



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2940

Introduced 2/4/2020, by Sen. Ann Gillespie

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 575/5  
220 ILCS 5/5-117

from Ch. 127, par. 132.605

Creates the Not-for-Profit Business Enterprise Act. Allows for the certification of and the preference in awarding of State contracts to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability under the Act. Provides further requirements concerning the awarding of State contracts and certification. Requires State agencies and institutions of higher education to annually file with the Business Enterprise Council a compliance plan for contracting with minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Provides enforcement provisions. Provides for the adoption of rules necessary to implement and enforce the requirements of the Act. Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides the Business Enterprise Council with the authority and responsibility to devise a certification procedure for not-for-profit organizations and to make a list of all not-for-profit organizations legitimately classified as a minority-led not-for-profit organization, a woman-led not-for-profit organization, or a not-for-profit organization led by a person with a disability for purposes of the Not-for-Profit Business Enterprise Act. Amends the Public Utilities Act. Provides that specified supplier diversity goal requirements under the Act apply to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Defines terms. Makes other changes.

LRB101 19773 RJF 69283 b

1 AN ACT concerning finance.

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

4 Section 1. Short title. This Act may be cited as the  
5 Not-for-Profit Business Enterprise Act.

6 Section 5. Definitions. As used in this Act:

7 "Board of Directors" has the same meaning as provided under  
8 subsection (d) of Section 101.80 of the General Not For Profit  
9 Corporation Act of 1986.

10 "Business Enterprise Council" or "Council" means the  
11 Business Enterprise Council for Minorities, Women, and Persons  
12 with Disabilities created under Section 5 of the Business  
13 Enterprise for Minorities, Women, and Persons with  
14 Disabilities Act.

15 "Certification" means a determination made by the Business  
16 Enterprise Council, or by one delegated authority from the  
17 Council to make certifications, or by a State agency with  
18 statutory authority to make such a certification, that a  
19 not-for-profit organization meets the defined classifications  
20 of a "minority-led not-for-profit organization", a "woman-led  
21 not-for-profit organization", or a "not-for-profit  
22 organization led by a person with a disability".

23 "Key employees" means an employee of the organization who

1 is:

2 (1) the person who has ultimate responsibility for  
3 implementing the decisions of the Board of Directors or for  
4 supervising the management, administration, or operation  
5 of the organization;

6 (2) the person who has ultimate responsibility for  
7 managing the organization's finances; or

8 (3) the person who:

9 (A) has responsibilities, powers, or influence  
10 over the organization as a whole that is similar to the  
11 persons described in paragraphs (1) and (2);

12 (B) manages a discrete segment or activity of the  
13 organizations that represents 25% or more of the  
14 activities, assets, income, or expenses of the  
15 organization, as compared to the organization as a  
16 whole, or has or shares authority to control or  
17 determine 25% or more of the organization's capital  
18 expenditures, operating budget, or compensation for  
19 employees; and

20 (C) is one of the 5 highest compensated employees  
21 in the organization.

22 "Minority-led not-for-profit organization" means an  
23 organization that is tax-exempt under Sections 501(c)(3) or  
24 501(c)(4) of the Internal Revenue Code of 1986, and for which:

25 (1) at least 51% of the organization's Board of  
26 Directors are minority persons, or at least 51% of the

1 organization's Board of Directors and key employees are  
2 minority persons;

3 (2) the organization is regularly and actively engaged  
4 in the activity for which it is formed;

5 (3) the organization is not dependent upon or  
6 influenced by another non-eligible person or organization;  
7 and

8 (4) the organization has not been established or  
9 reorganized for the specific purpose of participating in  
10 the Business Enterprise Program.

11 "Not-for-profit organization led by a person with a  
12 disability" means an organization that is tax-exempt under  
13 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code of  
14 1986, and for which:

15 (1) at least 51% of the organization's Board of  
16 Directors are persons with a disability, or at least 51% of  
17 the organization's Board of Directors and key employees are  
18 persons with a disability;

19 (2) the organization is regularly and actively engaged  
20 in the activity for which it is formed;

21 (3) the organization is not dependent upon or  
22 influenced by another non-eligible person or organization;  
23 and

24 (4) the organization has not been established or  
25 reorganized for the specific purpose of participating in  
26 the Business Enterprise Program.

