



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0104

Introduced 1/12/2011, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 5/5-15

was 20 ILCS 5/3

20 ILCS 5/5-20

was 20 ILCS 5/4

20 ILCS 5/5-195 new

20 ILCS 5/5-425 new

30 ILCS 575/5

from Ch. 127, par. 132.605

Creates the Department of Minority and Women Inclusion Act. Creates the Department of Minority and Women Inclusion as a department of State government. Provides that the Department shall be responsible for all matters of the State Executive Branch agencies relating to diversity in management, employment, and business activities. Provides that the Governor shall appoint a Director as the head of the Department and that the Director shall develop standards for the following: (1) equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of each State Executive Branch agency; (2) increased participation of minority-owned and women-owned businesses in the programs and contracts of each State Executive Branch agency; and (3) assessing the diversity policies and practices of entities regulated by each State Executive Branch agency. Amends the Civil Administrative Code of Illinois to make conforming changes. Amends the Business Enterprise for Minorities, Females, and Persons with Disabilities Act to provide that the Department of Minority and Women Inclusion shall monitor the activities of the Business Enterprise Council for Minorities, Females, and Persons with Disabilities. Effective immediately.

LRB097 00042 DRJ 40045 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Department of Minority and Women Inclusion Act.

6 Section 5. Purpose. The purpose of this Act is to provide
7 for diversity in the employment, management, and business
8 activities of State Executive Branch agencies and to increase
9 the level of participation by minorities and women in such
10 employment, management, and business activities.

11 Section 10. Definitions. In this Act:

12 "Department" means the Department of Minority and Women
13 Inclusion.

14 "Director" means the Director of Minority and Women
15 Inclusion.

16 "Minority person" means a person who is a citizen or lawful
17 permanent resident of the United States and who is:

18 (1) African American (a person having origins in any of
19 the black racial groups in Africa);

20 (2) Hispanic (a person of Spanish or Portuguese culture
21 with origins in Mexico, South or Central America, or the
22 Caribbean Islands, regardless of race);

1 (3) Asian American (a person having origins in any of
2 the original peoples of the Far East, Southeast Asia, the
3 Indian Subcontinent or the Pacific Islands); or

4 (4) Native American or Alaskan Native (a person having
5 origins in any of the original peoples of North America).

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

13 "State Executive Branch agency" means each State agency,
14 department, board, and commission directly responsible to the
15 Governor. The term does not include any State university.

16 "Woman" means a person who is a citizen or lawful permanent
17 resident of the United States and who is of the female gender.

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

24 Section 15. Creation of Department; Director.

25 (a) The Department of Minority and Women Inclusion is

1 created as a department of State government. The Department
2 shall be responsible for all matters of the State Executive
3 Branch agencies relating to diversity in management,
4 employment, and business activities. The Department shall
5 monitor the activities of the Business Enterprise Council for
6 Minorities, Females, and Persons with Disabilities created
7 under the Business Enterprise for Minorities, Females, and
8 Persons with Disabilities Act.

9 (b) The Governor shall appoint the Director as the head of
10 the Department.

11 Section 20. Director's duties.

12 (a) The Director shall develop standards for the following:

13 (1) Equal employment opportunity and the racial,
14 ethnic, and gender diversity of the workforce and senior
15 management of each State Executive Branch agency.

16 (2) Increased participation of minority-owned and
17 women-owned businesses in the programs and contracts of
18 each State Executive Branch agency, including standards
19 for coordinating technical assistance to such businesses.

20 (3) Assessing the diversity policies and practices of
21 entities regulated by each State Executive Branch agency.

22 (b) The Director shall develop and implement standards and
23 procedures to ensure, to the maximum extent possible, the fair
24 inclusion and utilization of minority persons, women, and
25 minority-owned and women-owned businesses in all business and

1 activities of each State Executive Branch agency at all levels,
2 including in procurement, insurance, and all types of
3 contracts.

4 (c) The Director shall ensure that each State Executive
5 Branch agency establishes procedures for review and evaluation
6 of contract proposals and for hiring service providers that
7 include, to the extent consistent with applicable law, a
8 component that gives consideration to the diversity of the
9 applicant. The procedures shall include a written statement, in
10 the form and with the content prescribed by the Director, that
11 a contractor shall ensure, to the maximum extent possible, the
12 fair inclusion of women and minority persons in the workforce
13 of the contractor and, as applicable, subcontractors.

14 (d) The standards and procedures developed and implemented
15 under this Section shall include a procedure for the Director
16 to determine whether a State Executive Branch agency contractor
17 or subcontractor has failed to make a good faith effort to
18 include minority persons and women in its workforce. If the
19 Director determines that a State Executive Branch agency
20 contractor or subcontractor has failed to make a good faith
21 effort to include minority persons and women in its workforce,
22 the Director shall recommend to the head of the State Executive
23 Branch agency that the contract be terminated. Upon receiving
24 such a recommendation from the Director, the head of the
25 affected agency may terminate the contract or take other
26 appropriate action.

