16 (h-30) The State of Illinois retains and reserves all other
17 rights to enact new or amendatory legislation or take any other
18 action, including, but not limited to, such legislation or
19 other action that would (1) directly or indirectly raise the
20 costs that the clean coal SNG facility must incur; (2) directly
21 or indirectly place additional restrictions, regulations, or
22 requirements on the clean coal SNG facility; (3) prohibit
23 sequestration in general or prohibit a specific sequestration
24 method or project; or (4) increase minimum sequestration
25 requirements.

26 (i) If a gas utility or an affiliate of a gas utility has

1 an ownership interest in any entity that produces or sells
2 synthetic natural gas, Article VII of this Act shall apply.

3 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,
4 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;
5 98-463, eff. 8-16-13.)

6 Section 145. The Illinois Horse Racing Act of 1975 is
7 amended by changing Sections 12.1 and 12.2 as follows:

8 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

9 Sec. 12.1. (a) The General Assembly finds that the Illinois
10 Racing Industry does not include a fair proportion of minority
11 or female workers.

12 Therefore, the General Assembly urges that the job training
13 institutes, trade associations and employers involved in the
14 Illinois Horse Racing Industry take affirmative action to
15 encourage equal employment opportunity to all workers
16 regardless of race, color, creed or sex.

17 Before an organization license, inter-track wagering
18 license or inter-track wagering location license can be
19 granted, the applicant for any such license shall execute and
20 file with the Board a good faith affirmative action plan to
21 recruit, train and upgrade minorities and females in all
22 classifications with the applicant for license. One year after
23 issuance of any such license, and each year thereafter, the
24 licensee shall file a report with the Board evidencing and

1 certifying compliance with the originally filed affirmative
2 action plan.

3 (b) At least 10% of the total amount of all State contracts
4 for the infrastructure improvement of any race track grounds in
5 this State shall be let to minority-owned ~~minority-owned~~
6 businesses or women-owned ~~female-owned~~ businesses. "State
7 contract", "minority-owned ~~minority-owned~~ business" and
8 "women-owned ~~female-owned~~ business" shall have the meanings
9 ascribed to them under the Business Enterprise for Minorities,
10 Women ~~Females~~, and Persons with Disabilities Act.

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

12 (230 ILCS 5/12.2)

13 Sec. 12.2. Business enterprise program.

14 (a) For the purposes of this Section, the terms "minority",
15 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",
16 "women-owned ~~female-owned~~ business", "person with a
17 disability", and "business owned by a person with a disability"
18 have the meanings ascribed to them in the Business Enterprise
19 for Minorities, Women ~~Females~~, and Persons with Disabilities
20 Act.

21 (b) The Board shall, by rule, establish goals for the award
22 of contracts by each organization licensee or inter-track
23 wagering licensee to businesses owned by minorities, women
24 ~~females~~, and persons with disabilities, expressed as
25 percentages of an organization licensee's or inter-track

1 wagering licensee's total dollar amount of contracts awarded
2 during each calendar year. Each organization licensee or
3 inter-track wagering licensee must make every effort to meet
4 the goals established by the Board pursuant to this Section.
5 When setting the goals for the award of contracts, the Board
6 shall not include contracts where: (1) licensees are purchasing
7 goods or services from vendors or suppliers or in markets where
8 there are no or a limited number of minority-owned ~~minority~~
9 ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or
10 businesses owned by persons with disabilities that would be
11 sufficient to satisfy the goal; (2) there are no or a limited
12 number of suppliers licensed by the Board; (3) the licensee or
13 its parent company owns a company that provides the goods or
14 services; or (4) the goods or services are provided to the
15 licensee by a publicly traded company.

16 (c) Each organization licensee or inter-track wagering
17 licensee shall file with the Board an annual report of its
18 utilization of minority-owned ~~minority-owned~~ businesses,
19 women-owned ~~female-owned~~ businesses, and businesses owned by
20 persons with disabilities during the preceding calendar year.
21 The reports shall include a self-evaluation of the efforts of
22 the organization licensee or inter-track wagering licensee to
23 meet its goals under this Section.

24 (d) The organization licensee or inter-track wagering
25 licensee shall have the right to request a waiver from the
26 requirements of this Section. The Board shall grant the waiver

1 where the organization licensee or inter-track wagering
2 licensee demonstrates that there has been made a good faith
3 effort to comply with the goals for participation by
4 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~
5 ~~owned~~ businesses, and businesses owned by persons with
6 disabilities.

7 (e) If the Board determines that its goals and policies are
8 not being met by any organization licensee or inter-track
9 wagering licensee, then the Board may:

10 (1) adopt remedies for such violations; and

11 (2) recommend that the organization licensee or
12 inter-track wagering licensee provide additional
13 opportunities for participation by minority-owned ~~minority~~
14 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
15 businesses owned by persons with disabilities; such
16 recommendations may include, but shall not be limited to:

17 (A) assurances of stronger and better focused
18 solicitation efforts to obtain more minority-owned
19 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
20 businesses, and businesses owned by persons with
21 disabilities as potential sources of supply;

22 (B) division of job or project requirements, when
23 economically feasible, into tasks or quantities to
24 permit participation of minority-owned ~~minority-owned~~
25 businesses, women-owned ~~female-owned~~ businesses, and
26 businesses owned by persons with disabilities;

1 (C) elimination of extended experience or
2 capitalization requirements, when programmatically
3 feasible, to permit participation of minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities;

7 (D) identification of specific proposed contracts
8 as particularly attractive or appropriate for
9 participation by minority-owned ~~minority-owned~~
10 businesses, women-owned ~~female-owned~~ businesses, and
11 businesses owned by persons with disabilities, such
12 identification to result from and be coupled with the
13 efforts of items (A) through (C); and

14 (E) implementation of regulations established for
15 the use of the sheltered market process.

16 (f) The Board shall file, no later than March 1 of each
17 year, an annual report that shall detail the level of
18 achievement toward the goals specified in this Section over the
19 3 most recent fiscal years. The annual report shall include,
20 but need not be limited to:

21 (1) a summary detailing expenditures subject to the
22 goals, the actual goals specified, and the goals attained
23 by each organization licensee or inter-track wagering
24 licensee;

25 (2) a summary of the number of contracts awarded and
26 the average contract amount by each organization licensee

1 or inter-track wagering licensee;

2 (3) an analysis of the level of overall goal
3 achievement concerning purchases from minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities;

7 (4) an analysis of the number of minority-owned
8 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
9 businesses, and businesses owned by persons with
10 disabilities that are certified under the program as well
11 as the number of those businesses that received State
12 procurement contracts; and

13 (5) (blank).

14 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;
15 99-891, eff. 1-1-17.)

16 Section 150. The Riverboat Gambling Act is amended by
17 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

18 (230 ILCS 10/4) (from Ch. 120, par. 2404)

19 Sec. 4. Definitions. As used in this Act:

20 (a) "Board" means the Illinois Gaming Board.

21 (b) "Occupational license" means a license issued by the
22 Board to a person or entity to perform an occupation which the
23 Board has identified as requiring a license to engage in
24 riverboat gambling in Illinois.

1 (c) "Gambling game" includes, but is not limited to,
2 baccarat, twenty-one, poker, craps, slot machine, video game of
3 chance, roulette wheel, klondike table, punchboard, faro
4 layout, keno layout, numbers ticket, push card, jar ticket, or
5 pull tab which is authorized by the Board as a wagering device
6 under this Act.

