101ST GENERAL ASSEMBLY
State of Illinois
2019 and 2020
SB1846


SYNOPSIS AS INTRODUCED:

See Index


FISCAL NOTE ACT
MAY APPLY
AN ACT concerning finance.

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

Section 5. The Attorney General Act is amended by changing Section 9 as follows:

(15 ILCS 205/9)

Sec. 9. Contract aspirational goals. The Attorney General shall establish aspirational goals for contract awards for all contracts for goods and services, not including contracts for services relating to investigations or litigation. These aspirational goals shall be substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Attorney General shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Attorney General shall annually post information regarding the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)
Section 10. The Secretary of State Act is amended by changing Section 19 as follows:

(15 ILCS 305/19)

Sec. 19. Contract aspirational goals. The Secretary of State shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Secretary of State shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Secretary of State shall annually post the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)

Section 15. The State Comptroller Act is amended by changing Sections 23.9 and 23.10 as follows:

(15 ILCS 405/23.9)

Sec. 23.9. Minority Contractor Opportunity Initiative. The State Comptroller Minority Contractor Opportunity Initiative
is created to provide greater opportunities for minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses with 20 or fewer employees in this State to participate in the State procurement process. The initiative shall be administered by the Comptroller. Under this initiative, the Comptroller is responsible for the following: (i) outreach to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses capable of providing services to the State; (ii) education of minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses concerning State contracting and procurement; (iii) notification of minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses of State contracting opportunities; and (iv) maintenance of an online database of State contracts that identifies the contracts awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses that includes the total amount paid by State agencies to contractors and the percentage paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with
disabilities, and small businesses.

The Business Enterprise Council created under Section 5 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act shall provide the Comptroller with names, Federal Employer Identification Numbers, and designations of Business Enterprise Program certified vendors to fulfill the Comptroller's responsibilities under this Section, including, but not limited to, identification of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities.

The Comptroller shall annually prepare and submit a report to the Governor and the General Assembly concerning the progress of this initiative including the following information for the preceding fiscal year: (i) a statement of the total amounts paid by each executive branch agency to contractors since the previous report; (ii) the percentage of the amounts that were paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses; (iii) the successes achieved and the challenges faced by the Comptroller in operating outreach programs for minorities, women, veterans, persons with disabilities, and small businesses; (iv) the challenges each executive branch agency may face in hiring qualified minority, woman, veteran, and small business employees and employees with disabilities and
contracting with qualified minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses; and (v) any other information, findings, conclusions, and recommendations for legislative or agency action, as the Comptroller deems appropriate.

On and after the effective date of this amendatory Act of the 97th General Assembly, any bidder or offeror awarded a contract of $1,000 or more under Section 20-10, 20-15, 20-25, or 20-30 of the Illinois Procurement Code is required to pay a fee of $15 to cover expenses related to the administration of this Section. The Comptroller shall deduct the fee from the first check issued to the vendor under the contract and deposit the fee into the Comptroller's Administrative Fund. Contracts administered for statewide orders placed by agencies (commonly referred to as "statewide master contracts") are exempt from this fee.

Each Chief Procurement Officer shall provide the Comptroller with names and Federal Employer Identification Numbers of vendors registered in the Illinois Small Business Set Aside Program to aid the Comptroller in fulfilling his or her responsibilities under this Section.

(Source: P.A. 99-143, eff. 7-27-15; 100-391, eff. 8-25-17; 100-801, eff. 8-10-18.)

(15 ILCS 405/23.10)
Sec. 23.10. Contract aspirational goals. The Comptroller shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Comptroller shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Comptroller shall annually post the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)

Section 20. The State Treasurer Act is amended by changing Section 30 as follows:

(15 ILCS 505/30)

Sec. 30. Preferences for veterans, minorities, women, and persons with disabilities.

(a) As used in this Section, the terms "minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned businesses", "business owned by a person with a disability", "armed forces of the United States", and "control"
have the meanings provided in Section 2 1 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. and

(2) the terms "veteran", "qualified veteran-owned small business", "qualified service-disabled veteran-owned small business", "qualified service-disabled veteran", and "armed forces of the United States" have the meanings provided in Article 1 of the Illinois Procurement Code.

(b) It is hereby declared to be the policy of the State Treasurer to promote and encourage the use of businesses owned by or under the control of qualified veterans of the armed forces of the United States, qualified service-disabled veterans, minority persons, women, or persons with a disability in the area of goods and services. Furthermore, the State Treasurer shall utilize such businesses to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(c) It shall be an aspirational goal of the State Treasurer to use businesses owned by or under the control of qualified veterans of the armed forces of the United States, qualified service-disabled veterans, minority persons, women, or persons with a disability for not less than 25% of the total dollar amount of funds under management, purchases of investment securities, and other contracts, including, but not limited to,
the use of broker-dealers. The State Treasurer is authorized to establish additional aspirational goals.

(d) When the State Treasurer procures goods and services, whether through a request for proposal or otherwise, he or she is authorized to incorporate preferences in the scoring process for: (1) a minority-owned business, a women-owned business, a business owned by a person with a disability, or a qualified veteran-owned small business, or a qualified service-disabled veteran-owned small business; and (2) businesses having a record of support for increasing diversity and inclusion in board membership, management, employment, philanthropy, and supplier diversity, including investment professionals and investment sourcing.

When the State Treasurer utilizes a financial institution or determines the eligibility of a financial institution to participate in a banking contract, investment contract, investment activity, or other financial program of the State Treasurer, he or she shall review the financial institution's Community Reinvestment Act rating, record, and current level of financial commitment to the community prior to making a decision to utilize or determine the eligibility of such financial institution.

(e) Beginning with fiscal year 2019, and at least annually thereafter, the State Treasurer shall report on his or her utilization of minority-owned businesses, women-owned businesses, businesses owned by a person with a disability, and
qualified veteran-owned small businesses, or qualified service-disabled veteran-owned small businesses. The report shall be published on the State Treasurer's official website.

(f) The provisions of this Section take precedence over any goals established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-969, eff. 8-19-18.)

Section 25. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-1020 as follows:

(20 ILCS 605/605-1020)
Sec. 605-1020. Entrepreneur Learner's Permit pilot program.

(a) Subject to appropriation, there is hereby established an Entrepreneur Learner's Permit pilot program that shall be administered by the Department beginning on July 1 of the first fiscal year for which an appropriation of State moneys is made for that purpose and continuing for the next 2 immediately succeeding fiscal years; however, the Department is not required to administer the program in any fiscal year for which such an appropriation has not been made. The purpose of the program shall be to encourage and assist beginning entrepreneurs in starting new businesses by providing
reimbursements to those entrepreneurs for any State filing, permitting, or licensing fees associated with the formation of such a business in the State.

(b) Applicants for participation in the Entrepreneur Learner's Permit pilot program shall apply to the Department, in a form and manner prescribed by the Department, within one year after the formation of the business for which the entrepreneur seeks reimbursement of those fees. The Department shall adopt rules for the review and approval of applications, provided that it (1) shall give priority to applicants who are women, veterans, or minority persons, or persons with a disability or both, and (2) shall not approve any application by a person who will not be a beginning entrepreneur. Reimbursements under this Section shall be provided in the manner determined by the Department. In no event shall an applicant apply for participation in the program more than 3 times.

(c) The aggregate amount of all reimbursements provided by the Department pursuant to this Section shall not exceed $500,000 in any State fiscal year.

(d) On or before February 1 of the last calendar year during which the pilot program is in effect, the Department shall submit a report to the Governor and the General Assembly on the cumulative effectiveness of the Entrepreneur Learner's Permit pilot program. The review shall include, but not be limited to, the number and type of businesses that were formed
in connection with the pilot program, the current status of
each business formed in connection with the pilot program, the
number of employees employed by each such business, the
economic impact to the State from the pilot program, the
satisfaction of participants in the pilot program, and a
recommendation as to whether the program should be continued.
The report to the General Assembly shall be filed with the
Clerk of the House of Representatives and the Secretary of the
Senate in electronic form only, in the manner that the Clerk
and the Secretary shall direct.

(e) As used in this Section:

"Beginning entrepreneur" means an individual who, at
the time he or she applies for participation in the
program, has less than 5 years of experience as a business
owner and is not a current business owner.

"Woman", "veteran", and "minority person", and "person
with a disability" have the meanings given to those terms
in the Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Act.
(Source: P.A. 100-541, eff. 11-7-17; 100-785, eff. 8-10-18;
100-863, eff. 8-14-18; revised 8-31-18.)

Section 30. The Illinois Enterprise Zone Act is amended by
changing Section 4 as follows:

(20 ILCS 655/4) (from Ch. 67 1/2, par. 604)
Sec. 4. Qualifications for enterprise zones.

(1) An area is qualified to become an enterprise zone which:

(a) is a contiguous area, provided that a zone area may exclude wholly surrounded territory within its boundaries;

(b) comprises a minimum of one-half square mile and not more than 12 square miles, or 15 square miles if the zone is located within the jurisdiction of 4 or more counties or municipalities, in total area, exclusive of lakes and waterways; however, in such cases where the enterprise zone is a joint effort of three or more units of government, or two or more units of government if situated in a township which is divided by a municipality of 1,000,000 or more inhabitants, and where the certification has been in effect at least one year, the total area shall comprise a minimum of one-half square mile and not more than thirteen square miles in total area exclusive of lakes and waterways;

(c) (blank);

(d) (blank);

(e) is (1) entirely within a municipality or (2) entirely within the unincorporated areas of a county, except where reasonable need is established for such zone to cover portions of more than one municipality or county or (3) both comprises (i) all or part of a municipality and (ii) an unincorporated area of a county; and

(f) meets 3 or more of the following criteria:
(1) all or part of the local labor market area has had an annual average unemployment rate of at least 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year as reported by the Department of Employment Security;

(2) designation will result in the development of substantial employment opportunities by creating or retaining a minimum aggregate of 1,000 full-time equivalent jobs due to an aggregate investment of $100,000,000 or more, and will help alleviate the effects of poverty and unemployment within the local labor market area;

(3) all or part of the local labor market area has a poverty rate of at least 20% according to the latest federal decennial census, 50% or more of children in the local labor market area participate in the federal free lunch program according to reported statistics from the State Board of Education, or 20% or more households in the local labor market area receive food stamps according to the latest federal decennial census;

(4) an abandoned coal mine, a brownfield (as defined in Section 58.2 of the Environmental Protection Act), or an inactive nuclear-powered nuclear-powered electrical generation facility where
spent nuclear fuel is stored on-site is located in the proposed zone area, or all or a portion of the proposed zone was declared a federal disaster area in the 3 years preceding the date of application;

(5) the local labor market area contains a presence of large employers that have downsized over the years, the labor market area has experienced plant closures in the 5 years prior to the date of application affecting more than 50 workers, or the local labor market area has experienced State or federal facility closures in the 5 years prior to the date of application affecting more than 50 workers;

(6) based on data from Multiple Listing Service information or other suitable sources, the local labor market area contains a high floor vacancy rate of industrial or commercial properties, vacant or demolished commercial and industrial structures are prevalent in the local labor market area, or industrial structures in the local labor market area are not used because of age, deterioration, relocation of the former occupants, or cessation of operation;

(7) the applicant demonstrates a substantial plan for using the designation to improve the State and local government tax base, including income, sales, and property taxes;

(8) significant public infrastructure is present
in the local labor market area in addition to a plan for infrastructure development and improvement;

(9) high schools or community colleges located within the local labor market area are engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or other industry-based credentials that prepare students for careers;

(10) the change in equalized assessed valuation of industrial and/or commercial properties in the 5 years prior to the date of application is equal to or less than 50% of the State average change in equalized assessed valuation for industrial and/or commercial properties, as applicable, for the same period of time; or

(11) the applicant demonstrates a substantial plan for using the designation to encourage: (i) participation by businesses owned by minorities, women, veterans, and persons with disabilities, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and (ii) the hiring of minorities, women, veterans, and persons with disabilities.

As provided in Section 10-5.3 of the River Edge Redevelopment Zone Act, upon the expiration of the term of each River Edge Redevelopment Zone in existence on August 7, 2012 (the effective date of Public Act 97-905) this amendatory Act
of the 97th General Assembly, that River Edge Redevelopment Zone will become available for its previous designee or a new applicant to compete for designation as an enterprise zone. No preference for designation will be given to the previous designee of the zone.

(2) Any criteria established by the Department or by law which utilize the rate of unemployment for a particular area shall provide that all persons who are not presently employed and have exhausted all unemployment benefits shall be considered unemployed, whether or not such persons are actively seeking employment.

(Source: P.A. 100-838, eff. 8-13-18; 100-1149, eff. 12-14-18; revised 1-3-19.)

Section 35. The Illinois Lottery Law is amended by changing Section 9.1 as follows:

(20 ILCS 1605/9.1)

Sec. 9.1. Private manager and management agreement.

(a) As used in this Section:

"Offeror" means a person or group of persons that responds to a request for qualifications under this Section.

"Request for qualifications" means all materials and documents prepared by the Department to solicit the following from offerors:

(1) Statements of qualifications.
(2) Proposals to enter into a management agreement, including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offer" means the last proposal submitted by an offeror in response to the request for qualifications, including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offeror" means the offeror ultimately selected by the Governor to be the private manager for the Lottery under subsection (h) of this Section.

(b) By September 15, 2010, the Governor shall select a private manager for the total management of the Lottery with integrated functions, such as lottery game design, supply of goods and services, and advertising and as specified in this Section.

(c) Pursuant to the terms of this subsection, the Department shall endeavor to expeditiously terminate the existing contracts in support of the Lottery in effect on the effective date of this amendatory Act of the 96th General Assembly in connection with the selection of the private manager. As part of its obligation to terminate these contracts and select the private manager, the Department shall establish
a mutually agreeable timetable to transfer the functions of existing contractors to the private manager so that existing Lottery operations are not materially diminished or impaired during the transition. To that end, the Department shall do the following:

(1) where such contracts contain a provision authorizing termination upon notice, the Department shall provide notice of termination to occur upon the mutually agreed timetable for transfer of functions;

(2) upon the expiration of any initial term or renewal term of the current Lottery contracts, the Department shall not renew such contract for a term extending beyond the mutually agreed timetable for transfer of functions; or

(3) in the event any current contract provides for termination of that contract upon the implementation of a contract with the private manager, the Department shall perform all necessary actions to terminate the contract on the date that coincides with the mutually agreed timetable for transfer of functions.

If the contracts to support the current operation of the Lottery in effect on the effective date of this amendatory Act of the 96th General Assembly are not subject to termination as provided for in this subsection (c), then the Department may include a provision in the contract with the private manager specifying a mutually agreeable methodology for incorporation.

(c-5) The Department shall include provisions in the
management agreement whereby the private manager shall, for a
fee, and pursuant to a contract negotiated with the Department
(the "Employee Use Contract"), utilize the services of current
Department employees to assist in the administration and
operation of the Lottery. The Department shall be the employer
of all such bargaining unit employees assigned to perform such
work for the private manager, and such employees shall be State
employees, as defined by the Personnel Code. Department
employees shall operate under the same employment policies,
rules, regulations, and procedures, as other employees of the
Department. In addition, neither historical representation
rights under the Illinois Public Labor Relations Act, nor
existing collective bargaining agreements, shall be disturbed
by the management agreement with the private manager for the
management of the Lottery.

(d) The management agreement with the private manager shall
include all of the following:

(1) A term not to exceed 10 years, including any
renewals.

(2) A provision specifying that the Department:

   (A) shall exercise actual control over all
   significant business decisions;

   (A-5) has the authority to direct or countermand
   operating decisions by the private manager at any time;

   (B) has ready access at any time to information
   regarding Lottery operations;
(C) has the right to demand and receive information from the private manager concerning any aspect of the Lottery operations at any time; and

(D) retains ownership of all trade names, trademarks, and intellectual property associated with the Lottery.

(3) A provision imposing an affirmative duty on the private manager to provide the Department with material information and with any information the private manager reasonably believes the Department would want to know to enable the Department to conduct the Lottery.

(4) A provision requiring the private manager to provide the Department with advance notice of any operating decision that bears significantly on the public interest, including, but not limited to, decisions on the kinds of games to be offered to the public and decisions affecting the relative risk and reward of the games being offered, so the Department has a reasonable opportunity to evaluate and countermand that decision.

(5) A provision providing for compensation of the private manager that may consist of, among other things, a fee for services and a performance based bonus as consideration for managing the Lottery, including terms that may provide the private manager with an increase in compensation if Lottery revenues grow by a specified percentage in a given year.
(6) (Blank).

(7) A provision requiring the deposit of all Lottery proceeds to be deposited into the State Lottery Fund except as otherwise provided in Section 20 of this Act.

(8) A provision requiring the private manager to locate its principal office within the State.

(8-5) A provision encouraging that at least 20% of the cost of contracts entered into for goods and services by the private manager in connection with its management of the Lottery, other than contracts with sales agents or technical advisors, be awarded to businesses that are a minority-owned business, a women-owned business, veteran-owned business, or a business owned by a person with disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(9) A requirement that so long as the private manager complies with all the conditions of the agreement under the oversight of the Department, the private manager shall have the following duties and obligations with respect to the management of the Lottery:

(A) The right to use equipment and other assets used in the operation of the Lottery.

(B) The rights and obligations under contracts with retailers and vendors.

(C) The implementation of a comprehensive security
program by the private manager.

(D) The implementation of a comprehensive system of internal audits.

(E) The implementation of a program by the private manager to curb compulsive gambling by persons playing the Lottery.

(F) A system for determining (i) the type of Lottery games, (ii) the method of selecting winning tickets, (iii) the manner of payment of prizes to holders of winning tickets, (iv) the frequency of drawings of winning tickets, (v) the method to be used in selling tickets, (vi) a system for verifying the validity of tickets claimed to be winning tickets, (vii) the basis upon which retailer commissions are established by the manager, and (viii) minimum payouts.

(10) A requirement that advertising and promotion must be consistent with Section 7.8a of this Act.

(11) A requirement that the private manager market the Lottery to those residents who are new, infrequent, or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the Internet as permitted by law.

(12) A code of ethics for the private manager's officers and employees.

(13) A requirement that the Department monitor and
oversee the private manager's practices and take action that the Department considers appropriate to ensure that the private manager is in compliance with the terms of the management agreement, while allowing the manager, unless specifically prohibited by law or the management agreement, to negotiate and sign its own contracts with vendors.

(14) A provision requiring the private manager to periodically file, at least on an annual basis, appropriate financial statements in a form and manner acceptable to the Department.

(15) Cash reserves requirements.

(16) Procedural requirements for obtaining the prior approval of the Department when a management agreement or an interest in a management agreement is sold, assigned, transferred, or pledged as collateral to secure financing.

(17) Grounds for the termination of the management agreement by the Department or the private manager.

(18) Procedures for amendment of the agreement.

(19) A provision requiring the private manager to engage in an open and competitive bidding process for any procurement having a cost in excess of $50,000 that is not a part of the private manager's final offer. The process shall favor the selection of a vendor deemed to have submitted a proposal that provides the Lottery with the best overall value. The process shall not be subject to the
provisions of the Illinois Procurement Code, unless specifically required by the management agreement.

(20) The transition of rights and obligations, including any associated equipment or other assets used in the operation of the Lottery, from the manager to any successor manager of the lottery, including the Department, following the termination of or foreclosure upon the management agreement.

(21) Right of use of copyrights, trademarks, and service marks held by the Department in the name of the State. The agreement must provide that any use of them by the manager shall only be for the purpose of fulfilling its obligations under the management agreement during the term of the agreement.

(22) The disclosure of any information requested by the Department to enable it to comply with the reporting requirements and information requests provided for under subsection (p) of this Section.

(e) Notwithstanding any other law to the contrary, the Department shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Illinois Procurement Code, which shall take into account:

(1) the offeror's ability to market the Lottery to those residents who are new, infrequent, or lapsed players of the Lottery, especially those who are most likely to
make regular purchases on the Internet;

(2) the offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;

(3) the offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror; and

(4) the offeror's poor or inadequate past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery.

(f) The Department may retain the services of an advisor or advisors with significant experience in financial services or the management, operation, and procurement of goods, services, and equipment for a government-run lottery to assist in the preparation of the terms of the request for qualifications and selection of the private manager. Any prospective advisor seeking to provide services under this subsection (f) shall disclose any material business or financial relationship during the past 3 years with any potential offeror, or with a contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery. The Department shall evaluate the material business or financial relationship of each prospective advisor. The
Department shall not select any prospective advisor with a substantial business or financial relationship that the Department deems to impair the objectivity of the services to be provided by the prospective advisor. During the course of the advisor's engagement by the Department, and for a period of one year thereafter, the advisor shall not enter into any business or financial relationship with any offeror or any vendor identified to assist an offeror in performing its obligations under the management agreement. Any advisor retained by the Department shall be disqualified from being an offeror. The Department shall not include terms in the request for qualifications that provide a material advantage whether directly or indirectly to any potential offeror, or any contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery, including terms contained in previous responses to requests for proposals or qualifications submitted to Illinois, another State or foreign government when those terms are uniquely associated with a particular potential offeror, contractor, or subcontractor. The request for proposals offered by the Department on December 22, 2008 as "LOT08GAMESYS" and reference number "22016176" is declared void.

(g) The Department shall select at least 2 offerors as finalists to potentially serve as the private manager no later than August 9, 2010. Upon making preliminary selections, the
Department shall schedule a public hearing on the finalists' proposals and provide public notice of the hearing at least 7 calendar days before the hearing. The notice must include all of the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A brief description of the management agreement to be awarded.

(4) The identity of the offerors that have been selected as finalists to serve as the private manager.

(5) The address and telephone number of the Department.

(h) At the public hearing, the Department shall (i) provide sufficient time for each finalist to present and explain its proposal to the Department and the Governor or the Governor's designee, including an opportunity to respond to questions posed by the Department, Governor, or designee and (ii) allow the public and non-selected offerors to comment on the presentations. The Governor or a designee shall attend the public hearing. After the public hearing, the Department shall have 14 calendar days to recommend to the Governor whether a management agreement should be entered into with a particular finalist. After reviewing the Department's recommendation, the Governor may accept or reject the Department's recommendation, and shall select a final offeror as the private manager by publication of a notice in the Illinois Procurement Bulletin on or before September 15, 2010. The Governor shall include in the
notice a detailed explanation and the reasons why the final
offeror is superior to other offerors and will provide
management services in a manner that best achieves the
objectives of this Section. The Governor shall also sign the
management agreement with the private manager.

(i) Any action to contest the private manager selected by
the Governor under this Section must be brought within 7
calendar days after the publication of the notice of the
designation of the private manager as provided in subsection
(h) of this Section.

(j) The Lottery shall remain, for so long as a private
manager manages the Lottery in accordance with provisions of
this Act, a Lottery conducted by the State, and the State shall
not be authorized to sell or transfer the Lottery to a third
party.

(k) Any tangible personal property used exclusively in
connection with the lottery that is owned by the Department and
leased to the private manager shall be owned by the Department
in the name of the State and shall be considered to be public
property devoted to an essential public and governmental
function.

(l) The Department may exercise any of its powers under
this Section or any other law as necessary or desirable for the
execution of the Department's powers under this Section.

(m) Neither this Section nor any management agreement
entered into under this Section prohibits the General Assembly
from authorizing forms of gambling that are not in direct
competition with the Lottery.

(n) The private manager shall be subject to a complete
investigation in the third, seventh, and tenth years of the
agreement (if the agreement is for a 10-year term) by the
Department in cooperation with the Auditor General to determine
whether the private manager has complied with this Section and
the management agreement. The private manager shall bear the
cost of an investigation or reinvestigation of the private
manager under this subsection.

(o) The powers conferred by this Section are in addition
and supplemental to the powers conferred by any other law. If
any other law or rule is inconsistent with this Section,
including, but not limited to, provisions of the Illinois
Procurement Code, then this Section controls as to any
management agreement entered into under this Section. This
Section and any rules adopted under this Section contain full
and complete authority for a management agreement between the
Department and a private manager. No law, procedure,
proceeding, publication, notice, consent, approval, order, or
act by the Department or any other officer, Department, agency,
or instrumentality of the State or any political subdivision is
required for the Department to enter into a management
agreement under this Section. This Section contains full and
complete authority for the Department to approve any contracts
entered into by a private manager with a vendor providing
goods, services, or both goods and services to the private
manager under the terms of the management agreement, including
subcontractors of such vendors.

Upon receipt of a written request from the Chief
Procurement Officer, the Department shall provide to the Chief
Procurement Officer a complete and un-redacted copy of the
management agreement or any contract that is subject to the
Department's approval authority under this subsection (o). The
Department shall provide a copy of the agreement or contract to
the Chief Procurement Officer in the time specified by the
Chief Procurement Officer in his or her written request, but no
later than 5 business days after the request is received by the
Department. The Chief Procurement Officer must retain any
portions of the management agreement or of any contract
designated by the Department as confidential, proprietary, or
trade secret information in complete confidence pursuant to
subsection (g) of Section 7 of the Freedom of Information Act.
The Department shall also provide the Chief Procurement Officer
with reasonable advance written notice of any contract that is
pending Department approval.

Notwithstanding any other provision of this Section to the
contrary, the Chief Procurement Officer shall adopt
administrative rules, including emergency rules, to establish
a procurement process to select a successor private manager if
a private management agreement has been terminated. The
selection process shall at a minimum take into account the
criteria set forth in items (1) through (4) of subsection (e) of this Section and may include provisions consistent with subsections (f), (g), (h), and (i) of this Section. The Chief Procurement Officer shall also implement and administer the adopted selection process upon the termination of a private management agreement. The Department, after the Chief Procurement Officer certifies that the procurement process has been followed in accordance with the rules adopted under this subsection (o), shall select a final offeror as the private manager and sign the management agreement with the private manager.

Except as provided in Sections 21.5, 21.6, 21.7, 21.8, 21.9, and 21.10, and 21.11, the Department shall distribute all proceeds of lottery tickets and shares sold in the following priority and manner:

1. The payment of prizes and retailer bonuses.
2. The payment of costs incurred in the operation and administration of the Lottery, including the payment of sums due to the private manager under the management agreement with the Department.
3. On the last day of each month or as soon thereafter as possible, the State Comptroller shall direct and the State Treasurer shall transfer from the State Lottery Fund to the Common School Fund an amount that is equal to the proceeds transferred in the corresponding month of fiscal year 2009, as adjusted for inflation, to the Common School
Fund.

(4) On or before September 30 of each fiscal year, deposit any estimated remaining proceeds from the prior fiscal year, subject to payments under items (1), (2), and (3), into the Capital Projects Fund. Beginning in fiscal year 2019, the amount deposited shall be increased or decreased each year by the amount the estimated payment differs from the amount determined from each year-end financial audit. Only remaining net deficits from prior fiscal years may reduce the requirement to deposit these funds, as determined by the annual financial audit.

(p) The Department shall be subject to the following reporting and information request requirements:

(1) the Department shall submit written quarterly reports to the Governor and the General Assembly on the activities and actions of the private manager selected under this Section;

(2) upon request of the Chief Procurement Officer, the Department shall promptly produce information related to the procurement activities of the Department and the private manager requested by the Chief Procurement Officer; the Chief Procurement Officer must retain confidential, proprietary, or trade secret information designated by the Department in complete confidence pursuant to subsection (g) of Section 7 of the Freedom of Information Act; and
at least 30 days prior to the beginning of the
Department's fiscal year, the Department shall prepare an
annual written report on the activities of the private
manager selected under this Section and deliver that report
to the Governor and General Assembly.

(Source: P.A. 99-933, eff. 1-27-17; 100-391, eff. 8-25-17;
100-587, eff. 6-4-18; 100-647, eff. 7-30-18; 100-1068, eff.
8-24-18; revised 9-20-18.)

Section 40. The Department of Transportation Law of the
Civil Administrative Code of Illinois is amended by changing
Section 2705-585 as follows:

(20 ILCS 2705/2705-585)
Sec. 2705-585. Diversity goals.

(a) To the extent permitted by any applicable federal law
or regulation, all State construction projects funded from
amounts (i) made available under the Governor's Fiscal Year
2009 supplemental budget or the American Recovery and
Reinvestment Act of 2009 and (ii) that are appropriated to the
Illinois Department of Transportation shall comply with the
Business Enterprise for Minorities, Women, Veterans, and
Persons with Disabilities Act.

(b) The Illinois Department of Transportation shall
appoint representatives to professional and artistic services
selection committees representative of the State's ethnic,
cultural, and geographic diversity, including, but not limited
to, at least one person from each of the following: an
association representing the interests of African American
business owners, an association representing the interests of
Latino business owners, and an association representing the
interests of women business owners. These committees shall
comply with all requirements of the Open Meetings Act.
(Source: P.A. 100-391, eff. 8-25-17.)

