



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3715

Introduced 2/14/2020, by Sen. Napoleon Harris, III

SYNOPSIS AS INTRODUCED:

30 ILCS 500/20-20	
30 ILCS 500/50-35	
30 ILCS 525/5	from Ch. 85, par. 1605
30 ILCS 575/2	
30 ILCS 575/4	from Ch. 127, par. 132.604
30 ILCS 575/5	from Ch. 127, par. 132.605

Amends the Illinois Procurement Code. Provides that for proposed purchasing activity under the specified small purchase threshold, there shall be no policy or rule infringing a State agency or public institution of higher education's ability to award directly, without competition, to a Business Enterprise Program certified business. Requires disclosure of financial interests for bids and offers with an annual value in excess of the small purchase threshold. Amends the Governmental Joint Purchasing Act. Provides that the Act does not apply to, among other entities, public institutions of higher education. Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Modifies provisions concerning the award of State contracts. Expands the authority and responsibilities of the Business Enterprise Council. Removes the definition of "business" from the Act. Makes conforming changes.

LRB101 17349 RJF 66754 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 5. The Illinois Procurement Code is amended by
5 changing Sections 20-20 and 50-35 as follows:

6 (30 ILCS 500/20-20)

7 Sec. 20-20. Small purchases.

8 (a) Amount. Any individual procurement of supplies or
9 services not exceeding \$100,000 and any procurement of
10 construction not exceeding \$100,000, or any individual
11 procurement of professional or artistic services not exceeding
12 \$100,000 may be made without competitive source selection.
13 Procurements shall not be artificially divided so as to
14 constitute a small purchase under this Section. Any procurement
15 of construction not exceeding \$100,000 may be made by an
16 alternative competitive source selection. The construction
17 agency shall establish rules for an alternative competitive
18 source selection process. This Section does not apply to
19 construction-related professional services contracts awarded
20 in accordance with the provisions of the Architectural,
21 Engineering, and Land Surveying Qualifications Based Selection
22 Act.

23 (b) Adjustment. Each July 1, the small purchase maximum

1 established in subsection (a) shall be adjusted for inflation
2 as determined by the Consumer Price Index for All Urban
3 Consumers as determined by the United States Department of
4 Labor and rounded to the nearest \$100.

5 (c) Based upon rules proposed by the Board and rules
6 promulgated by the chief procurement officers, the small
7 purchase maximum established in subsection (a) may be modified.

8 (d) For proposed purchasing activity under the identified
9 small purchase threshold established under subsection (a),
10 there shall be no policy or rule infringing a State agency or
11 public institution of higher education's ability to award
12 directly, without competition, to a Business Enterprise
13 Program certified business.

14 (Source: P.A. 100-43, eff. 8-9-17.)

15 (30 ILCS 500/50-35)

16 Sec. 50-35. Financial disclosure and potential conflicts
17 of interest.

18 (a) All bids and offers from responsive bidders, offerors,
19 vendors, or contractors with an annual value in excess of the
20 identified small purchase threshold established under
21 subsection (a) of Section 20-20 ~~of more than \$50,000~~, and all
22 submissions to a vendor portal, shall be accompanied by
23 disclosure of the financial interests of the bidder, offeror,
24 potential contractor, or contractor and each subcontractor to
25 be used. In addition, all subcontracts identified as provided

1 by Section 20-120 of this Code with an annual value of more
2 than \$50,000 shall be accompanied by disclosure of the
3 financial interests of each subcontractor. The financial
4 disclosure of each successful bidder, offeror, potential
5 contractor, or contractor and its subcontractors shall be
6 incorporated as a material term of the contract and shall
7 become part of the publicly available contract or procurement
8 file maintained by the appropriate chief procurement officer.
9 Each disclosure under this Section shall be signed and made
10 under penalty of perjury by an authorized officer or employee
11 on behalf of the bidder, offeror, potential contractor,
12 contractor, or subcontractor, and must be filed with the
13 Procurement Policy Board.