7 (d) "Riverboat" means a self-propelled excursion boat, a
8 permanently moored barge, or permanently moored barges that are
9 permanently fixed together to operate as one vessel, on which
10 lawful gambling is authorized and licensed as provided in this
11 Act.

12 (e) "Managers license" means a license issued by the Board
13 to a person or entity to manage gambling operations conducted
14 by the State pursuant to Section 7.3.

15 (f) "Dock" means the location where a riverboat moors for
16 the purpose of embarking passengers for and disembarking
17 passengers from the riverboat.

18 (g) "Gross receipts" means the total amount of money
19 exchanged for the purchase of chips, tokens or electronic cards
20 by riverboat patrons.

21 (h) "Adjusted gross receipts" means the gross receipts less
22 winnings paid to wagerers.

23 (i) "Cheat" means to alter the selection of criteria which
24 determine the result of a gambling game or the amount or
25 frequency of payment in a gambling game.

26 (j) (Blank).

1 (k) "Gambling operation" means the conduct of authorized
2 gambling games upon a riverboat.

3 (l) "License bid" means the lump sum amount of money that
4 an applicant bids and agrees to pay the State in return for an
5 owners license that is re-issued on or after July 1, 2003.

6 (m) The terms "minority person", "woman ~~female~~", and
7 "person with a disability" shall have the same meaning as
8 defined in Section 2 of the Business Enterprise for Minorities,
9 Women ~~Females~~, and Persons with Disabilities Act.

10 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

11 (230 ILCS 10/7) (from Ch. 120, par. 2407)
12 Sec. 7. Owners Licenses.

13 (a) The Board shall issue owners licenses to persons, firms
14 or corporations which apply for such licenses upon payment to
15 the Board of the non-refundable license fee set by the Board,
16 upon payment of a \$25,000 license fee for the first year of
17 operation and a \$5,000 license fee for each succeeding year and
18 upon a determination by the Board that the applicant is
19 eligible for an owners license pursuant to this Act and the
20 rules of the Board. From the effective date of this amendatory
21 Act of the 95th General Assembly until (i) 3 years after the
22 effective date of this amendatory Act of the 95th General
23 Assembly, (ii) the date any organization licensee begins to
24 operate a slot machine or video game of chance under the
25 Illinois Horse Racing Act of 1975 or this Act, (iii) the date

1 that payments begin under subsection (c-5) of Section 13 of the
2 Act, or (iv) the wagering tax imposed under Section 13 of this
3 Act is increased by law to reflect a tax rate that is at least
4 as stringent or more stringent than the tax rate contained in
5 subsection (a-3) of Section 13, whichever occurs first, as a
6 condition of licensure and as an alternative source of payment
7 for those funds payable under subsection (c-5) of Section 13 of
8 the Riverboat Gambling Act, any owners licensee that holds or
9 receives its owners license on or after the effective date of
10 this amendatory Act of the 94th General Assembly, other than an
11 owners licensee operating a riverboat with adjusted gross
12 receipts in calendar year 2004 of less than \$200,000,000, must
13 pay into the Horse Racing Equity Trust Fund, in addition to any
14 other payments required under this Act, an amount equal to 3%
15 of the adjusted gross receipts received by the owners licensee.
16 The payments required under this Section shall be made by the
17 owners licensee to the State Treasurer no later than 3:00
18 o'clock p.m. of the day after the day when the adjusted gross
19 receipts were received by the owners licensee. A person, firm
20 or corporation is ineligible to receive an owners license if:

21 (1) the person has been convicted of a felony under the
22 laws of this State, any other state, or the United States;

23 (2) the person has been convicted of any violation of
24 Article 28 of the Criminal Code of 1961 or the Criminal
25 Code of 2012, or substantially similar laws of any other
26 jurisdiction;

1 (3) the person has submitted an application for a
2 license under this Act which contains false information;

3 (4) the person is a member of the Board;

4 (5) a person defined in (1), (2), (3) or (4) is an
5 officer, director or managerial employee of the firm or
6 corporation;

7 (6) the firm or corporation employs a person defined in
8 (1), (2), (3) or (4) who participates in the management or
9 operation of gambling operations authorized under this
10 Act;

11 (7) (blank); or

12 (8) a license of the person, firm or corporation issued
13 under this Act, or a license to own or operate gambling
14 facilities in any other jurisdiction, has been revoked.

15 The Board is expressly prohibited from making changes to
16 the requirement that licensees make payment into the Horse
17 Racing Equity Trust Fund without the express authority of the
18 Illinois General Assembly and making any other rule to
19 implement or interpret this amendatory Act of the 95th General
20 Assembly. For the purposes of this paragraph, "rules" is given
21 the meaning given to that term in Section 1-70 of the Illinois
22 Administrative Procedure Act.

23 (b) In determining whether to grant an owners license to an
24 applicant, the Board shall consider:

25 (1) the character, reputation, experience and
26 financial integrity of the applicants and of any other or

1 separate person that either:

2 (A) controls, directly or indirectly, such
3 applicant, or

4 (B) is controlled, directly or indirectly, by such
5 applicant or by a person which controls, directly or
6 indirectly, such applicant;

7 (2) the facilities or proposed facilities for the
8 conduct of riverboat gambling;

9 (3) the highest prospective total revenue to be derived
10 by the State from the conduct of riverboat gambling;

11 (4) the extent to which the ownership of the applicant
12 reflects the diversity of the State by including minority
13 persons, women ~~females~~, and persons with a disability and
14 the good faith affirmative action plan of each applicant to
15 recruit, train and upgrade minority persons, women
16 ~~females~~, and persons with a disability in all employment
17 classifications;

18 (5) the financial ability of the applicant to purchase
19 and maintain adequate liability and casualty insurance;

20 (6) whether the applicant has adequate capitalization
21 to provide and maintain, for the duration of a license, a
22 riverboat;

23 (7) the extent to which the applicant exceeds or meets
24 other standards for the issuance of an owners license which
25 the Board may adopt by rule; and

26 (8) The amount of the applicant's license bid.

1 (c) Each owners license shall specify the place where
2 riverboats shall operate and dock.

3 (d) Each applicant shall submit with his application, on
4 forms provided by the Board, 2 sets of his fingerprints.

5 (e) The Board may issue up to 10 licenses authorizing the
6 holders of such licenses to own riverboats. In the application
7 for an owners license, the applicant shall state the dock at
8 which the riverboat is based and the water on which the
9 riverboat will be located. The Board shall issue 5 licenses to
10 become effective not earlier than January 1, 1991. Three of
11 such licenses shall authorize riverboat gambling on the
12 Mississippi River, or, with approval by the municipality in
13 which the riverboat was docked on August 7, 2003 and with Board
14 approval, be authorized to relocate to a new location, in a
15 municipality that (1) borders on the Mississippi River or is
16 within 5 miles of the city limits of a municipality that
17 borders on the Mississippi River and (2), on August 7, 2003,
18 had a riverboat conducting riverboat gambling operations
19 pursuant to a license issued under this Act; one of which shall
20 authorize riverboat gambling from a home dock in the city of
21 East St. Louis. One other license shall authorize riverboat
22 gambling on the Illinois River south of Marshall County. The
23 Board shall issue one additional license to become effective
24 not earlier than March 1, 1992, which shall authorize riverboat
25 gambling on the Des Plaines River in Will County. The Board may
26 issue 4 additional licenses to become effective not earlier

1 than March 1, 1992. In determining the water upon which
2 riverboats will operate, the Board shall consider the economic
3 benefit which riverboat gambling confers on the State, and
4 shall seek to assure that all regions of the State share in the
5 economic benefits of riverboat gambling.