Section 45. The Capital Development Board Act is amended by
changing Section 16 as follows:

(20 ILCS 3105/16) (from Ch. 127, par. 783b)
Sec. 16. (a) In addition to any other power granted in this
Act to adopt rules or regulations, the Board may adopt
regulations or rules relating to the issuance or renewal of the
prequalification of an architect, engineer or contractor or the
suspension or modification of the prequalification of any such
person or entity including, without limitation, an interim or
emergency suspension or modification without a hearing founded
on any one or more of the bases set forth in this Section.
(b) Among the bases for an interim or emergency suspension
or modification of prequalification are:
(1) A finding by the Board that the public interest,
safety or welfare requires a summary suspension or
modification of a prequalification without hearings.
(2) The occurrence of an event or series of events which, in the Board's opinion, warrants a summary suspension or modification of a prequalification without a hearing including, without limitation, (i) the indictment of the holder of the prequalification by a State or federal agency or other branch of government for a crime; (ii) the suspension or modification of a license or prequalification by another State agency or federal agency or other branch of government after hearings; (iii) a material breach of a contract made between the Board and an architect, engineer or contractor; and (iv) the failure to comply with State law including, without limitation, the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, the prevailing wage requirements, and the Steel Products Procurement Act.

(c) If a prequalification is suspended or modified by the Board without hearings for any reason set forth in this Section or in Section 10-65 of the Illinois Administrative Procedure Act, as amended, the Board shall within 30 days of the issuance of an order of suspension or modification of a prequalification initiate proceedings for the suspension or modification of or other action upon the prequalification.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 50. The Illinois Finance Authority Act is amended by changing Section 835-10 as follows:
Sec. 835-10. Definitions. As used or referred to in this Article 835, the following words and terms shall have the following meanings, except where the context clearly requires otherwise:

"Fund" means one or more of the Industrial Project Insurance Fund, the Illinois Agricultural Loan Guarantee Fund, or the Illinois Farmer and Agribusiness Loan Guarantee Fund, as applicable.

"Illinois Agricultural Loan Guarantee Fund" means the Illinois Agricultural Loan Guarantee Fund created under Section 830-30(c) of this Act.

"Illinois Farmer and Agribusiness Loan Guarantee Fund" means the Illinois Farmer and Agribusiness Loan Guarantee Fund created under Section 830-35(c) of this Act.

"Industrial Project Insurance Fund" means the Industrial Project Insurance Fund created under Section 805-15 of this Act.

"Qualified veteran-owned small business" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of
Central Management Services has the meaning provided in subsection (e) of Section 45-57 of the Illinois Procurement Code.

(Source: P.A. 99-509, eff. 6-24-16.)

Section 55. The Illinois Health Information Exchange and Technology Act is amended by changing Section 20 as follows:

(20 ILCS 3860/20)
(Section scheduled to be repealed on January 1, 2021)

Sec. 20. Powers and duties of the Illinois Health Information Exchange Authority. The Authority has the following powers, together with all powers incidental or necessary to accomplish the purposes of this Act:

(1) The Authority shall create and administer the ILHIE using information systems and processes that are secure, are cost effective, and meet all other relevant privacy and security requirements under State and federal law.

(2) The Authority shall establish and adopt standards and requirements for the use of health information and the requirements for participation in the ILHIE by persons or entities including, but not limited to, health care providers, payors, and local health information exchanges.

(3) The Authority shall establish minimum standards for accessing the ILHIE to ensure that the appropriate security and privacy protections apply to health
information, consistent with applicable federal and State standards and laws. The Authority shall have the power to suspend, limit, or terminate the right to participate in the ILHIE for non-compliance or failure to act, with respect to applicable standards and laws, in the best interests of patients, users of the ILHIE, or the public. The Authority may seek all remedies allowed by law to address any violation of the terms of participation in the ILHIE.

(4) The Authority shall identify barriers to the adoption of electronic health records systems, including researching the rates and patterns of dissemination and use of electronic health record systems throughout the State. The Authority shall make the results of the research available on its website.

(5) The Authority shall prepare educational materials and educate the general public on the benefits of electronic health records, the ILHIE, and the safeguards available to prevent unauthorized disclosure of health information.

(6) The Authority may appoint or designate an institutional review board in accordance with federal and State law to review and approve requests for research in order to ensure compliance with standards and patient privacy and security protections as specified in paragraph (3) of this Section.
(7) The Authority may enter into all contracts and agreements necessary or incidental to the performance of its powers under this Act. The Authority's expenditures of private funds are exempt from the Illinois Procurement Code, pursuant to Section 1-10 of that Act. Notwithstanding this exception, the Authority shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(8) The Authority may solicit and accept grants, loans, contributions, or appropriations from any public or private source and may expend those moneys, through contracts, grants, loans, or agreements, on activities it considers suitable to the performance of its duties under this Act.

(9) The Authority may determine, charge, and collect any fees, charges, costs, and expenses from any healthcare provider or entity in connection with its duties under this Act. Moneys collected under this paragraph (9) shall be deposited into the Health Information Exchange Fund.

(10) The Authority may, under the direction of the Executive Director, employ and discharge staff, including administrative, technical, expert, professional, and legal staff, as is necessary or convenient to carry out the purposes of this Act. The Authority may establish and administer standards of classification regarding compensation, benefits, duties, performance, and tenure.
for that staff and may enter into contracts of employment
with members of that staff for such periods and on such
terms as the Authority deems desirable. All employees of
the Authority are exempt from the Personnel Code as
provided by Section 4 of the Personnel Code.

(11) The Authority shall consult and coordinate with
the Department of Public Health to further the Authority's
collection of health information from health care
providers for public health purposes. The collection of
public health information shall include identifiable
information for use by the Authority or other State
agencies to comply with State and federal laws. Any
identifiable information so collected shall be privileged
and confidential in accordance with Sections 8-2101,
8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
Procedure.

(12) All identified or deidentified health information
in the form of health data or medical records contained in,
stored in, submitted to, transferred by, or released from
the Illinois Health Information Exchange, and identified
or deidentified health information in the form of health
data and medical records of the Illinois Health Information
Exchange in the possession of the Illinois Health
Information Exchange Authority due to its administration
of the Illinois Health Information Exchange, shall be
exempt from inspection and copying under the Freedom of
Information Act. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(13) To address gaps in the adoption of, workforce preparation for, and exchange of electronic health records that result in regional and socioeconomic disparities in the delivery of care, the Authority may evaluate such gaps and provide resources as available, giving priority to healthcare providers serving a significant percentage of Medicaid or uninsured patients and in medically underserved or rural areas.

(Source: P.A. 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

Section 60. The Illinois Global Partnership Act is amended by changing Section 20 as follows:

(20 ILCS 3948/20)

Sec. 20. Board of directors. IGP shall be governed by a board of directors. The IGP board of directors shall consist of 14 members. Five of the members shall be voting members appointed by the Governor with the advice and consent of the Senate. The Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the Lieutenant Governor, the Director of Agriculture,
the Director of Commerce and Economic Opportunity, the
Chairperson of the Illinois Arts Council, and the Director of
the Illinois Finance Authority, or the designee of each, shall
be non-voting ex officio members.

Of the members appointed by the Governor, one member must
have a background in agriculture, one member must have a
background in manufacturing, and one member must have a
background in international business relations.

Of the initial members appointed by the Governor, 3 members
shall serve 4-year terms and 2 members shall serve 2-year terms
as designated by the Governor. Thereafter, members appointed by
the Governor shall serve 4-year terms. A vacancy among members
appointed by the Governor shall be filled by appointment by the
Governor for the remainder of the vacated term.

Members of the board shall receive no compensation but
shall be reimbursed for expenses incurred in the performance of
their duties.

The Governor shall designate the chairman of the board
until a successor is designated. The board shall meet at the
call of the chair.

No less than 90 days after a majority of the members of the
board of directors of the IGP is appointed by the Governor, the
board shall develop a policy adopted by resolution of the board
stating the board's plan for the use of services provided by
businesses owned by minorities, women, veterans, and persons
with disabilities, as defined under the Business Enterprise for
Minorities, Women, Veterans, and Persons with Disabilities Act. The board shall provide a copy of this resolution to the Governor and the General Assembly upon its adoption.

On December 31 of each year, the board shall report to the General Assembly and the Governor regarding the use of services provided by businesses owned by minorities, women, veterans, and persons with disabilities, as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 65. The Illinois State Auditing Act is amended by changing Section 2-16 as follows:

(30 ILCS 5/2-16)

Sec. 2-16. Contract aspirational goals. The Auditor General shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Auditor General shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Auditor General shall annually post the Office's utilization of businesses owned by minorities, women,
veterans, and persons with disabilities during the preceding
fiscal year on the Office's Internet websites.
(Source: P.A. 100-801, eff. 8-10-18; revised 9-27-18.)

Section 70. The State Finance Act is amended by changing
Sections 8.32 and 45 as follows:

(30 ILCS 105/8.32) (from Ch. 127, par. 144.32)

Sec. 8.32. All moneys received by the Minority and Women
Business Enterprise Council, or by the Department of Central
Management Services on behalf of the Council or the
Department's Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Division, from grants,
donations, seminar registration fees, and the sale of
directories, lists and other such information, shall be
deposited into the Minority and Female Business Enterprise Fund
in the State treasury. Expenses of the Council or the
Department's Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Division may be paid
from this Fund.
(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 105/45)

Sec. 45. Award of capital funds. Each award by grant or
loan of State funds of $250,000 or more for capital
construction costs or professional services is conditioned
upon the recipient's written certification that the recipient shall comply with the business enterprise program practices for minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act (30 ILCS 575/) and the equal employment practices of Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105). This Section, however, does not apply to any grant or loan (i) for which a grant or loan agreement was executed before the effective date of this amendatory Act of the 96th General Assembly, (ii) for which prior-incurred costs are being reimbursed, or (iii) for a federally funded program under which the requirement of this Section would contravene federal law. Each recipient shall submit the written certification and business enterprise program plan for minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities before signing the relevant grant or loan agreement. Each grant or loan agreement shall include a provision that the grant or loan recipient agrees to comply with the provisions of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act (30 ILCS 575/) and the equal employment practices of Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105).

Each business enterprise program plan shall apply only to the State-funded portion of the relevant capital project and
must be in compliance with all certification and other
requirements of the Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Act.
(Source: P.A. 100-391, eff. 8-25-17.)

Section 75. The General Obligation Bond Act is amended by
changing Sections 8 and 15.5 as follows:

(30 ILCS 330/8) (from Ch. 127, par. 658)
Sec. 8. Bond sale expenses.
(a) An amount not to exceed 0.5 percent of the principal
amount of the proceeds of sale of each bond sale is authorized
to be used to pay the reasonable costs of issuance and sale,
including, without limitation, underwriter's discounts and
fees, but excluding bond insurance, of State of Illinois
general obligation bonds authorized and sold pursuant to this
Act, provided that no salaries of State employees or other
State office operating expenses shall be paid out of
non-appropriated proceeds, provided further that the percent
shall be 1.0% for each sale of "Build America Bonds" or
"Qualified School Construction Bonds" as defined in
subsections (d) and (e) of Section 9, respectively. The
Governor's Office of Management and Budget shall compile a
summary of all costs of issuance on each sale (including both
costs paid out of proceeds and those paid out of appropriated
funds) and post that summary on its web site within 20 business
days after the issuance of the Bonds. The summary shall include, as applicable, the respective percentages of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the bond issue and an identification of all costs of issuance paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities. The terms "minority-owned businesses", "women-owned businesses", "veteran-owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. That posting shall be maintained on the web site for a period of at least 30 days. In addition, the Governor's Office of Management and Budget shall provide a written copy of each summary of costs to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Commission on Government Forecasting and Accountability within 20 business days after each issuance of the Bonds. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the
Governor's Office of Management and Budget may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to a third party for having promoted the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 330/15.5)

Sec. 15.5. Compliance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities
Act. Notwithstanding any other provision of law, the Governor's Office of Management and Budget shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.
(Source: P.A. 100-391, eff. 8-25-17.)

Section 80. The Build Illinois Bond Act is amended by changing Sections 5 and 8.3 as follows:

(30 ILCS 425/5) (from Ch. 127, par. 2805)

Sec. 5. Bond sale expenses.
(a) An amount not to exceed 0.5% of the principal amount of the proceeds of the sale of each bond sale is authorized to be used to pay reasonable costs of each issuance and sale of Bonds authorized and sold pursuant to this Act, including, without limitation, underwriter's discounts and fees, but excluding bond insurance, advertising, printing, bond rating, travel of outside vendors, security, delivery, legal and financial advisory services, initial fees of trustees, registrars, paying agents and other fiduciaries, initial costs of credit or liquidity enhancement arrangements, initial fees of indexing and remarketing agents, and initial costs of interest rate swaps, guarantees or arrangements to limit interest rate risk, as determined in the related Bond Sale Order, from the proceeds of each Bond sale, provided that no salaries of State employees or other State office operating expenses shall be paid out of
non-appropriated proceeds, and provided further that the
percent shall be 1.0% for each sale of "Build America Bonds" as
defined in subsection (c) of Section 6. The Governor's Office
of Management and Budget shall compile a summary of all costs
of issuance on each sale (including both costs paid out of
proceeds and those paid out of appropriated funds) and post
that summary on its web site within 20 business days after the
issuance of the bonds. That posting shall be maintained on the
web site for a period of at least 30 days. In addition, the
Governor's Office of Management and Budget shall provide a
written copy of each summary of costs to the Speaker and
Minority Leader of the House of Representatives, the President
and Minority Leader of the Senate, and the Commission on
Government Forecasting and Accountability within 20 business
days after each issuance of the bonds. This summary shall
include, as applicable, the respective percentage of
participation and compensation of each underwriter that is a
member of the underwriting syndicate, legal counsel, financial
advisors, and other professionals for the Bond issue, and an
identification of all costs of issuance paid to minority-owned
businesses, women-owned businesses, veteran-owned businesses,
and businesses owned by persons with disabilities. The terms
"minority-owned businesses", "women-owned businesses",
"veteran-owned businesses", and "business owned by a person
with a disability" have the meanings given to those terms in
the Business Enterprise for Minorities, Women, Veterans, and
Persons with Disabilities Act. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Governor's Office of Management and Budget may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to any third party for having promoted the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the
determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.
(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 425/8.3)
Sec. 8.3. Compliance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. Notwithstanding any other provision of law, the Governor's Office of Management and Budget shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.
(Source: P.A. 100-391, eff. 8-25-17.)

Section 85. The Illinois Procurement Code is amended by changing Sections 15-25, 30-30, 45-45, and 45-65 and by adding Section 45-58 as follows:

(30 ILCS 500/15-25)
(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date
submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to potential contractors to hire qualified veterans, as defined by Section 45-67 of this Code, and qualified Illinois minorities, women, veterans, persons with disabilities, and residents discharged from any Illinois adult correctional center.

(a-5) All businesses listed on the Illinois Unified Certification Program Disadvantaged Business Enterprise Directory, the Business Enterprise Program of the Department of Central Management Services, and any small business database created pursuant to Section 45-45 of this Code shall be furnished written instructions and information on how to register for the Illinois Procurement Bulletin. This information shall be provided to each business within 30 calendar days after the business's notice of certification or qualification.

(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling
the time for filing a bid protest up to 7 calendar days.

For purposes of this subsection (b), "contracts let" means
a construction agency's act of advertising an invitation for
bids for one or more construction projects.

(b-5) Contracts awarded. Notice of each and every contract
that is awarded, including renegotiated contracts and change
orders, shall be issued electronically to the successful
responsible bidder, offeror, or contractor and published in the
Bulletin. The applicable chief procurement officer may provide
by rule an organized format for the publication of this
information, but in any case it must include at least all of
the information specified in subsection (a) as well as the name
of the successful responsible bidder, offeror, the contract
price, the number of unsuccessful bidders or offerors and any
other disclosure specified in any Section of this Code. This
notice must be posted in the online electronic Bulletin prior
to execution of the contract.

For purposes of this subsection (b-5), "contract award"
means the determination that a particular bidder or offeror has
been selected from among other bidders or offerors to receive a
contract, subject to the successful completion of final
negotiations. "Contract award" is evidenced by the posting of a
Notice of Award or a Notice of Intent to Award to the

(c) Emergency purchase disclosure. Any chief procurement
officer or State purchasing officer exercising emergency
purchase authority under this Code shall publish a written
description and reasons and the total cost, if known, or an
estimate if unknown and the name of the responsible chief
procurement officer and State purchasing officer, and the
business or person contracted with for all emergency purchases
in the Bulletin. This notice must be posted in the online
electronic Bulletin no later than 5 calendar days after the
contract is awarded. Notice of a hearing to extend an emergency
contract must be posted in the online electronic Procurement
Bulletin no later than 14 calendar days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing
agency shall, with the assistance of the applicable chief
procurement officer, post in the online electronic Bulletin a
copy of its annual report of utilization of businesses owned by
minorities, women, veterans, and persons with disabilities as
submitted to the Business Enterprise Council for Minorities,
Women, Veterans, and Persons with Disabilities pursuant to
Section 6(c) of the Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Act within 10 calendar
days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be
posted in the Bulletin within 14 calendar days of the
determination to execute a renewal of the contract. The notice
shall include at least all of the information required in
subsection (a) or (b), as applicable.

(c-15) Sole source procurements. Before entering into a
sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin before a sole source contract is awarded and at least 14 calendar days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by Public Act 96-795 apply to reports submitted, offers made, and notices on contracts executed on or after July 1, 2010 (the effective date of Public Act 96-795).

(f) Each chief procurement officer shall, in consultation with the agencies under his or her jurisdiction, provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of Public Act 96-1444.

(Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

(30 ILCS 500/30-30)
Sec. 30-30. Design-bid-build construction.

(a) The provisions of this subsection are operative through December 31, 2019.

For building construction contracts in excess of $250,000, separate specifications may be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications may be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof may award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments
will be made directly to the contractors for the 5 subdivisions
of work upon compliance with the conditions of the contract.

Beginning on the effective date of this amendatory Act of
the 99th General Assembly and through December 31, 2019, for
single prime projects: (i) the bid of the successful low bidder
shall identify the name of the subcontractor, if any, and the
bid proposal costs for each of the 5 subdivisions of work set
forth in this Section; (ii) the contract entered into with the
successful bidder shall provide that no identified
subcontractor may be terminated without the written consent of
the Capital Development Board; (iii) the contract shall comply
with the disadvantaged business practices of the Business
Enterprise for Minorities, Women, Veterans, and Persons with
Disabilities Act and the equal employment practices of Section
2-105 of the Illinois Human Rights Act; (iv) the Capital
Development Board shall submit a quarterly report to the
Procurement Policy Board with information on the general scope,
project budget, and established Business Enterprise Program
goals for any single prime procurement bid in the previous 3
months with a total construction cost valued at $10,000,000 or
less; and (v) the Capital Development Board shall submit an
annual report to the General Assembly and Governor on the
bidding, award, and performance of all single prime projects.

For building construction projects with a total
construction cost valued at $5,000,000 or less, the Capital
Development Board shall not use the single prime procurement
delivery method for more than 50% of the total number of projects bid for each fiscal year. Any project with a total construction cost valued greater than $5,000,000 may be bid using single prime at the discretion of the Executive Director of the Capital Development Board.

Beginning on the effective date of this amendatory Act of the 99th General Assembly and through December 31, 2017, the Capital Development Board shall, on a weekly basis: review the projects that have been designed, and approved to bid; and, for every fifth determination to use the single prime procurement delivery method for a project under $10,000,000, submit to the Procurement Policy Board a written notice of its intent to use the single prime method on the project. The notice shall include the reasons for using the single prime method and an explanation of why the use of that method is in the best interest of the State. The Capital Development Board shall post the notice on its online procurement webpage and on the online Procurement Bulletin at least 3 business days following submission. The Procurement Policy Board shall review and provide its decision on the use of the single prime method for every fifth use of the single prime procurement delivery method for a project under $10,000,000 within 7 business days of receipt of the notice from the Capital Development Board. Approval by the Procurement Policy Board shall not be unreasonably withheld and shall be provided unless the Procurement Policy Board finds that the use of the single prime
method is not in the best interest of the State. Any decision by the Procurement Policy Board to disapprove the use of the single prime method shall be made in writing to the Capital Development Board, posted on the online Procurement Bulletin, and shall state the reasons why the single prime method was disapproved and why it is not in the best interest of the State.

(b) The provisions of this subsection are operative on and after January 1, 2020. For building construction contracts in excess of $250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these
classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

(Source: P.A. 99-257, eff. 8-4-15; 100-391, eff. 8-25-17.)

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. Each chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of employees and the dollar volume of business. When computing the size status of a potential contractor, annual sales and
receipts of the potential contractor and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed $13,000,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed $8,000,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed $14,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal, all bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract
shall then be awarded in accordance with this Code without the designation of small business set-aside.

(e) Small business specialist. Each chief procurement officer shall designate one or more individuals to serve as its small business specialist. The small business specialists shall collectively work together to accomplish the following duties:

(1) Compiling and maintaining a comprehensive list of potential small contractors. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders or offerors on small business set-asides.

(f) Small business annual report. Each small business
specialist designated under subsection (e) shall annually before November 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, women, veterans, and persons with disabilities, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.

(Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

(30 ILCS 500/45-58 new)

Sec. 45-58. Penalties for false representation as a minority, woman, veteran, or person with a disability.

(a) Administrative penalties. The chief procurement officers appointed under Section 10-20 shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act from bidding on, or participating
as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and shall revoke the certification of being a minority-owned business, woman-owned business, veteran-owned business, or business owned by a person with a disability for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

(b) Reports of violations. Each State agency shall report any alleged violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012 relating to this Section to the chief procurement officers appointed pursuant to Section 10-20. The chief procurement officers appointed pursuant to Section 10-20 shall subsequently report all such alleged violations to the Attorney General, who shall determine whether to bring a civil action against any person for the violation.

(c) List of suspended persons. The chief procurement officers appointed pursuant to Section 10-20 shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 or the Criminal Code of 2012 relating to this Section and shall maintain and make available to all State agencies a central
listing of all persons that committed violations resulting in suspension.

(d) Use of suspended persons. During the period of a person's suspension under subsection (a) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

(e) Duty to check list. Each State agency shall check the central listing provided by the chief procurement officers appointed pursuant to Section 10-20 under subsection (c) of this subsection to verify that a person being awarded a contract by that State agency, or to be used as a subcontractor or supplier on a contract being awarded by that State agency, is not under suspension under subsection (a).

(30 ILCS 500/45-65)
Sec. 45-65. Additional preferences. This Code is subject to applicable provisions of:

(1) the Public Purchases in Other States Act;
(2) the Illinois Mined Coal Act;
(3) the Steel Products Procurement Act;
(4) the Veterans Preference Act;
(5) the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and
(6) the Procurement of Domestic Products Act.
(Source: P.A. 100-391, eff. 8-25-17.)
Section 90. The Illinois Procurement Code is amended by repealing Section 45-57.

Section 95. The Design-Build Procurement Act is amended by changing Sections 5, 15, 30, and 46 as follows:

(30 ILCS 537/5)

(Section scheduled to be repealed on July 1, 2019)

Sec. 5. Legislative policy. It is the intent of the General Assembly that the Capital Development Board be allowed to use the design-build delivery method for public projects if it is shown to be in the State's best interest for that particular project. It shall be the policy of the Capital Development Board in the procurement of design-build services to publicly announce all requirements for design-build services and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The Capital Development Board shall, prior to issuing requests for proposals, promulgate and publish procedures for the solicitation and award of contracts pursuant to this Act. The Capital Development Board shall, for each public project or projects permitted under this Act, make a written determination, including a description as to the particular
advantages of the design-build procurement method, that it is
in the best interests of this State to enter into a
design-build contract for the project or projects. In making
that determination, the following factors shall be considered:

(1) The probability that the design-build procurement
method will be in the best interests of the State by
providing a material savings of time or cost over the
design-bid-build or other delivery system.

(2) The type and size of the project and its
suitability to the design-build procurement method.

(3) The ability of the State construction agency to
define and provide comprehensive scope and performance
criteria for the project.

No State construction agency may use a design-build
procurement method unless the agency determines in writing that
the project will comply with the disadvantaged business and
equal employment practices of the State as established in the
Business Enterprise for Minorities, Women, Veterans, and
Persons with Disabilities Act and Section 2-105 of the Illinois
Human Rights Act.

The Capital Development Board shall within 15 days after
the initial determination provide an advisory copy to the
Procurement Policy Board and maintain the full record of
determination for 5 years.

(Source: P.A. 100-391, eff. 8-25-17.)
Sec. 15. Solicitation of proposals.

(a) When the State construction agency elects to use the design-build delivery method, it must issue a notice of intent to receive requests for proposals for the project at least 14 days before issuing the request for the proposal. The State construction agency must publish the advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The State
(5) Material requirements of the contract, including but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The State construction agency may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $10 million, then the proposal due date must be at least
28 calendar days after the date of the issuance of the request for proposal. The State construction agency shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 537/30)

(Section scheduled to be repealed on July 1, 2019)

Sec. 30. Procedures for Selection.

(a) The State construction agency must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The State construction agency shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the agency has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following
criteria in every Phase I evaluation of design-build entities:
(1) experience of personnel; (2) successful experience with
similar project types; (3) financial capability; (4) timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm;
(7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for
Minorities, Women, Veterans, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided however, no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The State construction agency must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the State agency.

(c) The State construction agency shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must
maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase II technical evaluation of design-build entities: (1) compliance with objectives of the project; (2) compliance of proposed services to the request for proposal requirements; (3) quality of products or materials proposed; (4) quality of design parameters; (5) design concepts; (6) innovation in meeting the scope and performance criteria; and (7) constructability of the proposed project. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The State construction agency shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighing factor shall be 25%.

The State construction agency shall directly employ or retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the State construction agency may
award the design-build contract to the highest overall ranked entity.
(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 537/46)
(Section scheduled to be repealed on July 1, 2019)

Sec. 46. Reports and evaluation. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the proposal process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to what degree each design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.
(Source: P.A. 100-391, eff. 8-25-17.)
Section 100. The Project Labor Agreements Act is amended by changing Sections 25 and 37 as follows:

(30 ILCS 571/25)

Sec. 25. Contents of agreement. Pursuant to this Act, any project labor agreement shall:

(a) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work.

(b) Contain guarantees against strikes, lockouts, or similar actions.

(c) Ensure a reliable source of skilled and experienced labor.

(d) For minorities and women as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, set forth goals for apprenticeship hours to be performed by minorities and women and set forth goals for total hours to be performed by underrepresented minorities and women.

(e) Permit the selection of the lowest qualified responsible bidder, without regard to union or non-union status at other construction sites.

(f) Bind all contractors and subcontractors on the public works project through the inclusion of appropriate
bid specifications in all relevant bid documents.

(g) Include such other terms as the parties deem appropriate.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 571/37)
Sec. 37. Quarterly report; annual report. A State department, agency, authority, board, or instrumentality that has a project labor agreement in connection with a public works project shall prepare a quarterly report that includes workforce participation under the agreement by minorities and women as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. These reports shall be submitted to the Illinois Department of Labor. The Illinois Department of Labor shall submit to the General Assembly and the Governor an annual report that details the number of minorities and women employed under all public labor agreements within the State.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 105. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, 8f, 8g, and 8h as follows:

(30 ILCS 575/0.01) (from Ch. 127, par. 132.600)
Sec. 0.01. Short title. This Act may be cited as the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. Any reference in any law, appropriation, rule, form, or other document to the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, shall be construed to be references to this Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Sec. 1. Purpose. The State of Illinois declares that it is the public policy of the State to promote and encourage the continuing economic development of minority-owned, and women-owned, veteran-owned, persons with disability-owned and operated businesses and that minority-owned, women-owned, veteran-owned, and persons with disability-owned and operated businesses participate in the State's procurement process as both prime and subcontractors. The State of Illinois has observed that the goals established in this Act have served to increase the participation of minority and women businesses in contracts awarded by the State. The State hereby declares that the adoption of this amendatory Act of 1989 shall serve the State's continuing interest in promoting open access in the awarding of State contracts to disadvantaged small business
enterprises victimized by discriminatory practices. Furthermore, after reviewing evidence of the high level of attainment of the 10% minimum goals established under this Act, and, after considering evidence that minority and women businesses, as established in 1982, constituted and continue to constitute more than 10% of the businesses operating in this State, the State declares that the continuation of such 10% minimum goals under this amendatory Act of 1989 is a narrowly tailored means of promoting open access and thus the further growth and development of minority and women businesses.

The State of Illinois further declares that it is the public policy of this State to promote and encourage the continuous economic development of businesses owned by persons with disabilities and a 2% contracting goal is a narrowly tailored means of promoting open access and thus the further growth and development of those businesses.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2020)

Sec. 2. Definitions.

