



Sen. James F. Clayborne, Jr.

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09900SB1334sam002

LRB099 10713 SXM 34091 a

1 AMENDMENT TO SENATE BILL 1334

2 AMENDMENT NO. _____. Amend Senate Bill 1334, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Act is amended by
7 changing Sections 2, 3, 4, 5, 6, 6a, 7, 8, and 8f and by adding
8 Section 4f as follows:

9 (30 ILCS 575/2)

10 (Section scheduled to be repealed on June 30, 2016)

11 Sec. 2. Definitions.

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

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

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

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

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

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

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

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

24 (2.05) "Person with a disability" means a person who is
25 a citizen or lawful resident of the United States and is a
26 person qualifying as being disabled under subdivision

1 (2.1) of this subsection (A).

2 (2.1) "Disabled" means a severe physical or mental
3 disability that:

4 (a) results from:

5 amputation,

6 arthritis,

7 autism,

8 blindness,

9 burn injury,

10 cancer,

11 cerebral palsy,

12 Crohn's disease,

13 cystic fibrosis,

14 deafness,

15 head injury,

16 heart disease,

17 hemiplegia,

18 hemophilia,

19 respiratory or pulmonary dysfunction,

20 an intellectual disability,

21 mental illness,

22 multiple sclerosis,

23 muscular dystrophy,

24 musculoskeletal disorders,

25 neurological disorders, including stroke and

26 epilepsy,

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

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

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

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

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

1 and daily business operations of which are controlled by
2 one or more of the females who own it.

3 (4.1) "Business owned by a person with a disability"
4 means a business ~~concern~~ that is at least 51% owned by one
5 or more persons with a disability and the management and
6 daily business operations of which are controlled by one or
7 more 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, Females, and Persons with Disabilities
14 created under Section 5 of this Act.

15 (5) "State contracts" means all State contracts,
16 regardless of the source of the funds with which the
17 contracts are paid, which are not subject to federal
18 reimbursement. This definition shall control over any
19 existing definition under this Act or applicable
20 administrative rule. "State contracts" shall mean all
21 State contracts, funded exclusively with State funds which
22 are not subject to federal reimbursement, whether
23 competitively bid or negotiated as defined by the Secretary
24 of the Council and approved by the Council.

25 "State construction contracts" means all State
26 contracts entered into by a State agency or public

1 institution of higher education ~~State university~~ for the
2 repair, remodeling, renovation or construction of a
3 building or structure, or for the construction or
4 maintenance of a highway defined in Article 2 of the
5 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. "State universities" shall mean the Board of
4 Trustees of the University of Illinois, the Board of
5 Trustees of Southern Illinois University, the Board of
6 Trustees of Chicago State University, the Board of Trustees
7 of Eastern Illinois University, the Board of Trustees of
8 Governors State University, the Board of Trustees of
9 Illinois State University, the Board of Trustees of
10 Northeastern Illinois University, the Board of Trustees of
11 Northern Illinois University, and the Board of Trustees of
12 Western Illinois University.

13 (8) "Certification" means a determination made by the
14 Council or by one delegated authority from the Council to
15 make certifications, or by a State agency with statutory
16 authority to make such a certification, that a business
17 entity is a business owned by a minority, female, or person
18 with a disability for whatever purpose. A business owned
19 and controlled by females shall be certified as a "female
20 owned business". A business owned and controlled by females
21 who are also minorities shall be certified as both a
22 "female owned business" and a "minority owned business".

23 (9) "Control" means the exclusive or ultimate and sole
24 control of the business including, but not limited to,
25 capital investment and all other financial matters,
26 property, acquisitions, contract negotiations, legal

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

14 (10) (Blank). ~~"Business concern or business" means a~~
15 ~~business that has annual gross sales of less than~~
16 ~~\$75,000,000 as evidenced by the federal income tax return~~
17 ~~of the business. A firm with gross sales in excess of this~~
18 ~~cap may apply to the Council for certification for a~~
19 ~~particular contract if the firm can demonstrate that the~~
20 ~~contract would have significant impact on businesses owned~~
21 ~~by minorities, females, or persons with disabilities as~~
22 ~~suppliers or subcontractors or in employment of~~
23 ~~minorities, females, or persons with disabilities.~~

24 (B) When a business ~~concern~~ is owned at least 51% by any
25 combination of minority persons, females, or persons with
26 disabilities, even though none of the 3 classes alone holds at

1 least a 51% interest, the ownership requirement for purposes of
2 this Act is considered to be met. The certification category
3 for the business is that of the class holding the largest
4 ownership interest in the business. If 2 or more classes have
5 equal ownership interests, the certification category shall be
6 determined by the business ~~concern~~.