6 In granting all licenses, the Board may give favorable
7 consideration to economically depressed areas of the State, to
8 applicants presenting plans which provide for significant
9 economic development over a large geographic area, and to
10 applicants who currently operate non-gambling riverboats in
11 Illinois. The Board shall review all applications for owners
12 licenses, and shall inform each applicant of the Board's
13 decision. The Board may grant an owners license to an applicant
14 that has not submitted the highest license bid, but if it does
15 not select the highest bidder, the Board shall issue a written
16 decision explaining why another applicant was selected and
17 identifying the factors set forth in this Section that favored
18 the winning bidder.

19 In addition to any other revocation powers granted to the
20 Board under this Act, the Board may revoke the owners license
21 of a licensee which fails to begin conducting gambling within
22 15 months of receipt of the Board's approval of the application
23 if the Board determines that license revocation is in the best
24 interests of the State.

25 (f) The first 10 owners licenses issued under this Act
26 shall permit the holder to own up to 2 riverboats and equipment

1 thereon for a period of 3 years after the effective date of the
2 license. Holders of the first 10 owners licenses must pay the
3 annual license fee for each of the 3 years during which they
4 are authorized to own riverboats.

5 (g) Upon the termination, expiration, or revocation of each
6 of the first 10 licenses, which shall be issued for a 3 year
7 period, all licenses are renewable annually upon payment of the
8 fee and a determination by the Board that the licensee
9 continues to meet all of the requirements of this Act and the
10 Board's rules. However, for licenses renewed on or after May 1,
11 1998, renewal shall be for a period of 4 years, unless the
12 Board sets a shorter period.

13 (h) An owners license shall entitle the licensee to own up
14 to 2 riverboats. A licensee shall limit the number of gambling
15 participants to 1,200 for any such owners license. A licensee
16 may operate both of its riverboats concurrently, provided that
17 the total number of gambling participants on both riverboats
18 does not exceed 1,200. Riverboats licensed to operate on the
19 Mississippi River and the Illinois River south of Marshall
20 County shall have an authorized capacity of at least 500
21 persons. Any other riverboat licensed under this Act shall have
22 an authorized capacity of at least 400 persons.

23 (i) A licensed owner is authorized to apply to the Board
24 for and, if approved therefor, to receive all licenses from the
25 Board necessary for the operation of a riverboat, including a
26 liquor license, a license to prepare and serve food for human

1 consumption, and other necessary licenses. All use, occupation
2 and excise taxes which apply to the sale of food and beverages
3 in this State and all taxes imposed on the sale or use of
4 tangible personal property apply to such sales aboard the
5 riverboat.

6 (j) The Board may issue or re-issue a license authorizing a
7 riverboat to dock in a municipality or approve a relocation
8 under Section 11.2 only if, prior to the issuance or
9 re-issuance of the license or approval, the governing body of
10 the municipality in which the riverboat will dock has by a
11 majority vote approved the docking of riverboats in the
12 municipality. The Board may issue or re-issue a license
13 authorizing a riverboat to dock in areas of a county outside
14 any municipality or approve a relocation under Section 11.2
15 only if, prior to the issuance or re-issuance of the license or
16 approval, the governing body of the county has by a majority
17 vote approved of the docking of riverboats within such areas.

18 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

19 (230 ILCS 10/7.1)

20 Sec. 7.1. Re-issuance of revoked or non-renewed owners
21 licenses.

22 (a) If an owners license terminates or expires without
23 renewal or the Board revokes or determines not to renew an
24 owners license (including, without limitation, an owners
25 license for a licensee that was not conducting riverboat

1 gambling operations on January 1, 1998) and that revocation or
2 determination is final, the Board may re-issue such license to
3 a qualified applicant pursuant to an open and competitive
4 bidding process, as set forth in Section 7.5, and subject to
5 the maximum number of authorized licenses set forth in Section
6 7(e).

7 (b) To be a qualified applicant, a person, firm, or
8 corporation cannot be ineligible to receive an owners license
9 under Section 7(a) and must submit an application for an owners
10 license that complies with Section 6. Each such applicant must
11 also submit evidence to the Board that minority persons and
12 women ~~females~~ hold ownership interests in the applicant of at
13 least 16% and 4% respectively.

14 (c) Notwithstanding anything to the contrary in Section
15 7(e), an applicant may apply to the Board for approval of
16 relocation of a re-issued license to a new home dock location
17 authorized under Section 3(c) upon receipt of the approval from
18 the municipality or county, as the case may be, pursuant to
19 Section 7(j).

20 (d) In determining whether to grant a re-issued owners
21 license to an applicant, the Board shall consider all of the
22 factors set forth in Sections 7(b) and (e) as well as the
23 amount of the applicant's license bid. The Board may grant the
24 re-issued owners license to an applicant that has not submitted
25 the highest license bid, but if it does not select the highest
26 bidder, the Board shall issue a written decision explaining why

1 another applicant was selected and identifying the factors set
2 forth in Sections 7(b) and (e) that favored the winning bidder.

3 (e) Re-issued owners licenses shall be subject to annual
4 license fees as provided for in Section 7(a) and shall be
5 governed by the provisions of Sections 7(f), (g), (h), and (i).
6 (Source: P.A. 93-28, eff. 6-20-03.)

7 (230 ILCS 10/7.4)

8 Sec. 7.4. Managers licenses.

9 (a) A qualified person may apply to the Board for a
10 managers license to operate and manage any gambling operation
11 conducted by the State. The application shall be made on forms
12 provided by the Board and shall contain such information as the
13 Board prescribes, including but not limited to information
14 required in Sections 6(a), (b), and (c) and information
15 relating to the applicant's proposed price to manage State
16 gambling operations and to provide the riverboat, gambling
17 equipment, and supplies necessary to conduct State gambling
18 operations.

19 (b) Each applicant must submit evidence to the Board that
20 minority persons and women ~~females~~ hold ownership interests in
21 the applicant of at least 16% and 4%, respectively.

22 (c) A person, firm, or corporation is ineligible to receive
23 a managers 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;

1 (2) the person has been convicted of any violation of
2 Article 28 of the Criminal Code of 1961 or the Criminal
3 Code of 2012, or substantially similar laws of any other
4 jurisdiction;

5 (3) the person has submitted an application for a
6 license under this Act which contains false information;

7 (4) the person is a member of the Board;

8 (5) a person defined in (1), (2), (3), or (4) is an
9 officer, director, or managerial employee of the firm or
10 corporation;

11 (6) the firm or corporation employs a person defined in
12 (1), (2), (3), or (4) who participates in the management or
13 operation of gambling operations authorized under this
14 Act; or

15 (7) a license of the person, firm, or corporation
16 issued under this Act, or a license to own or operate
17 gambling facilities in any other jurisdiction, has been
18 revoked.

19 (d) Each applicant shall submit with his or her
20 application, on forms prescribed by the Board, 2 sets of his or
21 her fingerprints.

22 (e) The Board shall charge each applicant a fee, set by the
23 Board, to defray the costs associated with the background
24 investigation conducted by the Board.