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

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:
(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

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

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

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

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

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

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

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

(a) results from:

amputation,
arthritis,
autism,
blindness,
burn injury,
cancer,
cerebral palsy,
Crohn's disease,
cystic fibrosis,
deafness,
head injury,
heart disease,
hemiplegia,
hemophilia,
respiratory or pulmonary dysfunction,
an intellectual disability,
mental illness,
multiple sclerosis,
muscular dystrophy,
musculoskeletal disorders,
neurological disorders, including stroke and epilepsy,
paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, ulcerative colitis, specific learning disabilities, or end stage renal failure disease; and (b) substantially limits one or more of the person's major life activities.

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

(2.15) "Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected
disability and was discharged under honorable conditions.

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

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

(4.1) "Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".

(4.1-5) "Veteran-owned business" means a business which is at least 51% owned by one or more veterans, or, in the case of a corporation, at least 51% of the stock in
which is owned by one or more veterans; and the management
and daily business operations of which are controlled by
one or more of the veterans who own it.

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

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

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

(6) "State agencies" shall mean all departments,
officers, boards, commissions, institutions and bodies
politic and corporate of the State, but does not include
the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, veteran,
or person with a disability for whatever purpose. If a
business qualifies for more than one certification, it
shall be certified for all designations for which it
qualifies. A business owned and controlled by women shall
be certified as a "woman-owned business". A business owned
and controlled by women who are also minorities shall be
certified as both a "women-owned business" and a
"minority-owned business".

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

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

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

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

(13) "Armed forces of the United States" means the  
United States Army, Navy, Air Force, Marine Corps, Coast  
Guard, or service in active duty as defined under 38 U.S.C.  
Section 101. Service in the Merchant Marine that  
constitutes active duty under Section 401 of federal Public  
Act 95-202 shall also be considered service in the armed
forces for purposes of this Section.

(14) "Time of hostilities with a foreign country" means any period of time in the past, present, or future during which a declaration of war by the United States Congress has been or is in effect or during which an emergency condition has been or is in effect that is recognized by the issuance of a Presidential proclamation or a Presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to Presidential executive order.

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

(Source: P.A. 99-143, eff. 7-27-15; 99-462, eff. 8-25-15; 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

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

(Section scheduled to be repealed on June 30, 2020)

Sec. 4. Award of State contracts.

(a) Except as provided in subsections (b) and (c), not less
than 20% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, veterans, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, women, and persons with disabilities pursuant to this Section, contracts representing at least 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to women-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by examining independently each type of contract for each agency or public institutions of higher education which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, women, veterans, and persons with disabilities on such contracts shall be included.

(b) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. The following aspirational goals are established for State construction contracts: not less than 20% of the total dollar amount of
State construction contracts is established as a goal to be awarded to businesses owned by minorities, women, veterans, and persons with disabilities minority-owned and women-owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization, and staging of the games, the University of Illinois shall establish a goal of awarding not less than 30% 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to businesses owned by minorities, women, veterans, and persons with disabilities minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to women-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

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

(e) Except as permitted under this Act or as otherwise mandated by federal law or regulation, those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful and include a utilization plan but that fail to meet the goals set forth in subsection (b) of this Section, shall be notified of that deficiency and shall be afforded a period not to exceed 10 calendar days from the date of notification to cure that deficiency in the bid or proposal. The deficiency in the bid or proposal may only be cured by contracting with additional subcontracting businesses owned by minorities, women, veterans, or persons with disabilities subcontractors who are owned by minorities or women, but in no case shall an identified subcontractor with a certification made pursuant to this Act be terminated from the contract without the written consent of the State agency or public institution of higher education entering into the contract.

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

(Source: P.A. 99-462, eff. 8-25-15; 99-514, eff. 6-30-16;
Sec. 4f. Award of State contracts.

(1) It is hereby declared to be the public policy of the State of Illinois to promote and encourage each State agency and public institution of higher education to use businesses owned by minorities, women, veterans, and persons with disabilities in the area of goods and services, including, but not limited to, insurance services, investment management services, information technology services, accounting services, architectural and engineering services, and legal services. Furthermore, each State agency and public institution of higher education shall utilize such firms to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(a) When a State agency or public institution of higher education, other than a community college, awards a contract for insurance services, for each State agency or public institution of higher education, it shall be the aspirational goal to use insurance brokers owned by minorities, women, veterans, and persons with disabilities as defined by this Act, for not less than 20% of the total

(30 ILCS 575/4f)

(Section scheduled to be repealed on June 30, 2020)
(b) When a State agency or public institution of higher education, other than a community college, awards a contract for investment services, for each State agency or public institution of higher education, it shall be the aspirational goal to use emerging investment managers owned by minorities, women, veterans, and persons with disabilities as defined by this Act, for not less than 20% of the total funds under management. Furthermore, it is the aspirational goal that not less than 20% of the direct asset managers of the State funds be minorities, women, veterans, and persons with disabilities.

(c) When a State agency or public institution of higher education, other than a community college, awards contracts for information technology services, accounting services, architectural and engineering services, and legal services, for each State agency and public institution of higher education, it shall be the aspirational goal to use such firms owned by minorities, women, veterans, and persons with disabilities as defined by this Act and lawyers who are minorities, women, veterans, and persons with disabilities as defined by this Act, for not less than 20% of the total dollar amount of State contracts.

(d) When a community college awards a contract for insurance services, investment services, information
technology services, accounting services, architectural and engineering services, and legal services, it shall be the aspirational goal of each community college to use businesses owned by minorities, women, veterans, and persons with disabilities as defined in this Act for not less than 20% of the total amount spent on contracts for these services collectively. When a community college awards contracts for investment services, contracts awarded to investment managers who are not emerging investment managers as defined in this Act shall not be considered businesses owned by minorities, women, veterans, or persons with disabilities for the purposes of this Section.

(2) As used in this Section:

"Accounting services" means the measurement, processing and communication of financial information about economic entities including, but is not limited to, financial accounting, management accounting, auditing, cost containment and auditing services, taxation and accounting information systems.

"Architectural and engineering services" means professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions, and individuals in their employ, may logically or justifiably perform, including studies, investigations, surveying and mapping,
tests, evaluations, consultations, comprehensive planning,
program management, conceptual designs, plans and
specifications, value engineering, construction phase
services, soils engineering, drawing reviews, preparation
of operating and maintenance manuals, and other related
services.

"Emerging investment manager" means an investment
manager or claims consultant having assets under
management below $10 billion or otherwise adjudicating
claims.

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

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

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

(3) Each State agency and public institution of higher
education shall adopt policies that identify its plan and
implementation procedures for increasing the use of service
firms owned by minorities, women, veterans, and persons with disabilities.

(4) Except as provided in subsection (5), the Council shall file no later than March 1 of each year an annual report to the Governor and the General Assembly. The report filed with the General Assembly shall be filed as required in Section 3.1 of the General Assembly Organization Act. This report shall: (i) identify the service firms used by each State agency and public institution of higher education, (ii) identify the actions it has undertaken to increase the use of service firms owned by minorities, women, veterans, and persons with disabilities, including encouraging non-minority-owned firms to use other service firms owned by minorities, women, veterans, and persons with disabilities as subcontractors when the opportunities arise, (iii) state any recommendations made by the Council to each State agency and public institution of higher education to increase participation by the use of service firms owned by minorities, women, veterans, and persons with disabilities, and (iv) include the following:

(A) For insurance services: the names of the insurance brokers or claims consultants used, the total of risk managed by each State agency and public institution of higher education by insurance brokers, the total commissions, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed; and the percentage of the risk managed by insurance brokers, the
percentage of total commission, fees paid, or both, the
lines or insurance policies placed, and the amount of
premiums placed with each by the insurance brokers owned by
minorities, women, veterans, and persons with disabilities
by each State agency and public institution of higher
education.

(B) For investment management services: the names of
the investment managers used, the total funds under
management of investment managers; the total commissions,
fees paid, or both; the total and percentage of funds under
management of emerging investment managers owned by
minorities, women, veterans, and persons with
disabilities, including the total and percentage of total
commissions, fees paid, or both by each State agency and
public institution of higher education.

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

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

(E) The total number of contracts awarded for services
by category and the total number of contracts awarded to
firms owned by minorities, women, veterans, and persons with disabilities by each State agency and public institution of higher education.

(5) For community college districts, the Business Enterprise Council shall only report the following information for each community college district: (i) the name of the community colleges in the district, (ii) the name and contact information of a person at each community college appointed to be the single point of contact for vendors owned by minorities, women, veterans, or persons with disabilities, (iii) the policy of the community college district concerning certified vendors, (iv) the certifications recognized by the community college district for determining whether a business is owned or controlled by a minority, woman, veteran, or person with a disability, (v) outreach efforts conducted by the community college district to increase the use of certified vendors, (vi) the total expenditures by the community college district in the prior fiscal year in the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the amount paid to certified vendors in those divisions of work, and (vii) the total number of contracts entered into for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the total number of contracts awarded to certified vendors providing these services to the community college district. The Business Enterprise Council shall not make any utilization reports under
this Act for community college districts for Fiscal Year 2015 and Fiscal Year 2016, but shall make the report required by this subsection for Fiscal Year 2017 and for each fiscal year thereafter. The Business Enterprise Council shall report the information in items (i), (ii), (iii), and (iv) of this subsection beginning in September of 2016. The Business Enterprise Council may collect the data needed to make its report from the Illinois Community College Board.

(6) The status of the utilization of services shall be discussed at each of the regularly scheduled Business Enterprise Council meetings. Time shall be allotted for the Council to receive, review, and discuss the progress of the use of service firms owned by minorities, women, veterans, and persons with disabilities by each State agency and public institution of higher education; and any evidence regarding past or present racial, ethnic, or gender-based discrimination which directly impacts a State agency or public institution of higher education contracting with such firms. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section.

(Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)
Sec. 5. Business Enterprise Council.

(1) To help implement, monitor and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives, with the Comptroller, or his or her designee, serving as an advisory member of the Council. Ten individuals representing businesses that are minority-owned, women-owned, veteran-owned, or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2 year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be
reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Director of the Department of Central Management Services shall serve as the Council chairperson and shall select, subject to approval of the council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Division of the Department of Central Management Services.

The Director of each State agency and the chief executive officer of each public institutions of higher education shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17; 100-801, eff. 8-10-18.)

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

(Section scheduled to be repealed on June 30, 2020)
public institutions of higher education for contracting with businesses owned by minorities, women, veterans, and persons with disabilities for the then current fiscal year, the manner in which the agency intends to reach these goals and a timetable for reaching these goals. The Council shall review and approve the plan of each State agency and public institutions of higher education and may reject any plan that does not comply with this Act or any rules or regulations promulgated pursuant to this Act.

(a) The compliance plan shall also include, but not be limited to, (1) a policy statement, signed by the State agency or public institution of higher education head, expressing a commitment to encourage the use of businesses owned by minorities, women, veterans, and persons with disabilities, (2) the designation of the liaison officer provided for in Section 5 of this Act, (3) procedures to distribute to potential contractors and vendors the list of all businesses legitimately classified as businesses owned by minorities, women, veterans, and persons with disabilities and so certified under this Act, (4) procedures to set separate contract goals on specific prime contracts and purchase orders with subcontracting possibilities based upon the type of work or services and subcontractor availability, (5) procedures to assure that contractors and vendors make good faith efforts to meet contract goals, (6) procedures for contract goal exemption, modification and waiver, and (7) the delineation of
separate contract goals for businesses owned by minorities, women, veterans, and persons with disabilities.

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

(c) Each State agency and public institution of higher education under the jurisdiction of this Act shall file with the Council an annual report of its utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year including lapse period spending and a mid-fiscal year report of its utilization to date for the then current fiscal year. The reports shall include a self-evaluation of the efforts of the State agency or public institution of higher education to meet its goals under the Act.

(d) Notwithstanding any provisions to the contrary in this Act, any State agency or public institution of higher education which administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of businesses owned by minorities, women, veterans, and persons with disabilities shall
implement a disadvantaged business enterprise program to include businesses owned by minorities, women, veterans, and persons with disabilities minority-owned and women-owned businesses and disadvantaged businesses, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the program. In such cases, these goals shall not exceed those established pursuant to the relevant federal statutes or regulations. Notwithstanding the provisions of Section 8b, the Illinois Department of Transportation is authorized to establish sheltered markets for the State-funded portions of the program consistent with federal law and regulations. Additionally, a compliance plan which is filed by such State agency or public institution of higher education pursuant to this Act, which incorporates equivalent terms and conditions of its federally-approved compliance plan, shall be deemed approved under this Act.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

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

(Section scheduled to be repealed on June 30, 2020)

Sec. 6a. Notice of contracts to Council. Except in case of emergency as defined in the Illinois Procurement Code, or as authorized by rule promulgated by the Department of Central Management Services, each agency and public institution of higher education under the jurisdiction of this Act shall
notify the Secretary of the Council of proposed contracts for professional and artistic services and provide the information in the form and detail as required by rule promulgated by the Department of Central Management Services. Notification may be made through direct written communication to the Secretary to be received at least 14 days before execution of the contract (or the solicitation response date, if applicable). The agency or public institution of higher education must consider any vendor referred by the Secretary before execution of the contract. The provisions of this Section shall not apply to any State agency or public institution of higher education that has awarded contracts for professional and artistic services to businesses owned by minorities, women, veterans, and persons with disabilities totaling in the aggregate $40,000,000 or more during the preceding fiscal year.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

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

(Section scheduled to be repealed on June 30, 2020)

Sec. 7. Exemptions; waivers; publication of data.

(1) Individual contract exemptions. The Council, on its own initiative or at the request of the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of $250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded
simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, women, veterans, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, women, veterans, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question.

(2) Class exemptions.

(a) Creation. The Council, on its own initiative or at the request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, women, veterans, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of qualified businesses owned by minorities, women, veterans, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class.

(b) Limitation. Any such class exemption shall not be
permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request a waiver from such requirements. The Council shall grant the waiver where the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, women, veterans, and persons with disabilities.

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract shall be interpreted and enforced accordingly.

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

(6) Each chief procurement officer, as defined by the Illinois Procurement Code, shall maintain on its website a list of all firms that have been prohibited from bidding, offering,
or entering into a contract with the State of Illinois as a result of violations of this Act.

Each public notice required by law of the award of a State contract shall include for each bid or offer submitted for that contract the following: (i) the bidder's or offeror's name, (ii) the bid amount, (iii) the name or names of the certified firms identified in the bidder's or offeror's submitted utilization plan, and (iv) the bid's amount and percentage of the contract awarded to businesses owned by minorities, women, veterans, and persons with disabilities identified in the utilization plan.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

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

(Section scheduled to be repealed on June 30, 2020)

Sec. 8. Enforcement.

(1) The Council shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Council determines that its goals and policies are not being met by any State agency or public institution of higher education, the Council may recommend any or all of the following actions:

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

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

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, women, veterans, and persons with disabilities as potential sources of supply;
(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, women, veterans, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of businesses owned by minorities, women, veterans, and persons with disabilities;

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

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

(2) State agencies and public institutions of higher education shall review a vendor's compliance with its utilization plan and the terms of its contract. Without limitation, a vendor's failure to comply with its contractual commitments as contained in the utilization plan; failure to cooperate in providing information regarding its compliance with its utilization plan; or the provision of false or
misleading information or statements concerning compliance, certification status, or eligibility of the Business Enterprise Program-certified vendor, good faith efforts, or any other material fact or representation shall constitute a material breach of the contract and entitle the State agency or public institution of higher education to declare a default, terminate the contract, or exercise those remedies provided for in the contract, at law, or in equity.

(3) A vendor shall be in breach of the contract and may be subject to penalties for failure to meet contract goals established under this Act, unless the vendor can show that it made good faith efforts to meet the contract goals.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

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

(Section scheduled to be repealed on June 30, 2020)

Sec. 8a. Advance and progress payments. Any contract awarded to a business owned by a minority, woman, veteran, or person with a disability pursuant to this Act may contain a provision for advance or progress payments, or both, except that a State construction contract awarded to a businesses owned by minorities, women, veterans, and persons with disabilities minority-owned or women-owned business pursuant to this Act may contain a provision for progress payments but may not contain a provision for advance payments.

(Source: P.A. 100-391, eff. 8-25-17.)
Sec. 8b. Scheduled council meetings; sheltered market. The Council shall conduct regular meetings to carry out its responsibilities under this Act. At each of the regularly scheduled meetings, time shall be allocated for the Council to receive, review and discuss any evidence regarding past or present racial, ethnic or gender based discrimination which directly impacts State contracting with businesses owned by minorities, women, veterans, and persons with disabilities. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings.

"Sheltered market" shall mean a procurement procedure whereby certain contracts are selected and specifically set aside for businesses owned by minorities, women, veterans, and persons with disabilities on a competitive bid or negotiated basis.

As part of the annual report which the Council must file pursuant to paragraph (e) of subsection (2) of Section 5, the Council shall report on any findings made pursuant to this Section.

(Source: P.A. 100-391, eff. 8-25-17.)
Sec. 8f. Annual report. The Council shall file no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Act over the 3 most recent fiscal years. The annual report shall include, but need not be limited to the following:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each State agency and public institution of higher education;

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

(3) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of businesses owned by minorities, women, veterans, and persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to
businesses with annual gross sales of less than $1,000,000; of $1,000,000 or more, but less than $5,000,000; of $5,000,000 or more, but less than $10,000,000; and of $10,000,000 or more.
(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

(30 ILCS 575/8g)

(Section scheduled to be repealed on June 30, 2020)

Sec. 8g. Business Enterprise Program Council reports.
(a) The Department of Central Management Services shall provide a report to the Council identifying all State agency non-construction solicitations that exceed $20,000,000 and that have less than a 20% established goal prior to publication.
(b) The Department of Central Management Services shall provide a report to the Council identifying all State agency non-construction awards that exceed $20,000,000. The report shall contain the following: (i) the name of the awardee; (ii) the total bid amount; (iii) the established Business Enterprise Program goal; (iv) the dollar amount and percentage of participation by businesses owned by minorities, women, veterans, and persons with disabilities; and (v) the names of the certified firms identified in the utilization plan.
(Source: P.A. 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

(30 ILCS 575/8h)
Sec. 8h. Encouragement for telecom and communications entities to submit supplier diversity reports.

(1) The following entities that do business in Illinois or serve Illinois customers shall be subject to this Section:

(i) all local exchange telecommunications carriers with at least 35,000 subscriber access lines;

(ii) cable and video providers, as defined in Section 21-201 of the Public Utilities Act;

(iii) interconnected VoIP providers, as defined in Section 13-235 of the Public Utilities Act;

(iv) wireless service providers;

(v) broadband internet access services providers; and

(vi) any other entity that provides messaging, voice, or video services via the Internet or a social media platform.

(2) Each entity subject to this Section may submit to the Illinois Commerce Commission and the Business Enterprise Council an annual report by April 15, 2018, and every April 15 thereafter, which provides, for the previous calendar year, information and data on diversity goals, and progress toward achieving those goals, by certified businesses owned by minorities, women, veterans, and persons with disabilities and service-disabled veterans, provided that if the entity does not track such information and data for businesses owned by service-disabled veterans, the entity may provide information
and data for businesses owned by veterans.

The diversity report shall include the following:

(i) Overall annual spending on all such certified businesses.

(ii) A narrative description of the entity's supplier diversity goals and plans for meeting those goals.

(iii) The entity's best estimate of its annual spending in professional services and spending with certified businesses owned by minorities, women, veterans, and persons with disabilities, and service disabled veterans (or veterans, if the reporting entity does not track spending with service disabled veterans), including, but not limited to, the following professional services categories: accounting; architecture and engineering; consulting; information technology; insurance; financial, legal, and marketing services; and other professional services. The diversity report shall also include the entity's overall annual spending in the listed professional service categories. For the diversity reports due on April 15, 2018 and April 15, 2019, the information on annual spending with certified businesses for professional services required by this Section may be provided for all professional services on an aggregated basis.

(iv) Beginning with the diversity report due on April 15, 2020, the total number and percentage of women,
veterans, and minorities that provided services for each
construction project in the State.

An entity subject to this Section which is part of an
affiliated group of entities may provide information for the
affiliated group as a whole.

(3) Any entity that is subject to this Section that does
not submit a report shall be reported by the Business
Enterprise Council to each chief procurement officer. Upon
receiving a report from the Business Enterprise Council, the
chief procurement officer may prohibit any entities that do not
submit a report from bidding on State contracts for a period of
one year beginning the first day of the following fiscal year
and post on its respective bulletin the names of all entities
that fail to comply with the provisions of this Section.

(4) A vendor may appeal any of the actions taken pursuant
to this Section in the same manner as a vendor denied
certification, by following the appeal procedures in the
administrative rules created pursuant to this Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 110. The Illinois Income Tax Act is amended by
changing Section 220 as follows:

(35 ILCS 5/220)
Sec. 220. Angel investment credit.
(a) As used in this Section:
"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include (i) a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the qualified new business venture receiving the investment or (ii) a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Investment" means money (or its equivalent) given to a qualified new business venture, at a risk of loss, in consideration for an equity interest of the qualified new business venture. The Department may adopt rules to permit certain forms of contingent equity investments to be considered eligible for a tax credit under this Section.

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the applicant, is any one of the following:

1.(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at
least 50% of the value of the outstanding profits, capital,
stock, or other ownership interest in the qualified new
business venture that is the recipient of the applicant's
investment.

(2) A partnership, estate, or trust and any partner or
beneficiary, if the partnership, estate, or trust and its
partners or beneficiaries own directly, indirectly,
beneficially, or constructively, in the aggregate, at
least 50% of the profits, capital, stock, or other
ownership interest in the qualified new business venture
that is the recipient of the applicant's investment.

(3) A corporation, and any party related to the
corporation in a manner that would require an attribution
of stock from the corporation under the attribution rules
of Section 318 of the Internal Revenue Code, if the
applicant and any other related member own, in the
aggregate, directly, indirectly, beneficially, or
constructively, at least 50% of the value of the
outstanding stock of the qualified new business venture
that is the recipient of the applicant's investment.

(4) A corporation and any party related to that
corporation in a manner that would require an attribution
of stock from the corporation to the party or from the
party to the corporation under the attribution rules of
Section 318 of the Internal Revenue Code, if the
corporation and all such related parties own, in the
aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(5) A person to or from whom there is attribution of ownership of stock in the qualified new business venture that is the recipient of the applicant's investment in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2021, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be
carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The minimum amount an applicant must invest in any single qualified new business venture in order to be eligible for a credit under this Section is $10,000. The maximum amount of an applicant's total investment made in any single qualified new business venture that may be used as the basis for a credit under this Section is $2,000,000.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that: (i) each qualified new business venture that receives an angel investment under this Section has maintained a minimum employment threshold, as defined by rule, in the State (and continues to maintain a minimum employment threshold in the State for a period of no less than 3 years from the issue date
of the last tax credit certificate issued by the Department with respect to such business pursuant to this Section); and (ii) the claimant's investment has been made and remains, except in the event of a qualifying liquidity event, in the qualified new business venture for no less than 3 years.

If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, other than as a result of a permitted sale of the investment to person who is not a related member, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that the claimant received related to the subject investment.

If the Department determines that a qualified new business venture failed to maintain a minimum employment threshold in the State through the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to the subject business pursuant to this Section, the claimant or claimants shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that claimant or claimants received related to investments in that business.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration under this Section shall be required to submit a full and complete application to the
Department. A submitted application shall be effective only for the taxable year in which it is submitted, and a business desiring registration under this Section shall be required to submit a separate application in and for each taxable year for which the business desires registration. Further, if at any time prior to the acceptance of an application for registration under this Section by the Department one or more events occurs which makes the information provided in that application materially false or incomplete (in whole or in part), the business shall promptly notify the Department of the same. Any failure of a business to promptly provide the foregoing information to the Department may, at the discretion of the Department, result in a revocation of a previously approved application for that business, or disqualification of the business from future registration under this Section, or both. The Department may register the business only if all of the following conditions are satisfied:

1. it has its principal place of business in this State;
2. at least 51% of the employees employed by the business are employed in this State;
3. the business has the potential for increasing jobs in this State, increasing capital investment in this State, or both, as determined by the Department, and either of the following apply:
   A. it is principally engaged in innovation in any
of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology;

(4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:
(A) it has fewer than 100 employees;
(B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and
(C) it has received not more than $10,000,000 in aggregate investments;
(5.1) it agrees to maintain a minimum employment threshold in the State of Illinois prior to the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to that business pursuant to this Section;
(6) (blank); and
(7) it has received not more than $4,000,000 in investments that qualified for tax credits under this Section.

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited at $10,000,000 per calendar year, of which $500,000 shall be reserved for investments made in qualified new business ventures which are minority-owned businesses, women-owned female-owned businesses, veteran-owned businesses, or businesses owned by a person with a disability (as those terms are used and defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities
Act), and an additional $500,000 shall be reserved for investments made in qualified new business ventures with their principal place of business in counties with a population of not more than 250,000. The foregoing annual allowable amounts shall be allocated by the Department, on a per calendar quarter basis and prior to the commencement of each calendar year, in such proportion as determined by the Department, provided that:

(i) the amount initially allocated by the Department for any one calendar quarter shall not exceed 35% of the total allowable amount; (ii) any portion of the allocated allowable amount remaining unused as of the end of any of the first 3 calendar quarters of a given calendar year shall be rolled into, and added to, the total allocated amount for the next available calendar quarter; and (iii) the reservation of tax credits for investments in minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by a person with a disability, and in businesses in counties with a population of not more than 250,000 is limited to the first 3 calendar quarters of a given calendar year, after which they may be claimed by investors in any qualified new business venture.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior
calendar year.

(1) This report must include, for each tax credit certificate awarded:

   (A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

   (B) the name and address (including the county) of the qualified new business venture that received the investment giving rise to the credit, the North American Industry Classification System (NAICS) code applicable to that qualified new business venture, and the number of employees of the qualified new business venture; and

   (C) the date of approval by the Department of each claimant's tax credit certificate.

(2) The report must also include:

   (A) the total number of applicants and the total number of claimants, including the amount of each tax credit certificate awarded to a claimant under this Section in the prior calendar year;

   (B) the total number of applications from businesses seeking registration under this Section, the total number of new qualified business ventures registered by the Department, and the aggregate amount of investment upon which tax credit certificates were issued in the prior calendar year; and

   (C) the total amount of tax credit certificates
sought by applicants, the amount of each tax credit
certificate issued to a claimant, the aggregate amount
of all tax credit certificates issued in the prior
calendar year and the aggregate amount of tax credit
certificates issued as authorized under this Section
for all calendar years.

(i) For each business seeking registration under this
Section after December 31, 2016, the Department shall require
the business to include in its application the North American
Industry Classification System (NAICS) code applicable to the
business and the number of employees of the business at the
time of application. Each business registered by the Department
as a qualified new business venture that receives an investment
giving rise to the issuance of a tax credit certificate
pursuant to this Section shall, for each of the 3 years
following the issue date of the last tax credit certificate
issued by the Department with respect to such business pursuant
to this Section, report to the Department the following:

(1) the number of employees and the location at which
those employees are employed, both as of the end of each
year;

(2) the amount of additional new capital investment
raised as of the end of each year, if any; and

(3) the terms of any liquidity event occurring during
such year; for the purposes of this Section, a "liquidity
event" means any event that would be considered an exit for
an illiquid investment, including any event that allows the
equity holders of the business (or any material portion
thereof) to cash out some or all of their respective equity
interests.
(Source: P.A. 100-328, eff. 1-1-18; 100-686, eff. 1-1-19;
100-863, eff. 8-14-18; revised 10-5-18.)

Section 115. The Film Production Services Tax Credit Act of
2008 is amended by changing Sections 30 and 45 as follows:

(35 ILCS 16/30)
Sec. 30. Review of application for accredited production
certificate.
(a) In determining whether to issue an accredited
production certificate, the Department must determine that a
preponderance of the following conditions exist:
(1) The applicant's production intends to make the
expenditure in the State required for certification.
(2) The applicant's production is economically sound
and will benefit the people of the State of Illinois by
increasing opportunities for employment and strengthen the
economy of Illinois.
(3) The applicant has filed a diversity plan with the
Department outlining specific goals (i) for hiring
minority persons and women, as defined in the Business
Enterprise for Minorities, Women, Veterans, and Persons
with Disabilities Act, and (ii) for using vendors receiving certification under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; the Department has approved the plan as meeting the requirements established by the Department; and the Department has verified that the applicant has met or made good-faith efforts in achieving those goals. The Department must adopt any rules that are necessary to ensure compliance with the provisions of this item (3) and that are necessary to require that the applicant's plan reflects the diversity of this State.

(4) The applicant's production application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(5) That, if not for the credit, the applicant's production would not occur in Illinois, which may be demonstrated by any means including, but not limited to, evidence that the applicant has multi-state or international location options and could reasonably and efficiently locate outside of the State, or demonstration that at least one other state or nation is being considered
for the production, or evidence that the receipt of the credit is a major factor in the applicant's decision and that without the credit the applicant likely would not create or retain jobs in Illinois, or demonstration that receiving the credit is essential to the applicant's decision to create or retain new jobs in the State.