7 (Source: P.A. 97-227, eff. 1-1-12; 97-396, eff. 1-1-12; 97-813,
8 eff. 7-13-12; 98-95, eff. 7-17-13.)

9 (30 ILCS 575/3) (from Ch. 127, par. 132.603)

10 (Section scheduled to be repealed on June 30, 2016)

11 Sec. 3. Implementation and applicability. This Act shall be
12 applied to all State agencies and public institutions of higher
13 education ~~State universities~~.

14 (Source: P.A. 85-729.)

15 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

16 (Section scheduled to be repealed on June 30, 2016)

17 Sec. 4. Award of State contracts.

18 (a) Except as provided in subsections (b) and (c), not less
19 than 20% of the total dollar amount of State contracts, as
20 defined by the Secretary of the Council and approved by the
21 Council, shall be established as a goal to be awarded to
22 businesses owned by minorities, females, and persons with
23 disabilities; provided, however, that of the total amount of
24 all State contracts awarded to businesses owned by minorities,

1 females, and persons with disabilities pursuant to this
2 Section, contracts representing at least 11% shall be awarded
3 to businesses owned by minorities, contracts representing at
4 least 7% shall be awarded to female-owned businesses, and
5 contracts representing at least 2% shall be awarded to
6 businesses owned by persons with disabilities.

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

15 (b) In the case of State construction contracts, the
16 provisions of subsection (a) requiring a portion of State
17 contracts to be awarded to businesses owned and controlled by
18 persons with disabilities do not apply. Not less than 20% ~~10%~~
19 of the total dollar amount of State construction contracts is
20 established as a goal to be awarded to minority and female
21 owned businesses, and contracts representing 50% of the amount
22 of all State construction contracts awarded to minority and
23 female owned businesses shall be awarded to female owned
24 businesses.

25 (c) In the case of all work undertaken by the University of
26 Illinois related to the planning, organization, and staging of

1 the games, the University of Illinois shall establish a goal of
2 awarding not less than 25% of the annual dollar value of all
3 contracts, purchase orders, and other agreements (collectively
4 referred to as "the contracts") to minority-owned businesses or
5 businesses owned by a person with a disability and 5% of the
6 annual dollar value the contracts to female-owned businesses.
7 For purposes of this subsection, the term "games" has the
8 meaning set forth in the Olympic Games and Paralympic Games
9 (2016) Law.

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

21 (e) Those who submit bids or proposals for State contracts
22 shall not be given a period after the bid or proposal is
23 submitted to cure deficiencies in the bid or proposal under
24 this Act unless mandated by federal law or regulation.

25 (Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; 96-706,
26 eff. 8-25-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793

1 for the effective date of changes made by P.A. 96-795);
2 96-1000, eff. 7-2-10.)

3 (30 ILCS 575/4f new)

4 Sec. 4f. Award of State contracts.

5 (1) It is hereby declared to be the public policy of
6 the State of Illinois to promote and encourage each State
7 agency and public institution of higher education to use
8 businesses owned by minorities, females, and persons with
9 disabilities in the area of goods and services, including,
10 but not limited to, insurance services, investment
11 management services, information technology services,
12 accounting services, cost containment and auditing
13 services, and legal services. Furthermore, each State
14 agency and public institution of higher education shall
15 utilize such firms to the greatest extent feasible within
16 the bounds of financial and fiduciary prudence, and take
17 affirmative steps to remove any barriers to the full
18 participation of such firms in the procurement and
19 placement opportunities afforded.

20 (a) When a State agency and public institution of
21 higher education enters into a contract for insurance
22 services, each State agency and public institution of
23 higher education shall use insurance brokers owned by
24 minorities, females, and persons with disabilities as
25 defined by this Act, for not less than 20% of the total

1 annual premiums or fees.