14 (b) Disclosure shall include any ownership or distributive
15 income share that is in excess of 5%, or an amount greater than
16 60% of the annual salary of the Governor, of the disclosing
17 entity or its parent entity, whichever is less, unless the
18 bidder, offeror, potential contractor, contractor, or
19 subcontractor (i) is a publicly traded entity subject to
20 Federal 10K reporting, in which case it may submit its 10K
21 disclosure in place of the prescribed disclosure, or (ii) is a
22 privately held entity that is exempt from Federal 10k reporting
23 but has more than 100 shareholders, in which case it may submit
24 the information that Federal 10k reporting companies are
25 required to report under 17 CFR 229.401 and list the names of
26 any person or entity holding any ownership share that is in

1 excess of 5% in place of the prescribed disclosure. The form of
2 disclosure shall be prescribed by the applicable chief
3 procurement officer and must include at least the names,
4 addresses, and dollar or proportionate share of ownership of
5 each person identified in this Section, their instrument of
6 ownership or beneficial relationship, and notice of any
7 potential conflict of interest resulting from the current
8 ownership or beneficial relationship of each individual
9 identified in this Section having in addition any of the
10 following relationships:

11 (1) State employment, currently or in the previous 3
12 years, including contractual employment of services.

13 (2) State employment of spouse, father, mother, son, or
14 daughter, including contractual employment for services in
15 the previous 2 years.

16 (3) Elective status; the holding of elective office of
17 the State of Illinois, the government of the United States,
18 any unit of local government authorized by the Constitution
19 of the State of Illinois or the statutes of the State of
20 Illinois currently or in the previous 3 years.

21 (4) Relationship to anyone holding elective office
22 currently or in the previous 2 years; spouse, father,
23 mother, son, or daughter.

24 (5) Appointive office; the holding of any appointive
25 government office of the State of Illinois, the United
26 States of America, or any unit of local government

1 authorized by the Constitution of the State of Illinois or
2 the statutes of the State of Illinois, which office
3 entitles the holder to compensation in excess of expenses
4 incurred in the discharge of that office currently or in
5 the previous 3 years.

6 (6) Relationship to anyone holding appointive office
7 currently or in the previous 2 years; spouse, father,
8 mother, son, or daughter.

9 (7) Employment, currently or in the previous 3 years,
10 as or by any registered lobbyist of the State government.

11 (8) Relationship to anyone who is or was a registered
12 lobbyist in the previous 2 years; spouse, father, mother,
13 son, or daughter.

14 (9) Compensated employment, currently or in the
15 previous 3 years, by any registered election or re-election
16 committee registered with the Secretary of State or any
17 county clerk in the State of Illinois, or any political
18 action committee registered with either the Secretary of
19 State or the Federal Board of Elections.

20 (10) Relationship to anyone; spouse, father, mother,
21 son, or daughter; who is or was a compensated employee in
22 the last 2 years of any registered election or re-election
23 committee registered with the Secretary of State or any
24 county clerk in the State of Illinois, or any political
25 action committee registered with either the Secretary of
26 State or the Federal Board of Elections.

1 (b-1) The disclosure required under this Section must also
2 include the name and address of each lobbyist required to
3 register under the Lobbyist Registration Act and other agent of
4 the bidder, offeror, potential contractor, contractor, or
5 subcontractor who is not identified under subsections (a) and
6 (b) and who has communicated, is communicating, or may
7 communicate with any State officer or employee concerning the
8 bid or offer. The disclosure under this subsection is a
9 continuing obligation and must be promptly supplemented for
10 accuracy throughout the process and throughout the term of the
11 contract if the bid or offer is successful.

12 (b-2) The disclosure required under this Section must also
13 include, for each of the persons identified in subsection (b)
14 or (b-1), each of the following that occurred within the
15 previous 10 years: suspension or debarment from contracting
16 with any governmental entity; professional licensure
17 discipline; bankruptcies; adverse civil judgments and
18 administrative findings; and criminal felony convictions. The
19 disclosure under this subsection is a continuing obligation and
20 must be promptly supplemented for accuracy throughout the
21 process and throughout the term of the contract if the bid or
22 offer is successful.

23 (c) The disclosure in subsection (b) is not intended to
24 prohibit or prevent any contract. The disclosure is meant to
25 fully and publicly disclose any potential conflict to the chief
26 procurement officers, State purchasing officers, their

1 designees, and executive officers so they may adequately
2 discharge their duty to protect the State.