(6) Awarding the credit will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

(Source: P.A. 100-391, eff. 8-25-17.)

(35 ILCS 16/45)

Sec. 45. Evaluation of tax credit program; reports to the General Assembly.

(a) The Department shall evaluate the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend,
modify, or not extend the program based on this evaluation.

(b) At the end of each fiscal quarter, the Department must submit to the General Assembly a report that includes, without limitation, the following information:

(1) the economic impact of the tax credit program, including the number of jobs created and retained, including whether the job positions are entry level, management, talent-related, vendor-related, or production-related;

(2) the amount of film production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited production; and

(3) an overall picture of whether the human infrastructure of the motion picture industry in Illinois reflects the geographical, racial and ethnic, gender, and income-level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department must submit to the General Assembly a report that includes the following information:

(1) an identification of each vendor that provided goods or services that were included in an accredited production's Illinois production spending, provided that the accredited production's Illinois production spending attributable to that vendor exceeds, in the aggregate, $10,000 or 10% of the accredited production's Illinois
production spending, whichever is less;

(2) the amount paid to each identified vendor by the accredited production;

(3) for each identified vendor, a statement as to whether the vendor is a minority-owned business or a women-owned business, as defined under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, based on the best efforts of an accredited production; and

(4) a description of any steps taken by the Department to encourage accredited productions to use vendors who are a minority-owned business or a women-owned business.

(Source: P.A. 100-391, eff. 8-25-17; 100-603, eff. 7-13-18; revised 7-31-18.)

Section 120. The Live Theater Production Tax Credit Act is amended by changing Sections 10-30 and 10-50 as follows:

(35 ILCS 17/10-30)

Sec. 10-30. Review of application for accredited theater production certificate.

(a) The Department shall issue an accredited theater production certificate to an applicant if it finds that by a preponderance the following conditions exist:

(1) the applicant intends to make the expenditure in the State required for certification of the accredited
theater production;

(2) the applicant's accredited theater production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and will strengthen the economy of Illinois;

(3) the following requirements related to the implementation of a diversity plan have been met: (i) the applicant has filed with the Department a diversity plan outlining specific goals for hiring Illinois labor expenditure eligible minority persons and women, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and for using vendors receiving certification under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; (ii) the Department has approved the plan as meeting the requirements established by the Department and verified that the applicant has met or made good faith efforts in achieving those goals; and (iii) the Department has adopted any rules that are necessary to ensure compliance with the provisions set forth in this paragraph and necessary to require that the applicant's plan reflects the diversity of the population of this State;

(4) the applicant's accredited theater production application indicates whether the applicant intends to participate in training, education, and recruitment
programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the holders of accredited theater production certificates and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of Illinois;

(5) if not for the tax credit award, the applicant's accredited theater production would not occur in Illinois, which may be demonstrated by any means, including, but not limited to, evidence that: (i) the applicant, presenter, owner, or licensee of the production rights has other state or international location options at which to present the production and could reasonably and efficiently locate outside of the State, (ii) at least one other state or nation could be considered for the production, (iii) the receipt of the tax award credit is a major factor in the decision of the applicant, presenter, production owner or licensee as to where the production will be presented and that without the tax credit award the applicant likely would not create or retain jobs in Illinois, or (iv) receipt of the tax credit award is essential to the applicant's decision to create or retain new jobs in the State; and

(6) the tax credit award will result in an overall positive impact to the State, as determined by the Department using the best available data.
(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

(c) The Department shall act expeditiously regarding approval of applications for accredited theater production certificates so as to accommodate the pre-production work, booking, commencement of ticket sales, determination of performance dates, load in, and other matters relating to the live theater productions for which approval is sought.

(Source: P.A. 100-391, eff. 8-25-17.)

(35 ILCS 17/10-50)
Sec. 10-50. Live theater tax credit award program evaluation and reports.

(a) The Department's live theater tax credit award evaluation must include:

(i) an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois;

(ii) an assessment of the revenue impact of the program;

(iii) in the discretion of the Department, a review of the practices and experiences of other states or nations with similar programs; and

(iv) an assessment of the overall success of the program. The Department may make a recommendation to
extend, modify, or not extend the program based on the evaluation.

(b) At the end of each fiscal quarter, the Department shall submit to the General Assembly a report that includes, without limitation:

   (i) an assessment of the economic impact of the program, including the number of jobs created and retained, and whether the job positions are entry level, management, vendor, or production related;

   (ii) the amount of accredited theater production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited theater production; and

   (iii) a determination of whether those receiving qualifying Illinois labor expenditure salaries or wages reflect the geographical, racial and ethnic, gender, and income level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department shall submit to the General Assembly a report that includes, without limitation:

   (i) the identification of each vendor that provided goods or services that were included in an accredited theater production's Illinois production spending;

   (ii) a statement of the amount paid to each identified vendor by the accredited theater production and whether the vendor is a minority-owned or women-owned business as
defined in Section 2 of the Business Enterprise for
Minorities, Women, Veterans, and Persons with Disabilities
Act; and

(iii) a description of the steps taken by the
Department to encourage accredited theater productions to
use vendors who are minority-owned or women-owned
businesses.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 125. The Illinois Pension Code is amended by
changing Sections 1-109.1, 1-113.21, and 1-113.22 as follows:

(40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

Sec. 1-109.1. Allocation and delegation of fiduciary
duties.

(1) Subject to the provisions of Section 22A-113 of this
Code and subsections (2) and (3) of this Section, the board of
trustees of a retirement system or pension fund established
under this Code may:

(a) Appoint one or more investment managers as
fiduciaries to manage (including the power to acquire and
dispose of) any assets of the retirement system or pension
fund; and

(b) Allocate duties among themselves and designate
others as fiduciaries to carry out specific fiduciary
activities other than the management of the assets of the
(2) The board of trustees of a pension fund established under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not transfer its investment authority, nor transfer the assets of the fund to any other person or entity for the purpose of consolidating or merging its assets and management with any other pension fund or public investment authority, unless the board resolution authorizing such transfer is submitted for approval to the contributors and pensioners of the fund at elections held not less than 30 days after the adoption of such resolution by the board, and such resolution is approved by a majority of the votes cast on the question in both the contributors election and the pensioners election. The election procedures and qualifications governing the election of trustees shall govern the submission of resolutions for approval under this paragraph, insofar as they may be made applicable.

(3) Pursuant to subsections (h) and (i) of Section 6 of Article VII of the Illinois Constitution, the investment authority of boards of trustees of retirement systems and pension funds established under this Code is declared to be a subject of exclusive State jurisdiction, and the concurrent exercise by a home rule unit of any power affecting such investment authority is hereby specifically denied and preempted.

(4) For the purposes of this Code, "emerging investment
manager" means a qualified investment adviser that manages an investment portfolio of at least $10,000,000 but less than $10,000,000,000 and is a "minority-owned business", "women-owned business", "veteran-owned business", or "business owned by a person with a disability" as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

It is hereby declared to be the public policy of the State of Illinois to encourage the trustees of public employee retirement systems, pension funds, and investment boards to use emerging investment managers in managing their system's assets, encompassing all asset classes, and increase the racial, ethnic, and gender diversity of its fiduciaries, to the greatest extent feasible within the bounds of financial and fiduciary prudence, and to take affirmative steps to remove any barriers to the full participation in investment opportunities afforded by those retirement systems, pension funds, and investment boards.

A on or before January 1, 2010, a retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for utilization of emerging investment managers. This policy shall include quantifiable goals for the management of assets in specific asset classes by emerging investment managers. The retirement system, pension fund, or investment board shall
establish 4 separate goals for: (i) emerging investment managers that are minority-owned businesses; (ii) emerging investment managers that are women-owned businesses; and (iii) emerging investment managers that are veteran-owned businesses; and (iv) emerging investment managers that are businesses owned by a person with a disability. The goals established shall be based on the percentage of total dollar amount of investment service contracts let to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this subsection.

If in any case an emerging investment manager meets the criteria established by a board for a specific search and meets the criteria established by a consultant for that search, then that emerging investment manager shall receive an invitation by the board of trustees, or an investment committee of the board of trustees, to present his or her firm for final consideration of a contract. In the case where multiple emerging investment managers meet the criteria of this Section, the staff may choose the most qualified firm or firms to present to the board.

The use of an emerging investment manager does not constitute a transfer of investment authority for the purposes
of subsection (2) of this Section.

(5) Each retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall establish a policy that sets forth goals for increasing the racial, ethnic, and gender diversity of its fiduciaries, including its consultants and senior staff. Each retirement system, pension fund, or investment board shall make its best efforts to ensure that the racial and ethnic makeup of its senior administrative staff represents the racial and ethnic makeup of its membership. Each system, fund, and investment board shall annually review the goals established under this subsection.

(6) A On or before January 1, 2010, a retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for utilization of businesses owned by minorities, women, veterans, and persons with disabilities for all contracts and services. The goals established shall be based on the percentage of total dollar amount of all contracts let to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established
(7) A retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for increasing the utilization of minority broker-dealers. For the purposes of this Code, "minority broker-dealer" means a qualified broker-dealer who meets the definition of "minority-owned business", "women-owned business", "veteran-owned businesses", or "business owned by a person with a disability", as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this Section.

(8) Each retirement system, pension fund, and investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall submit a report to the Governor and the General Assembly by January 1 of each year that includes the following: (i) the policy adopted under subsection (4) of this Section, including the names and addresses of the emerging investment managers used, percentage of the assets under the investment control of emerging investment managers for the 4 separate goals, and the actions it has undertaken to increase the use of emerging investment managers, including encouraging other investment managers to
use emerging investment managers as subcontractors when the opportunity arises; (ii) the policy adopted under subsection (5) of this Section; (iii) the policy adopted under subsection (6) of this Section; (iv) the policy adopted under subsection (7) of this Section, including specific actions undertaken to increase the use of minority broker-dealers; and (v) the policy adopted under subsection (9) of this Section.

(9) A retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for increasing the utilization of minority investment managers. For the purposes of this Code, "minority investment manager" means a qualified investment manager that manages an investment portfolio and meets the definition of "minority-owned business", "women-owned business", "veteran-owned business", or "business owned by a person with a disability", as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

It is hereby declared to be the public policy of the State of Illinois to encourage the trustees of public employee retirement systems, pension funds, and investment boards to use minority investment managers in managing their systems' assets, encompassing all asset classes, and to increase the racial, ethnic, and gender diversity of their fiduciaries, to the greatest extent feasible within the bounds of financial and
fiduciary prudence, and to take affirmative steps to remove any barriers to the full participation in investment opportunities afforded by those retirement systems, pension funds, and investment boards.

The retirement system, pension fund, or investment board shall establish separate goals for: (i) minority investment managers that are minority-owned businesses; (ii) minority investment managers that are women-owned businesses; and (iii) minority investment managers that are veteran-owned businesses; and (iv) minority investment managers that are businesses owned by a person with a disability. The retirement system, pension fund, or investment board shall annually review the goals established under this Section.

If in any case a minority investment manager meets the criteria established by a board for a specific search and meets the criteria established by a consultant for that search, then that minority investment manager shall receive an invitation by the board of trustees, or an investment committee of the board of trustees, to present his or her firm for final consideration of a contract. In the case where multiple minority investment managers meet the criteria of this Section, the staff may choose the most qualified firm or firms to present to the board.

The use of a minority investment manager does not constitute a transfer of investment authority for the purposes of subsection (2) of this Section.
It Beginning January 1, 2016, it shall be the aspirational goal for a retirement system, pension fund, or investment board subject to this Code to use emerging investment managers for not less than 20% of the total funds under management. Furthermore, it shall be the aspirational goal that not less than 20% of investment advisors be minorities, women, veterans, and persons with disabilities as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. It shall be the aspirational goal to utilize businesses owned by minorities, women, veterans, and persons with disabilities for not less than 20% of contracts awarded for "information technology services", "accounting services", "insurance brokers", "architectural and engineering services", and "legal services" as those terms are defined in the Act.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17; 100-902, eff. 8-17-18.)

(40 ILCS 5/1-113.21)

Sec. 1-113.21. Contracts for services.

(a) No Beginning January 1, 2015, no contract, oral or written, for investment services, consulting services, or commitment to a private market fund shall be awarded by a retirement system, pension fund, or investment board established under this Code unless the investment advisor, consultant, or private market fund first discloses:
(1) the number of its investment and senior staff and
the percentage of its investment and senior staff who are
(i) a minority person, (ii) a woman, and (iii) a person
with a disability; and

(2) the number of contracts, oral or written, for
investment services, consulting services, and professional
and artistic services that the investment advisor,
consultant, or private market fund has with (i) a
minority-owned business, (ii) a women-owned business, or
(iii) a business owned by a person with a disability, or
(iv) a veteran-owned business; and

(3) the number of contracts, oral or written, for
investment services, consulting services, and professional
and artistic services the investment advisor, consultant,
or private market fund has with a business other than (i) a
minority-owned business, (ii) a women-owned business, or
(iii) a business owned by a person with a disability, or
(iv) a veteran-owned business, if more than 50% of services
performed pursuant to the contract are performed by (i) a
minority person, (ii) a woman, and (iii) a person with a
disability, and (iv) a veteran.

(b) The disclosures required by this Section shall be
considered, within the bounds of financial and fiduciary
prudence, prior to the awarding of a contract, oral or written,
for investment services, consulting services, or commitment to
a private market fund.
(c) For the purposes of this Section, the terms "minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned business", and "business owned by a person with a disability" have the same meaning as those terms have in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(d) For purposes of this Section, the term "private market fund" means any private equity fund, private equity fund of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicle that is not publicly traded.

(Source: P.A. 100-391, eff. 8-25-17.)

(40 ILCS 5/1-113.22)

Sec. 1-113.22. Required disclosures from consultants; minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability.

(a) No later than January 1, 2018 and each January 1 thereafter, each consultant retained by the board of a retirement system, board of a pension fund, or investment board shall disclose to that board of the retirement system, board of the pension fund, or investment board:

(1) the total number of searches for investment services made by the consultant in the prior calendar year;
(2) the total number of searches for investment services made by the consultant in the prior calendar year that included (i) a minority-owned business, (ii) a women-owned business, or (iii) a business owned by a person with a disability, or (iv) a veteran-owned business;

(3) the total number of searches for investment services made by the consultant in the prior calendar year in which the consultant recommended for selection (i) a minority-owned business, (ii) a women-owned business, or (iii) a business owned by a person with a disability, or (iv) a veteran-owned business;

(4) the total number of searches for investment services made by the consultant in the prior calendar year that resulted in the selection of (i) a minority-owned business, (ii) a women-owned business, or (iii) a business owned by a person with a disability, or (iv) a veteran-owned business; and

(5) the total dollar amount of investment made in the previous calendar year with (i) a minority-owned business, (ii) a women-owned business, or (iii) a business owned by a person with a disability, or (iv) a veteran-owned business that was selected after a search for investment services performed by the consultant.

(b) No contract, oral or written, for consulting services shall be awarded by a board of a retirement system, a board of a pension fund, or an
investment board without first requiring the consultant to make
the disclosures required in subsection (a) of this Section.

(c) The disclosures required by subsection (b) of this
Section shall be considered, within the bounds of financial and
fiduciary prudence, prior to the awarding of a contract, oral
or written, for consulting services.

(d) As used in this Section, the terms "minority person",
"woman", "veteran", "person with a disability",
"minority-owned business", "women-owned business",
"veteran-owned business", and "business owned by a person with
a disability" have the same meaning as those terms have in the
Business Enterprise for Minorities, Women, Veterans, and
Persons with Disabilities Act.

(Source: P.A. 100-542, eff. 11-8-17; 100-863, eff. 8-14-18.)

Section 130. The Counties Code is amended by changing
Section 5-1134 as follows:

(55 ILCS 5/5-1134)

Sec. 5-1134. Project labor agreements.

(a) Any sports, arts, or entertainment facilities that
receive revenue from a tax imposed under subsection (b) of
Section 5-1030 of this Code shall be considered to be public
works within the meaning of the Prevailing Wage Act. The county
authorities responsible for the construction, renovation,
modification, or alteration of the sports, arts, or
entertainment facilities shall enter into project labor agreements with labor organizations as defined in the National Labor Relations Act to assure that no labor dispute interrupts or interferes with the construction, renovation, modification, or alteration of the projects.

(b) The project labor agreements must include the following:

(1) provisions establishing the minimum hourly wage for each class of labor organization employees;

(2) provisions establishing the benefits and other compensation for such class of labor organization; and

(3) provisions establishing that no strike or disputes will be engaged in by the labor organization employees.

The county, taxing bodies, municipalities, and the labor organizations shall have the authority to include other terms and conditions as they deem necessary.

(c) The project labor agreement shall be filed with the Director of the Illinois Department of Labor in accordance with procedures established by the Department. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the facilities and the individuals representing the labor organization employees participating in the project labor agreement. The agreement must also specify the terms and conditions required in subsection (b) of this Section.

(d) In any agreement for the construction or rehabilitation
of a facility using revenue generated under subsection (b) of Section 5-1030 of this Code, in connection with the prequalification of general contractors for construction or rehabilitation of the facility, it shall be required that a commitment will be submitted detailing how the general contractor will expend 15% or more of the aggregate dollar value of the project as a whole with one or more minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by a person with a disability, as these terms are defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 135. The River Edge Redevelopment Zone Act is amended by changing Section 10-5.3 as follows:

(65 ILCS 115/10-5.3)

Sec. 10-5.3. Certification of River Edge Redevelopment Zones.

(a) Approval of designated River Edge Redevelopment Zones shall be made by the Department by certification of the designating ordinance. The Department shall promptly issue a certificate for each zone upon its approval. The certificate shall be signed by the Director of the Department, shall make specific reference to the designating ordinance, which shall be
attached thereto, and shall be filed in the office of the Secretary of State. A certified copy of the River Edge Redevelopment Zone Certificate, or a duplicate original thereof, shall be recorded in the office of the recorder of deeds of the county in which the River Edge Redevelopment Zone lies.

(b) A River Edge Redevelopment Zone shall be effective upon its certification. The Department shall transmit a copy of the certification to the Department of Revenue, and to the designating municipality. Upon certification of a River Edge Redevelopment Zone, the terms and provisions of the designating ordinance shall be in effect, and may not be amended or repealed except in accordance with Section 10-5.4.

(c) A River Edge Redevelopment Zone shall be in effect for the period stated in the certificate, which shall in no event exceed 30 calendar years. Zones shall terminate at midnight of December 31 of the final calendar year of the certified term, except as provided in Section 10-5.4.

(d) In calendar years 2006 and 2007, the Department may certify one pilot River Edge Redevelopment Zone in the City of East St. Louis, one pilot River Edge Redevelopment Zone in the City of Rockford, and one pilot River Edge Redevelopment Zone in the City of Aurora.

In calendar year 2009, the Department may certify one pilot River Edge Redevelopment Zone in the City of Elgin.

On or after the effective date of this amendatory Act of
the 97th General Assembly, the Department may certify one additional pilot River Edge Redevelopment Zone in the City of Peoria. Thereafter the Department may not certify any additional River Edge Redevelopment Zones, but may amend and rescind certifications of existing River Edge Redevelopment Zones in accordance with Section 10-5.4, except that no River Edge Redevelopment Zone may be extended on or after the effective date of this amendatory Act of the 97th General Assembly. Each River Edge Redevelopment Zone in existence on the effective date of this amendatory Act of the 97th General Assembly shall continue until its scheduled termination under this Act, unless the Zone is decertified sooner. At the time of its term expiration each River Edge Redevelopment Zone will become an open enterprise zone, available for the previously designated area or a different area to compete for designation as an enterprise zone. No preference for designation as a Zone will be given to the previously designated area.

(e) A municipality in which a River Edge Redevelopment Zone has been certified must submit to the Department, within 60 days after the certification, a plan for encouraging the participation by minority persons, women, persons with disabilities, and veterans in the zone. The Department may assist the municipality in developing and implementing the plan. The terms "minority person", "woman", "veteran", and "person with a disability" have the meanings set forth under
Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. "Veteran" means an Illinois resident who is a veteran as defined in subsection (h) of Section 1491 of Title 10 of the United States Code. (Source: P.A. 100-391, eff. 8-25-17.)

Section 140. The Metropolitan Pier and Exposition Authority Act is amended by changing Sections 10.2 and 23.1 as follows:

(70 ILCS 210/10.2)
Sec. 10.2. Bonding disclosure.
(a) Truth in borrowing disclosure. Within 60 business days after the issuance of any bonds under this Act, the Authority shall disclose the total principal and interest payments to be paid on the bonds over the full stated term of the bonds. The disclosure also shall include principal and interest payments to be made by each fiscal year over the full stated term of the bonds and total principal and interest payments to be made by each fiscal year on all other outstanding bonds issued under this Act over the full stated terms of those bonds. These disclosures shall be calculated assuming bonds are not redeemed or refunded prior to their stated maturities. Amounts included in these disclosures as payment of interest on variable rate bonds shall be computed at an interest rate equal to the rate at which the variable rate bonds are first set upon issuance,
plus 2.5%, after taking into account any credits permitted in
the related indenture or other instrument against the amount of
such interest for each fiscal year.

(b) Bond sale expenses disclosure. Within 60 business days
after the issuance of any bonds under this Act, the Authority
shall disclose all costs of issuance on each sale of bonds
under this Act. The disclosure shall include, as applicable,
the respective percentages of participation and compensation
of each underwriter that is a member of the underwriting
syndicate, legal counsel, financial advisors, and other
professionals for the bond issue and an identification of all
costs of issuance paid to minority-owned businesses,
women-owned businesses, veteran-owned businesses, and
businesses owned by persons with disabilities. The terms
"minority-owned businesses", "women-owned businesses",
"veteran-owned businesses", and "business owned by a person
with a disability" have the meanings given to those terms in
the Business Enterprise for Minorities, Women, Veterans, and
Persons with Disabilities Act. In addition, the Authority shall
provide copies of all contracts under which any costs of
issuance are paid or to be paid to the Commission on Government
Forecasting and Accountability within 60 business days after
the issuance of bonds for which those costs are paid or to be
paid. Instead of filing a second or subsequent copy of the same
contract, the Authority may file a statement that specified
costs are paid under specified contracts filed earlier with the
Commission.

(c) The disclosures required in this Section shall be published by posting the disclosures for no less than 30 days on the website of the Authority and shall be available to the public upon request. The Authority shall also provide the disclosures to the Governor's Office of Management and Budget, the Commission on Government Forecasting and Accountability, and the General Assembly.

(Source: P.A. 100-391, eff. 8-25-17.)

(70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

Sec. 23.1. Affirmative action.

(a) The Authority shall, within 90 days after the effective date of this amendatory Act of 1984, establish and maintain an affirmative action program designed to promote equal employment opportunity and eliminate the effects of past discrimination. Such program shall include a plan, including timetables where appropriate, which shall specify goals and methods for increasing participation by women, veterans, and minorities, and persons with disabilities in employment, including employment related to the planning, organization, and staging of the games, by the Authority and by parties which contract with the Authority. The Authority shall submit a detailed plan with the General Assembly prior to September 1 of each year. Such program shall also establish procedures and sanctions, which the Authority shall enforce to ensure
compliance with the plan established pursuant to this Section and with State and federal laws and regulations relating to the employment of women, veterans, and minorities, and persons with disabilities. A determination by the Authority as to whether a party to a contract with the Authority has achieved the goals or employed the methods for increasing participation by women, veterans, and minorities, and persons with disabilities shall be determined in accordance with the terms of such contracts or the applicable provisions of rules and regulations of the Authority existing at the time such contract was executed, including any provisions for consideration of good faith efforts at compliance which the Authority may reasonably adopt.

(b) The Authority shall adopt and maintain minority-owned, veteran-owned, and women-owned business, and persons with disabilities-owned enterprise procurement programs under the affirmative action program described in subsection (a) for any and all work, including all contracting related to the planning, organization, and staging of the games, undertaken by the Authority. That work shall include, but is not limited to, the purchase of professional services, construction services, supplies, materials, and equipment. The programs shall establish goals of awarding not less than 30% 25% of the annual dollar value of all contracts, purchase orders, or other agreements (collectively referred to as "contracts") to minority-owned businesses, woman-owned businesses, veteran-owned businesses, and businesses owned by persons with
disabilities and 5% of the annual dollar value of all contracts to women-owned businesses. Without limiting the generality of the foregoing, the programs shall require in connection with the prequalification or consideration of vendors for professional service contracts, construction contracts, and contracts for supplies, materials, equipment, and services that each proposer or bidder submit as part of his or her proposal or bid a commitment detailing how he or she will expend 30% 25% or more of the dollar value of his or her contracts with one or more minority-owned businesses, woman-owned businesses, veteran-owned businesses, or businesses owned by persons with disabilities and 5% or more of the dollar value with one or more women-owned businesses. Bids or proposals that do not include such detailed commitments are not responsive and shall be rejected unless the Authority deems it appropriate to grant a waiver of these requirements. In addition the Authority may, in connection with the selection of providers of professional services, reserve the right to select a minority-owned business, or women-owned business, veteran-owned business, or business owned by a person with a disability or businesses to fulfill the commitment to minority, and woman, veteran, and person with a disability business participation. The commitment to minority, and woman, veteran, and person with a disability business participation may be met by the contractor or professional service provider’s status as a minority-owned, or women-owned, or veteran-owned business or
a business owned by a person with a disability, by joint
venture or by subcontracting a portion of the work with or
purchasing materials for the work from one or more such
businesses, or by any combination thereof. Each contract shall
require the contractor or provider to submit a certified
monthly report detailing the status of that contractor or
provider's compliance with the Authority's minority-owned, and
women-owned, veteran-owned, and persons with a
disability-owned business enterprise procurement program. The
Authority, after reviewing the monthly reports of the
contractors and providers, shall compile a comprehensive
report regarding compliance with this procurement program and
file it quarterly with the General Assembly. If, in connection
with a particular contract, the Authority determines that it is
impracticable or excessively costly to obtain minority-owned,
women-owned, veteran-owned, and persons with a
disability-owned businesses to perform sufficient work to
fulfill the commitment required by this subsection, the
Authority shall reduce or waive the commitment in the contract,
as may be appropriate. The Authority shall establish rules and
regulations setting forth the standards to be used in
determining whether or not a reduction or waiver is
appropriate. The terms "minority-owned business", "women-owned
business", "veteran-owned business", and "business owned by a person with a disability" have the
meanings given to those terms in the Business Enterprise for
Minorities, Women, Veterans, and Persons with Disabilities

(c) The Authority shall adopt and maintain an affirmative
action program in connection with the hiring of minorities, women, veterans, and persons with a disability on the Expansion
Project and on any and all construction projects, including all
contracting related to the planning, organization, and staging
of the games, undertaken by the Authority. The program shall be
designed to promote equal employment opportunity and shall
specify the goals and methods for increasing the participation
of minorities, women, veterans, and persons with a
disability in a representative mix of job classifications
required to perform the respective contracts awarded by the
Authority.

(d) In connection with the Expansion Project, the Authority
shall incorporate the following elements into its
minority-owned, women-owned, veteran-owned, and persons
with a disability-owned business procurement programs to the
extent feasible: (1) a major contractors program that permits
minority-owned businesses, women-owned businesses,
veteran-owned businesses, and businesses owned by a person with
a disability to bear significant responsibility and risk for a
portion of the project; (2) a mentor/protege program that
provides financial, technical, managerial, equipment, and
personnel support to minority-owned businesses, and
women-owned businesses, veteran-owned businesses, and
businesses owned by a person with a disability; (3) an emerging firms program that includes minority-owned businesses, and women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability that would not otherwise qualify for the project due to inexperience or limited resources; (4) a small projects program that includes participation by smaller minority-owned businesses, and women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability on jobs where the total dollar value is $5,000,000 or less; and (5) a set-aside program that will identify contracts requiring the expenditure of funds less than $50,000 for bids to be submitted solely by minority-owned businesses, and women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability.

(e) The Authority is authorized to enter into agreements with contractors' associations, labor unions, and the contractors working on the Expansion Project to establish an Apprenticeship Preparedness Training Program to provide for an increase in the number of minority, and women, veteran, and persons with a disability journeymen and apprentices in the building trades and to enter into agreements with Community College District 508 to provide readiness training. The Authority is further authorized to enter into contracts with public and private educational institutions and persons in the hospitality industry to provide training for employment in the
hospitality industry.

(f) McCormick Place Advisory Board. There is created a McCormick Place Advisory Board composed as follows: 2 members shall be appointed by the Mayor of Chicago; 2 members shall be appointed by the Governor; 2 members shall be State Senators appointed by the President of the Senate; 2 members shall be State Senators appointed by the Minority Leader of the Senate; 2 members shall be State Representatives appointed by the Speaker of the House of Representatives; and 2 members shall be State Representatives appointed by the Minority Leader of the House of Representatives. The terms of all previously appointed members of the Advisory Board expire on the effective date of this amendatory Act of the 92nd General Assembly. A State Senator or State Representative member may appoint a designee to serve on the McCormick Place Advisory Board in his or her absence.