2 (b) When a State agency and public institution of
3 higher education enters into a contract for insurance
4 services, each State agency and public institution of
5 higher education shall use emerging investment
6 managers owned by minorities, females, and persons
7 with disabilities as defined by this Act, for not less
8 than 20% of the total funds under management.
9 Furthermore, it is the goal that not less than 20% of
10 the direct asset managers of the State funds be
11 minorities, females, and persons with disabilities.

12 (c) When a State agency or public institution of
13 higher education enters into contracts for information
14 technology services, accounting services, and legal
15 services, each State agency and public institution of
16 higher education shall use such firms owned by
17 minorities, females, and persons with disabilities as
18 defined by this Act and lawyers who are minorities,
19 females, and persons with disabilities as defined by
20 this Act, for not less than 20% of State contracts.

21 (2) As used in this Section:

22 "Accounting services" means the measurement,
23 processing and communication of financial information
24 about economic entities including, but is not limited
25 to, financial accounting, management accounting,
26 auditing, cost containment and auditing services,

1 taxation and accounting information systems.

2 "Emerging investment manager" means an investment
3 manager or claims consultant having assets under
4 management below \$20 billion or otherwise adjudicating
5 claims.

6 "Information technology services" means, but is
7 not limited to, specialized technology-oriented
8 solutions by combining the processes and functions of
9 software, hardware, networks, telecommunications, web
10 designers, cloud developing resellers, and
11 electronics.

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

17 "Legal services" means work performed by a lawyer
18 including, but not limited to, contracts in
19 anticipation of litigation, enforcement actions, or
20 investigations.

21 (3) Each State agency and public institutions of higher
22 education shall adopt policies that identify its plan and
23 implementation procedures for increasing the use of
24 service firms owned by minorities, females, and persons
25 with disabilities.

26 (4) The Council shall file no later than March 1 of

1 each year an annual report to the Governor and the General
2 Assembly. This report shall: (i) identify the services
3 firms used by each State agency and public institution of
4 higher education, (ii) identify the actions it has
5 undertaken to increase the use of service firms owned by
6 minorities, females, and persons with disabilities,
7 including encouraging non-minority owned firms to use
8 other service firms owned by minorities, females, and
9 persons with disabilities as subcontractors when the
10 opportunities arise, (iii) state any recommendations made
11 by the Council to each State agency and public institution
12 of higher education to increase participation by the use of
13 service firms owned by minorities, females, and persons
14 with disabilities, and (iv) include the following:

15 (A) For insurance services: the names of the
16 insurance brokers or claims consultants used, the
17 total of risk managed by each State agency and public
18 institution of higher education by insurance brokers,
19 the total commissions, fees paid, or both, the lines or
20 insurance policies placed, and the amount of premiums
21 placed; and the percentage of the risk managed by
22 insurance brokers, the percentage of total commission,
23 fees paid, or both, the lines or insurance policies
24 placed, and the amount of premiums placed with each by
25 the insurance brokers owned by minorities, females,
26 and persons with disabilities by each State agency and

1 public institution of higher education.

2 (B) For investment management services: the names
3 of the investment managers used, the total funds under
4 management of investment managers; the total
5 commissions, fees paid, or both; the total and
6 percentage of funds under management of emerging
7 investment managers owned by minorities, females, and
8 persons with disabilities, including the total and
9 percentage of total commissions, fees paid, or both by
10 each State agency and public institution of higher
11 education.

12 (C) The names of service firms, the percentage and
13 total dollar amount paid for professional services by
14 category by each State agency and public institution of
15 higher education.

16 (D) The names of service firms, the percentage and
17 total dollar amount paid for services by category to
18 firms owned by minorities, females, and persons with
19 disabilities by each State agency and public
20 institution of higher education.

21 (E) The total number of contracts awarded for
22 services by category and the total number of contracts
23 awarded to firms owned by minorities, females, and
24 persons with disabilities by each State agency and
25 public institution of higher education.