25 (f) A person who knowingly makes a false statement on an
26 application is guilty of a Class A misdemeanor.

1 (g) The managers license shall be for a term not to exceed
2 10 years, shall be renewable at the Board's option, and shall
3 contain such terms and provisions as the Board deems necessary
4 to protect or enhance the credibility and integrity of State
5 gambling operations, achieve the highest prospective total
6 revenue to the State, and otherwise serve the interests of the
7 citizens of Illinois.

8 (h) Issuance of a managers license shall be subject to an
9 open and competitive bidding process. The Board may select an
10 applicant other than the lowest bidder by price. If it does not
11 select the lowest bidder, the Board shall issue a notice of who
12 the lowest bidder was and a written decision as to why another
13 bidder was selected.

14 (Source: P.A. 97-1150, eff. 1-25-13.)

15 (230 ILCS 10/7.6)

16 Sec. 7.6. 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 owners licensee to businesses owned by

1 minorities, women ~~females~~, and persons with disabilities,
2 expressed as percentages of an owners licensee's total dollar
3 amount of contracts awarded during each calendar year. Each
4 owners licensee must make every effort to meet the goals
5 established by the Board pursuant to this Section. When setting
6 the goals for the award of contracts, the Board shall not
7 include contracts where: (1) any purchasing mandates would be
8 dependent upon the availability of minority-owned ~~minority~~
9 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
10 businesses owned by persons with disabilities ready, willing,
11 and able with capacity to provide quality goods and services to
12 a gaming operation at reasonable prices; (2) there are no or a
13 limited number of licensed suppliers as defined by this Act for
14 the goods or services provided to the licensee; (3) the
15 licensee or its parent company owns a company that provides the
16 goods or services; or (4) the goods or services are provided to
17 the licensee by a publicly traded company.

18 (c) Each owners licensee shall file with the Board an
19 annual report of its utilization of minority-owned ~~minority~~
20 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
21 businesses owned by persons with disabilities during the
22 preceding calendar year. The reports shall include a
23 self-evaluation of the efforts of the owners licensee to meet
24 its goals under this Section.

25 (d) The owners licensee shall have the right to request a
26 waiver from the requirements of this Section. The Board shall

1 grant the waiver where the owners licensee demonstrates that
2 there has been made a good faith effort to comply with the
3 goals for participation by minority-owned ~~minority-owned~~
4 businesses, women-owned ~~female-owned~~ businesses, and
5 businesses owned by persons with disabilities.

6 (e) If the Board determines that its goals and policies are
7 not being met by any owners licensee, then the Board may:

8 (1) adopt remedies for such violations; and

9 (2) recommend that the owners licensee provide
10 additional opportunities for participation by
11 minority-owned ~~minority-owned~~ businesses, women-owned
12 ~~female-owned~~ businesses, and businesses owned by persons
13 with disabilities; such recommendations may include, but
14 shall not be limited to:

15 (A) assurances of stronger and better focused
16 solicitation efforts to obtain more minority-owned
17 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
18 businesses, and businesses owned by persons with
19 disabilities as potential sources of supply;

20 (B) division of job or project requirements, when
21 economically feasible, into tasks or quantities to
22 permit participation of minority-owned ~~minority-owned~~
23 businesses, women-owned ~~female-owned~~ businesses, and
24 businesses owned by persons with disabilities;

25 (C) elimination of extended experience or
26 capitalization requirements, when programmatically

1 feasible, to permit participation of minority-owned
2 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
3 businesses, and businesses owned by persons with
4 disabilities;

5 (D) identification of specific proposed contracts
6 as particularly attractive or appropriate for
7 participation by minority-owned ~~minority-owned~~
8 businesses, women-owned ~~female-owned~~ businesses, and
9 businesses owned by persons with disabilities, such
10 identification to result from and be coupled with the
11 efforts of items (A) through (C); and

12 (E) implementation of regulations established for
13 the use of the sheltered market process.

14 (f) The Board shall file, no later than March 1 of each
15 year, an annual report that shall detail the level of
16 achievement toward the goals specified in this Section over the
17 3 most recent fiscal years. The annual report shall include,
18 but need not be limited to:

19 (1) a summary detailing expenditures subject to the
20 goals, the actual goals specified, and the goals attained
21 by each owners licensee; and

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

1 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

2 (230 ILCS 10/11.2)

3 Sec. 11.2. Relocation of riverboat home dock.

4 (a) A licensee that was not conducting riverboat gambling
5 on January 1, 1998 may apply to the Board for renewal and
6 approval of relocation to a new home dock location authorized
7 under Section 3(c) and the Board shall grant the application
8 and approval upon receipt by the licensee of approval from the
9 new municipality or county, as the case may be, in which the
10 licensee wishes to relocate pursuant to Section 7(j).

11 (b) Any licensee that relocates its home dock pursuant to
12 this Section shall attain a level of at least 20% minority
13 person and woman ~~female~~ ownership, at least 16% and 4%
14 respectively, within a time period prescribed by the Board, but
15 not to exceed 12 months from the date the licensee begins
16 conducting gambling at the new home dock location. The 12-month
17 period shall be extended by the amount of time necessary to
18 conduct a background investigation pursuant to Section 6. For
19 the purposes of this Section, the terms "woman ~~female~~" and
20 "minority person" have the meanings provided in Section 2 of
21 the Business Enterprise for Minorities, Women ~~Females~~, and
22 Persons with Disabilities Act.

23 (Source: P.A. 91-40, eff. 6-25-99.)

24 Section 155. The Environmental Protection Act is amended by

1 changing Section 14.7 as follows:

2 (415 ILCS 5/14.7)

3 (This Section may contain text from a Public Act with a
4 delayed effective date)

5 Sec. 14.7. Preservation of community water supplies.

6 (a) The Agency shall adopt rules governing certain
7 corrosion prevention projects carried out on community water
8 supplies. Those rules shall not apply to buried pipelines
9 including, but not limited to, pipes, mains, and joints. The
10 rules shall exclude routine maintenance activities of
11 community water supplies including, but not limited to, the use
12 of protective coatings applied by the owner's utility personnel
13 during the course of performing routine maintenance
14 activities. The activities may include, but not be limited to,
15 the painting of fire hydrants; routine over-coat painting of
16 interior and exterior building surfaces such as floors, doors,
17 windows, and ceilings; and routine touch-up and over-coat
18 application of protective coatings typically found on water
19 utility pumps, pipes, tanks, and other water treatment plant
20 appurtenances and utility owned structures. Those rules shall
21 include:

22 (1) standards for ensuring that community water
23 supplies carry out corrosion prevention and mitigation
24 methods according to corrosion prevention industry
25 standards adopted by the Agency;

1 (2) requirements that community water supplies use:

2 (A) protective coatings personnel to carry out
3 corrosion prevention and mitigation methods on exposed
4 water treatment tanks, exposed non-concrete water
5 treatment structures, exposed water treatment pipe
6 galleys; exposed pumps; and generators; the Agency
7 shall not limit to protective coatings personnel any
8 other work relating to prevention and mitigation
9 methods on any other water treatment appurtenances
10 where protective coatings are utilized for corrosion
11 control and prevention to prolong the life of the water
12 utility asset; and

13 (B) inspectors to ensure that best practices and
14 standards are adhered to on each corrosion prevention
15 project; and

16 (3) standards to prevent environmental degradation
17 that might occur as a result of carrying out corrosion
18 prevention and mitigation methods including, but not
19 limited to, standards to prevent the improper handling and
20 containment of hazardous materials, especially lead paint,
21 removed from the exterior of a community water supply.