1 Section 25. Diversity in agency workforce. The Director
2 shall ensure that each State Executive Branch agency takes
3 affirmative steps to seek diversity in the workforce of the
4 agency at all levels of the agency in a manner consistent with
5 applicable law. These steps shall include the following:

6 (1) Recruiting at historically black colleges and
7 universities, Hispanic-serving institutions, women's
8 colleges, and colleges that typically serve majority
9 minority populations.

10 (2) Sponsoring and recruiting at job fairs in urban
11 communities.

12 (3) Placing employment advertisements in newspapers
13 and magazines oriented toward minorities and women.

14 (4) Partnering with organizations that are focused on
15 developing opportunities for minorities and women to place
16 talented young minority persons and women in industry
17 internships, summer employment, and full-time positions.

18 (5) When feasible, partnering with inner-city high
19 schools, girls' high schools, and high schools with
20 majority minority populations to establish or enhance
21 economic literacy programs and provide mentoring.

22 (6) Producing any other mass media communications that
23 the Director deems necessary.

24 Section 30. Application of Act. This Act applies to all

1 contracts of a State Executive Branch agency for services of
2 any kind and for all business and activities of the agency,
3 including contracts for implementing the agency's programs.
4 The requirements of this Act are in addition to the
5 requirements of the Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Act and all other
7 applicable laws.

8 Section 35. Reports. Each year, on or before March 1, the
9 Director shall report the following to the Governor and the
10 General Assembly for the preceding calendar year:

11 (1) A statement of the total amounts paid by each State
12 Executive Branch agency to contractors since the previous
13 report.

14 (2) The percentage of the amounts described in
15 paragraph (1) that were paid to minority-owned and
16 women-owned businesses.

17 (3) The successes achieved and the challenges faced by
18 each State Executive Branch agency in operating minority
19 and women outreach programs.

20 (4) The challenges each State Executive Branch agency
21 may face in hiring qualified minority and women employees
22 and contracting with qualified minority-owned and
23 women-owned businesses.

24 (5) Any other information, findings, conclusions, and
25 recommendations for legislative or agency action, as the

1 Director deems appropriate.

2 Section 90. The Civil Administrative Code of Illinois is
3 amended by changing Sections 5-15 and 5-20 and by adding
4 Sections 5-195 and 5-425 as follows:

5 (20 ILCS 5/5-15) (was 20 ILCS 5/3)

6 Sec. 5-15. Departments of State government. The
7 Departments of State government are created as follows:

8 The Department on Aging.

9 The Department of Agriculture.

10 The Department of Central Management Services.

11 The Department of Children and Family Services.

12 The Department of Commerce and Economic Opportunity.

13 The Department of Corrections.

14 The Department of Employment Security.

15 The Illinois Emergency Management Agency.

16 The Department of Financial and Professional Regulation.

17 The Department of Healthcare and Family Services.

18 The Department of Human Rights.

19 The Department of Human Services.

20 The Illinois Power Agency.

21 The Department of Juvenile Justice.

22 The Department of Labor.

23 The Department of the Lottery.

24 The Department of Minority and Women Inclusion.

1 The Department of Natural Resources.

2 The Department of Public Health.

3 The Department of Revenue.

4 The Department of State Police.

5 The Department of Transportation.

6 The Department of Veterans' Affairs.

7 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;
8 95-777, eff. 8-4-08; 96-328, eff. 8-11-09.)

9 (20 ILCS 5/5-20) (was 20 ILCS 5/4)

10 Sec. 5-20. Heads of departments. Each department shall have
11 an officer as its head who shall be known as director or
12 secretary and who shall, subject to the provisions of the Civil
13 Administrative Code of Illinois, execute the powers and
14 discharge the duties vested by law in his or her respective
15 department.

16 The following officers are hereby created:

17 Director of Aging, for the Department on Aging.

18 Director of Agriculture, for the Department of
19 Agriculture.

20 Director of Central Management Services, for the
21 Department of Central Management Services.

22 Director of Children and Family Services, for the
23 Department of Children and Family Services.

24 Director of Commerce and Economic Opportunity, for the
25 Department of Commerce and Economic Opportunity.

1 Director of Corrections, for the Department of
2 Corrections.

3 Director of the Illinois Emergency Management Agency, for
4 the Illinois Emergency Management Agency.

5 Director of Employment Security, for the Department of
6 Employment Security.

7 Secretary of Financial and Professional Regulation, for
8 the Department of Financial and Professional Regulation.

9 Director of Healthcare and Family Services, for the
10 Department of Healthcare and Family Services.

11 Director of Human Rights, for the Department of Human
12 Rights.

13 Secretary of Human Services, for the Department of Human
14 Services.

15 Director of the Illinois Power Agency, for the Illinois
16 Power Agency.

17 Director of Juvenile Justice, for the Department of
18 Juvenile Justice.

19 Director of Labor, for the Department of Labor.

20 Director of the Lottery, for the Department of the Lottery.

21 Director of Minority and Women Inclusion, for the
22 Department of Minority and Women Inclusion.

23 Director of Natural Resources, for the Department of
24 Natural Resources.

25 Director of Public Health, for the Department of Public
26 Health.

1 Director of Revenue, for the Department of Revenue.

2 Director of State Police, for the Department of State
3 Police.

4 Secretary of Transportation, for the Department of
5 Transportation.

6 Director of Veterans' Affairs, for the Department of
7 Veterans' Affairs.

8 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;
9 95-777, eff. 8-4-08; 96-328, eff. 8-11-09.)