3 (d) When a potential for a conflict of interest is
4 identified, discovered, or reasonably suspected, the chief
5 procurement officer or State procurement officer shall send the
6 contract to the Procurement Policy Board. In accordance with
7 the objectives of subsection (c), if the Procurement Policy
8 Board finds evidence of a potential conflict of interest not
9 originally disclosed by the bidder, offeror, potential
10 contractor, contractor, or subcontractor, the Board shall
11 provide written notice to the bidder, offeror, potential
12 contractor, contractor, or subcontractor that is identified,
13 discovered, or reasonably suspected of having a potential
14 conflict of interest. The bidder, offeror, potential
15 contractor, contractor, or subcontractor shall have 15
16 calendar days to respond in writing to the Board, and a hearing
17 before the Board will be granted upon request by the bidder,
18 offeror, potential contractor, contractor, or subcontractor,
19 at a date and time to be determined by the Board, but which in
20 no event shall occur later than 15 calendar days after the date
21 of the request. Upon consideration, the Board shall recommend,
22 in writing, whether to allow or void the contract, bid, offer,
23 or subcontract weighing the best interest of the State of
24 Illinois. All recommendations shall be submitted to the
25 Executive Ethics Commission. The Executive Ethics Commission
26 must hold a public hearing within 30 calendar days after

1 receiving the Board's recommendation if the Procurement Policy
2 Board makes a recommendation to (i) void a contract or (ii)
3 void a bid or offer and the chief procurement officer selected
4 or intends to award the contract to the bidder, offeror, or
5 potential contractor. A chief procurement officer is
6 prohibited from awarding a contract before a hearing if the
7 Board recommendation does not support a bid or offer. The
8 recommendation and proceedings of any hearing, if applicable,
9 shall be available to the public.

10 (e) These thresholds and disclosure do not relieve the
11 chief procurement officer, the State purchasing officer, or
12 their designees from reasonable care and diligence for any
13 contract, bid, offer, or submission to a vendor portal. The
14 chief procurement officer, the State purchasing officer, or
15 their designees shall be responsible for using any reasonably
16 known and publicly available information to discover any
17 undisclosed potential conflict of interest and act to protect
18 the best interest of the State of Illinois.

19 (f) Inadvertent or accidental failure to fully disclose
20 shall render the contract, bid, offer, proposal, subcontract,
21 or relationship voidable by the chief procurement officer if he
22 or she deems it in the best interest of the State of Illinois
23 and, at his or her discretion, may be cause for barring from
24 future contracts, bids, offers, proposals, subcontracts, or
25 relationships with the State for a period of up to 2 years.

26 (g) Intentional, willful, or material failure to disclose

1 shall render the contract, bid, offer, proposal, subcontract,
2 or relationship voidable by the chief procurement officer if he
3 or she deems it in the best interest of the State of Illinois
4 and shall result in debarment from future contracts, bids,
5 offers, proposals, subcontracts, or relationships for a period
6 of not less than 2 years and not more than 10 years.
7 Reinstatement after 2 years and before 10 years must be
8 reviewed and commented on in writing by the Governor of the
9 State of Illinois, or by an executive ethics board or
10 commission he or she might designate. The comment shall be
11 returned to the responsible chief procurement officer who must
12 rule in writing whether and when to reinstate.

13 (h) In addition, all disclosures shall note any other
14 current or pending contracts, bids, offers, proposals,
15 subcontracts, leases, or other ongoing procurement
16 relationships the bidder, offeror, potential contractor,
17 contractor, or subcontractor has with any other unit of State
18 government and shall clearly identify the unit and the
19 contract, offer, proposal, lease, or other relationship.

20 (i) The bidder, offeror, potential contractor, or
21 contractor has a continuing obligation to supplement the
22 disclosure required by this Section throughout the bidding
23 process during the term of any contract, and during the vendor
24 portal registration process.

25 (Source: P.A. 97-490, eff. 8-22-11; 97-895, eff. 8-3-12;
26 98-1076, eff. 1-1-15.)

1 Section 10. The Governmental Joint Purchasing Act is
2 amended by changing Section 5 as follows:

3 (30 ILCS 525/5) (from Ch. 85, par. 1605)

4 Sec. 5. The provisions of this Act shall not apply to
5 public utility services or public institutions of higher
6 education as defined by the Illinois Procurement Code.

7 (Source: Laws 1961, p. 3382.)

8 Section 15. The Business Enterprise for Minorities, Women,
9 and Persons with Disabilities Act is amended by changing
10 Sections 2, 4, and 5 as follows:

11 (30 ILCS 575/2)

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

13 Sec. 2. Definitions.

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

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

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

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

7 (c) Black or African American (a person having
8 origins in any of the black racial groups of Africa).