A "member of a minority group" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

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

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

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

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

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

Members of the McCormick Place Advisory Board shall serve 2-year terms and until their successors are appointed, except members who serve as a result of their elected position whose terms shall continue as long as they hold their designated elected positions. Vacancies shall be filled by appointment for the unexpired term in the same manner as original appointments are made. The McCormick Place Advisory Board shall elect its own chairperson.
Members of the McCormick Place Advisory Board shall serve without compensation but, at the Authority's discretion, shall be reimbursed for necessary expenses in connection with the performance of their duties.

The McCormick Place Advisory Board shall meet quarterly, or as needed, shall produce any reports it deems necessary, and shall:

(1) Work with the Authority on ways to improve the area physically and economically;

(2) Work with the Authority regarding potential means for providing increased economic opportunities to minorities and women produced indirectly or directly from the construction and operation of the Expansion Project;

(3) Work with the Authority to minimize any potential impact on the area surrounding the McCormick Place Expansion Project, including any impact on minority-owned or women-owned businesses, resulting from the construction and operation of the Expansion Project;

(4) Work with the Authority to find candidates for building trades apprenticeships, for employment in the hospitality industry, and to identify job training programs;

(5) Work with the Authority to implement the provisions of subsections (a) through (e) of this Section in the construction of the Expansion Project, including the Authority's goal of awarding not less than 30% 25% and 5%
of the annual dollar value of contracts to minority-owned 
businesses, and women-owned businesses, veteran-owned 
businesses, and businesses owned by persons with a 
disability, the outreach program for minorities, and 
women, veterans, and persons with a disability, and the 
mentor/protege program for providing assistance to 
minority-owned businesses, and women-owned businesses, 
veteran-owned businesses, and businesses owned by persons 
with a disability.

(g) The Authority shall comply with subsection (e) of 
Section 5-42 of the Olympic Games and Paralympic Games (2016) 
Law. For purposes of this Section, the term "games" has the 
meaning set forth in the Olympic Games and Paralympic Games 

(Source: P.A. 100-391, eff. 8-25-17.)

Section 145. The Illinois Sports Facilities Authority Act 
is amended by changing Section 9 as follows:

(70 ILCS 3205/9) (from Ch. 85, par. 6009)

Sec. 9. Duties. In addition to the powers set forth 
elsewhere in this Act, subject to the terms of any agreements 
with the holders of the Authority's bonds or notes, the 
Authority shall:

(1) Comply with all zoning, building, and land use 
controls of the municipality within which is located any
stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and reasonable provisions with respect to termination, default and legal remedies.

(3) With respect to a facility owned or to be owned by a governmental owner other than the Authority, enter into an assistance agreement with either a governmental owner of a facility or its tenant, or both, that requires the tenant, or if the tenant is not a party to the assistance agreement requires the governmental owner to enter into an agreement with the tenant that requires the tenant to use the facility for a period at least as long as the term of any bonds issued to finance the reconstruction, renovation, remodeling, extension or improvement of all or substantially all of the facility.

(4) Create and maintain a separate financial reserve
for repair and replacement of capital assets of any facility owned by the Authority or for which the Authority provides financial assistance and deposit into this reserve not less than $1,000,000 per year for each such facility beginning at such time as the Authority and the tenant, or the Authority and a governmental owner of a facility, as applicable, shall agree.

(5) In connection with prequalification of general contractors for the construction of a new stadium facility or the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of an existing facility, the Authority shall require submission of a commitment detailing how the general contractor will expend 30% 25% or more of the dollar value of the general contract with one or more minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability and 5% or more of the dollar value with one or more women-owned businesses. This commitment may be met by contractor's status as a minority-owned business, businesses or women-owned business businesses, veteran-owned business, or business owned by a person with a disability, by a joint venture or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new
stadium facility and any contract for the reconstruction, renovation, remodeling, adding to, extension or improvement of all or substantially all of an existing facility shall require the general contractor to meet the foregoing obligations and shall require monthly reporting to the Authority with respect to the status of the implementation of the contractor's affirmative action plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall establish and maintain an affirmative action program designed to promote equal employment opportunity which specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this paragraph. The terms "minority-owned business businesses", "women-owned business businesses", veteran-owned business, and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(6) Provide for the construction of any new facility pursuant to one or more contracts which require delivery of a completed facility at a fixed maximum price to be insured
or guaranteed by a third party determined by the Authority
to be financially capable of causing completion of such
construction of the new facility.

In connection with any assistance agreement with a
governmental owner that provides financial assistance for a
facility to be used by a National Football League team, the
assistance agreement shall provide that the Authority or its
agent shall enter into the contract or contracts for the design
and construction services or design/build services for such
facility and thereafter transfer its rights and obligations
under the contract or contracts to the governmental owner of
the facility. In seeking parties to provide design and
construction services or design/build services with respect to
such facility, the Authority may use such procurement
procedures as it may determine, including, without limitation,
the selection of design professionals and construction
managers or design/builders as may be required by a team that
is at risk, in whole or in part, for the cost of design and
construction of the facility.

An assistance agreement may not provide, directly or
indirectly, for the payment to the Chicago Park District of
more than a total of $10,000,000 on account of the District's
loss of property or revenue in connection with the renovation
of a facility pursuant to the assistance agreement.

(Source: P.A. 100-391, eff. 8-25-17.)
Section 150. The Downstate Illinois Sports Facilities Authority Act is amended by changing Section 40 as follows:

(70 ILCS 3210/40)
Sec. 40. Duties.
(a) In addition to the powers set forth elsewhere in this Act, subject to the terms of any agreements with the holders of the Authority's evidences of indebtedness, the Authority shall do the following:

(1) Comply with all zoning, building, and land use controls of the municipality within which is located any stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) Enter into a loan agreement with an owner of a facility to finance the acquisition, construction, maintenance, or rehabilitation of the facility. The agreement shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies. The loan may be at below-market interest rates.

(3) Create and maintain a financial reserve for repair and replacement of capital assets.

(b) In a loan agreement for the construction of a new facility, in connection with prequalification of general contractors for construction of the facility, the Authority shall require that the owner of the facility require submission of a commitment detailing how the general contractor will
expend 30% or more of the dollar value of the general contract with one or more minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by persons with a disability and 5% or more of the dollar value with one or more women-owned businesses. This commitment may be met by contractor's status as a minority-owned business, businesses or women-owned business, veteran-owned business, or a business owned by a person with a disability by a joint venture, or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new facility shall require the general contractor to meet the foregoing obligations and shall require monthly reporting to the Authority with respect to the status of the implementation of the contractor's affirmative action plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall require that the facility owner establish and maintain an affirmative action program designed to promote equal employment opportunity and that specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this subsection. The terms
"minority-owned businesses", "women-owned businesses", "veteran-owned business", and "business owned by persons with a disability" have the meanings provided in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(c) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 155. The Metropolitan Transit Authority Act is amended by changing Section 12c as follows:

(70 ILCS 3605/12c)

Sec. 12c. Retiree Benefits Bonds and Notes.

(a) In addition to all other bonds or notes that it is authorized to issue, the Authority is authorized to issue its bonds or notes for the purposes of providing funds for the
Authority to make the deposits described in Section 12c(b)(1) and (2), for refunding any bonds authorized to be issued under this Section, as well as for the purposes of paying costs of issuance, obtaining bond insurance or other credit enhancement or liquidity facilities, paying costs of obtaining related swaps as authorized in the Bond Authorization Act ("Swaps"), providing a debt service reserve fund, paying Debt Service (as defined in paragraph (i) of this Section 12c), and paying all other costs related to any such bonds or notes.

(b)(1) After its receipt of a certified copy of a report of the Auditor General of the State of Illinois meeting the requirements of Section 3-2.3 of the Illinois State Auditing Act, the Authority may issue $1,348,550,000 aggregate original principal amount of bonds and notes. After payment of the costs of issuance and necessary deposits to funds and accounts established with respect to debt service, the net proceeds of such bonds or notes shall be deposited only in the Retirement Plan for Chicago Transit Authority Employees and used only for the purposes required by Section 22-101 of the Illinois Pension Code. Provided that no less than $1,110,500,000 has been deposited in the Retirement Plan, remaining proceeds of bonds issued under this subparagraph (b)(1) may be used to pay costs of issuance and make necessary deposits to funds and accounts with respect to debt service for bonds and notes issued under this subparagraph or subparagraph (b)(2).

(2) After its receipt of a certified copy of a report of
the Auditor General of the State of Illinois meeting the
requirements of Section 3-2.3 of the Illinois State Auditing
Act, the Authority may issue $639,680,000 aggregate original
principal amount of bonds and notes. After payment of the costs
of issuance and necessary deposits to funds and accounts
established with respect to debt service, the net proceeds of
such bonds or notes shall be deposited only in the Retiree
Health Care Trust and used only for the purposes required by
Section 22-101B of the Illinois Pension Code. Provided that no
less than $528,800,000 has been deposited in the Retiree Health
Care Trust, remaining proceeds of bonds issued under this
subparagraph (b)(2) may be used to pay costs of issuance and
make necessary deposits to funds and accounts with respect to
debt service for bonds and notes issued under this subparagraph
or subparagraph (b)(1).

(3) In addition, refunding bonds are authorized to be
issued for the purpose of refunding outstanding bonds or notes
issued under this Section 12c.

(4) The bonds or notes issued under 12c(b)(1) shall be
issued as soon as practicable after the Auditor General issues
the report provided in Section 3-2.3(b) of the Illinois State
Auditing Act. The bonds or notes issued under 12c(b)(2) shall
be issued as soon as practicable after the Auditor General
issues the report provided in Section 3-2.3(c) of the Illinois
State Auditing Act.

(5) With respect to bonds and notes issued under
subparagraph (b), scheduled aggregate annual payments of
interest or deposits into funds and accounts established for
the purpose of such payment shall commence within one year
after the bonds and notes are issued. With respect to principal
and interest, scheduled aggregate annual payments of principal
and interest or deposits into funds and accounts established
for the purpose of such payment shall be not less than 70% in
2009, 80% in 2010, and 90% in 2011, respectively, of scheduled
payments or deposits of principal and interest in 2012 and
shall be substantially equal beginning in 2012 and each year
thereafter. For purposes of this subparagraph (b),
"substantially equal" means that debt service in any full year
after calendar year 2011 is not more than 115% of debt service
in any other full year after calendar year 2011 during the term
of the bonds or notes. For the purposes of this subsection (b),
with respect to bonds and notes that bear interest at a
variable rate, interest shall be assumed at a rate equal to the
rate for United States Treasury Securities - State and Local
Government Series for the same maturity, plus 75 basis points.
If the Authority enters into a Swap with a counterparty
requiring the Authority to pay a fixed interest rate on a
notional amount, and the Authority has made a determination
that such Swap was entered into for the purpose of providing
substitute interest payments for variable interest rate bonds
or notes of a particular maturity or maturities in a principal
amount equal to the notional amount of the Swap, then during
the term of the Swap for purposes of any calculation of
interest payable on such bonds or notes, the interest rate on
the bonds or notes of such maturity or maturities shall be
determined as if such bonds or notes bore interest at the fixed
interest rate payable by the Authority under such Swap.

(6) No bond or note issued under this Section 12c shall
mature later than December 31, 2040.

(c) The Chicago Transit Board shall provide for the
issuance of bonds or notes as authorized in this Section 12c by
the adoption of an ordinance. The ordinance, together with the
bonds or notes, shall constitute a contract among the
Authority, the owners from time to time of the bonds or notes,
any bond trustee with respect to the bonds or notes, any
related credit enhancer and any provider of any related Swaps.

(d) The Authority is authorized to cause the proceeds of
the bonds or notes, and any interest or investment earnings on
the bonds or notes, and of any Swaps, to be invested until the
proceeds and any interest or investment earnings have been
deposited with the Retirement Plan or the Retiree Health Care
Trust.

(e) Bonds or notes issued pursuant to this Section 12c may
be general obligations of the Authority, to which shall be
pledged the full faith and credit of the Authority, or may be
obligations payable solely from particular sources of funds all
as may be provided in the authorizing ordinance. The
authorizing ordinance for the bonds and notes, whether or not
general obligations of the Authority, may provide for the Debt Service (as defined in paragraph (i) of this Section 12c) to have a claim for payment from particular sources of funds, including, without limitation, amounts to be paid to the Authority or a bond trustee. The authorizing ordinance may provide for the means by which the bonds or notes (and any related Swaps) may be secured, which may include, a pledge of any revenues or funds of the Authority from whatever source which may by law be utilized for paying Debt Service. In addition to any other security, upon the written approval of the Regional Transportation Authority by the affirmative vote of 12 of its then Directors, the ordinance may provide a specific pledge or assignment of and lien on or security interest in amounts to be paid to the Authority by the Regional Transportation Authority and direct payment thereof to the bond trustee for payment of Debt Service with respect to the bonds or notes, subject to the provisions of existing lease agreements of the Authority with any public building commission. The authorizing ordinance may also provide a specific pledge or assignment of and lien on or security interest in and direct payment to the trustee of all or a portion of the moneys otherwise payable to the Authority from the City of Chicago pursuant to an intergovernmental agreement with the Authority to provide financial assistance to the Authority. Any such pledge, assignment, lien or security interest for the benefit of owners of bonds or notes shall be
valid and binding from the time the bonds or notes are issued, without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims of any kind against the Authority or any other person, irrespective of whether such other parties have notice of such pledge, assignment, lien or security interest, all as provided in the Local Government Debt Reform Act, as it may be amended from time to time. The bonds or notes of the Authority issued pursuant to this Section 12c shall have such priority of payment and as to their claim for payment from particular sources of funds, including their priority with respect to obligations of the Authority issued under other Sections of this Act, all as shall be provided in the ordinances authorizing the issuance of the bonds or notes. The ordinance authorizing the issuance of any bonds or notes under this Section may provide for the creation of, deposits in, and regulation and disposition of sinking fund or reserve accounts relating to those bonds or notes and related agreements. The ordinance authorizing the issuance of any such bonds or notes authorized under this Section 12c may contain provisions for the creation of a separate fund to provide for the payment of principal of and interest on those bonds or notes and related agreements. The ordinance may also provide limitations on the issuance of additional bonds or notes of the Authority.

(f) Bonds or notes issued under this Section 12c shall not constitute an indebtedness of the Regional Transportation
Authority, the State of Illinois, or of any other political subdivision of or municipality within the State, except the Authority.

(g) The ordinance of the Chicago Transit Board authorizing the issuance of bonds or notes pursuant to this Section 12c may provide for the appointment of a corporate trustee (which may be any trust company or bank having the powers of a trust company within Illinois) with respect to bonds or notes issued pursuant to this Section 12c. The ordinance shall prescribe the rights, duties, and powers of the trustee to be exercised for the benefit of the Authority and the protection of the owners of bonds or notes issued pursuant to this Section 12c. The ordinance may provide for the trustee to hold in trust, invest and use amounts in funds and accounts created as provided by the ordinance with respect to the bonds or notes in accordance with this Section 12c. The Authority may apply, as it shall determine, any amounts received upon the sale of the bonds or notes to pay any Debt Service on the bonds or notes. The ordinance may provide for a trust indenture to set forth terms of, sources of payment for and security for the bonds and notes.

(h) The State of Illinois pledges to and agrees with the owners of the bonds or notes issued pursuant to Section 12c that the State of Illinois will not limit the powers vested in the Authority by this Act to pledge and assign its revenues and funds as security for the payment of the bonds or notes, or
vested in the Regional Transportation Authority by the Regional Transportation Authority Act or this Act, so as to materially impair the payment obligations of the Authority under the terms of any contract made by the Authority with those owners or to materially impair the rights and remedies of those owners until those bonds or notes, together with interest and any redemption premium, and all costs and expenses in connection with any action or proceedings by or on behalf of such owners are fully met and discharged. The Authority is authorized to include these pledges and agreements of the State of Illinois in any contract with owners of bonds or notes issued pursuant to this Section 12c.

(i) For purposes of this Section, "Debt Service" with respect to bonds or notes includes, without limitation, principal (at maturity or upon mandatory redemption), redemption premium, interest, periodic, upfront, and termination payments on Swaps, fees for bond insurance or other credit enhancement, liquidity facilities, the funding of bond or note reserves, bond trustee fees, and all other costs of providing for the security or payment of the bonds or notes.

(j) The Authority shall adopt a procurement program with respect to contracts relating to the following service providers in connection with the issuance of debt for the benefit of the Retirement Plan for Chicago Transit Authority Employees: underwriters, bond counsel, financial advisors, and accountants. The program shall include goals for the payment of
not less than 30% of the total dollar value of the fees from
these contracts to minority-owned businesses, women-owned
businesses, veteran-owned businesses, and businesses owned by
persons with a disability as defined in the Business Enterprise
for Minorities, Women, Veterans, and Persons with Disabilities
Act. The Authority shall conduct outreach to minority-owned
businesses, women-owned businesses, veteran-owned
businesses, and businesses owned by persons with a disability.
Outreach shall include, but is not limited to, advertisements
in periodicals and newspapers, mailings, and other appropriate
media. The Authority shall submit to the General Assembly a
comprehensive report that shall include, at a minimum, the
details of the procurement plan, outreach efforts, and the
results of the efforts to achieve goals for the payment of
fees. The service providers selected by the Authority pursuant
to such program shall not be subject to approval by the
Regional Transportation Authority, and the Regional
Transportation Authority's approval pursuant to subsection (e)
of this Section 12c related to the issuance of debt shall not
be based in any way on the service providers selected by the
Authority pursuant to this Section.

(k) No person holding an elective office in this State,
holding a seat in the General Assembly, serving as a director,
trustee, officer, or employee of the Regional Transportation
Authority or the Chicago Transit Authority, including the
spouse or minor child of that person, may receive a legal,
banking, consulting, or other fee related to the issuance of any bond issued by the Chicago Transit Authority pursuant to this Section.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 160. The School Code is amended by changing Section 10-20.44 as follows:

(105 ILCS 5/10-20.44)

Sec. 10-20.44. Report on contracts.

(a) This Section applies to all school districts, including a school district organized under Article 34 of this Code.

(b) A school board must list on the district's Internet website, if any, all contracts over $25,000 and any contract that the school board enters into with an exclusive bargaining representative.

(c) Each year, in conjunction with the submission of the Statement of Affairs to the State Board of Education prior to December 1, provided for in Section 10-17, each school district shall submit to the State Board of Education an annual report on all contracts over $25,000 awarded by the school district during the previous fiscal year. The report shall include at least the following:

(1) the total number of all contracts awarded by the school district;

(2) the total value of all contracts awarded;
the number of contracts awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and locally owned businesses; and

(4) the total value of contracts awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and locally owned businesses.

The report shall be made available to the public, including publication on the school district's Internet website, if any.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 165. The Public University Energy Conservation Act is amended by changing Sections 3 and 5-10 as follows:

(110 ILCS 62/3)

Sec. 3. Applicable laws. Other State laws and related administrative requirements apply to this Act, including, but not limited to, the following laws and related administrative requirements: the Illinois Human Rights Act, the Prevailing Wage Act, the Public Construction Bond Act, the Public Works Preference Act (repealed on June 16, 2010 by Public Act

(Source: P.A. 100-391, eff. 8-25-17.)

(110 ILCS 62/5-10)

Sec. 5-10. Energy conservation measure.

(a) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any building or facility, subject to all applicable building codes, owned or operated by a public university or any equipment, fixture, or furnishing to be added to or used in any such building or facility that is designed to reduce energy consumption or operating costs, and may include, without limitation, one or more of the following:

1. Insulation of the building structure or systems within the building.

2. Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass
area, or other window and door system modifications that reduce energy consumption.

(3) Automated or computerized energy control systems.

(4) Heating, ventilating, or air conditioning system modifications or replacements.

(5) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code for the lighting system after the proposed modifications are made.

(6) Energy recovery systems.

(7) Energy conservation measures that provide long-term operating cost reductions.

(b) From the effective date of this amendatory Act of the 96th General Assembly until January 1, 2015, "energy conservation measure" includes a renewable energy center pilot project at Eastern Illinois University, provided that:

(1) the University signs a partnership contract with a qualified energy conservation measure provider as provided in this Act;

(2) the University has responsibility for the qualified provider's actions with regard to applicable laws;

(3) the University obtains a performance bond in accordance with this Act;
(4) the University and the qualified provider follow all aspects of the Prevailing Wage Act as provided by this Act;

(5) the University and the qualified provider use an approved list of firms from the Capital Development Board (CDB), unless the University requires services that are not typically performed by the firms on CDB's list;

(6) the University provides monthly progress reports to the Procurement Policy Board, and the University allows a representative from CDB to monitor the project, provided that such involvement is at no cost to the University;

(7) the University requires the qualified provider to follow the provisions of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the Public Works Employment Discrimination Act as provided in this Act;

(8) the University agrees to award new building construction work to a responsible bidder, as defined in Section 30-22 of the Illinois Procurement Code;

(9) the University includes in its contract with the qualified provider a requirement that the qualified provider name the sub-contractors that it will use, and the qualified provider may not change these without the University's written approval;

(10) the University follows, to the extent possible, the Design-Build Procurement Act for construction of the
project, taking into consideration the current status of
the project; for purposes of this Act, the definition of
"State construction agency" in the Design-Build
Procurement Act means Eastern Illinois University for the
purpose of this project;

(11) the University follows, to the extent possible,
the Architectural, Engineering, and Land Surveying
Qualifications Based Selection Act;

(12) the University requires all engineering,
architecture, and design work related to the installation
or modification of facilities be performed by design
professionals licensed by the State of Illinois and
professional design firms registered in the State of
Illinois; and

(13) the University produces annual reports and a final
report describing the project upon completion and files the
reports with the Procurement Policy Board, CDB, and the
General Assembly.

The provisions of this subsection (b), other than this
sentence, are inoperative after January 1, 2015.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 170. The Illinois State University Law is amended
by changing Section 20-115 as follows:

(110 ILCS 675/20-115)
Sec. 20-115. Illinois Institute for Entrepreneurship Education.

(a) There is created, effective July 1, 1997, within the State at Illinois State University, the Illinois Institute for Entrepreneurship Education, hereinafter referred to as the Institute.

(b) The Institute created under this Section shall commence its operations on July 1, 1997 and shall have a board composed of 15 members representative of education, commerce and industry, government, or labor, appointed as follows: 2 members shall be appointees of the Governor, one of whom shall be a minority or woman person as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; one member shall be an appointee of the President of the Senate; one member shall be an appointee of the Minority Leader of the Senate; one member shall be an appointee of the Speaker of the House of Representatives; one member shall be an appointee of the Minority Leader of the House of Representatives; one member shall be an appointee of the Department of Commerce and Economic Opportunity; one member shall be an appointee of the Illinois chapter of Economics America; and 3 members shall be appointed by majority vote of the other 12 appointed members.
to represent business owner-entrepreneurs. Each member shall have expertise and experience in the area of entrepreneurship education, including small business and entrepreneurship. The majority of voting members must be from the private sector. The members initially appointed to the board of the Institute created under this Section shall be appointed to take office on July 1, 1997 and shall by lot determine the length of their respective terms as follows: 5 members shall be selected by lot to serve terms of one year, 5 members shall be selected by lot to serve terms of 2 years, and 5 members shall be selected by lot to serve terms of 3 years. Subsequent appointees shall each serve terms of 3 years. The board shall annually select a chairperson from among its members. Each board member shall serve without compensation but shall be reimbursed for expenses incurred in the performance of his or her duties.

(c) The purpose of the Institute shall be to foster the growth and development of entrepreneurship education in the State of Illinois. The Institute shall help remedy the deficiencies in the preparation of entrepreneurship education teachers, increase the quality and quantity of entrepreneurship education programs, improve instructional materials, and prepare personnel to serve as leaders and consultants in the field of entrepreneurship education and economic development. The Institute shall promote entrepreneurship as a career option, promote and support the development of innovative entrepreneurship education materials
and delivery systems, promote business, industry, and education partnerships, promote collaboration and involvement in entrepreneurship education programs, encourage and support in-service and preservice teacher education programs within various educational systems, and develop and distribute relevant materials. The Institute shall provide a framework under which the public and private sectors may work together toward entrepreneurship education goals. These goals shall be achieved by bringing together programs that have an impact on entrepreneurship education to achieve coordination among agencies and greater efficiency in the expenditure of funds.

(d) Beginning July 1, 1997, the Institute shall have the following powers subject to State and Illinois State University Board of Trustees regulations and guidelines:

(1) To employ and determine the compensation of an executive director and such staff as it deems necessary;

(2) To own property and expend and receive funds and generate funds;

(3) To enter into agreements with public and private entities in the furtherance of its purpose; and

(4) To request and receive the cooperation and assistance of all State departments and agencies in the furtherance of its purpose.

(e) The board of the Institute shall be a policy making body with the responsibility for planning and developing Institute programs. The Institute, through the Board of
Trustees of Illinois State University, shall annually report to
the Governor and General Assembly by January 31 as to its
activities and operations, including its findings and
recommendations.

(f) Beginning on July 1, 1997, the Institute created under
this Section shall be deemed designated by law as the successor
to the Illinois Institute for Entrepreneurship Education,
previously created and existing under Section 2-11.5 of the
Public Community College Act until its abolition on July 1,
1997 as provided in that Section. On July 1, 1997, all
financial and other records of the Institute so abolished and
all of its property, whether real or personal, including but
not limited to all inventory and equipment, shall be deemed
transferred by operation of law to the Illinois Institute for
Entrepreneurship Education created under this Section 20-115.
The Illinois Institute for Entrepreneurship Education created
under this Section 20-115 shall have, with respect to the
predecessor Institute so abolished, all authority, powers, and
duties of a successor agency under Section 10-15 of the
Successor Agency Act.
(Source: P.A. 100-391, eff. 8-25-17.)

Section 175. The Public Utilities Act is amended by
changing Section 9-220 as follows:

(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)
Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of
fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue
its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as
modified, the proposed tariff sheets within 60 days after the
date of the public utility's filing. The Commission may modify
the public utility's proposed tariff sheets only to the extent
the Commission finds necessary to achieve conformance to the
requirements of this subsection (b). During the 5 years
following the date of the Commission's order, but in any event
no earlier than January 1, 2007, a public utility whose fuel
adjustment clause has been eliminated pursuant to this
subsection shall not file proposed tariff sheets seeking, or
otherwise petition the Commission for, reinstatement of a fuel
adjustment clause.

(c) Notwithstanding any contrary or inconsistent
provisions in Section 9-201 of this Act, in subsection (a) of
this Section or in any rules or regulations promulgated by the
Commission pursuant to subsection (g) of this Section, a public
utility providing electric service, other than a public utility
described in subsection (e) or (f) of this Section, may at any
time during the mandatory transition period file with the
Commission proposed tariff sheets that establish the rate per
kilowatt-hour to be applied pursuant to the public utility's
fuel adjustment clause at the average value for such rate
during the preceding 24 months, provided that such average rate
results in a credit to customers' bills, without making any
revisions to the public utility's base rate tariffs. The
proposed tariff sheets shall establish the fuel adjustment rate
for a specific time period of at least 3 years but not more
than 5 years, provided that the terms and conditions for any
reinstatement earlier than 5 years shall be set forth in the
proposed tariff sheets and subject to modification or approval
by the Commission. The Commission shall review and shall by
order approve the proposed tariff sheets if it finds that the
requirements of this subsection are met. The Commission shall
not conduct the annual hearings specified in the last 3
sentences of subsection (a) of this Section for the utility for
the period that the factor established pursuant to this
subsection is in effect.