10 (20 ILCS 5/5-195 new)

11 Sec. 5-195. In the Department of Minority and Women
12 Inclusion. Assistant Director of Minority and Women Inclusion.

13 (20 ILCS 5/5-425 new)

14 Sec. 5-425. In the Department of Minority and Women
15 Inclusion. The Director of Minority and Women Inclusion shall
16 receive an annual salary as set by the Governor from time to
17 time or as set by the Compensation Review Board, whichever is
18 greater.

19 Section 92. The Business Enterprise for Minorities,
20 Females, and Persons with Disabilities Act is amended by
21 changing Section 5 as follows:

22 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

1 (Section scheduled to be repealed on June 30, 2012)

2 Sec. 5. Business Enterprise Council.

3 (1) To help implement, monitor and enforce the goals of
4 this Act, there is created the Business Enterprise Council for
5 Minorities, Females, and Persons with Disabilities,
6 hereinafter referred to as the Council, composed of the
7 Secretary of Human Services and the Directors of the Department
8 of Human Rights, the Department of Commerce and Economic
9 Opportunity, the Department of Central Management Services,
10 the Department of Transportation and the Capital Development
11 Board, or their duly appointed representatives. Ten
12 individuals representing businesses that are minority or
13 female owned or owned by persons with disabilities, 2
14 individuals representing the business community, and a
15 representative of public universities shall be appointed by the
16 Governor. These members shall serve 2 year terms and shall be
17 eligible for reappointment. Any vacancy occurring on the
18 Council shall also be filled by the Governor. Any member
19 appointed to fill a vacancy occurring prior to the expiration
20 of the term for which his predecessor was appointed shall be
21 appointed for the remainder of such term. Members of the
22 Council shall serve without compensation but shall be
23 reimbursed for any ordinary and necessary expenses incurred in
24 the performance of their duties.

25 The Director of the Department of Central Management
26 Services shall serve as the Council chairperson and shall

1 select, subject to approval of the council, a Secretary
2 responsible for the operation of the program who shall serve as
3 the Division Manager of the Business Enterprise for Minorities,
4 Females, and Persons with Disabilities Division of the
5 Department of Central Management Services.

6 The Director of each State agency and the chief executive
7 officer of each State university shall appoint a liaison to the
8 Council. The liaison shall be responsible for submitting to the
9 Council any reports and documents necessary under this Act.

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

11 (a) Devise a certification procedure to assure that
12 businesses taking advantage of this Act are legitimately
13 classified as businesses owned by minorities, females, or
14 persons with disabilities.

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

19 (c) Review rules and regulations for the
20 implementation of the program for businesses owned by
21 minorities, females, and persons with disabilities.

22 (d) Review compliance plans submitted by each State
23 agency and State university pursuant to this Act.

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

1 (f) Serve as a central clearinghouse for information on
2 State contracts, including the maintenance of a list of all
3 pending State contracts upon which businesses owned by
4 minorities, females, and persons with disabilities may
5 bid. At the Council's discretion, maintenance of the list
6 may include 24-hour electronic access to the list along
7 with the bid and application information.

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

11 (3) No premium bond rate of a surety company for a bond
12 required of a business owned by a minority, female, or person
13 with a disability bidding for a State contract shall be higher
14 than the lowest rate charged by that surety company for a
15 similar bond in the same classification of work that would be
16 written for a business not owned by a minority, female, or
17 person with a disability.

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

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

24 (a) To be responsible for the day-to-day operation of
25 the Council.

26 (b) To serve as a coordinator for all of the State's

1 programs for businesses owned by minorities, females, and
2 persons with disabilities and as the information and
3 referral center for all State initiatives for businesses
4 owned by minorities, females, and persons with
5 disabilities.

6 (c) To establish an enforcement procedure whereby the
7 Council may recommend to the appropriate State legal
8 officer that the State exercise its legal remedies which
9 shall include (1) termination of the contract involved, (2)
10 prohibition of participation by the respondent in public
11 contracts for a period not to exceed one year, (3)
12 imposition of a penalty not to exceed any profit acquired
13 as a result of violation, or (4) any combination thereof.
14 Such procedures shall require prior approval by Council.

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

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

1 (f) To accept donations and, with the approval of the
2 Council or the Director of Central Management Services,
3 grants related to the purposes of this Act; to conduct
4 seminars related to the purpose of this Act and to charge
5 reasonable registration fees; and to sell directories,
6 vendor lists and other such information to interested
7 parties, except that forms necessary to become eligible for
8 the program shall be provided free of charge to a business
9 or individual applying for the program.

10 (6) The Department of Minority and Women Inclusion shall
11 monitor the Council's activities, as provided in the Department
12 of Minority and Women Inclusion Act.

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.