

HB4710



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4710

Introduced 2/18/2020, by Rep. Joe Sosnowski

SYNOPSIS AS INTRODUCED:

30 ILCS 575/2

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Defines "employee qualifying business". Provides that a minority-owned business, women-owned business, and Business owned by a person with a disability each include employee qualifying businesses for purposes of the Act. Effective immediately.

LRB101 18215 RJF 67657 b

A BILL FOR

1 AN ACT concerning finance.

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

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

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 2. Definitions.

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

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

15 (a) American Indian or Alaska Native (a person
16 having origins in any of the original peoples of North
17 and South America, including Central America, and who
18 maintains tribal affiliation or community attachment).

19 (b) Asian (a person having origins in any of the
20 original peoples of the Far East, Southeast Asia, or
21 the Indian subcontinent, including, but not limited
22 to, Cambodia, China, India, Japan, Korea, Malaysia,
23 Pakistan, the Philippine Islands, Thailand, and

1 Vietnam).

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

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

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

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

13 (2.05) "Person with a disability" means a person who is
14 a citizen or lawful resident of the United States and is a
15 person qualifying as a person with a disability under
16 subdivision (2.1) of this subsection (A).

17 (2.1) "Person with a disability" means a person with a
18 severe physical or mental disability that:

19 (a) results from:

20 amputation,

21 arthritis,

22 autism,

23 blindness,

24 burn injury,

25 cancer,

26 cerebral palsy,

1 Crohn's disease,
2 cystic fibrosis,
3 deafness,
4 head injury,
5 heart disease,
6 hemiplegia,
7 hemophilia,
8 respiratory or pulmonary dysfunction,
9 an intellectual disability,
10 mental illness,
11 multiple sclerosis,
12 muscular dystrophy,
13 musculoskeletal disorders,
14 neurological disorders, including stroke and
15 epilepsy,
16 paraplegia,
17 quadriplegia and other spinal cord conditions,
18 sickle cell anemia,
19 ulcerative colitis,
20 specific learning disabilities, or
21 end stage renal failure disease; and
22 (b) substantially limits one or more of the
23 person's major life activities.

24 Another disability or combination of disabilities may
25 also be considered as a severe disability for the purposes
26 of item (a) of this subdivision (2.1) if it is determined

1 by an evaluation of rehabilitation potential to cause a
2 comparable degree of substantial functional limitation
3 similar to the specific list of disabilities listed in item
4 (a) of this subdivision (2.1).

5 (3) "Minority-owned business" means a business which
6 is at least 51% owned by one or more minority persons, or
7 in the case of a corporation, at least 51% of the stock in
8 which is owned by one or more minority persons; and the
9 management and daily business operations of which are
10 controlled by one or more of the minority individuals who
11 own it. "Minority-owned business" includes an employee
12 qualifying business as defined under this Section.

13 (4) "Women-owned business" means a business which is at
14 least 51% owned by one or more women, or, in the case of a
15 corporation, at least 51% of the stock in which is owned by
16 one or more women; and the management and daily business
17 operations of which are controlled by one or more of the
18 women who own it. "Women-owned business" includes an
19 employee qualifying business as defined under this
20 Section.

21 (4.1) "Business owned by a person with a disability"
22 means a business that is at least 51% owned by one or more
23 persons with a disability and the management and daily
24 business operations of which are controlled by one or more
25 of the persons with disabilities who own it. A
26 not-for-profit agency for persons with disabilities that

1 is exempt from taxation under Section 501 of the Internal
2 Revenue Code of 1986 is also considered a "business owned
3 by a person with a disability". "Business owned by a person
4 with a disability" includes an employee qualifying
5 business as defined under this Section.

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

9 (4.3) "Employee qualifying business" means a business
10 with 50 or more full-time employees that is not 51% owned
11 by a minority person, woman, or person with a disability,
12 but whose employees are comprised of, at a minimum: (i) 66%
13 minority persons; (ii) 66% women; (iii) 66% persons with a
14 disability; or (iv) any combination of persons identified
15 in items (i) through (iii) that amounts to 66% or higher.