1 "Public institution of higher education" means the  
2 University of Illinois, Southern Illinois University, Chicago  
3 State University, Eastern Illinois University, Governors State  
4 University, Illinois State University, Northeastern Illinois  
5 University, Northern Illinois University, Western Illinois  
6 University, the public community colleges of the State, and any  
7 other public universities, colleges, and community colleges  
8 now or hereafter established or authorized by the General  
9 Assembly.

10 "State agency" means and includes all boards, commissions,  
11 agencies, institutions, authorities, and bodies politic and  
12 corporate of the State.

13 "State contracts" means all contracts entered into by the  
14 State, any agency or department thereof, or any public  
15 institution of higher education, including community college  
16 districts, regardless of the source of the funds with which the  
17 contracts are paid, which are not subject to federal  
18 reimbursement. "State contracts" does not include contracts  
19 awarded by a retirement system, pension fund, or investment  
20 board subject to Section 1-109.1 of the Illinois Pension Code.

21 "Woman-led not-for-profit organization" means an  
22 organization that is tax-exempt under Sections 501(c)(3) or  
23 501(c)(4) of the Internal Revenue Code of 1986, and for which:

- 24 (1) at least 51% of the organization's Board of  
25 Directors are women, or at least 51% of the organization's  
26 Board of Directors and key employees are women;

1           (2) the organization is regularly and actively engaged  
2           in the activity for which it is formed;

3           (3) the organization is not dependent upon or  
4           influenced by another non-eligible person or organization;  
5           and

6           (4) the organization has not been established or  
7           reorganized for the specific purpose of participating in  
8           the Business Enterprise Program.

9           Section 10. Award of State contracts. Not less than 10% of  
10          the total dollar amount of State contracts shall be established  
11          as an aspirational goal to be awarded to minority-led  
12          not-for-profit organizations, woman-led not-for-profit  
13          organizations, and not-for-profit organizations led by a  
14          person with a disability. The percentage established under this  
15          Section relates to the total dollar amount of State contracts  
16          during each State fiscal year, calculated by examining  
17          independently each type of contract for each State agency or  
18          public institution of higher education which lets such  
19          contracts. Only that percentage of arrangements which  
20          represents the participation of minority-led not-for-profit  
21          organizations, woman-led not-for-profit organizations, and  
22          not-for-profit organizations led by a person with a disability  
23          on such contracts shall be included.

24          Section 15. Certification.

1           (a) For the purpose of assuring that a not-for-profit  
2 organization taking advantage of this Act is legitimately  
3 classified as a minority-led not-for-profit organization, a  
4 woman-led not-for-profit organization, or a not-for-profit  
5 organization led by a person with a disability, the Business  
6 Enterprise Council shall devise a certification procedure to  
7 classify such organizations. The Council shall also maintain a  
8 list of all not-for-profit organizations legitimately  
9 classified as a minority-led not-for-profit organization, a  
10 woman-led not-for-profit organization, or a not-for-profit  
11 organization led by a person with a disability to provide to  
12 State agencies and public institutions of higher education  
13 entering into State contracts under this Act.

14           (b) When a not-for-profit organization's Board of  
15 Directors, or the Board of Directors together with key  
16 employees, consists of at least 51% of any combination of  
17 minority persons, women, or persons with disabilities, even  
18 though none of the 3 classes alone holds at least a 51% share,  
19 the 51% membership requirement for purposes of certification  
20 under this Act shall be considered met. The certification  
21 category for not-for-profit organizations shall be that of the  
22 class holding the largest share of positions on the Board of  
23 Directors, or on the Board of Directors together with key  
24 employees, of a not-for-profit organization. If 2 or more  
25 classes have an equal share of positions on the Board of  
26 Directors, or on the Board of Directors together with key

1 employees, the certification category shall be determined by  
2 the not-for-profit organization.

3 Section 20. Agency compliance plans. Each State agency and  
4 public institution of higher education under the jurisdiction  
5 of this Act shall file with the Business Enterprise Council an  
6 annual compliance plan which shall outline the goals of the  
7 State agency or public institution of higher education for  
8 contracting with minority-led not-for-profit organizations,  
9 woman-led not-for-profit organizations, and not-for-profit  
10 organizations led by a person with a disability for the then  
11 current fiscal year, the manner in which the agency intends to  
12 reach those goals, and a timetable for reaching those goals.  
13 The Council shall review and approve the plan of each State  
14 agency and public institution of higher education and may  
15 reject any plan that does not comply with this Act.