26 (5) The status of the utilization of services shall be

1 discussed at each of the regularly scheduled Business
2 Enterprise Council meetings. Time shall be allotted for the
3 Council to receive, review, and discuss the progress of the
4 use of service firms owned by minorities, females, and
5 persons with disabilities by each State agency and public
6 institutions of higher education; and any evidence
7 regarding past or present racial, ethnic, or gender-based
8 discrimination which directly impacts State agency or
9 public institutions of higher education contracting with
10 such firms. If after reviewing such evidence the Council
11 finds that there is or has been such discrimination against
12 a specific group, race or sex, the Council shall establish
13 sheltered markets or adjust existing sheltered markets
14 tailored to address the Council's specific findings for
15 these divisions of work.

16 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

17 (Section scheduled to be repealed on June 30, 2016)

18 Sec. 5. Business Enterprise Council.

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

1 the Department of Transportation and the Capital Development
2 Board, or their duly appointed representatives. Ten
3 individuals representing businesses that are minority or
4 female 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 ~~public universities~~ shall be appointed by the Governor. These
8 members shall serve 2 year terms and shall be eligible for
9 reappointment. Any vacancy occurring on the Council shall also
10 be filled by the Governor. Any member appointed to fill a
11 vacancy occurring prior to the expiration of the term for which
12 his predecessor was appointed shall be appointed for the
13 remainder of such term. Members of the Council shall serve
14 without compensation but shall be reimbursed for any ordinary
15 and necessary expenses incurred in the performance of their
16 duties.

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

24 The Director of each State agency and the chief executive
25 officer of each public institutions of higher education ~~State~~
26 ~~university~~ shall appoint a liaison to the Council. The liaison

1 shall be responsible for submitting to the Council any reports
2 and documents necessary under this Act.

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

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

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

13 (c) Review rules and regulations for the
14 implementation of the program for businesses owned by
15 minorities, females, and persons with disabilities.

16 (d) Review compliance plans submitted by each State
17 agency and public institutions of higher education ~~State~~
18 ~~university~~ pursuant to this Act.

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

22 (f) Serve as a central clearinghouse for information on
23 State contracts, including the maintenance of a list of all
24 pending State contracts upon which businesses owned by
25 minorities, females, and persons with disabilities may
26 bid. At the Council's discretion, maintenance of the list

1 may include 24-hour electronic access to the list along
2 with the bid and application information.

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

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

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

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

19 (a) To be responsible for the day-to-day operation of
20 the Council.

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

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

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

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

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

1 vendor lists and other such information to interested
2 parties, except that forms necessary to become eligible for
3 the program shall be provided free of charge to a business
4 or individual applying for the program.

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

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

7 (Section scheduled to be repealed on June 30, 2016)

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

21 (a) The compliance plan shall also include, but not be
22 limited to, (1) a policy statement, signed by the State agency
23 or public institution of higher education ~~State university~~
24 head, expressing a commitment to encourage the use of
25 businesses owned by minorities, females, and persons with

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

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

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

1 period spending and a mid-fiscal year report of its utilization
2 to date for the then current fiscal year. The reports shall
3 include a self-evaluation of the efforts of the State agency or
4 public institution of higher education ~~State university~~ to meet
5 its goals under the Act.

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

1 under this Act.

2 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

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

4 (Section scheduled to be repealed on June 30, 2016)

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

1 females, and persons with disabilities totalling in the
2 aggregate \$40,000,000 ~~\$5,000,000~~ or more during the preceding
3 fiscal year.

4 (Source: P.A. 87-628; 88-377; 88-597, eff. 8-28-94.)

5 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

6 (Section scheduled to be repealed on June 30, 2016)

7 Sec. 7. Exemptions and waivers; publication of 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 ~~university~~, or recipient of a
11 grant or loan of State funds of \$250,000 or more complying with
12 Section 45 of the State Finance Act, may permit an individual
13 contract or contract package, (related contracts being bid or
14 awarded simultaneously for the same project or improvements) be
15 made wholly or partially exempt from State contracting goals
16 for businesses owned by minorities, 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, females, and persons with disabilities to ensure
23 adequate competition and an expectation of reasonable prices on
24 bids or proposals solicited for the individual contract or
25 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 university, may permit an entire class of
5 contracts be made exempt from State contracting goals for
6 businesses owned by minorities, 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, females, and persons with disabilities to
12 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, females, and persons with disabilities.