(d) A public utility providing electric service, or a
public utility providing gas service may file with the
Commission proposed tariff sheets that eliminate the public
utility's fuel or purchased gas adjustment clause and adjust
the public utility's base rate tariffs to provide for recovery
of power supply costs or gas supply costs that would have been
recovered through such clause; provided, that the provisions of
this subsection (d) shall not be available to a public utility
described in subsections (e) or (f) of this Section to
eliminate its fuel adjustment clause. Notwithstanding any
contrary or inconsistent provisions in Section 9-201 of this
Act, in subsection (a) of this Section, or in any rules or
regulations promulgated by the Commission pursuant to
subsection (g) of this Section, the Commission shall review and
shall by order approve, or approve as modified in the
Commission's order, the proposed tariff sheets within 240 days
after the date of the public utility's filing. The Commission's
order shall approve rates and charges that the Commission,
based on information in the public utility's filing or on the
record if a hearing is held by the Commission, finds will
recover the reasonable, prudent and necessary jurisdictional
power supply costs or gas supply costs incurred or to be
incurred by the public utility during a 12 month period found
by the Commission to be appropriate for these purposes,
provided, that such period shall be either (i) a 12 month
historical period occurring during the 15 months ending on the
date of the public utility's filing, or (ii) a 12 month future
period ending no later than 15 months following the date of the
public utility's filing. The public utility shall include with
its tariff filing information showing both (1) its actual
jurisdictional power supply costs or gas supply costs for a 12
month historical period conforming to (i) above and (2) its
projected jurisdictional power supply costs or gas supply costs
for a future 12 month period conforming to (ii) above. If the
Commission's order requires modifications in the tariff sheets
filed by the public utility, the public utility shall have 7
days following the date of the order to notify the Commission
whether the public utility will implement the modified tariffs
or elect to continue its fuel or purchased gas adjustment
clause in force as though no order had been entered. The
Commission's order shall provide for any reconciliation of
power supply costs or gas supply costs, as the case may be, and
associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour
basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the
public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of
this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any Illinois gas utility may enter into a contract on or before September 30, 2011 for up to 10 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a clean coal SNG facility by July 1, 2012 and commencement of construction shall mean that material physical site work has occurred, such as site clearing and excavation, water runoff prevention, water retention reservoir preparation, or foundation development. The contract shall contain the following provisions: (i) at least 90% of feedstock to be used in the gasification process shall be coal with a high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu may not exceed $7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the
United States Department of Labor, Bureau of Labor Statistics
(or a suitable Consumer Price Index calculation if this
Consumer Price Index is not available) for the previous
calendar year; provided that the price per million Btu shall
not exceed $9.95 at any time during the contract; (iii) the
utility's supply contract for the purchase of SNG does not
exceed 15% of the annual system supply requirements of the
utility as of 2008; and (iv) the contract costs pursuant to
subsection (h-10) of this Section shall not include any
lobbying expenses, charitable contributions, advertising,
organizational memberships, carbon dioxide pipeline or
sequestration expenses, or marketing expenses.

Any gas utility that is providing service to more than
150,000 customers on August 2, 2011 (the effective date of
Public Act 97-239) shall either elect to enter into a contract
on or before September 30, 2011 for 10 years of SNG supply with
the owner of a clean coal SNG facility or to file biennial rate
proceedings before the Commission in the years 2012, 2014, and
2016, with such filings made after August 2, 2011 and no later
than September 30 of the years 2012, 2014, and 2016 consistent
with all requirements of 83 Ill. Adm. Code 255 and 285 as
though the gas utility were filing for an increase in its
rates, without regard to whether such filing would produce an
increase, a decrease, or no change in the gas utility's rates,
and the Commission shall review the gas utility's filing and
shall issue its order in accordance with the provisions of
Section 9-201 of this Act.

Within 7 days after August 2, 2011, the owner of the clean coal SNG facility shall submit to the Illinois Power Agency and each gas utility that is providing service to more than 150,000 customers on August 2, 2011 a copy of a draft contract. Within 30 days after the receipt of the draft contract, each such gas utility shall provide the Illinois Power Agency and the owner of the clean coal SNG facility with its comments and recommended revisions to the draft contract. Within 7 days after the receipt of the gas utility's comments and recommended revisions, the owner of the facility shall submit its responsive comments and a further revised draft of the contract to the Illinois Power Agency. The Illinois Power Agency shall review the draft contract and comments.

During its review of the draft contract, the Illinois Power Agency shall:

(1) review and confirm in writing that the terms stated in this subsection (h) are incorporated in the SNG contract;

(2) review the SNG pricing formula included in the contract and approve that formula if the Illinois Power Agency determines that the formula, at the time the contract term commences: (A) starts with a price of $6.50 per MMBtu adjusted by the adjusted final capitalized plant cost; (B) takes into account budgeted miscellaneous net revenue after cost allowance, including sale of SNG
produced by the clean coal SNG facility above the nameplate
capacity of the facility and other by-products produced by
the facility, as approved by the Illinois Power Agency; (C)
does not include carbon dioxide transportation or
sequestration expenses; and (D) includes all provisions
required under this subsection (h); if the Illinois Power
Agency does not approve of the SNG pricing formula, then
the Illinois Power Agency shall modify the formula to
ensure that it meets the requirements of this subsection
(h);

(3) review and approve the amount of budgeted
miscellaneous net revenue after cost allowance, including
sale of SNG produced by the clean coal SNG facility above
the nameplate capacity of the facility and other
by-products produced by the facility, to be included in the
pricing formula; the Illinois Power Agency shall approve
the amount of budgeted miscellaneous net revenue to be
included in the pricing formula if it determines the
budgeted amount to be reasonable and accurate;

(4) review and confirm in writing that using the EIA
Annual Energy Outlook-2011 Henry Hub Spot Price, the
contract terms set out in subsection (h), the
reconciliation account terms as set out in subsection
(h-15), and an estimated inflation rate of 2.5% for each
concerning year, that there will be no cumulative
estimated increase for residential customers; and
allocate the nameplate capacity of the clean coal SNG by total therms sold to ultimate customers by each gas utility in 2008; provided, however, no utility shall be required to purchase more than 42% of the projected annual output of the facility; additionally, the Illinois Power Agency shall further adjust the allocation only as required to take into account (A) adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any gas utility or (B) the physical capacity of the gas utility to accept SNG.

If the parties to the contract do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the contract, then the Illinois Power Agency shall approve the contract. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft contract as necessary to confirm that the contract contains only terms that are reasonable and equitable. The Illinois Power Agency may, in its discretion, retain an independent, qualified, and experienced expert to assist in its obligations under this subsection (h). The Illinois Power Agency shall adopt and make public policies detailing the processes for retaining a mediator and an expert under this subsection (h). Any mediator or expert retained under this subsection (h) shall be retained no later than 60 days after
August 2, 2011.

The Illinois Power Agency shall complete all of its responsibilities under this subsection (h) within 60 days after August 2, 2011. The clean coal SNG facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h) and shall pay the mediator's and expert's reasonable fees, if any. A gas utility and its customers shall have no obligation to reimburse the clean coal SNG facility or the Illinois Power Agency of any such costs.

Within 30 days after commercial production of SNG has begun, the Commission shall initiate a review to determine whether the final capitalized plant cost of the clean coal SNG facility reflects actual incurred costs and whether the incurred costs were reasonable. In determining the actual incurred costs included in the final capitalized plant cost and the reasonableness of those costs, the Commission may in its discretion retain independent, qualified, and experienced experts to assist in its determination. The expert shall not own or control any direct or indirect interest in the clean coal SNG facility and shall have no contractual relationship with the clean coal SNG facility. If an expert is retained by the Commission, then the clean coal SNG facility shall pay the expert's reasonable fees. The fees shall not be passed on to a utility or its customers. The Commission shall adopt and make public a policy detailing the process for retaining experts under this subsection (h).
Within 30 days after completion of its review, the Commission shall initiate a formal proceeding on the final capitalized plant cost of the clean coal SNG facility at which comments and testimony may be submitted by any interested parties and the public. If the Commission finds that the final capitalized plant cost includes costs that were not actually incurred or costs that were unreasonably incurred, then the Commission shall disallow the amount of non-incurred or unreasonable costs from the SNG price under contracts entered into under this subsection (h). If the Commission disallows any costs, then the Commission shall adjust the SNG price using the price formula in the contract approved by the Illinois Power Agency under this subsection (h) to reflect the disallowed costs and shall enter an order specifying the revised price. In addition, the Commission's order shall direct the clean coal SNG facility to issue refunds of such sums as shall represent the difference between actual gross revenues and the gross revenue that would have been obtained based upon the same volume, from the price revised by the Commission. Any refund shall include interest calculated at a rate determined by the Commission and shall be returned according to procedures prescribed by the Commission.

Nothing in this subsection (h) shall preclude any party affected by a decision of the Commission under this subsection (h) from seeking judicial review of the Commission's decision.

(h-1) Any Illinois gas utility may enter into a sourcing
agreement for up to 30 years of supply with the clean coal SNG brownfield facility if the clean coal SNG brownfield facility has commenced construction. Any gas utility that is providing service to more than 150,000 customers on July 13, 2011 (the effective date of Public Act 97-096) shall either elect to file biennial rate proceedings before the Commission in the years 2012, 2014, and 2016 or enter into a sourcing agreement or sourcing agreements with a clean coal SNG brownfield facility with an initial term of 30 years for either (i) a percentage of 43,500,000,000 cubic feet per year, such that the utilities entering into sourcing agreements with the clean coal SNG brownfield facility purchase 100%, allocated by total therms sold to ultimate customers by each gas utility in 2008 or (ii) such lesser amount as may be available from the clean coal SNG brownfield facility; provided that no utility shall be required to purchase more than 42% of the projected annual output of the clean coal SNG brownfield facility, with the remainder of such utility's obligation to be divided proportionately between the other utilities, and provided that the Illinois Power Agency shall further adjust the allocation only as required to take into account adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any gas utility.

A gas utility electing to file biennial rate proceedings before the Commission must file a notice of its election with the Commission within 60 days after July 13, 2011 or its right
to make the election is irrevocably waived. A gas utility
electing to file biennial rate proceedings shall make such
filings no later than August 1 of the years 2012, 2014, and
2016, consistent with all requirements of 83 Ill. Adm. Code 255
and 285 as though the gas utility were filing for an increase
in its rates, without regard to whether such filing would
produce an increase, a decrease, or no change in the gas
utility's rates, and notwithstanding any other provisions of
this Act, the Commission shall fully review the gas utility's
filing and shall issue its order in accordance with the
provisions of Section 9-201 of this Act, regardless of whether
the Commission has approved a formula rate for the gas utility.

Within 15 days after July 13, 2011, the owner of the clean
clean coal SNG brownfield facility shall submit to the Illinois Power
Agency and each gas utility that is providing service to more
than 150,000 customers on July 13, 2011 a copy of a draft
sourcing agreement. Within 45 days after receipt of the draft
sourcing agreement, each such gas utility shall provide the
Illinois Power Agency and the owner of a clean coal SNG
brownfield facility with its comments and recommended
revisions to the draft sourcing agreement. Within 15 days after
the receipt of the gas utility's comments and recommended
revisions, the owner of the clean coal SNG brownfield facility
shall submit its responsive comments and a further revised
draft of the sourcing agreement to the Illinois Power Agency.
The Illinois Power Agency shall review the draft sourcing
agreement and comments.

If the parties to the sourcing agreement do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the sourcing agreement, the Illinois Power Agency shall approve the final draft sourcing agreement. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft sourcing agreement as necessary to confirm that the final draft sourcing agreement contains only terms that are reasonable and equitable. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this subsection (h-1). Any mediator retained to assist with mediating disputes between the parties regarding the sourcing agreement shall be retained no later than 60 days after July 13, 2011.

Upon approval of a final draft agreement, the Illinois Power Agency shall submit the final draft agreement to the Capital Development Board and the Commission no later than 90 days after July 13, 2011. The gas utility and the clean coal SNG brownfield facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h-1) and shall pay the mediator's reasonable fees, if any. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this Section.
The sourcing agreement between a gas utility and the clean coal SNG brownfield facility shall contain the following provisions:

   (1) Any and all coal used in the gasification process must be coal that has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content.

   (2) Coal and petroleum coke are feedstocks for the gasification process, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver net consumer savings, in which case the facility shall use coal for at least 35% of the total feedstock over the term of any sourcing agreement and with the feedstocks to be procured in accordance with requirements of Section 1-78 of the Illinois Power Agency Act.

   (3) The sourcing agreement has an initial term that once entered into terminates no more than 30 years after the commencement of the commercial production of SNG at the clean coal SNG brownfield facility.

   (4) The clean coal SNG brownfield facility guarantees a minimum of $100,000,000 in consumer savings to customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to
the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement, to be provided in accordance with subsection (h-2) of this Section.

(5) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to this subsection (h-1), with cash principal in the amount of $150,000,000. This cash principal shall only be recoverable through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with subsection (h-2) of this Section.

"Consumer protection reserve account principal maximum amount" shall mean the maximum amount of principal to be maintained in the consumer protection reserve account. During the first 2 years of operation of the facility, there shall be no consumer protection reserve account
maximum amount. After the first 2 years of operation of the facility, the consumer protection reserve account maximum amount shall be $150,000,000. After 5 years of operation, and every 5 years thereafter, the trustee shall calculate the 5-year average balance of the consumer protection reserve account. If the trustee determines that during the prior 5 years the consumer protection reserve account has had an average account balance of less than $75,000,000, then the consumer protection reserve account principal maximum amount shall be increased by $5,000,000. If the trustee determines that during the prior 5 years the consumer protection reserve account has had an average account balance of more than $75,000,000, then the consumer protection reserve account principal maximum amount shall be decreased by $5,000,000.

(6) The clean coal SNG brownfield facility shall identify and sell economically viable by-products produced by the facility.

(7) Fifty percent of all additional net revenue, defined as miscellaneous net revenue from products produced by the facility and delivered during the month after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and
other by-products produced by the facility, shall be credited to the consumer protection reserve account pursuant to subsection (h-2) of this Section.

(8) The delivered SNG price per million btu to be paid monthly by the utility to the clean coal SNG brownfield facility, which shall be based only upon the following: (A) a capital recovery charge, operations and maintenance costs, and sequestration costs, only to the extent approved by the Commission pursuant to paragraphs (1), (2), and (3) of subsection (h-3) of this Section; (B) the actual delivered and processed fuel costs pursuant to paragraph (4) of subsection (h-3) of this Section; (C) actual costs of SNG transportation pursuant to paragraph (6) of subsection (h-3) of this Section; (D) certain taxes and fees imposed by the federal government, the State, or any unit of local government as provided in paragraph (6) of subsection (h-3) of this Section; and (E) the credit, if any, from the consumer protection reserve account pursuant to subsection (h-2) of this Section. The delivered SNG price per million Btu shall proportionately reflect these elements over the term of the sourcing agreement.

(9) A formula to translate the recoverable costs and charges under subsection (h-3) of this Section into the delivered SNG price per million btu.

(10) Title to the SNG shall pass at a mutually agreeable point in Illinois, and may provide that, rather
than the utility taking title to the SNG, a mutually agreed upon third-party gas marketer pursuant to a contract approved by the Illinois Power Agency or its designee may take title to the SNG pursuant to an agreement between the utility, the owner of the clean coal SNG brownfield facility, and the third-party gas marketer.

(11) A utility may exit the sourcing agreement without penalty if the clean coal SNG brownfield facility does not commence construction by July 1, 2015.

(12) A utility is responsible to pay only the Commission determined unit price cost of SNG that is purchased by the utility. Nothing in the sourcing agreement will obligate a utility to invest capital in a clean coal SNG brownfield facility.

(13) The quality of SNG must, at a minimum, be equivalent to the quality required for interstate pipeline gas before a utility is required to accept and pay for SNG gas.

(14) Nothing in the sourcing agreement will require a utility to construct any facilities to accept delivery of SNG. Provided, however, if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline, then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Any costs incurred by the utility to receive, deliver, manage, or
otherwise accommodate purchases under the SNG sourcing agreement will be fully recoverable through a utility's purchased gas adjustment clause rider mechanism in conjunction with a SNG brownfield facility rider mechanism. The SNG brownfield facility rider mechanism (A) shall be applicable to all customers who receive transportation service from the utility, (B) shall be designed to have an equal percent impact on the transportation services rates of each class of the utility's customers, and (C) shall accurately reflect the net consumer savings, if any, and above-market costs, if any, associated with the utility receiving, delivering, managing, or otherwise accommodating purchases under the SNG sourcing agreement.

(15) Remedies for the clean coal SNG brownfield facility's failure to deliver a designated amount for a designated period.

(16) The clean coal SNG brownfield facility shall make a good faith effort to ensure that an amount equal to not less than 15% of the value of its prime construction contract for the facility shall be established as a goal to be awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability; provided that at least 75% of the amount of such total goal shall be for minority-owned businesses. "Minority-owned business", 
"women-owned business", "veteran-owned businesses", and "business owned by a person with a disability" shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(17) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall file with the Commission a certificate from an independent engineer that the clean coal SNG brownfield facility has (A) obtained all applicable State and federal environmental permits required for construction; (B) obtained approval from the Commission of a carbon capture and sequestration plan; and (C) obtained all necessary permits required for construction for the transportation and sequestration of carbon dioxide as set forth in the Commission-approved carbon capture and sequestration plan.

(h-2) Consumer protection reserve account. The clean coal SNG brownfield facility shall guarantee a minimum of $100,000,000 in consumer savings to customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement. Prior to the clean coal SNG brownfield
facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the retail customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to subsection (h-1), with cash principal in the amount of $150,000,000. Such cash principal shall only be recovered through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG brownfield facility monthly shall calculate (A) the difference between the monthly delivered SNG price and the Chicago City-gate price, by comparing the delivered SNG price, which shall include the cost of transportation to the delivery point, if any, to the Chicago City-gate price on a weighted daily basis for each day of the prior month based upon a mutually agreed upon published index and (B) the overage amount, if any, by calculating the annualized incremental additional cost, if any, of the delivered SNG in excess of 2.015% of the average annual inflation-adjusted amounts paid by all gas
distribution customers in connection with natural gas service during the 5 years ending May 31, 2010.

(2) During the first 2 years of operation of the facility:

(A) to the extent there is an overage amount, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the overage amount; and

(B) to the extent the monthly delivered SNG price is less than or equal to the Chicago City-gate price, the utility shall credit the difference between the monthly delivered SNG price and the monthly Chicago City-gate price, if any, to the consumer protection reserve account. Such credit issued pursuant to this paragraph (B) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(3) After 2 years of operation of the facility, and monthly, on an on-going basis, thereafter:

(A) to the extent that the monthly delivered SNG price is less than or equal to the Chicago City-gate price, calculated using the weighted average of the daily Chicago City-gate price on a daily basis over the entire month, the utility shall credit the difference, if any, to the consumer protection reserve account. Such credit issued pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject
to a Commission prudence review;

(B) any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum amount shall be distributed as follows: (i) if retail customers have not realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term of the sourcing agreement to date, then 50% of any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum shall be distributed to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers, and (ii) if retail customers have realized net consumer savings, then 100% of any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum shall be distributed to the clean coal SNG brownfield facility; provided, however, that under no circumstances shall the total cumulative amount distributed to the clean coal SNG brownfield facility under this subparagraph (B) exceed $150,000,000;

(C) to the extent there is an overage amount, after distributing the amounts pursuant to subparagraph (B) of this paragraph (3), if any, the consumer protection
reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the overage amount;

(D) if retail customers have realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term of the sourcing agreement to date, then after distributing the amounts pursuant to subparagraphs (B) and (C) of this paragraph (3), 50% of any additional amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum shall be distributed to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers; provided, however, that if retail customers have not realized such net consumer savings, no such distribution shall be made to the clean coal SNG brownfield facility, and 100% of such additional amounts shall be credited to the retail customers to the extent the consumer protection reserve account exceeds the consumer protection reserve account principal maximum amount.

(4) Fifty percent of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are
not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account.

(5) At the conclusion of the term of the sourcing agreement, to the extent retail customers have not saved the minimum of $100,000,000 in consumer savings as guaranteed in this subsection (h-2), amounts in the consumer protection reserve account shall be credited to retail customers to the extent the retail customers have saved the minimum of $100,000,000; 50% of any additional amounts in the consumer protection reserve account shall be distributed to the company, and the remaining 50% shall be distributed to retail customers.

(6) If, at the conclusion of the term of the sourcing agreement, the customers have not saved the minimum $100,000,000 in savings as guaranteed in this subsection (h-2) and the consumer protection reserve account has been depleted, then the clean coal SNG brownfield facility shall be liable for any remaining amount owed to the retail customers to the extent that the customers are provided with the $100,000,000 in savings as guaranteed in this subsection (h-2). The retail customers shall have first priority in recovering that debt above any creditors,
except the original senior secured lender to the extent that the original senior secured lender has any senior secured debt outstanding, including any clean coal SNG brownfield facility parent companies or affiliates.

(7) The clean coal SNG brownfield facility, the utilities, and the trustee shall work together to take commercially reasonable steps to minimize the tax impact of these transactions, while preserving the consumer benefits.

(8) The clean coal SNG brownfield facility shall each month, starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the consumer protection reserve account. The monthly report must contain the following information:

(A) the extent the monthly delivered SNG price is greater than, less than, or equal to the Chicago City-gate price;

(B) the amount credited or debited to the consumer protection reserve account during the month;

(C) the amounts credited to consumers and distributed to the clean coal SNG brownfield facility during the month;

(D) the total amount of the consumer protection reserve account at the beginning and end of the month;

(E) the total amount of consumer savings to date;
(F) a confidential summary of the inputs used to calculate the additional net revenue; and

(G) any other additional information the Commission shall require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG brownfield facility to amend the report within 30 days, and, before or after the termination of the 30-day period, the Commission may examine the trustee of the consumer protection reserve account or the officers, agents, employees, books, records, or accounts of the clean coal SNG brownfield facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG brownfield facility and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file a report required under
this paragraph (8) to the Commission within the time
specified or to make specific answer to any question
propounded by the Commission within 30 days from the time
it is lawfully required to do so, or within such further
time not to exceed 90 days as may in its discretion be
allowed by the Commission, shall pay a penalty of $500 to
the Commission for each day it is in default.

Any person who willfully makes any false report to the
Commission or to any member, officer, or employee thereof,
any person who willfully in a report withholds or fails to
provide material information to which the Commission is
entitled under this paragraph (8) and which information is
either required to be filed by statute, rule, regulation,
order, or decision of the Commission or has been requested
by the Commission, and any person who willfully aids or
abets such person shall be guilty of a Class A misdemeanor.

(h-3) Recoverable costs and revenue by the clean coal SNG
brownfield facility.

(1) A capital recovery charge approved by the
Commission shall be recoverable by the clean coal SNG
brownfield facility under a sourcing agreement. The
capital recovery charge shall be comprised of capital costs
and a reasonable rate of return. "Capital costs" means
costs to be incurred in connection with the construction
and development of a facility, as defined in Section 1-10
of the Illinois Power Agency Act, and such other costs as
the Capital Development Board deems appropriate to be recovered in the capital recovery charge.

(A) Capital costs. The Capital Development Board shall calculate a range of capital costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the facility cost report, if any, of the clean coal SNG brownfield facility, adjusting the results based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics, the final draft of the sourcing agreement, and the rate of return approved by the Commission. In addition, the Capital Development Board may consult as much as it deems necessary with the clean coal SNG brownfield facility and conduct whatever research and investigation it deems necessary.

The Capital Development Board shall retain an engineering expert to assist in determining both the range of capital costs and the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. Provided, however, that such expert shall: (i) not have been involved in the
In order to qualify as an independent expert, a person or company must have:

(i) direct previous experience conducting front-end engineering and design studies for large-scale energy facilities and administering large-scale energy operations and maintenance contracts, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(ii) an advanced degree in economics, mathematics, engineering, or a related area of study;

(iii) ten years of experience in the energy sector, including construction and risk management experience;

(iv) expertise in assisting companies with obtaining financing for large-scale energy projects, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(v) expertise in operations and maintenance
which may be particularized to the specific type of
operations and maintenance associated with the
clean coal SNG brownfield facility;

(vi) expertise in credit and contract
protocols;

(vii) adequate resources to perform and
fulfill the required functions and
responsibilities; and

(viii) the absence of a conflict of interest
and inappropriate bias for or against an affected
gas utility or the clean coal SNG brownfield
facility.

The clean coal SNG brownfield facility and the
Illinois Power Agency shall cooperate with the Capital
Development Board in any investigation it deems
necessary. The Capital Development Board shall make
its final determination of the range of capital costs
confidentially and shall submit that range to the
Commission in a confidential filing within 120 days
after July 13, 2011 (the effective date of Public Act
97-096). The clean coal SNG brownfield facility shall
submit to the Commission its estimate of the capital
costs to be recovered under the sourcing agreement.
Only after the clean coal SNG brownfield facility has
submitted this estimate shall the Commission publicly
announce the range of capital costs submitted by the
Capital Development Board.

In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of capital costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the capital costs for the clean coal SNG brownfield facility.

The Capital Development Board shall monitor the construction of the clean coal SNG brownfield facility for the full duration of construction to assess potential cost overruns. The Capital Development Board, in its discretion, may retain an expert to facilitate such monitoring. The clean coal SNG brownfield facility shall pay a reasonable fee as
required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers. If an expert is retained by the Capital Development Board for monitoring of construction, then the clean coal SNG brownfield facility must pay for the expert's reasonable fees and such costs shall not be passed through to a utility or its customers.

(B) Rate of Return. No later than 30 days after the date on which the Illinois Power Agency submits a final draft sourcing agreement, the Commission shall hold a public hearing to determine the rate of return to be recovered under the sourcing agreement. Rate of return shall be comprised of the clean coal SNG brownfield facility's actual cost of debt, including mortgage-style amortization, and a reasonable return on equity. The Commission shall post notice of the hearing on its website no later than 10 days prior to the date of the hearing. The Commission shall provide the public and all interested parties, including the gas utilities, the Attorney General, and the Illinois Power Agency, an opportunity to be heard.

In determining the return on equity, the Commission shall select a commercially reasonable
return on equity taking into account the return on equity being received by developers of similar facilities in or outside of Illinois, the need to balance an incentive for clean-coal technology with the need to protect ratepayers from high gas prices, the risks being borne by the clean coal SNG brownfield facility in the final draft sourcing agreement, and any other information that the Commission may deem relevant. The Commission may establish a return on equity that varies with the amount of savings, if any, to customers during the term of the sourcing agreement, comparing the delivered SNG price to a daily weighted average price of natural gas, based upon an index. The Illinois Power Agency shall recommend a return on equity to the Commission using the same criteria. Within 60 days after receiving the final draft sourcing agreement from the Illinois Power Agency, the Commission shall approve the rate of return for the clean coal brownfield facility. Within 30 days after obtaining debt financing for the clean coal SNG brownfield facility, the clean coal SNG brownfield facility shall file a notice with the Commission identifying the actual cost of debt.

(2) Operations and maintenance costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement. The
operations and maintenance costs mean costs that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the clean coal SNG brownfield facility's physical plant.

The Capital Development Board shall calculate a range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement, incorporating an inflation index or combination of inflation indices to most accurately reflect the actual costs of operating the clean coal SNG brownfield facility. In making this determination, the Capital Development Board shall review the facility cost report, if any, of the clean coal SNG brownfield facility, adjusting the results for inflation based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics, the final draft of the sourcing agreement, and the rate of return approved by the Commission. In addition, the Capital Development Board may consult as much as it deems necessary with the clean coal SNG brownfield facility and conduct whatever research and investigation it deems necessary. As set forth in subparagraph (A) of paragraph (1) of this subsection (h-3), the Capital Development Board shall retain an independent engineering expert to assist in determining both the range
of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of operations and maintenance costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after July 13, 2011.

The clean coal SNG brownfield facility shall submit to the Commission its estimate of the operations and maintenance costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of operations and maintenance costs submitted by the Capital Development Board. In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of operations and
maintenance costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the operations and maintenance costs for the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility shall pay for the independent engineering expert's reasonable fees and such costs shall not be passed through to a utility or its customers. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers.

(3) Sequestration costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility. "Sequestration costs" means costs to be incurred by the clean coal SNG brownfield facility in accordance with its Commission-approved carbon capture and sequestration plan to:

(A) capture carbon dioxide;
(B) build, operate, and maintain a sequestration
site in which carbon dioxide may be injected;

(C) build, operate, and maintain a carbon dioxide pipeline; and

(D) transport the carbon dioxide to the sequestration site or a pipeline.

The Commission shall assess the prudency of the sequestration costs for the clean coal SNG brownfield facility before construction commences at the sequestration site or pipeline. Any revenues the clean coal SNG brownfield facility receives as a result of the capture, transportation, or sequestration of carbon dioxide shall be first credited against all sequestration costs, with the positive balance, if any, treated as additional net revenue.

The Commission may, in its discretion, retain an expert to assist in its review of sequestration costs. The clean coal SNG brownfield facility shall pay for the expert's reasonable fees if an expert is retained by the Commission, and such costs shall not be passed through to a utility or its customers. Once made, the Commission's determination of the amount of recoverable sequestration costs shall not be increased unless the clean coal SNG brownfield facility can show by clear and convincing evidence that (i) the costs were not reasonably foreseeable; (ii) the costs were due to circumstances beyond the clean coal SNG brownfield facility's control; and (iii) the clean coal SNG brownfield
facility took all reasonable steps to mitigate the costs. If the Commission determines that sequestration costs may be increased, the Commission shall provide for notice and a public hearing for approval of the increased sequestration costs.

(4) Actual delivered and processed fuel costs shall be set by the Illinois Power Agency through a SNG feedstock procurement, pursuant to Sections 1-20, 1-77, and 1-78 of the Illinois Power Agency Act, to be performed at least every 5 years and purchased by the clean coal SNG brownfield facility pursuant to feedstock procurement contracts developed by the Illinois Power Agency, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and petroleum coke comprising the remainder of the SNG feedstock. If the Commission fails to approve a feedstock procurement plan or fails to approve the results of a feedstock procurement event, then the fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement. If a supplier defaults under the terms of a procurement contract, then the Illinois Power Agency shall immediately initiate a feedstock procurement process to obtain a replacement supply, and, prior to the conclusion of that process, fuel shall be purchased by the company month-by-month on the spot market
and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement.