16 Section 25. Enforcement. The Business Enterprise Council  
17 shall make such findings, recommendations, and proposals to the  
18 Governor as are necessary and appropriate to enforce this Act.  
19 If, as a result of its monitoring activities, the Council  
20 determines that its goals and policies are not being met by any  
21 State agency or public institution of higher education, the  
22 Council may recommend any actions necessary to enforce  
23 compliance with this Act and compliance with contracts entered  
24 into under this Act.



1           Section 30. Rules. The Business Enterprise Council shall  
2 adopt any rules necessary to implement and enforce the  
3 requirements of this Act.

4           Section 100. The Business Enterprise for Minorities,  
5 Women, and Persons with Disabilities Act is amended by changing  
6 Section 5 as follows:

7           (30 ILCS 575/5) (from Ch. 127, par. 132.605)

8           (Section scheduled to be repealed on June 30, 2024)

9           Sec. 5. Business Enterprise Council.

10          (1) To help implement, monitor and enforce the goals of  
11 this Act, there is created the Business Enterprise Council for  
12 Minorities, Women, and Persons with Disabilities, hereinafter  
13 referred to as the Council, composed of the Secretary of Human  
14 Services and the Directors of the Department of Human Rights,  
15 the Department of Commerce and Economic Opportunity, the  
16 Department of Central Management Services, the Department of  
17 Transportation and the Capital Development Board, or their duly  
18 appointed representatives, with the Comptroller, or his or her  
19 designee, serving as an advisory member of the Council. Ten  
20 individuals representing businesses that are minority-owned or  
21 women-owned or owned by persons with disabilities, 2  
22 individuals representing the business community, and a  
23 representative of public institutions of higher education

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

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

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

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

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

1 recognize, without additional evidence of Business  
2 Enterprise Program eligibility, the certification of  
3 businesses owned by minorities, women, or persons with  
4 disabilities certified by the City of Chicago, Cook County,  
5 or other jurisdictional programs with requirements and  
6 procedures equaling or exceeding those in this Act.

7 (a-5) Devise a certification procedure to assure that  
8 not-for-profit organizations taking advantage of the  
9 Not-for-Profit Business Enterprise Act are legitimately  
10 classified as a minority-led not-for-profit organization,  
11 a woman-led not-for-profit organization, or a  
12 not-for-profit organization led by a person with a  
13 disability, as those classifications are defined under  
14 that Act.

15 (b) Maintain a list of all businesses legitimately  
16 classified as businesses owned by minorities, women, or  
17 persons with disabilities to provide to State agencies and  
18 public institutions of higher education.

19 (b-5) Maintain a list of all not-for-profit  
20 organizations legitimately classified as a minority-led  
21 not-for-profit organization, a woman-led not-for-profit  
22 organization, or a not-for-profit organization led by a  
23 person with a disability, as those classifications are  
24 defined under the Not-for-Profit Business Enterprise Act,  
25 and provide that list to State agencies and public  
26 institutions of higher education.

1           (c) Review rules and regulations for the  
2 implementation of the program for businesses owned by  
3 minorities, women, and persons with disabilities.

4           (d) Review compliance plans submitted by each State  
5 agency and public institutions of higher education  
6 pursuant to this Act.

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

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

17           (g) Establish a toll free telephone number to  
18 facilitate information requests concerning the  
19 certification process and pending contracts.

20           (3) No premium bond rate of a surety company for a bond  
21 required of a business owned by a minority, woman, or person  
22 with a disability bidding for a State contract shall be higher  
23 than the lowest rate charged by that surety company for a  
24 similar bond in the same classification of work that would be  
25 written for a business not owned by a minority, woman, or  
26 person with a disability.

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

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

7           (a) To be responsible for the day-to-day operation of  
8 the Council.

9           (b) To serve as a coordinator for all of the State's  
10 programs for businesses owned by minorities, women, and  
11 persons with disabilities and as the information and  
12 referral center for all State initiatives for businesses  
13 owned by minorities, women, and persons with disabilities.

14           (c) To establish an enforcement procedure whereby the  
15 Council may recommend to the appropriate State legal  
16 officer that the State exercise its legal remedies which  
17 shall include (1) termination of the contract involved, (2)  
18 prohibition of participation by the respondent in public  
19 contracts for a period not to exceed 3 years, (3)  
20 imposition of a penalty not to exceed any profit acquired  
21 as a result of violation, or (4) any combination thereof.  
22 Such procedures shall require prior approval by Council.  
23 All funds collected as penalties under this subsection  
24 shall be used exclusively for maintenance and further  
25 development of the Business Enterprise Program and  
26 encouragement of participation in State procurement by

1 minorities, women, and persons with disabilities.