22 In adopting rules under this subsection (a), the Agency
23 shall obtain input from corrosion industry experts
24 specializing in the training of personnel to carry out
25 corrosion prevention and mitigation methods.

26 (b) As used in this Section:

1 "Community water supply" has the meaning ascribed to that
2 term in Section 3.145 of this Act.

3 "Corrosion" means a naturally occurring phenomenon
4 commonly defined as the deterioration of a metal that results
5 from a chemical or electrochemical reaction with its
6 environment.

7 "Corrosion prevention and mitigation methods" means the
8 preparation, application, installation, removal, or general
9 maintenance as necessary of a protective coating system,
10 including any or more of the following:

11 (A) surface preparation and coating application on
12 the exterior or interior of a community water supply;
13 or

14 (B) shop painting of structural steel fabricated
15 for installation as part of a community water supply.

16 "Corrosion prevention project" means carrying out
17 corrosion prevention and mitigation methods. "Corrosion
18 prevention project" does not include clean-up related to
19 surface preparation.

20 "Protective coatings personnel" means personnel employed
21 or retained by a contractor providing services covered by this
22 Section to carry out corrosion prevention or mitigation methods
23 or inspections.

24 (c) This Section shall apply to only those projects
25 receiving 100% funding from the State.

26 (d) Each contract procured pursuant to the Illinois

1 Procurement Code for the provision of services covered by this
2 Section (1) shall comply with applicable provisions of the
3 Illinois Procurement Code and (2) shall include provisions for
4 reporting participation by minority persons, as defined by
5 Section 2 of the Business Enterprise for Minorities, Women
6 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as
7 defined by Section 2 of the Business Enterprise for Minorities,
8 Women ~~Females~~, and Persons with Disabilities Act; and veterans,
9 as defined by Section 45-57 of the Illinois Procurement Code,
10 in apprenticeship and training programs in which the contractor
11 or his or her subcontractors participate. The requirements of
12 this Section do not apply to an individual licensed under the
13 Professional Engineering Practice Act of 1989 or the Structural
14 Engineering Act of 1989.

15 (Source: P.A. 99-923, eff. 7-1-17.)

16 Section 160. The Public Private Agreements for the Illiana
17 Expressway Act is amended by changing Section 20 as follows:

18 (605 ILCS 130/20)

19 Sec. 20. Procurement; request for proposals process.

20 (a) Notwithstanding any provision of law to the contrary,
21 the Department on behalf of the State shall select a contractor
22 through a competitive request for proposals process governed by
23 the Illinois Procurement Code and rules adopted under that Code
24 and this Act.

1 (b) The competitive request for proposals process shall, at
2 a minimum, solicit statements of qualification and proposals
3 from offerors.

4 (c) The competitive request for proposals process shall, at
5 a minimum, take into account the following criteria:

6 (1) The offeror's plans for the Illiana Expressway
7 project;

8 (2) The offeror's current and past business practices;

9 (3) The offeror's poor or inadequate past performance
10 in developing, financing, constructing, managing, or
11 operating highways or other public assets;

12 (4) The offeror's ability to meet and past performance
13 in meeting or exhausting good faith efforts to meet the
14 utilization goals for business enterprises established in
15 the Business Enterprise for Minorities, Women ~~Females~~, and
16 Persons with Disabilities Act;

17 (5) The offeror's ability to comply with and past
18 performance in complying with Section 2-105 of the Illinois
19 Human Rights Act; and

20 (6) The offeror's plans to comply with the Business
21 Enterprise for Minorities, Women ~~Females~~, and Persons with
22 Disabilities Act and Section 2-105 of the Illinois Human
23 Rights Act.

24 (d) The Department shall retain the services of an advisor
25 or advisors with significant experience in the development,
26 financing, construction, management, or operation of public

1 assets to assist in the preparation of the request for
2 proposals.

3 (e) The Department shall not include terms in the request
4 for proposals that provide an advantage, whether directly or
5 indirectly, to any contractor presently providing goods,
6 services, or equipment to the Department.

7 (f) The Department shall select at least 2 offerors as
8 finalists. The Department shall submit the offerors'
9 statements of qualification and proposals to the Commission on
10 Government Forecasting and Accountability and the Procurement
11 Policy Board, which shall, within 30 days of the submission,
12 complete a review of the statements of qualification and
13 proposals and, jointly or separately, report on, at a minimum,
14 the satisfaction of the criteria contained in the request for
15 proposals, the qualifications of the offerors, and the value of
16 the proposals to the State. The Department shall not select an
17 offeror as the contractor for the Illiana Expressway project
18 until it has received and considered the findings of the
19 Commission on Government Forecasting and Accountability and
20 the Procurement Policy Board as set forth in their respective
21 reports.

22 (g) Before awarding a public private agreement to an
23 offeror, the Department shall schedule and hold a public
24 hearing or hearings on the proposed public private agreement
25 and publish notice of the hearing or hearings at least 7 days
26 before the hearing and in accordance with Section 4-219 of the

1 Illinois Highway Code. The notice must include the following:

2 (1) the date, time, and place of the hearing and the
3 address of the Department;

4 (2) the subject matter of the hearing;

5 (3) a description of the agreement that may be awarded;
6 and

7 (4) the recommendation that has been made to select an
8 offeror as the contractor for the Illiana Expressway
9 project.

10 At the hearing, the Department shall allow the public to be
11 heard on the subject of the hearing.

12 (h) After the procedures required in this Section have been
13 completed, the Department shall make a determination as to
14 whether the offeror should be designated as the contractor for
15 the Illiana Expressway project and shall submit the decision to
16 the Governor and to the Governor's Office of Management and
17 Budget. After review of the Department's determination, the
18 Governor may accept or reject the determination. If the
19 Governor accepts the determination of the Department, the
20 Governor shall designate the offeror for the Illiana Expressway
21 project.

22 (Source: P.A. 96-913, eff. 6-9-10.)

23 Section 165. The Public-Private Agreements for the South
24 Suburban Airport Act is amended by changing Section 2-30 as
25 follows:

1 (620 ILCS 75/2-30)

2 Sec. 2-30. Request for proposals process to enter into
3 public-private agreements.

4 (a) Notwithstanding any provisions of the Illinois
5 Procurement Code, the Department, on behalf of the State, shall
6 select a contractor through a competitive request for proposals
7 process governed by Section 2-30 of this Act. The Department
8 will consult with the chief procurement officer for
9 construction or construction-related activities designated
10 pursuant to clause (2) of Section 1-15.15 of the Illinois
11 Procurement Code on the competitive request for proposals
12 process, and the Secretary will determine, in consultation with
13 the chief procurement officer, which procedures to adopt and
14 apply to the competitive request for proposals process in order
15 to ensure an open, transparent, and efficient process that
16 accomplishes the purposes of this Act.

17 (b) The competitive request for proposals process shall, at
18 a minimum, solicit statements of qualification and proposals
19 from offerors.