(5) Taxes and fees imposed by the federal government, the State, or any unit of local government applicable to the clean coal SNG brownfield facility, excluding income tax, shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement to the extent such taxes and fees were not applicable to the facility on July 13, 2011.

(6) The actual transportation costs, in accordance with the applicable utility's tariffs, and third-party marketer costs incurred by the company, if any, associated with transporting the SNG from the clean coal SNG brownfield facility to the Chicago City-gate to sell such SNG into the natural gas markets shall be recoverable under the sourcing agreement.

(7) Unless otherwise provided, within 30 days after a decision of the Commission on recoverable costs under this Section, any interested party to the Commission's decision may apply for a rehearing with respect to the decision. The Commission shall receive and consider the application for rehearing and shall grant or deny the application in whole or in part within 20 days after the date of the receipt of the application by the Commission. If no rehearing is applied for within the required 30 days or an application for rehearing is denied, then the Commission decision shall
be final. If an application for rehearing is granted, then the Commission shall hold a rehearing within 30 days after granting the application. The decision of the Commission upon rehearing shall be final.

Any person affected by a decision of the Commission under this subsection (h-3) may have the decision reviewed only under and in accordance with the Administrative Review Law. Unless otherwise provided, the provisions of the Administrative Review Law, all amendments and modifications to that Law, and the rules adopted pursuant to that Law shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Commission under this subsection (h-3). The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(8) The Capital Development Board shall adopt and make public a policy detailing the process for retaining experts under this Section. Any experts retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 45 days after July 13, 2011.

(h-4) No later than 90 days after the Illinois Power Agency submits the final draft sourcing agreement pursuant to subsection (h-1), the Commission shall approve a sourcing agreement containing (i) the capital costs, rate of return, and operations and maintenance costs established pursuant to
subsection (h-3) and (ii) all other terms and conditions, rights, provisions, exceptions, and limitations contained in the final draft sourcing agreement; provided, however, the Commission shall correct typographical and scrivener's errors and modify the contract only as necessary to provide that the gas utility does not have the right to terminate the sourcing agreement due to any future events that may occur other than the clean coal SNG brownfield facility's failure to timely meet milestones, uncured default, extended force majeure, or abandonment. Once the sourcing agreement is approved, then the gas utility subject to that sourcing agreement shall have 45 days after the date of the Commission's approval to enter into the sourcing agreement.

(h-5) Sequestration enforcement.

(A) All contracts entered into under subsection (h) of this Section and all sourcing agreements under subsection (h-1) of this Section, regardless of duration, shall require the owner of any facility supplying SNG under the contract or sourcing agreement to provide certified documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring
(B) If, in any year, the owner of the clean coal SNG facility fails to demonstrate that the SNG facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, then the owner of the clean coal SNG facility must pay a penalty of $20 per ton of excess carbon dioxide emissions not to exceed $40,000,000, in any given year which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. On or before the 5-year anniversary of the execution of the contract and every 5 years thereafter, an expert hired by the owner of the facility with the approval of the Attorney General shall conduct an analysis to determine the cost of sequestration of at least 90% of the total carbon dioxide emissions the plant would otherwise emit. If the analysis shows that the actual annual cost is greater than the penalty, then the penalty shall be increased to equal the actual cost. Provided, however, to the extent that the owner of the facility described in subsection (h) of this Section can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning,
hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbance; riots; nationalization; sabotage; blockage; or embargo, the owner of the facility described in subsection (h) of this Section shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission.

If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of the clean coal SNG facility captured and sequestered more than 90% of the total carbon dioxide emissions that the facility would otherwise emit, then the owner of the facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of
carbon dioxide shall not be passed on to a utility or its customers.

If the clean coal SNG facility fails to meet the requirements specified in this subsection (h-5), then the Attorney General, on behalf of the People of the State of Illinois, shall bring an action to enforce the obligations related to the facility set forth in this subsection (h-5), including any penalty payments owed, but not including the physical obligation to capture and sequester at least 90% of the total carbon dioxide emissions that the facility would otherwise emit. Such action may be filed in any circuit court in Illinois. By entering into a contract pursuant to subsection (h) of this Section, the clean coal SNG facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action under this subsection (h-5).

Compliance with the sequestration requirements and any penalty requirements specified in this subsection (h-5) for the clean coal SNG facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If any expert is retained by the Commission, then the clean coal SNG facility shall pay for the expert's reasonable fees, and such costs shall not be passed through to the utility or its customers.

In addition, carbon dioxide emission credits received
by the clean coal SNG facility in connection with
sequestration of carbon dioxide from the facility must be
sold in a timely fashion with any revenue, less applicable
fees and expenses and any expenses required to be paid by
facility for carbon dioxide transportation or
sequestration, deposited into the reconciliation account
within 30 days after receipt of such funds by the owner of
the clean coal SNG facility.

The clean coal SNG facility is prohibited from
transporting or sequestering carbon dioxide unless the
owner of the carbon dioxide pipeline that transfers the
carbon dioxide from the facility and the owner of the
sequestration site where the carbon dioxide captured by the
facility is stored has acquired all applicable permits
under applicable State and federal laws, statutes, rules,
or regulations prior to the transfer or sequestration of
carbon dioxide. The responsibility for compliance with the
sequestration requirements specified in this subsection
(h-5) for the clean coal SNG facility shall reside solely
with the clean coal SNG facility, regardless of whether the
facility has contracted with another party to capture,
transport, or sequester carbon dioxide.

(C) If, in any year, the owner of a clean coal SNG
brownfield facility fails to demonstrate that the clean
coal SNG brownfield facility captured and sequestered at
least 85% of the total carbon dioxide emissions that the
facility would otherwise emit, then the owner of the clean coal SNG brownfield facility must pay a penalty of $20 per ton of excess carbon emissions up to $20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. Provided, however, to the extent that the owner of the clean coal SNG brownfield facility can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbances; riots; nationalization; sabotage; blockage; or embargo, the owner of the clean coal SNG brownfield facility shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the
Commission. If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of a clean coal SNG brownfield facility demonstrates that the clean coal SNG brownfield facility captured and sequestered more than 85% of the total carbon emissions that the facility would otherwise emit, the owner of the clean coal SNG brownfield facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

In addition to any penalty for the clean coal SNG brownfield facility's failure to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall bring an action for specific performance of this subsection (h-5). Such action may be filed in any circuit court in Illinois. By entering into a sourcing agreement pursuant to subsection (h-1) of this Section, the clean coal SNG brownfield facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this subsection (h-5).

Compliance with the sequestration requirements and penalty requirements specified in this subsection (h-5)
for the clean coal SNG brownfield facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If an expert is retained by the Commission, then the clean coal SNG brownfield facility shall pay for the expert's reasonable fees, and such costs shall not be passed through to a utility or its customers. A SNG facility operating pursuant to this subsection (h-5) shall not forfeit its designation as a clean coal SNG facility or a clean coal SNG brownfield facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased or requisite penalties are paid.

Responsibility for compliance with the sequestration requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall reside solely with the clean coal SNG brownfield facility regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(h-7) Sequestration permitting, oversight, and investigations.

(1) No clean coal facility or clean coal SNG brownfield facility may transport or sequester carbon dioxide unless the Commission approves the method of carbon dioxide transportation or sequestration. Such approval shall be required regardless of whether the facility has contracted
with another to transport or sequester the carbon dioxide.

Nothing in this subsection (h-7) shall release the owner or operator of a carbon dioxide sequestration site or carbon dioxide pipeline from any other permitting requirements under applicable State and federal laws, statutes, rules, or regulations.

(2) The Commission shall review carbon dioxide transportation and sequestration methods proposed by a clean coal facility or a clean coal SNG brownfield facility and shall approve those methods it deems reasonable and cost-effective. For purposes of this review, "cost-effective" means a commercially reasonable price for similar carbon dioxide transportation or sequestration techniques. In determining whether sequestration is reasonable and cost-effective, the Commission may consult with the Illinois State Geological Survey and retain third parties to assist in its determination, provided that such third parties shall not own or control any direct or indirect interest in the facility that is proposing the carbon dioxide transportation or the carbon dioxide sequestration method and shall have no contractual relationship with that facility. If a third party is retained by the Commission, then the facility proposing the carbon dioxide transportation or sequestration method shall pay for the expert's reasonable fees, and these costs shall not be passed through to a utility or its customers.
No later than 6 months prior to the date upon which the owner intends to commence construction of a clean coal facility or the clean coal SNG brownfield facility, the owner of the facility shall file with the Commission a carbon dioxide transportation or sequestration plan. The Commission shall hold a public hearing within 30 days after receipt of the facility's carbon dioxide transportation or sequestration plan. The Commission shall post notice of the review on its website upon submission of a carbon dioxide transportation or sequestration method and shall accept written public comments. The Commission shall take the comments into account when making its decision.

The Commission may not approve a carbon dioxide sequestration method if the owner or operator of the sequestration site has not received (i) an Underground Injection Control permit from the United States Environmental Protection Agency, or from the Illinois Environmental Protection Agency pursuant to the Environmental Protection Act; (ii) an Underground Injection Control permit from the Illinois Department of Natural Resources pursuant to the Illinois Oil and Gas Act; or (iii) an Underground Injection Control permit from the United States Environmental Protection Agency or a permit similar to items (i) or (ii) from the state in which the sequestration site is located if the sequestration will take place outside of Illinois. The Commission shall
approve or deny the carbon dioxide transportation or sequestration method within 90 days after the receipt of all required information.

(3) At least annually, the Illinois Environmental Protection Agency shall inspect all carbon dioxide sequestration sites in Illinois. The Illinois Environmental Protection Agency may, as often as deemed necessary, monitor and conduct investigations of those sites. The owner or operator of the sequestration site must cooperate with the Illinois Environmental Protection Agency investigations of carbon dioxide sequestration sites.

If the Illinois Environmental Protection Agency determines at any time a site creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall seal the site pursuant to the Environmental Protection Act. If the Illinois Environmental Protection Agency determines at any time a carbon dioxide sequestration site creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Illinois Environmental Protection Agency shall provide notice of any such actions.
as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from utilities or their customers.

(4) (Blank).

(h-9) The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from any new or amendatory legislation or other action. The State of Illinois pledges that the State will not enact any law or take any action to:

(1) break, or repeal the authority for, sourcing agreements approved by the Commission and entered into between public utilities and the clean coal SNG brownfield facility;

(2) deny public utilities full cost recovery for their costs incurred under those sourcing agreements; or

(3) deny the clean coal SNG brownfield facility full cost and revenue recovery as provided under those sourcing agreements that are recoverable pursuant to subsection (h-3) of this Section.

These pledges are for the benefit of the parties to those sourcing agreements and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG brownfield facility. The clean coal SNG brownfield facility is authorized to include and refer to these
pledges in any financing agreement into which it may enter in
regard to those sourcing agreements.

The State of Illinois retains and reserves all other rights
to enact new or amendatory legislation or take any other
action, without impairment of the right of the clean coal SNG
brownfield facility to recover prudently incurred increased
costs or reduced revenue resulting from the new or amendatory
legislation or other action, including, but not limited to,
such legislation or other action that would (i) directly or
indirectly raise the costs the clean coal SNG brownfield
facility must incur; (ii) directly or indirectly place
additional restrictions, regulations, or requirements on the
clean coal SNG brownfield facility; (iii) prohibit
sequestration in general or prohibit a specific sequestration
method or project; or (iv) increase minimum sequestration
requirements for the clean coal SNG brownfield facility to the
extent technically feasible. The clean coal SNG brownfield
facility shall have the right to recover prudently incurred
increased costs or reduced revenue resulting from the new or
amendatory legislation or other action as described in this
subsection (h-9).

(h-10) Contract costs for SNG incurred by an Illinois gas
utility are reasonable and prudent and recoverable through the
purchased gas adjustment clause and are not subject to review
or disallowance by the Commission. Contract costs are costs
incurred by the utility under the terms of a contract that
incorporates the terms stated in subsection (h) of this Section as confirmed in writing by the Illinois Power Agency as set forth in subsection (h) of this Section, which confirmation shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. The Illinois gas utility shall initiate a clean coal SNG facility rider mechanism that (A) shall be applicable to all customers who receive transportation service from the utility, (B) shall be designed to have an equal percentage impact on the transportation services rates of each class of the utility's total customers, and (C) shall accurately reflect the net customer savings, if any, and above market costs, if any, under the SNG contract. Any contract, the terms of which have been confirmed in writing by the Illinois Power Agency as set forth in subsection (h) of this Section and the performance of the parties under such contract cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in such cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

The contracts entered into by Illinois gas utilities pursuant to subsection (h) of this Section shall provide that the utility retains the right to terminate the contract without
further obligation or liability to any party if the contract has been impaired as a result of any legislative, administrative, judicial, or other governmental action that is taken that eliminates all or part of the prudence protection of this subsection (h-10) or denies the recoverability of all or part of the contract costs through the purchased gas adjustment clause. Should any Illinois gas utility exercise its right under this subsection (h-10) to terminate the contract, all contract costs incurred prior to termination are and will be deemed reasonable, prudent, and recoverable as and when incurred and not subject to review or disallowance by the Commission. Any order, issued by the State requiring or authorizing the discontinuation of the merchant function, defined as the purchase and sale of natural gas by an Illinois gas utility for the ultimate consumer in its service territory shall include provisions necessary to prevent the impairment of the value of any contract hereunder over its full term.

(h-11) All costs incurred by an Illinois gas utility in procuring SNG from a clean coal SNG brownfield facility pursuant to subsection (h-1) or a third-party marketer pursuant to subsection (h-1) are reasonable and prudent and recoverable through the purchased gas adjustment clause in conjunction with a SNG brownfield facility rider mechanism and are not subject to review or disallowance by the Commission; provided that if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline,
then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Sourcing agreement costs are costs incurred by the utility under the terms of a sourcing agreement that incorporates the terms stated in subsection (h-1) of this Section as approved by the Commission as set forth in subsection (h-4) of this Section, which approval shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any sourcing agreement, the terms of which have been approved by the Commission as set forth in subsection (h-4) of this Section, and the performance of the parties under the sourcing agreement cannot be grounds for challenging prudence or cost recovery by the utility, and in these cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

(h-15) Reconciliation account. The clean coal SNG facility shall establish a reconciliation account for the benefit of the retail customers of the utilities that have entered into contracts with the clean coal SNG facility pursuant to subsection (h). The reconciliation account shall be maintained and administered by an independent trustee that is mutually agreed upon by the owners of the clean coal SNG facility, the utilities, and the Commission in an interest-bearing account in
accordance with the following:

(1) The clean coal SNG facility shall conduct an analysis annually within 60 days after receiving the necessary cost information, which shall be provided by the gas utility within 6 months after the end of the preceding calendar year, to determine (i) the average annual contract SNG cost, which shall be calculated as the total amount paid for SNG purchased from the clean coal SNG facility over the preceding 12 months, plus the cost to the utility of the required transportation and storage services of SNG, divided by the total number of MMBtus of SNG actually purchased from the clean coal SNG facility in the preceding 12 months under the utility contract; (ii) the average annual natural gas purchase cost, which shall be calculated as the total annual supply costs paid for baseload natural gas (excluding any SNG) purchased by such utility over the preceding 12 months plus the costs of transportation and storage services of such natural gas (excluding such costs for SNG), divided by the total number of MMBtus of baseload natural gas (excluding SNG) actually purchased by the utility during the year; (iii) the cost differential, which shall be the difference between the average annual contract SNG cost and the average annual natural gas purchase cost; and (iv) the revenue share target which shall be the cost differential multiplied by the total amount of SNG purchased over the preceding 12 months under such utility
contract.

(A) To the extent the annual average contract SNG cost is less than the annual average natural gas purchase cost, the utility shall credit an amount equal to the revenue share target to the reconciliation account. Such credit payment shall be made monthly starting within 30 days after the completed analysis in this subsection (h-15) and based on collections from all customers via a line item charge in all customer bills designed to have an equal percentage impact on the transportation services of each class of customers. Credit payments made pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to Commission prudence review.

(B) To the extent the annual average contract SNG cost is greater than the annual average natural gas purchase cost, the reconciliation account shall be used to provide a credit equal to the revenue share target to the utilities to be used to reduce the utility's natural gas costs through the purchased gas adjustment clause. Such payment shall be made within 30 days after the completed analysis pursuant to this subsection (h-15), but only to the extent that the reconciliation account has a positive balance.

(2) At the conclusion of the term of the SNG contracts
pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), to the extent the facility owes any amount to retail customers, amounts in the account shall be credited to retail customers to the extent the owed amount is repaid; 50% of any additional amount in the reconciliation account shall be distributed to the utilities to be used to reduce the utilities' natural gas costs through the purchase gas adjustment clause with the remaining amount distributed to the clean coal SNG facility. Such payment shall be made within 30 days after the last completed analysis pursuant to this subsection (h-15). If the facility has repaid all owed amounts, if any, to retail customers and has distributed 50% of any additional amount in the account to the utilities, then the owners of the clean coal SNG facility shall have no further obligation to the utility or the retail customers.

If, at the conclusion of the term of the contracts pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), the facility owes any amount to retail customers and the account has been depleted, then the clean coal SNG facility shall be liable for any remaining amount owed to the retail customers. The clean coal SNG facility shall market the daily production of SNG and distribute on a monthly basis 5% of the amounts collected with respect to such future
sales to the utilities in proportion to each utility's SNG contract to be used to reduce the utility's natural gas costs through the purchase gas adjustment clause; such payments to the utility shall continue until either 15 years after the conclusion of the contract or such time as the sum of such payments equals the remaining amount owed to the retail customers at the end of the contract, whichever is earlier. If the debt to the retail customers is not repaid within 15 years after the conclusion of the contract, then the owner of the clean coal SNG facility must sell the facility, and all proceeds from that sale must be used to repay any amount owed to the retail customers under this subsection (h-15).

The retail customers shall have first priority in recovering that debt above any creditors, except the secured lenders to the extent that the secured lenders have any secured debt outstanding, including any parent companies or affiliates of the clean coal SNG facility.

(3) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance and above the budgeted estimate established for revenue pursuant to subsection (h), including sale of substitute natural gas derived from the clean coal SNG facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the reconciliation account on an annual basis with such payment
made within 30 days after the end of each calendar year during the term of the contract.

(4) The clean coal SNG facility shall each year, starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the reconciliation account. The annual report must contain the following information:

(A) the revenue share target amount;

(B) the amount credited or debited to the reconciliation account during the year;

(C) the amount credited to the utilities to be used to reduce the utilities natural gas costs though the purchase gas adjustment clause;

(D) the total amount of reconciliation account at the beginning and end of the year;

(E) the total amount of consumer savings to date; and

(F) any additional information the Commission may require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG facility to amend the report within 30 days; before or after the termination of the 30-day period, the Commission may examine the trustee of the reconciliation account or the officers, agents, employees, books, records, or
accounts of the clean coal SNG facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG facility and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file the report required under this paragraph (4) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days after the time it is lawfully required to do so, or within such further time not to exceed 90 days as may be allowed by the Commission in its discretion, shall pay a penalty of $500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholding or fails to provide material information to which the Commission is entitled under this paragraph (4) and which information is either required to be filed by statute, rule, regulation, order, or decision of
the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be guilty of a Class A misdemeanor.

(h-20) The General Assembly authorizes the Illinois Finance Authority to issue bonds to the maximum extent permitted to finance coal gasification facilities described in this Section, which constitute both "industrial projects" under Article 801 of the Illinois Finance Authority Act and "clean coal and energy projects" under Sections 825-65 through 825-75 of the Illinois Finance Authority Act.

Administrative costs incurred by the Illinois Finance Authority in performance of this subsection (h-20) shall be subject to reimbursement by the clean coal SNG facility on terms as the Illinois Finance Authority and the clean coal SNG facility may agree. The utility and its customers shall have no obligation to reimburse the clean coal SNG facility or the Illinois Finance Authority for any such costs.

(h-25) The State of Illinois pledges that the State may not enact any law or take any action to (1) break or repeal the authority for SNG purchase contracts entered into between public gas utilities and the clean coal SNG facility pursuant to subsection (h) of this Section or (2) deny public gas utilities their full cost recovery for contract costs, as defined in subsection (h-10), that are incurred under such SNG purchase contracts. These pledges are for the benefit of the parties to such SNG purchase contracts and the issuers and
holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG facility. The beneficiaries are authorized to include and refer to these pledges in any finance agreement into which they may enter in regard to such contracts.

(h-30) The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, including, but not limited to, such legislation or other action that would (1) directly or indirectly raise the costs that the clean coal SNG facility must incur; (2) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG facility; (3) prohibit sequestration in general or prohibit a specific sequestration method or project; or (4) increase minimum sequestration requirements.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 180. The Illinois Horse Racing Act of 1975 is amended by changing Sections 12.1 and 12.2 as follows:

(230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

Sec. 12.1. (a) The General Assembly finds that the Illinois Racing Industry does not include a fair proportion of minority
Therefore, the General Assembly urges that the job training institutes, trade associations and employers involved in the Illinois Horse Racing Industry take affirmative action to encourage equal employment opportunity to all workers regardless of race, color, creed or sex.

Before an organization license, inter-track wagering license or inter-track wagering location license can be granted, the applicant for any such license shall execute and file with the Board a good faith affirmative action plan to recruit, train and upgrade minorities and females in all classifications with the applicant for license. One year after issuance of any such license, and each year thereafter, the licensee shall file a report with the Board evidencing and certifying compliance with the originally filed affirmative action plan.

(b) At least 10% of the total amount of all State contracts for the infrastructure improvement of any race track grounds in this State shall be let to minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by persons with a disability. "State contract", "minority-owned business", "women-owned business", "veteran-owned business", and "business owned by a person with a disability" shall have the meanings ascribed to them under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.
Sec. 12.2. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority-owned business", "woman", "women-owned business", "veteran", "veteran-owned business", "person with a disability", and "business owned by a person with a disability" have the meanings ascribed to them in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award of contracts by each organization licensee or inter-track wagering licensee to businesses owned by minorities, women, veterans, and persons with disabilities, expressed as percentages of an organization licensee's or inter-track wagering licensee's total dollar amount of contracts awarded during each calendar year. Each organization licensee or inter-track wagering licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) licensees are purchasing goods or services from vendors or suppliers or in markets where there are no or a limited number of minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by persons with disabilities that would be
sufficient to satisfy the goal; (2) there are no or a limited number of suppliers licensed by the Board; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each organization licensee or inter-track wagering licensee shall file with the Board an annual report of its utilization of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the organization licensee or inter-track wagering licensee to meet its goals under this Section.

(d) The organization licensee or inter-track wagering licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the organization licensee or inter-track wagering licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities.

(e) If the Board determines that its goals and policies are not being met by any organization licensee or inter-track wagering licensee, then the Board may:

(1) adopt remedies for such violations; and
recommend that the organization licensee or inter-track wagering licensee provide additional opportunities for participation by minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities; such recommendations may include, but shall not be limited to:

(A) assurances of stronger and better focused solicitation efforts to obtain more minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities as potential sources of supply;

(B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority-owned businesses,
women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each organization licensee or inter-track wagering licensee;

(2) a summary of the number of contracts awarded and the average contract amount by each organization licensee or inter-track wagering licensee;

(3) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with
disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) (blank).

(Source: P.A. 99-78, eff. 7-20-15; 99-891, eff. 1-1-17; 100-391, eff. 8-25-17.)

Section 185. The Riverboat Gambling Act is amended by changing Sections 4, 7, 7.6, and 11.2 as follows:

(230 ILCS 10/4) (from Ch. 120, par. 2404)

Sec. 4. Definitions. As used in this Act:

(a) "Board" means the Illinois Gaming Board.

(b) "Occupational license" means a license issued by the Board to a person or entity to perform an occupation which the Board has identified as requiring a license to engage in riverboat gambling in Illinois.

(c) "Gambling game" includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act.

(d) "Riverboat" means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on which
lawful gambling is authorized and licensed as provided in this Act.

(e) "Managers license" means a license issued by the Board to a person or entity to manage gambling operations conducted by the State pursuant to Section 7.3.

(f) "Dock" means the location where a riverboat moors for the purpose of embarking passengers for and disembarking passengers from the riverboat.

(g) "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens or electronic cards by riverboat patrons.

(h) "Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

(i) "Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

(j) (Blank).

(k) "Gambling operation" means the conduct of authorized gambling games upon a riverboat.

(l) "License bid" means the lump sum amount of money that an applicant bids and agrees to pay the State in return for an owners license that is re-issued on or after July 1, 2003.

(m) The terms "minority person", "woman", "veteran", and "person with a disability" shall have the same meaning as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.
Sec. 7. Owners licenses.

(a) The Board shall issue owners licenses to persons, firms or corporations which apply for such licenses upon payment to the Board of the non-refundable license fee set by the Board, upon payment of a $25,000 license fee for the first year of operation and a $5,000 license fee for each succeeding year and upon a determination by the Board that the applicant is eligible for an owners license pursuant to this Act and the rules of the Board. From the effective date of this amendatory Act of the 95th General Assembly until (i) 3 years after the effective date of this amendatory Act of the 95th General Assembly, (ii) the date any organization licensee begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, (iii) the date that payments begin under subsection (c-5) of Section 13 of the Act, or (iv) the wagering tax imposed under Section 13 of this Act is increased by law to reflect a tax rate that is at least as stringent or more stringent than the tax rate contained in subsection (a-3) of Section 13, whichever occurs first, as a condition of licensure and as an alternative source of payment for those funds payable under subsection (c-5) of Section 13 of the Riverboat Gambling Act, any owners licensee that holds or receives its owners license on or after the effective date of
this amendatory Act of the 94th General Assembly, other than an
owners licensee operating a riverboat with adjusted gross
receipts in calendar year 2004 of less than $200,000,000, must
pay into the Horse Racing Equity Trust Fund, in addition to any
other payments required under this Act, an amount equal to 3%
of the adjusted gross receipts received by the owners licensee.
The payments required under this Section shall be made by the
owners licensee to the State Treasurer no later than 3:00
o'clock p.m. of the day after the day when the adjusted gross
receipts were received by the owners licensee. A person, firm
or corporation is ineligible to receive an owners license if:

(1) the person has been convicted of a felony under the
laws of this State, any other state, or the United States;
(2) the person has been convicted of any violation of
Article 28 of the Criminal Code of 1961 or the Criminal
Code of 2012, or substantially similar laws of any other
jurisdiction;
(3) the person has submitted an application for a
license under this Act which contains false information;
(4) the person is a member of the Board;
(5) a person defined in (1), (2), (3) or (4) is an
officer, director or managerial employee of the firm or
corporation;
(6) the firm or corporation employs a person defined in
(1), (2), (3) or (4) who participates in the management or
operation of gambling operations authorized under this
Act;
(7) (blank); or
(8) a license of the person, firm or corporation issued under this Act, or a license to own or operate gambling facilities in any other jurisdiction, has been revoked.

The Board is expressly prohibited from making changes to the requirement that licensees make payment into the Horse Racing Equity Trust Fund without the express authority of the Illinois General Assembly and making any other rule to implement or interpret this amendatory Act of the 95th General Assembly. For the purposes of this paragraph, "rules" is given the meaning given to that term in Section 1-70 of the Illinois Administrative Procedure Act.

(b) In determining whether to grant an owners license to an applicant, the Board shall consider:

(1) the character, reputation, experience and financial integrity of the applicants and of any other or separate person that either:

(A) controls, directly or indirectly, such applicant, or

(B) is controlled, directly or indirectly, by such applicant or by a person which controls, directly or indirectly, such applicant;

(2) the facilities or proposed facilities for the conduct of riverboat gambling;

(3) the highest prospective total revenue to be derived
by the State from the conduct of riverboat gambling;

(4) the extent to which the ownership of the applicant reflects the diversity of the State by including minority persons, women, veterans, and persons with a disability and the good faith affirmative action plan of each applicant to recruit, train and upgrade minority persons, women, veterans, and persons with a disability in all employment classifications;

(4.5) the extent to which the ownership of the applicant includes veterans of service in the armed forces of the United States, and the good faith affirmative action plan of each applicant to recruit, train, and upgrade veterans of service in the armed forces of the United States in all employment classifications;

(5) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;

(6) whether the applicant has adequate capitalization to provide and maintain, for the duration of a license, a riverboat;

(7) the extent to which the applicant exceeds or meets other standards for the issuance of an owners license which the Board may adopt by rule; and

(8) The amount of the applicant's license bid.

(c) Each owners license shall specify the place where riverboats shall operate and dock.

(d) Each applicant shall submit with his application, on
forms provided by the Board, 2 sets of his fingerprints.