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

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

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

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

22 (2.1) "Person with a disability" means a person with a
23 severe physical or mental disability that:

24 (a) results from:

25 amputation,

26 arthritis,

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

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

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

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

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

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

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

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

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

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

26 (6) "State agencies" shall mean all departments,

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

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

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

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

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

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

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

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

18 (11) ~~(12)~~ "Business Enterprise Program" means the
19 Business Enterprise Program of the Department of Central
20 Management Services.

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

1 ownership interest in the business. If 2 or more classes have
2 equal ownership interests, the certification category shall be
3 determined by the business.

4 (Source: P.A. 100-391, eff. 8-25-17; 101-601, eff. 1-1-20.)

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

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

7 Sec. 4. Award of State contracts.

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

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

1 represents the participation of businesses owned by
2 minorities, women, and persons with disabilities on such
3 contracts shall be included. State contracts subject to the
4 requirements of this Act shall include the requirement that
5 only expenditures to businesses owned by minorities, women, and
6 persons with disabilities that perform a commercially useful
7 function may be counted toward the goals set forth by this Act.
8 Contracts shall include a definition of "commercially useful
9 function" that is consistent with 49 CFR 26.55(c).

10 (b) Not less than 20% of the total dollar amount of State
11 construction contracts is established as an aspirational goal
12 to be awarded to businesses owned by minorities, women, and
13 persons with disabilities; provided that, contracts
14 representing at least 11% of the total dollar amount of State
15 construction contracts shall be awarded to businesses owned by
16 minorities; contracts representing at least 7% of the total
17 dollar amount of State construction contracts shall be awarded
18 to women-owned businesses; and contracts representing at least
19 2% of the total dollar amount of State construction contracts
20 shall be awarded to businesses owned by persons with
21 disabilities.

22 (c) (Blank).

23 (d) Within one year after April 28, 2009 (the effective
24 date of Public Act 96-8), the Department of Central Management
25 Services shall conduct a social scientific study that measures
26 the impact of discrimination on minority and women business

1 development in Illinois. Within 18 months after April 28, 2009
2 (the effective date of Public Act 96-8), the Department shall
3 issue a report of its findings and any recommendations on
4 whether to adjust the goals for minority and women
5 participation established in this Act. Copies of this report
6 and the social scientific study shall be filed with the
7 Governor and the General Assembly.

8 By December 1, 2020, the Department of Central Management
9 Services shall conduct a new social scientific study that
10 measures the impact of discrimination on minority and women
11 business development in Illinois. By June 1, 2022, the
12 Department shall issue a report of its findings and any
13 recommendations on whether to adjust the goals for minority and
14 women participation established in this Act. Copies of this
15 report and the social scientific study shall be filed with the
16 Governor, the Advisory Board, and the General Assembly. By
17 December 1, 2022, the Department of Central Management Services
18 Business Enterprise Program shall develop a model for social
19 scientific disparity study sourcing for local governmental
20 units to adapt and implement to address regional disparities in
21 public procurement.

22 (e) (Blank). ~~Except as permitted under this Act or as~~
23 ~~otherwise mandated by federal law or regulation, those who~~
24 ~~submit bids or proposals for State contracts subject to the~~
25 ~~provisions of this Act, whose bids or proposals are successful~~
26 ~~and include a utilization plan but that fail to meet the goals~~

1 ~~set forth in subsection (b) of this Section, shall be notified~~
2 ~~of that deficiency and shall be afforded a period not to exceed~~
3 ~~10 calendar days from the date of notification to cure that~~
4 ~~deficiency in the bid or proposal. The deficiency in the bid or~~
5 ~~proposal may only be cured by contracting with additional~~
6 ~~subcontractors who are owned by minorities or women. Any~~
7 ~~increase in cost to a contract for the addition of a~~
8 ~~subcontractor to cure a bid's deficiency shall not affect the~~
9 ~~bid price, shall not be used in the request for an exemption in~~
10 ~~this Act, and in no case shall an identified subcontractor with~~
11 ~~a certification made pursuant to this Act be terminated from~~
12 ~~the contract without the written consent of the State agency or~~
13 ~~public institution of higher education entering into the~~
14 ~~contract.~~

15 (f) Non-construction solicitations that include Business
16 Enterprise Program participation goals shall require bidders
17 and offerors to include utilization plans. Utilization plans
18 are due at the time of bid or offer submission. Failure to
19 complete and include a utilization plan, including
20 documentation demonstrating good faith effort when requesting
21 a waiver, shall render the bid or offer non-responsive.

