



Sen. James F. Clayborne, Jr.

**Filed: 4/17/2015**

09900SB1334sam003

LRB099 10713 SXM 34367 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10 (Section scheduled to be repealed on June 30, 2016)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 investment  
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.".