20 (c) The competitive request for proposals process shall, at
21 a minimum, take into account the following criteria:

22 (1) the offeror's plans for the South Suburban Airport
23 project;

24 (2) the offeror's current and past business practices;

25 (3) the offeror's poor or inadequate past performance

1 in developing, financing, constructing, managing, or
2 operating airports or other public assets;

3 (4) the offeror's ability to meet the utilization goals
4 for business enterprises established in the Business
5 Enterprise for Minorities, Women ~~Females~~, and Persons with
6 Disabilities Act;

7 (5) the offeror's ability to comply with Section 2-105
8 of the Illinois Human Rights Act; and

9 (6) the offeror's plans to comply with the Business
10 Enterprise for Minorities, Women ~~Females~~, and Persons with
11 Disabilities Act and Section 2-105 of the Illinois Human
12 Rights Act.

13 (d) The Department shall retain the services of an advisor
14 or advisors with significant experience in the development,
15 financing, construction, management, or operation of public
16 assets to assist in the preparation of the request for
17 proposals.

18 (e) The Department shall not include terms in the request
19 for proposals that provide an advantage, whether directly or
20 indirectly, to any contractor presently providing goods,
21 services, or equipment to the Department.

22 (f) The Department shall select one or more offerors as
23 finalists. The Department shall submit the offeror's
24 statements of qualification and proposals to the Commission on
25 Government Forecasting and Accountability and the Procurement
26 Policy Board, which shall, within 30 days after the submission,

1 complete a review of the statements of qualification and
2 proposals and, jointly or separately, report on, at a minimum,
3 the satisfaction of the criteria contained in the request for
4 proposals, the qualifications of the offerors, and the value of
5 the proposals to the State. The Department shall not select an
6 offeror as the contractor for the South Suburban Airport
7 project until it has received and considered the findings of
8 the Commission on Government Forecasting and Accountability
9 and the Procurement Policy Board as set forth in their
10 respective reports.

11 (g) Before awarding a public-private agreement to an
12 offeror, the Department shall schedule and hold a public
13 hearing or hearings on the proposed public-private agreement
14 and publish notice of the hearing or hearings at least 7 days
15 before the hearing. The notice shall include the following:

16 (1) the date, time, and place of the hearing and the
17 address of the Department;

18 (2) the subject matter of the hearing;

19 (3) a description of the agreement that may be awarded;
20 and

21 (4) the recommendation that has been made to select an
22 offeror as the contractor for the South Suburban Airport
23 project.

24 At the hearing, the Department shall allow the public to be
25 heard on the subject of the hearing.

26 (h) After the procedures required in this Section have been

1 completed, the Department shall make a determination as to
2 whether the offeror should be designated as the contractor for
3 the South Suburban Airport project and shall submit the
4 decision to the Governor and to the Governor's Office of
5 Management and Budget. After review of the Department's
6 determination, the Governor may accept or reject the
7 determination. If the Governor accepts the determination of the
8 Department, the Governor shall designate the offeror for the
9 South Suburban Airport project.

10 (Source: P.A. 98-109, eff. 7-25-13.)

11 Section 170. The Public-Private Partnerships for
12 Transportation Act is amended by changing Section 25 as
13 follows:

14 (630 ILCS 5/25)

15 Sec. 25. Design-build procurement.

16 (a) This Section 25 shall apply only to transportation
17 projects for which the Department or the Authority intends to
18 execute a design-build agreement, in which case the Department
19 or the Authority shall abide by the requirements and procedures
20 of this Section 25 in addition to other applicable requirements
21 and procedures set forth in this Act.

22 (b) (1) The transportation agency must issue a notice of
23 intent to receive proposals for the project at least 14 days
24 before issuing the request for the qualifications. The

1 transportation agency must publish the advance notice in a
2 daily newspaper of general circulation in the county where the
3 transportation agency is located. The transportation agency is
4 encouraged to use publication of the notice in related
5 construction industry service publications. A brief
6 description of the proposed procurement must be included in the
7 notice. The transportation agency must provide a copy of the
8 request for qualifications to any party requesting a copy.

9 (2) The request for qualifications shall be prepared for
10 each project and must contain, without limitation, the
11 following information: (i) the name of the transportation
12 agency; (ii) a preliminary schedule for the completion of the
13 contract; (iii) the proposed budget for the project and the
14 source of funds, to the extent not already reflected in the
15 Department's Multi-Year Highway Improvement Program; (iv) the
16 shortlisting process for entities or groups of entities such as
17 unincorporated joint ventures wishing to submit proposals (the
18 transportation agency shall include, at a minimum, its normal
19 prequalification, licensing, registration, and other
20 requirements, but nothing contained herein precludes the use of
21 additional criteria by the transportation agency); (v) a
22 summary of anticipated material requirements of the contract,
23 including but not limited to, the proposed terms and
24 conditions, required performance and payment bonds, insurance,
25 and the utilization goals established by the transportation
26 agency for minority and women business enterprises and

1 compliance with Section 2-105 of the Illinois Human Rights Act;
2 and (vi) the anticipated number of entities that will be
3 shortlisted for the request for proposals phase.

4 (3) The transportation agency may include any other
5 relevant information in the request for qualifications that it
6 chooses to supply. The private entity shall be entitled to rely
7 upon the accuracy of this documentation in the development of
8 its statement of qualifications and its proposal only to the
9 extent expressly warranted by the transportation agency.

10 (4) The date that statements of qualifications are due must
11 be at least 21 calendar days after the date of the issuance of
12 the request for qualifications. In the event the cost of the
13 project is estimated to exceed \$12,000,000, then the statement
14 of qualifications due date must be at least 28 calendar days
15 after the date of the issuance of the request for
16 qualifications. The transportation agency shall include in the
17 request for proposals a minimum of 30 days to develop the
18 proposals after the selection of entities from the evaluation
19 of the statements of qualifications is completed.

20 (c)(1) The transportation agency shall develop, with the
21 assistance of a licensed design professional, the request for
22 qualifications and the request for proposals, which shall
23 include scope and performance criteria. The scope and
24 performance criteria must be in sufficient detail and contain
25 adequate information to reasonably apprise the private
26 entities of the transportation agency's overall programmatic

1 needs and goals, including criteria and preliminary design
2 plans, general budget parameters, schedule, and delivery
3 requirements.

4 (2) Each request for qualifications and request for
5 proposals shall also include a description of the level of
6 design to be provided in the proposals. This description must
7 include the scope and type of renderings, drawings, and
8 specifications that, at a minimum, will be required by the
9 transportation agency to be produced by the private entities.

10 (3) The scope and performance criteria shall be prepared by
11 a design professional who is an employee of the transportation
12 agency, or the transportation agency may contract with an
13 independent design professional selected under the
14 Architectural, Engineering, and Land Surveying Qualifications
15 Based Selection Act to provide these services.

16 (4) The design professional that prepares the scope and
17 performance criteria is prohibited from participating in any
18 private entity proposal for the project.

19 (d)(1) The transportation agency must use a two phase
20 procedure for the selection of the successful design-build
21 entity. The request for qualifications phase will evaluate and
22 shortlist the private entities based on qualifications, and the
23 request for proposals will evaluate the technical and cost
24 proposals.

25 (2) The transportation agency shall include in the request
26 for qualifications the evaluating factors to be used in the

1 request for qualifications phase. These factors are in addition
2 to any prequalification requirements of private entities that
3 the transportation agency has set forth. Each request for
4 qualifications shall establish the relative importance
5 assigned to each evaluation factor, including any weighting of
6 criteria to be employed by the transportation agency. The
7 transportation agency must maintain a record of the evaluation
8 scoring to be disclosed in event of a protest regarding the
9 solicitation.