22 Except as permitted under this Act or as otherwise mandated
23 by federal regulation, those who submit bids or proposals for
24 State contracts, whose bids or proposals are successful and
25 include a completed utilization plan, but fail to meet the
26 goals set forth in the solicitation, shall be notified of the

1 deficiency and shall be afforded a period not to exceed 10
2 calendar days from the date of notification to cure that
3 deficiency in the bid or proposal. The deficiency in the bid or
4 proposal may only be cured by contracting with additional
5 subcontractor's owned by minorities or women subcontractors,
6 or by increasing the work to be performed by previously
7 identified vendors owned by minorities or women
8 subcontractors. In no case shall an identified subcontractor
9 with a certification made pursuant to this Act be terminated
10 from the contract without written consent of the State agency
11 or public institution of higher education entering in to the
12 contract.

13 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
14 101-601, eff. 1-1-20.)

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

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

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, and Persons with Disabilities, hereinafter
21 referred to as the Council, composed of the Secretary of Human
22 Services and the Directors of the Department of Human Rights,
23 the Department of Commerce and Economic Opportunity, the
24 Department of Central Management Services, the Department of
25 Transportation and the Capital Development Board, or their duly

1 appointed representatives, with the Comptroller, or his or her
2 designee, serving as an advisory member of the Council. Ten
3 individuals representing businesses that are minority-owned or
4 women-owned or owned by persons with disabilities, 2
5 individuals representing the business community, and a
6 representative of public institutions of higher education
7 shall be appointed by the Governor. These members shall serve
8 2-year ~~2-year~~ terms and shall be eligible for reappointment.
9 Any vacancy occurring on the Council shall also be filled by
10 the Governor. Any member appointed to fill a vacancy occurring
11 prior to the expiration of the term for which his predecessor
12 was appointed shall be appointed for the remainder of such
13 term. Members of the Council shall serve without compensation
14 but shall be reimbursed for any ordinary and necessary expenses
15 incurred in the performance of their 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, and Persons with Disabilities Division of the Department
22 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, or
6 persons with disabilities and a registration procedure to
7 recognize, without additional evidence of Business
8 Enterprise Program eligibility, the certification of
9 businesses owned by minorities, women, or persons with
10 disabilities certified by the City of Chicago, Cook County,
11 or other jurisdictional programs with requirements and
12 procedures equaling or exceeding those in this Act.

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

17 (c) Review rules and regulations for the
18 implementation of the program for businesses owned by
19 minorities, women, and persons with disabilities.

20 (d) Review compliance plans submitted by each State
21 agency and public institutions of higher education
22 pursuant to this Act.

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

26 (f) Serve as a central clearinghouse for information on

1 State contracts, including the maintenance of a list of all
2 pending State contracts upon which businesses owned by
3 minorities, women, and persons with disabilities may bid.
4 At the Council's discretion, maintenance of the list may
5 include 24-hour electronic access to the list along with
6 the bid and application information.

7 (g) Establish a toll free telephone number to
8 facilitate information requests concerning the
9 certification process and pending contracts.

10 (h) Adopt a procedure to grant automatic certification
11 to businesses holding a certification from at least one of
12 the following entities: (i) the Illinois Unified
13 Certification Program; (ii) the Women's Business
14 Development Center in Chicago; (iii) the Chicago Minority
15 Supplier Development Council; or (iv) any other similar
16 entity offering such certification to businesses.

17 (i) Develop and maintain a repository for
18 non-certified vendors that: (i) have applied for
19 certification and have been denied; (ii) have started, but
20 not completed, the certification process; (iii) have
21 achieved certification, but did not seek renewal; or (iv)
22 are known businesses owned by minorities, women, or persons
23 with disabilities.

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

1 than the lowest rate charged by that surety company for a
2 similar bond in the same classification of work that would be
3 written for a business not owned by a minority, woman, or
4 person with a disability.

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

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

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

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

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

1 All funds collected as penalties under this subsection
2 shall be used exclusively for maintenance and further
3 development of the Business Enterprise Program and
4 encouragement of participation in State procurement by
5 minorities, women, and persons with disabilities.

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

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

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

1 (Source: P.A. 100-391, eff. 8-25-17; 100-801, eff. 8-10-18;
2 101-601, eff. 1-1-20.)