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

1 the State taken pursuant hereto, the provisions of the federal
2 laws or regulations shall apply and the contract shall be
3 interpreted and enforced accordingly.

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

11 Each public notice required by law of the award of a State
12 contract shall include for each bid submitted for that contract
13 the following: (i) the bidder's name, (ii) the bid amount,
14 (iii) the bid's percentage of disadvantaged business
15 utilization plan, and (iv) the bid's percentage of business
16 enterprise program utilization plan.

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

18 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

19 (Section scheduled to be repealed on June 30, 2016)

20 Sec. 8. Enforcement. The Council shall make such findings,
21 recommendations and proposals to the Governor as are necessary
22 and appropriate to enforce this Act. If, as a result of its
23 monitoring activities, the Council determines that its goals
24 and policies are not being met by any State agency or public
25 institution of higher education ~~State university~~, the Council

1 may recommend any or all of the following actions:

2 (a) Establish enforcement procedures whereby the Council
3 may recommend to the appropriate State agency, public
4 institutions of higher education ~~State university~~, or law
5 enforcement officer that legal or administrative remedies be
6 initiated for violations of contract provisions or rules issued
7 hereunder or by a contracting State agency or public
8 institutions of higher education ~~State university~~. State
9 agencies and public institutions of higher education ~~State~~
10 ~~universities~~ shall be authorized to adopt remedies for such
11 violations which shall include (1) termination of the contract
12 involved, (2) prohibition of participation of the respondents
13 in public contracts for a period not to exceed one year, (3)
14 imposition of a penalty not to exceed any profit acquired as a
15 result of violation, or (4) any combination thereof.

16 (b) If the Council concludes that a compliance plan
17 submitted under Section 6 is unlikely to produce the
18 participation goals for businesses owned by minorities,
19 females, and persons with disabilities within the then current
20 fiscal year, the Council may recommend that the State agency or
21 public institution of higher education ~~State university~~ revise
22 its plan to provide additional opportunities for participation
23 by businesses owned by minorities, females, and persons with
24 disabilities. Such recommended revisions may include, but
25 shall not be limited to, the following:

26 (i) assurances of stronger and better focused

1 solicitation efforts to obtain more businesses owned by
2 minorities, females, and persons with disabilities as
3 potential sources of supply;

4 (ii) division of job or project requirements, when
5 economically feasible, into tasks or quantities to permit
6 participation of businesses owned by minorities, females,
7 and persons with disabilities;

8 (iii) elimination of extended experience or
9 capitalization requirements, when programmatically
10 feasible, to permit participation of businesses owned by
11 minorities, females, and persons with disabilities;

12 (iv) identification of specific proposed contracts as
13 particularly attractive or appropriate for participation
14 by businesses owned by minorities, females, and persons
15 with disabilities, such identification to result from and
16 be coupled with the efforts of subparagraphs (i) through
17 (iii);

18 (v) implementation of those regulations established
19 for the use of the sheltered market process.

20 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

21 (30 ILCS 575/8f)

22 (Section scheduled to be repealed on June 30, 2016)

23 Sec. 8f. Annual report. The Council shall file no later
24 than March 1 of each year, an annual report that shall detail
25 the level of achievement toward the goals specified in this Act

1 over the 3 most recent fiscal years. The annual report shall
2 include, but need not be limited to the following:

3 (1) a summary detailing expenditures ~~State~~
4 ~~appropriations~~ subject to the goals, the actual goals
5 specified, and the goals attained by each State agency and
6 public institution of higher education ~~State university~~;

7 (2) a summary of the number of contracts awarded and
8 the average contract amount by each State agency and public
9 institution of higher education ~~State university~~;

10 (3) an analysis of the level of overall goal
11 achievement concerning purchases from minority businesses,
12 female-owned businesses, and businesses owned by persons
13 with disabilities;

14 (4) an analysis of the number of businesses owned by
15 minorities, females, and persons with disabilities that
16 are certified under the program as well as the number of
17 those businesses that received State procurement
18 contracts; and

19 (5) a summary of the number of contracts awarded to
20 businesses with annual gross sales of less than \$1,000,000;
21 of \$1,000,000 or more, but less than \$5,000,000; of
22 \$5,000,000 or more, but less than \$10,000,000; and of
23 \$10,000,000 or more.

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".