10 The transportation agency shall include the following
11 criteria in every request for qualifications phase evaluation
12 of private entities: (i) experience of personnel; (ii)
13 successful experience with similar project types; (iii)
14 financial capability; (iv) timeliness of past performance; (v)
15 experience with similarly sized projects; (vi) successful
16 reference checks of the firm; (vii) commitment to assign
17 personnel for the duration of the project and qualifications of
18 the entity's consultants; and (viii) ability or past
19 performance in meeting or exhausting good faith efforts to meet
20 the utilization goals for business enterprises established in
21 the Business Enterprise for Minorities, Women ~~Females~~, and
22 Persons with Disabilities Act and in complying with Section
23 2-105 of the Illinois Human Rights Act. No proposal shall be
24 considered that does not include an entity's plan to comply
25 with the requirements regarding minority and women business
26 enterprises and economically disadvantaged firms established

1 by the transportation agency and with Section 2-105 of the
2 Illinois Human Rights Act. The transportation agency may
3 include any additional relevant criteria in the request for
4 qualifications phase that it deems necessary for a proper
5 qualification review.

6 Upon completion of the qualifications evaluation, the
7 transportation agency shall create a shortlist of the most
8 highly qualified private entities.

9 The transportation agency shall notify the entities
10 selected for the shortlist in writing. This notification shall
11 commence the period for the preparation of the request for
12 proposals phase technical and cost evaluations. The
13 transportation agency must allow sufficient time for the
14 shortlist entities to prepare their proposals considering the
15 scope and detail requested by the transportation agency.

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

25 The transportation agency shall include the following
26 criteria in every request for proposals phase technical

1 evaluation of private entities: (i) compliance with objectives
2 of the project; (ii) compliance of proposed services to the
3 request for proposal requirements; (iii) compliance with the
4 request for proposal requirements of products or materials
5 proposed; (iv) quality of design parameters; and (v) design
6 concepts. The transportation agency may include any additional
7 relevant technical evaluation factors it deems necessary for
8 proper selection.

9 The transportation agency shall include the following
10 criteria in every request for proposals phase cost evaluation:
11 the total project cost and the time of completion. The
12 transportation agency may include any additional relevant
13 technical evaluation factors it deems necessary for proper
14 selection. The guaranteed maximum project cost criteria
15 weighing factor shall not exceed 30%.

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

20 (e) Statements of qualifications and proposals must be
21 properly identified and sealed. Statements of qualifications
22 and proposals may not be reviewed until after the deadline for
23 submission has passed as set forth in the request for
24 qualifications or the request for proposals. All private
25 entities submitting statements of qualifications or proposals
26 shall be disclosed after the deadline for submission, and all

1 private entities who are selected for request for proposals
2 phase evaluation shall also be disclosed at the time of that
3 determination.

4 Design-build proposals shall include a bid bond in the form
5 and security as designated in the request for proposals.
6 Proposals shall also contain a separate sealed envelope with
7 the cost information within the overall proposal submission.
8 Proposals shall include a list of all design professionals and
9 other entities to which any work identified in Section 30-30 of
10 the Illinois Procurement Code as a subdivision of construction
11 work may be subcontracted during the performance of the
12 contract to the extent known at the time of proposal. If the
13 information is not known at the time of proposal, then the
14 design-build agreement shall require the identification prior
15 to a previously unlisted subcontractor commencing work on the
16 transportation project.

17 Statements of qualifications and proposals must meet all
18 material requirements of the request for qualifications or
19 request for proposals, or else they may be rejected as
20 non-responsive. The transportation agency shall have the right
21 to reject any and all statements of qualifications and
22 proposals.

23 The private entity's proprietary intellectual property
24 contained in the drawings and specifications of any
25 unsuccessful statement of qualifications or proposal shall
26 remain the property of the private entity.

1 The transportation agency shall review the statements of
2 qualifications and the proposals for compliance with the
3 performance criteria and evaluation factors.

4 Statements of qualifications and proposals may be
5 withdrawn prior to the due date and time for submissions for
6 any cause. After evaluation begins by the transportation
7 agency, clear and convincing evidence of error is required for
8 withdrawal.

9 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

10 Section 175. The Criminal Code of 2012 is amended by
11 changing Sections 17-10.3 and 33E-2 as follows:

12 (720 ILCS 5/17-10.3)

13 Sec. 17-10.3. Deception relating to certification of
14 disadvantaged business enterprises.

15 (a) Fraudulently obtaining or retaining certification. A
16 person who, in the course of business, fraudulently obtains or
17 retains certification as a minority-owned ~~minority-owned~~
18 business, women-owned ~~female-owned~~ business, service-disabled
19 veteran-owned small business, or veteran-owned small business
20 commits a Class 2 felony.

21 (b) Willfully making a false statement. A person who, in
22 the course of business, willfully makes a false statement
23 whether by affidavit, report or other representation, to an
24 official or employee of a State agency or the ~~Minority and~~

1 ~~Female~~ Business Enterprise Council for Minorities, Women, and
2 Persons with Disabilities for the purpose of influencing the
3 certification or denial of certification of any business entity
4 as a minority-owned ~~minority-owned~~ business, women-owned
5 ~~female-owned~~ business, service-disabled veteran-owned small
6 business, or veteran-owned small business commits a Class 2
7 felony.

8 (c) Willfully obstructing or impeding an official or
9 employee of any agency in his or her investigation. Any person
10 who, in the course of business, willfully obstructs or impedes
11 an official or employee of any State agency or the ~~Minority and~~
12 ~~Female~~ Business Enterprise Council for Minorities, Women, and
13 Persons with Disabilities who is investigating the
14 qualifications of a business entity which has requested
15 certification as a minority-owned ~~minority-owned~~ business,
16 women-owned ~~female-owned~~ business, service-disabled
17 veteran-owned small business, or veteran-owned small business
18 commits a Class 2 felony.

19 (d) Fraudulently obtaining public moneys reserved for
20 disadvantaged business enterprises. Any person who, in the
21 course of business, fraudulently obtains public moneys
22 reserved for, or allocated or available to, minority-owned
23 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
24 businesses, service-disabled veteran-owned small businesses,
25 or veteran-owned small businesses commits a Class 2 felony.

26 (e) Definitions. As used in this Article, "minority-owned

1 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",
2 "State agency" with respect to minority-owned ~~minority-owned~~
3 businesses and women-owned ~~female-owned~~ businesses, and
4 "certification" with respect to minority-owned ~~minority-owned~~
5 businesses and women-owned ~~female-owned~~ businesses shall have
6 the meanings ascribed to them in Section 2 of the Business
7 Enterprise for Minorities, Women ~~Females~~, and Persons with
8 Disabilities Act. As used in this Article, "service-disabled
9 veteran-owned small business", "veteran-owned small business",
10 "State agency" with respect to service-disabled veteran-owned
11 small businesses and veteran-owned small businesses, and
12 "certification" with respect to service-disabled veteran-owned
13 small businesses and veteran-owned small businesses have the
14 same meanings as in Section 45-57 of the Illinois Procurement
15 Code.

16 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

17 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

18 Sec. 33E-2. Definitions. In this Act:

19 (a) "Public contract" means any contract for goods,
20 services or construction let to any person with or without bid
21 by any unit of State or local government.