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

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

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

23 (Source: P.A. 100-391, eff. 8-25-17; 100-801, eff. 8-10-18;  
24 101-601, eff. 1-1-20.)

25 Section 105. The Public Utilities Act is amended by

1 changing Section 5-117 as follows:

2 (220 ILCS 5/5-117)

3 Sec. 5-117. Supplier diversity goals.

4 (a) The public policy of this State is to collaboratively  
5 work with companies and not-for-profit organizations that  
6 serve Illinois residents to improve their supplier diversity in  
7 a non-antagonistic manner.

8 (a-5) For the purposes of this Section, "minority-led  
9 not-for-profit organization", "woman-led not-for-profit  
10 organization", and "not-for-profit organization led by a  
11 person with a disability" shall have the same meanings as  
12 provided under the Not-for-Profit Business Enterprise Act.

13 (b) The Commission shall require all gas, electric, and  
14 water companies with at least 100,000 customers under its  
15 authority, as well as suppliers of wind energy, solar energy,  
16 hydroelectricity, nuclear energy, and any other supplier of  
17 energy within this State, to submit an annual report by April  
18 15, 2015 and every April 15 thereafter, in a searchable Adobe  
19 PDF format, on all procurement goals and actual spending for  
20 female-owned, minority-owned, veteran-owned, person with a  
21 disability-owned, and small business enterprises, as well as  
22 minority-led not-for-profit organizations, woman-led  
23 not-for-profit organizations, and not-for-profit organizations  
24 led by a person with a disability, in the previous calendar  
25 year. These goals shall be expressed as a percentage of the

1 total work performed by the entity submitting the report, and  
2 the actual spending for all female-owned, minority-owned,  
3 veteran-owned, person with a disability-owned, and small  
4 business enterprises, as well as minority-led not-for-profit  
5 organizations, woman-led not-for-profit organizations, and  
6 not-for-profit organizations led by a person with a disability,  
7 shall also be expressed as a percentage of the total work  
8 performed by the entity submitting the report.

9 (c) Each participating company in its annual report shall  
10 include the following information:

11 (1) an explanation of the plan for the next year to  
12 increase participation;

13 (2) an explanation of the plan to increase the goals;

14 (3) the areas of procurement each company shall be  
15 actively seeking more participation in ~~in~~ the next year;

16 (4) an outline of the plan to alert and encourage  
17 potential vendors in that area to seek business from the  
18 company;

19 (5) an explanation of the challenges faced in finding  
20 quality vendors and offer any suggestions for what the  
21 Commission could do to be helpful to identify those  
22 vendors;

23 (6) a list of the certifications the company  
24 recognizes;

25 (7) the point of contact for any potential vendor who  
26 wishes to do business with the company and explain the



1 process for a vendor to enroll with the company as a  
2 minority-owned, women-owned, ~~or~~ veteran-owned, or person  
3 with a disability-owned company, or a minority-led  
4 not-for-profit organization, a woman-led not-for-profit  
5 organization, or a not-for-profit organization led by a  
6 person with a disability; and

7 (8) any particular success stories to encourage other  
8 companies to emulate best practices.

9 (d) Each annual report shall include as much State-specific  
10 data as possible. If the submitting entity does not submit  
11 State-specific data, then the company shall include any  
12 national data it does have and explain why it could not submit  
13 State-specific data and how it intends to do so in future  
14 reports, if possible.

15 (e) Each annual report shall include the rules,  
16 regulations, and definitions used for the procurement goals in  
17 the company's annual report.

18 (f) The Commission and all participating entities shall  
19 hold an annual workshop open to the public in 2015 and every  
20 year thereafter on the state of supplier diversity to  
21 collaboratively seek solutions to structural impediments to  
22 achieving stated goals, including testimony from each  
23 participating entity as well as subject matter experts and  
24 advocates. The Commission shall publish a database on its  
25 website of the point of contact for each participating entity  
26 for supplier diversity, along with a list of certifications

1 each company recognizes from the information submitted in each  
2 annual report. The Commission shall publish each annual report  
3 on its website and shall maintain each annual report for at  
4 least 5 years.

5 (Source: P.A. 98-1056, eff. 8-26-14; 99-906, eff. 6-1-17;  
6 revised 7-22-19.)