16 (5) "State contracts" means all contracts entered into
17 by the State, any agency or department thereof, or any
18 public institution of higher education, including
19 community college districts, regardless of the source of
20 the funds with which the contracts are paid, which are not
21 subject to federal reimbursement. "State contracts" does
22 not include contracts awarded by a retirement system,
23 pension fund, or investment board subject to Section
24 1-109.1 of the Illinois Pension Code. This definition shall
25 control over any existing definition under this Act or
26 applicable administrative rule.

1 "State construction contracts" means all State
2 contracts entered into by a State agency or public
3 institution of higher education for the repair,
4 remodeling, renovation or construction of a building or
5 structure, or for the construction or maintenance of a
6 highway defined in Article 2 of the Illinois Highway Code.

7 (6) "State agencies" shall mean all departments,
8 officers, boards, commissions, institutions and bodies
9 politic and corporate of the State, but does not include
10 the Board of Trustees of the University of Illinois, the
11 Board of Trustees of Southern Illinois University, the
12 Board of Trustees of Chicago State University, the Board of
13 Trustees of Eastern Illinois University, the Board of
14 Trustees of Governors State University, the Board of
15 Trustees of Illinois State University, the Board of
16 Trustees of Northeastern Illinois University, the Board of
17 Trustees of Northern Illinois University, the Board of
18 Trustees of Western Illinois University, municipalities or
19 other local governmental units, or other State
20 constitutional officers.

21 (7) "Public institutions of higher education" means
22 the University of Illinois, Southern Illinois University,
23 Chicago State University, Eastern Illinois University,
24 Governors State University, Illinois State University,
25 Northeastern Illinois University, Northern Illinois
26 University, Western Illinois University, the public

1 community colleges of the State, and any other public
2 universities, colleges, and community colleges now or
3 hereafter established or authorized by the General
4 Assembly.

5 (8) "Certification" means a determination made by the
6 Council or by one delegated authority from the Council to
7 make certifications, or by a State agency with statutory
8 authority to make such a certification, that a business
9 entity is a business owned by a minority, woman, or person
10 with a disability for whatever purpose. A business owned
11 and controlled by women shall be certified as a
12 "woman-owned business". A business owned and controlled by
13 women who are also minorities shall be certified as both a
14 "women-owned business" and a "minority-owned business".

15 (9) "Control" means the exclusive or ultimate and sole
16 control of the business including, but not limited to,
17 capital investment and all other financial matters,
18 property, acquisitions, contract negotiations, legal
19 matters, officer-director-employee selection and
20 comprehensive hiring, operating responsibilities,
21 cost-control matters, income and dividend matters,
22 financial transactions and rights of other shareholders or
23 joint partners. Control shall be real, substantial and
24 continuing, not pro forma. Control shall include the power
25 to direct or cause the direction of the management and
26 policies of the business and to make the day-to-day as well

1 as major decisions in matters of policy, management and
2 operations. Control shall be exemplified by possessing the
3 requisite knowledge and expertise to run the particular
4 business and control shall not include simple majority or
5 absentee ownership.

6 (10) "Business" means a business that has annual gross
7 sales of less than \$75,000,000 as evidenced by the federal
8 income tax return of the business. A firm with gross sales
9 in excess of this cap may apply to the Council for
10 certification for a particular contract if the firm can
11 demonstrate that the contract would have significant
12 impact on businesses owned by minorities, women, or persons
13 with disabilities as suppliers or subcontractors or in
14 employment of minorities, women, or persons with
15 disabilities.

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

24 (12) "Business Enterprise Program" means the Business
25 Enterprise Program of the Department of Central Management
26 Services.

1 (B) When a business is owned at least 51% by any
2 combination of minority persons, women, or persons with
3 disabilities, even though none of the 3 classes alone holds at
4 least a 51% interest, the ownership requirement for purposes of
5 this Act is considered to be met. The certification category
6 for the business is that of the class holding the largest
7 ownership interest in the business. If 2 or more classes have
8 equal ownership interests, the certification category shall be
9 determined by the business.

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.