22 (b) "Unit of State or local government" means the State,
23 any unit of state government or agency thereof, any county or
24 municipal government or committee or agency thereof, or any
25 other entity which is funded by or expends tax dollars or the

1 proceeds of publicly guaranteed bonds.

2 (c) "Change order" means a change in a contract term other
3 than as specifically provided for in the contract which
4 authorizes or necessitates any increase or decrease in the cost
5 of the contract or the time to completion.

6 (d) "Person" means any individual, firm, partnership,
7 corporation, joint venture or other entity, but does not
8 include a unit of State or local government.

9 (e) "Person employed by any unit of State or local
10 government" means any employee of a unit of State or local
11 government and any person defined in subsection (d) who is
12 authorized by such unit of State or local government to act on
13 its behalf in relation to any public contract.

14 (f) "Sheltered market" has the meaning ascribed to it in
15 Section 8b of the Business Enterprise for Minorities, Women
16 ~~Females~~, and Persons with Disabilities Act; except that, with
17 respect to State contracts set aside for award to
18 service-disabled veteran-owned small businesses and
19 veteran-owned small businesses pursuant to Section 45-57 of the
20 Illinois Procurement Code, "sheltered market" means
21 procurements pursuant to that Section.

22 (g) "Kickback" means any money, fee, commission, credit,
23 gift, gratuity, thing of value, or compensation of any kind
24 which is provided, directly or indirectly, to any prime
25 contractor, prime contractor employee, subcontractor, or
26 subcontractor employee for the purpose of improperly obtaining

1 or rewarding favorable treatment in connection with a prime
2 contract or in connection with a subcontract relating to a
3 prime contract.

4 (h) "Prime contractor" means any person who has entered
5 into a public contract.

6 (i) "Prime contractor employee" means any officer,
7 partner, employee, or agent of a prime contractor.

8 (i-5) "Stringing" means knowingly structuring a contract
9 or job order to avoid the contract or job order being subject
10 to competitive bidding requirements.

11 (j) "Subcontract" means a contract or contractual action
12 entered into by a prime contractor or subcontractor for the
13 purpose of obtaining goods or services of any kind under a
14 prime contract.

15 (k) "Subcontractor" (1) means any person, other than the
16 prime contractor, who offers to furnish or furnishes any goods
17 or services of any kind under a prime contract or a subcontract
18 entered into in connection with such prime contract; and (2)
19 includes any person who offers to furnish or furnishes goods or
20 services to the prime contractor or a higher tier
21 subcontractor.

22 (l) "Subcontractor employee" means any officer, partner,
23 employee, or agent of a subcontractor.

24 (Source: P.A. 97-260, eff. 8-5-11.)

25 Section 180. The Business Corporation Act of 1983 is

1 amended by changing Section 14.05 as follows:

2 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

3 Sec. 14.05. Annual report of domestic or foreign
4 corporation. Each domestic corporation organized under any
5 general law or special act of this State authorizing the
6 corporation to issue shares, other than homestead
7 associations, building and loan associations, banks and
8 insurance companies (which includes a syndicate or limited
9 syndicate regulated under Article V 1/2 of the Illinois
10 Insurance Code or member of a group of underwriters regulated
11 under Article V of that Code), and each foreign corporation
12 (except members of a group of underwriters regulated under
13 Article V of the Illinois Insurance Code) authorized to
14 transact business in this State, shall file, within the time
15 prescribed by this Act, an annual report setting forth:

16 (a) The name of the corporation.

17 (b) The address, including street and number, or rural
18 route number, of its registered office in this State, and
19 the name of its registered agent at that address.

20 (c) The address, including street and number, or rural
21 route number, of its principal office.

22 (d) The names and respective addresses, including
23 street and number, or rural route number, of its directors
24 and officers.

25 (e) A statement of the aggregate number of shares which

1 the corporation has authority to issue, itemized by classes
2 and series, if any, within a class.

3 (f) A statement of the aggregate number of issued
4 shares, itemized by classes, and series, if any, within a
5 class.

6 (g) A statement, expressed in dollars, of the amount of
7 paid-in capital of the corporation as defined in this Act.

8 (h) Either a statement that (1) all the property of the
9 corporation is located in this State and all of its
10 business is transacted at or from places of business in
11 this State, or the corporation elects to pay the annual
12 franchise tax on the basis of its entire paid-in capital,
13 or (2) a statement, expressed in dollars, of the value of
14 all the property owned by the corporation, wherever
15 located, and the value of the property located within this
16 State, and a statement, expressed in dollars, of the gross
17 amount of business transacted by the corporation and the
18 gross amount thereof transacted by the corporation at or
19 from places of business in this State as of the close of
20 its fiscal year on or immediately preceding the last day of
21 the third month prior to the anniversary month or in the
22 case of a corporation which has established an extended
23 filing month, as of the close of its fiscal year on or
24 immediately preceding the last day of the third month prior
25 to the extended filing month; however, in the case of a
26 domestic corporation that has not completed its first

1 fiscal year, the statement with respect to property owned
2 shall be as of the last day of the third month preceding
3 the anniversary month and the statement with respect to
4 business transacted shall be furnished for the period
5 between the date of incorporation and the last day of the
6 third month preceding the anniversary month. In the case of
7 a foreign corporation that has not been authorized to
8 transact business in this State for a period of 12 months
9 and has not commenced transacting business prior to
10 obtaining authority, the statement with respect to
11 property owned shall be as of the last day of the third
12 month preceding the anniversary month and the statement
13 with respect to business transacted shall be furnished for
14 the period between the date of its authorization to
15 transact business in this State and the last day of the
16 third month preceding the anniversary month. If the data
17 referenced in item (2) of this subsection is not completed,
18 the franchise tax provided for in this Act shall be
19 computed on the basis of the entire paid-in capital.

20 (i) A statement, including the basis therefor, of
21 status as a "minority-owned ~~minority-owned~~ business" or as
22 a "women-owned ~~female-owned~~ business" as those terms are
23 defined in the Business Enterprise for Minorities, Women
24 ~~Females~~, and Persons with Disabilities Act.

25 (j) Additional information as may be necessary or
26 appropriate in order to enable the Secretary of State to

1 administer this Act and to verify the proper amount of fees
2 and franchise taxes payable by the corporation.

3 The annual report shall be made on forms prescribed and
4 furnished by the Secretary of State, and the information
5 therein required by paragraphs (a) through (d), both inclusive,
6 of this Section, shall be given as of the date of the execution
7 of the annual report and the information therein required by
8 paragraphs (e), (f) and (g) of this Section shall be given as
9 of the last day of the third month preceding the anniversary
10 month, except that the information required by paragraphs (e),
11 (f) and (g) shall, in the case of a corporation which has
12 established an extended filing month, be given in its final
13 transition annual report and each subsequent annual report as
14 of the close of its fiscal year immediately preceding its
15 extended filing month. It shall be executed by the corporation
16 by its president, a vice-president, secretary, assistant
17 secretary, treasurer or other officer duly authorized by the
18 board of directors of the corporation to execute those reports,
19 and verified by him or her, or, if the corporation is in the
20 hands of a receiver or trustee, it shall be executed on behalf
21 of the corporation and verified by the receiver or trustee.

22 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,
23 7-1-03.)

24 Section 999. Effective date. This Act takes effect upon
25 becoming law."