(e) The Board may issue up to 10 licenses authorizing the holders of such licenses to own riverboats. In the application for an owners license, the applicant shall state the dock at which the riverboat is based and the water on which the riverboat will be located. The Board shall issue 5 licenses to become effective not earlier than January 1, 1991. Three of such licenses shall authorize riverboat gambling on the Mississippi River, or, with approval by the municipality in which the riverboat was docked on August 7, 2003 and with Board approval, be authorized to relocate to a new location, in a municipality that (1) borders on the Mississippi River or is within 5 miles of the city limits of a municipality that borders on the Mississippi River and (2), on August 7, 2003, had a riverboat conducting riverboat gambling operations pursuant to a license issued under this Act; one of which shall authorize riverboat gambling from a home dock in the city of East St. Louis. One other license shall authorize riverboat gambling on the Illinois River south of Marshall County. The Board shall issue one additional license to become effective not earlier than March 1, 1992, which shall authorize riverboat gambling on the Des Plaines River in Will County. The Board may issue 4 additional licenses to become effective not earlier than March 1, 1992. In determining the water upon which riverboats will operate, the Board shall consider the economic benefit which riverboat gambling confers on the State, and
shall seek to assure that all regions of the State share in the economic benefits of riverboat gambling.

In granting all licenses, the Board may give favorable consideration to economically depressed areas of the State, to applicants presenting plans which provide for significant economic development over a large geographic area, and to applicants who currently operate non-gambling riverboats in Illinois. The Board shall review all applications for owners licenses, and shall inform each applicant of the Board's decision. The Board may grant an owners license to an applicant that has not submitted the highest license bid, but if it does not select the highest bidder, the Board shall issue a written decision explaining why another applicant was selected and identifying the factors set forth in this Section that favored the winning bidder.

In addition to any other revocation powers granted to the Board under this Act, the Board may revoke the owners license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application if the Board determines that license revocation is in the best interests of the State.

(f) The first 10 owners licenses issued under this Act shall permit the holder to own up to 2 riverboats and equipment thereon for a period of 3 years after the effective date of the license. Holders of the first 10 owners licenses must pay the annual license fee for each of the 3 years during which they
are authorized to own riverboats.

(g) Upon the termination, expiration, or revocation of each of the first 10 licenses, which shall be issued for a 3 year period, all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules. However, for licenses renewed on or after May 1, 1998, renewal shall be for a period of 4 years, unless the Board sets a shorter period.

(h) An owners license shall entitle the licensee to own up to 2 riverboats. A licensee shall limit the number of gambling participants to 1,200 for any such owners license. A licensee may operate both of its riverboats concurrently, provided that the total number of gambling participants on both riverboats does not exceed 1,200. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least 400 persons.

(i) A licensed owner is authorized to apply to the Board for and, if approved therefor, to receive all licenses from the Board necessary for the operation of a riverboat, including a liquor license, a license to prepare and serve food for human consumption, and other necessary licenses. All use, occupation and excise taxes which apply to the sale of food and beverages in this State and all taxes imposed on the sale or use of
tangible personal property apply to such sales aboard the riverboat.

(j) The Board may issue or re-issue a license authorizing a riverboat to dock in a municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the municipality in which the riverboat will dock has by a majority vote approved the docking of riverboats in the municipality. The Board may issue or re-issue a license authorizing a riverboat to dock in areas of a county outside any municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the county has by a majority vote approved of the docking of riverboats within such areas.

(Source: P.A. 100-391, eff. 8-25-17; 100-1152, eff. 12-14-18.)

(230 ILCS 10/7.6)

Sec. 7.6. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority-owned business", "woman", "women-owned business", "person with a disability", "veteran", "veteran-owned business", and "business owned by a person with a disability" have the meanings ascribed to them in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award
of contracts by each owners licensee to businesses owned by minorities, women, veterans, and persons with disabilities, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year. Each owners licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) any purchasing mandates would be dependent upon the availability of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices; (2) there are no or a limited number of licensed suppliers as defined by this Act for the goods or services provided to the licensee; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each owners licensee shall file with the Board an annual report of its utilization of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.

(c-5) The Board shall, by rule, establish goals for the
award of contracts by each owners licensee to businesses owned by veterans of service in the armed forces of the United States, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) any purchasing mandates would be dependent upon the availability of veteran-owned businesses ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices; (2) there are no or a limited number of licensed suppliers as defined in this Act for the goods or services provided to the licensee; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

Each owners licensee shall file with the Board an annual report of its utilization of veteran-owned businesses during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.

(d) The owners licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the owners licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority-owned businesses, women-owned businesses, businesses owned by persons with
disabilities, and veteran-owned businesses.

(e) If the Board determines that its goals and policies are not being met by any owners licensee, then the Board may:

1. adopt remedies for such violations; and
2. recommend that the owners licensee provide additional opportunities for participation by minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses; such recommendations may include, but shall not be limited to:

   A. assurances of stronger and better focused solicitation efforts to obtain more minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses as potential sources of supply;

   B. division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses;

   C. elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses;
(D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each owners licensee; and

(2) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses.

(Source: P.A. 99-78, eff. 7-20-15; 100-391, eff. 8-25-17; 100-1152, eff. 12-14-18.)

(230 ILCS 10/11.2)

Sec. 11.2. Relocation of riverboat home dock.
(a) A licensee that was not conducting riverboat gambling on January 1, 1998 may apply to the Board for renewal and approval of relocation to a new home dock location authorized under Section 3(c) and the Board shall grant the application and approval upon receipt by the licensee of approval from the new municipality or county, as the case may be, in which the licensee wishes to relocate pursuant to Section 7(j).

(b) Any licensee that relocates its home dock pursuant to this Section shall attain a level of at least 20% minority person and woman ownership, at least 16% and 4% respectively, within a time period prescribed by the Board, but not to exceed 12 months from the date the licensee begins conducting gambling at the new home dock location. The 12-month period shall be extended by the amount of time necessary to conduct a background investigation pursuant to Section 6. For the purposes of this Section, the terms "woman" and "minority person" have the meanings provided in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 190. The Quincy Veterans' Home Rehabilitation and Rebuilding Act is amended by changing Sections 5, 15, 30, and 46 as follows:

(330 ILCS 21/5)
Sec. 5. Legislative policy. It is the intent of the General Assembly that the Capital Development Board or the Department of Veterans' Affairs be allowed to use the design-build delivery method for public projects to renovate, restore, rehabilitate, or rebuild the Quincy Veterans' Home, if it is shown to be in the State's best interests for that particular project. It shall be the policy of the Capital Development Board and the Department of Veterans' Affairs in the procurement of design-build services to publicly announce all requirements for design-build services for the Quincy Veterans' Home and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The Capital Development Board and the Department of Veterans' Affairs shall, prior to issuing requests for proposals, promulgate and publish procedures for the solicitation and award of contracts pursuant to this Act.

The Capital Development Board and the Department of Veterans' Affairs shall, for each public project or projects permitted under this Act, make a written determination, including a description as to the particular advantages of the design-build procurement method, that it is in the best interests of this State to enter into a design-build contract for the project or projects. In making that determination, the following factors shall be considered:
(1) The probability that the design-build procurement method will be in the best interests of the State by providing a material savings of time or cost over the design-bid-build or other delivery system.

(2) The type and size of the project and its suitability to the design-build procurement method.

(3) The ability of the State construction agency to define and provide comprehensive scope and performance criteria for the project.

No State construction agency may use a design-build procurement method unless the agency determines in writing that the project will comply with the disadvantaged business and equal employment practices of the State as established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

The Capital Development Board or the Department of Veterans' Affairs shall, within 15 days after the initial determination, provide an advisory copy to the Procurement Policy Board and maintain the full record of determination for 5 years.

(Source: P.A. 100-610, eff. 7-17-18.)

(330 ILCS 21/15)

(Section scheduled to be repealed on July 17, 2023)

Sec. 15. Solicitation of proposals.
(a) When the State construction agency elects to use the design-build delivery method, it must issue a notice of intent to receive requests for proposals for the project at least 14 days before issuing the request for proposal. The State construction agency must publish the advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The State construction agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the
use of additional prequalification criteria by the State
construction agency.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The State construction agency may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $10,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The State construction agency shall include in the request for proposal a minimum of 30 days to develop the
Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 100-610, eff. 7-17-18.)

(330 ILCS 21/30)

Section scheduled to be repealed on July 17, 2023

Sec. 30. Procedures for selection.

(a) The State construction agency must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The State construction agency shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the agency has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase I evaluation of design-build entities:

(1) experience of personnel; (2) successful experience with similar project types; (3) financial capability; (4)
timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm; (7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.
Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, so long as no less than 2 design-build entities nor more than 6 design-build entities are selected to submit Phase II proposals.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The State construction agency must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the State agency.

(c) The State construction agency shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The State construction agency shall include the following
criteria in every Phase II technical evaluation of design-build entities: (1) compliance with objectives of the project; (2) compliance of proposed services to the request for proposal requirements; (3) quality of products or materials proposed; (4) quality of design parameters; (5) design concepts; (6) innovation in meeting the scope and performance criteria; and (7) constructability of the proposed project. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The State construction agency shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighing factor shall be 25%.

The State construction agency shall directly employ or retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the State construction agency may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 100-610, eff. 7-17-18; revised 10-3-18.)
Sec. 46. Reports and evaluation. At the end of every 6-month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the proposal process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to what degree each design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.  
(Source: P.A. 100-610, eff. 7-17-18.)
Sec. 14.7. Preservation of community water supplies.

(a) The Agency shall adopt rules governing certain corrosion prevention projects carried out on community water supplies. Those rules shall not apply to buried pipelines including, but not limited to, pipes, mains, and joints. The rules shall exclude routine maintenance activities of community water supplies including, but not limited to, the use of protective coatings applied by the owner's utility personnel during the course of performing routine maintenance activities. The activities may include, but not be limited to, the painting of fire hydrants; routine over-coat painting of interior and exterior building surfaces such as floors, doors, windows, and ceilings; and routine touch-up and over-coat application of protective coatings typically found on water utility pumps, pipes, tanks, and other water treatment plant appurtenances and utility owned structures. Those rules shall include:

(1) standards for ensuring that community water supplies carry out corrosion prevention and mitigation methods according to corrosion prevention industry standards adopted by the Agency;

(2) requirements that community water supplies use:

(A) protective coatings personnel to carry out corrosion prevention and mitigation methods on exposed
water treatment tanks, exposed non-concrete water
treatment structures, exposed water treatment pipe
galleys; exposed pumps; and generators; the Agency
shall not limit to protective coatings personnel any
other work relating to prevention and mitigation
methods on any other water treatment appurtenances
where protective coatings are utilized for corrosion
control and prevention to prolong the life of the water
utility asset; and

(B) inspectors to ensure that best practices and
standards are adhered to on each corrosion prevention
project; and

(3) standards to prevent environmental degradation
that might occur as a result of carrying out corrosion
prevention and mitigation methods including, but not
limited to, standards to prevent the improper handling and
containment of hazardous materials, especially lead paint,
removed from the exterior of a community water supply.

In adopting rules under this subsection (a), the Agency
shall obtain input from corrosion industry experts
specializing in the training of personnel to carry out
corrosion prevention and mitigation methods.

(b) As used in this Section:
"Community water supply" has the meaning ascribed to that
term in Section 3.145 of this Act.
"Corrosion" means a naturally occurring phenomenon
commonly defined as the deterioration of a metal that results from a chemical or electrochemical reaction with its environment.

"Corrosion prevention and mitigation methods" means the preparation, application, installation, removal, or general maintenance as necessary of a protective coating system, including any or more of the following:

(A) surface preparation and coating application on the exterior or interior of a community water supply; or

(B) shop painting of structural steel fabricated for installation as part of a community water supply.

"Corrosion prevention project" means carrying out corrosion prevention and mitigation methods. "Corrosion prevention project" does not include clean-up related to surface preparation.

"Protective coatings personnel" means personnel employed or retained by a contractor providing services covered by this Section to carry out corrosion prevention or mitigation methods or inspections.

(c) This Section shall apply to only those projects receiving 100% funding from the State.

(d) Each contract procured pursuant to the Illinois Procurement Code for the provision of services covered by this Section (1) shall comply with applicable provisions of the Illinois Procurement Code and (2) shall include provisions for
reporting participation by minority persons, women, and veterans, as defined by Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; women, as defined by Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and veterans, as defined by Section 45-57 of the Illinois Procurement Code, in apprenticeship and training programs in which the contractor or his or her subcontractors participate. The requirements of this Section do not apply to an individual licensed under the Professional Engineering Practice Act of 1989 or the Structural Engineering Act of 1989.

(Source: P.A. 99-923, eff. 7-1-17; 100-391, eff. 8-25-17.)

Section 200. The Public Private Agreements for the Illiana Expressway Act is amended by changing Section 20 as follows:

(605 ILCS 130/20)
Sec. 20. Procurement; request for proposals process.
(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act.
(b) The competitive request for proposals process shall, at a minimum, solicit statements of qualification and proposals from offerors.
(c) The competitive request for proposals process shall, at a minimum, take into account the following criteria:

(1) The offeror's plans for the Illiana Expressway project;

(2) The offeror's current and past business practices;

(3) The offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating highways or other public assets;

(4) The offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(5) The offeror's ability to comply with and past performance in complying with Section 2-105 of the Illinois Human Rights Act; and


(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request
for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select at least 2 offerors as finalists. The Department shall submit the offerors' statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days of the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the Illiana Expressway project until it has received and considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public private agreement and publish notice of the hearing or hearings at least 7 days before the hearing and in accordance with Section 4-219 of the Illinois Highway Code. The notice must include the following:

(1) the date, time, and place of the hearing and the address of the Department;
(2) the subject matter of the hearing;
(3) a description of the agreement that may be awarded;
and
(4) the recommendation that has been made to select an offeror as the contractor for the Illiana Expressway project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Illiana Expressway project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Illiana Expressway project.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 205. The Public-Private Agreements for the South Suburban Airport Act is amended by changing Section 2-30 as follows:

(620 ILCS 75/2-30)

Sec. 2-30. Request for proposals process to enter into
public-private agreements.

(a) Notwithstanding any provisions of the Illinois
Procurement Code, the Department, on behalf of the State, shall
select a contractor through a competitive request for proposals
process governed by Section 2-30 of this Act. The Department
will consult with the chief procurement officer for
construction or construction-related activities designated
pursuant to clause (2) of Section 1-15.15 of the Illinois
Procurement Code on the competitive request for proposals
process, and the Secretary will determine, in consultation with
the chief procurement officer, which procedures to adopt and
apply to the competitive request for proposals process in order
to ensure an open, transparent, and efficient process that
accomplishes the purposes of this Act.

(b) The competitive request for proposals process shall, at
a minimum, solicit statements of qualification and proposals
from offerors.

(c) The competitive request for proposals process shall, at
a minimum, take into account the following criteria:

(1) the offeror's plans for the South Suburban Airport
project;

(2) the offeror's current and past business practices;

(3) the offeror's poor or inadequate past performance
in developing, financing, constructing, managing, or
operating airports or other public assets;

(4) the offeror's ability to meet the utilization goals
for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(5) the offeror's ability to comply with Section 2-105 of the Illinois Human Rights Act; and

(6) the offeror's plans to comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select one or more offerors as finalists. The Department shall submit the offeror's statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days after the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for
proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the South Suburban Airport project until it has received and considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public-private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public-private agreement and publish notice of the hearing or hearings at least 7 days before the hearing. The notice shall include the following:

(1) the date, time, and place of the hearing and the address of the Department;
(2) the subject matter of the hearing;
(3) a description of the agreement that may be awarded; and
(4) the recommendation that has been made to select an offeror as the contractor for the South Suburban Airport project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the South Suburban Airport project and shall submit the
decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the South Suburban Airport project.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 210. The Public-Private Partnerships for Transportation Act is amended by changing Section 25 as follows:

(630 ILCS 5/25)

Sec. 25. Design-build procurement.

(a) This Section 25 shall apply only to transportation projects for which the Department or the Authority intends to execute a design-build agreement, in which case the Department or the Authority shall abide by the requirements and procedures of this Section 25 in addition to other applicable requirements and procedures set forth in this Act.

(b)(1) The transportation agency must issue a notice of intent to receive proposals for the project at least 14 days before issuing the request for the qualifications. The transportation agency must publish the advance notice in a daily newspaper of general circulation in the county where the transportation agency is located. The transportation agency is
encouraged to use publication of the notice in related
collection industry service publications. A brief
description of the proposed procurement must be included in the
notice. The transportation agency must provide a copy of the
request for qualifications to any party requesting a copy.

(2) The request for qualifications shall be prepared for
each project and must contain, without limitation, the
following information: (i) the name of the transportation
agency; (ii) a preliminary schedule for the completion of the
contract; (iii) the proposed budget for the project and the
source of funds, to the extent not already reflected in the
Department's Multi-Year Highway Improvement Program; (iv) the
shortlisting process for entities or groups of entities such as
unincorporated joint ventures wishing to submit proposals (the
transportation agency shall include, at a minimum, its normal
prequalification, licensing, registration, and other
requirements, but nothing contained herein precludes the use of
additional criteria by the transportation agency); (v) a
summary of anticipated material requirements of the contract,
including but not limited to, the proposed terms and
conditions, required performance and payment bonds, insurance,
and the utilization goals established by the transportation
agency for minority and women business enterprises and
compliance with Section 2-105 of the Illinois Human Rights Act;
and (vi) the anticipated number of entities that will be
shortlisted for the request for proposals phase.
The transportation agency may include any other relevant information in the request for qualifications that it chooses to supply. The private entity shall be entitled to rely upon the accuracy of this documentation in the development of its statement of qualifications and its proposal only to the extent expressly warranted by the transportation agency.

The date that statements of qualifications are due must be at least 21 calendar days after the date of the issuance of the request for qualifications. In the event the cost of the project is estimated to exceed $12,000,000, then the statement of qualifications due date must be at least 28 calendar days after the date of the issuance of the request for qualifications. The transportation agency shall include in the request for proposals a minimum of 30 days to develop the proposals after the selection of entities from the evaluation of the statements of qualifications is completed.

(c)(1) The transportation agency shall develop, with the assistance of a licensed design professional, the request for qualifications and the request for proposals, which shall include scope and performance criteria. The scope and performance criteria must be in sufficient detail and contain adequate information to reasonably apprise the private entities of the transportation agency's overall programmatic needs and goals, including criteria and preliminary design plans, general budget parameters, schedule, and delivery requirements.
(2) Each request for qualifications and request for proposals shall also include a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the transportation agency to be produced by the private entities.

(3) The scope and performance criteria shall be prepared by a design professional who is an employee of the transportation agency, or the transportation agency may contract with an independent design professional selected under the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act to provide these services.

(4) The design professional that prepares the scope and performance criteria is prohibited from participating in any private entity proposal for the project.

(d)(1) The transportation agency must use a two phase procedure for the selection of the successful design-build entity. The request for qualifications phase will evaluate and shortlist the private entities based on qualifications, and the request for proposals will evaluate the technical and cost proposals.

(2) The transportation agency shall include in the request for qualifications the evaluating factors to be used in the request for qualifications phase. These factors are in addition to any prequalification requirements of private entities that the transportation agency has set forth. Each request for
qualifications shall establish the relative importance assigned to each evaluation factor, including any weighting of criteria to be employed by the transportation agency. The transportation agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The transportation agency shall include the following criteria in every request for qualifications phase evaluation of private entities: (i) experience of personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (viii) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and in complying with Section 2-105 of the Illinois Human Rights Act. No proposal shall be considered that does not include an entity's plan to comply with the requirements regarding minority and women business enterprises and economically disadvantaged firms established by the transportation agency and with Section 2-105 of the Illinois Human Rights Act. The transportation agency may include any additional relevant criteria in the request for
qualifications phase that it deems necessary for a proper qualification review.

Upon completion of the qualifications evaluation, the transportation agency shall create a shortlist of the most highly qualified private entities.

The transportation agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the request for proposals phase technical and cost evaluations. The transportation agency must allow sufficient time for the shortlist entities to prepare their proposals considering the scope and detail requested by the transportation agency.

(3) The transportation agency shall include in the request for proposals the evaluating factors to be used in the technical and cost submission components. Each request for proposals shall establish, for both the technical and cost submission components, the relative importance assigned to each evaluation factor, including any weighting of criteria to be employed by the transportation agency. The transportation agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The transportation agency shall include the following criteria in every request for proposals phase technical evaluation of private entities: (i) compliance with objectives of the project; (ii) compliance of proposed services to the request for proposal requirements; (iii) compliance with the
request for proposal requirements of products or materials proposed; (iv) quality of design parameters; and (v) design concepts. The transportation agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The transportation agency shall include the following criteria in every request for proposals phase cost evaluation: the total project cost and the time of completion. The transportation agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The guaranteed maximum project cost criteria weighing factor shall not exceed 30%.

The transportation agency shall directly employ or retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

(e) Statements of qualifications and proposals must be properly identified and sealed. Statements of qualifications and proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for qualifications or the request for proposals. All private entities submitting statements of qualifications or proposals shall be disclosed after the deadline for submission, and all private entities who are selected for request for proposals phase evaluation shall also be disclosed at the time of that determination.
Design-build proposals shall include a bid bond in the form and security as designated in the request for proposals. Proposals shall also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals shall include a list of all design professionals and other entities to which any work identified in Section 30-30 of the Illinois Procurement Code as a subdivision of construction work may be subcontracted during the performance of the contract to the extent known at the time of proposal. If the information is not known at the time of proposal, then the design-build agreement shall require the identification prior to a previously unlisted subcontractor commencing work on the transportation project.

Statements of qualifications and proposals must meet all material requirements of the request for qualifications or request for proposals, or else they may be rejected as non-responsive. The transportation agency shall have the right to reject any and all statements of qualifications and proposals.

The private entity's proprietary intellectual property contained in the drawings and specifications of any unsuccessful statement of qualifications or proposal shall remain the property of the private entity.

The transportation agency shall review the statements of qualifications and the proposals for compliance with the performance criteria and evaluation factors.
Statements of qualifications and proposals may be withdrawn prior to the due date and time for submissions for any cause. After evaluation begins by the transportation agency, clear and convincing evidence of error is required for withdrawal.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 215. The Criminal Code of 2012 is amended by changing Sections 17-10.2, 17-10.3, 33E-2, and 33E-6 as follows:

(720 ILCS 5/17-10.2) (was 720 ILCS 5/17-29)
Sec. 17-10.2. Businesses owned by minorities, women, veterans, and persons with disabilities; fraudulent contracts with governmental units.

(a) In this Section:

"Minority person" means a person who is any of the following:

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

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

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

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

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

"Woman" "Female" means a person who is of the female gender.

"Person with a disability" means a person who is a person qualifying as having a disability.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under
honorable conditions.

"Disability" means a severe physical or mental disability that: (1) results from: amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, an intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end stage renal failure disease; and (2) substantially limits one or more of the person's major life activities.

"Minority-owned business" means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

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

"Business owned by a person with a disability" means a business that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not-for-profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability.

"Veteran-owned business" means a business which is at least 51% owned by one or more veterans, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more veterans; and the management and daily business operations of which are controlled by one or more of the veterans who own it.

"Minority owned business" means a business concern that is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.

"Female owned business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which
is owned by one or more females; and the management and
daily business operations of which are controlled by one or
more of the females who own it.

"Business owned by a person with a disability" means a
business concern that is at least 51% owned by one or more
persons with a disability and the management and daily
business operations of which are controlled by one or more
of the persons with disabilities who own it. A
not-for-profit agency for persons with disabilities that
is exempt from taxation under Section 501 of the Internal
Revenue Code of 1986 is also considered a "business owned
by a person with a disability".

"Governmental unit" means the State, a unit of local
government, or school district.

"Armed forces of the United States" means the United
States Army, Navy, Air Force, Marine Corps, Coast Guard, or
service in active duty as defined under 38 U.S.C. Section
101. Service in the Merchant Marine that constitutes active
duty under Section 401 of federal Public Act 95-202 shall
also be considered service in the armed forces for purposes
of this Section.

"Time of hostilities with a foreign country" means any
period of time in the past, present, or future during which
a declaration of war by the United States Congress has been
or is in effect or during which an emergency condition has
been or is in effect that is recognized by the issuance of
a Presidential proclamation or a Presidential executive
order and in which the armed forces expeditionary medal or
other campaign service medals are awarded according to
Presidential executive order.

(b) In addition to any other penalties imposed by law or by
an ordinance or resolution of a unit of local government or
school district, any individual or entity that knowingly
obtains, or knowingly assists another to obtain, a contract
with a governmental unit, or a subcontract or written
commitment for a subcontract under a contract with a
governmental unit, by falsely representing that the individual
or entity, or the individual or entity assisted, is a minority
owned business, female owned business, or business owned by a
person with a disability is guilty of a Class 2 felony,
regardless of whether the preference for awarding the contract
to a minority owned business, female owned business, or
business owned by a person with a disability was established by
statute or by local ordinance or resolution.

(c) In addition to any other penalties authorized by law,
the court shall order that an individual or entity convicted of
a violation of this Section must pay to the governmental unit
that awarded the contract a penalty equal to one and one-half
times the amount of the contract obtained because of the false
representation.

(Source: P.A. 99-143, eff. 7-27-15.)
Sec. 17-10.3. Deception relating to certification of disadvantaged business enterprises.

(a) Fraudulently obtaining or retaining certification. A person who, in the course of business, fraudulently obtains or retains certification as a minority-owned business, women-owned business, service-disabled veteran-owned small business, or veteran-owned small business, or a business owned by a person with a disability commits a Class 2 felony.

(b) Willfully making a false statement. A person who, in the course of business, willfully makes a false statement whether by affidavit, report or other representation, to an official or employee of a State agency or the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities for the purpose of influencing the certification or denial of certification of any business entity as a minority-owned business, women-owned business, service-disabled veteran-owned small business, or veteran-owned small business, or a business owned by a person with a disability commits a Class 2 felony.

(c) Willfully obstructing or impeding an official or employee of any agency in his or her investigation. Any person who, in the course of business, willfully obstructs or impedes an official or employee of any State agency or the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities who is investigating the
qualifications of a business entity which has requested
certification as a minority-owned business, women-owned
business, service-disabled veteran-owned small business, or
veteran-owned small business, or a business owned by a person
with a disability commits a Class 2 felony.

(d) Fraudulently obtaining public moneys reserved for
disadvantaged business enterprises. Any person who, in the
course of business, fraudulently obtains public moneys
reserved for, or allocated or available to, minority-owned
businesses, women-owned businesses, service-disabled
veteran-owned small businesses, or veteran-owned small
businesses, or businesses owned by persons with a disability
commits a Class 2 felony.

(e) Definitions. As used in this Article, "minority-owned
business", "women-owned business", "veteran-owned business",
"business owned by a person with a disability", "State agency"
with respect to minority-owned businesses, and women-owned
businesses, veteran-owned businesses, businesses owned by
persons with disabilities, and "certification" with respect to
minority-owned businesses, and women-owned businesses,
veteran-owned businesses, and businesses owned by persons with
a disability shall have the meanings ascribed to them in
Section 2 of the Business Enterprise for Minorities, Women,
Veterans, and Persons with Disabilities Act. As used in this
Article, "service-disabled veteran-owned small business",
"veteran-owned small business", "State agency" with respect to
service-disabled veteran-owned small businesses and veteran-owned small businesses, and "certification" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses have the same meanings as in Section 45-57 of the Illinois Procurement Code.
(Source: P.A. 100-391, eff. 8-25-17.)

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:
(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.
(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.
(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.
(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.
(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local
government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; except that, with respect to State contracts set aside for award to service-disabled veteran-owned small businesses and veteran-owned small businesses pursuant to Section 45-57 of the Illinois Procurement Code, "sheltered market" means procurements pursuant to that Section.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.
(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

(Source: P.A. 100-391, eff. 8-25-17.)

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and award by public official.

(a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any
particular potential subcontractors, when inclusion of such
ingformation concerning the specifications or contractors in
the bid or offer would influence the likelihood of acceptance
of such bid or offer, commits a Class 4 felony. It shall not
constitute a violation of this subsection to convey information
intended to clarify plans or specifications regarding a public
contract where such disclosure of information is also made
generally available to the public.

(b) Any person who is an official of or employed by any
unit of State or local government who, either directly or
indirectly, knowingly informs a bidder or offeror that the bid
or offer will be accepted or executed only if specified
individuals are included as subcontractors commits a Class 3
felony.

(c) It shall not constitute a violation of subsection (a)
of this Section where any person who is an official of or
employed by any unit of State or local government follows
procedures established (i) by federal, State or local minority,
woman, veteran, or person with a disability or female owned
business enterprise programs or (ii) pursuant to Section 45-57

(d) Any bidder or offeror who is the recipient of
communications from the unit of government which he reasonably
believes to be proscribed by subsections (a) or (b), and fails
to inform either the Attorney General or the State's Attorney
for the county in which the unit of government is located,
commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

(Source: P.A. 97-260, eff. 8-5-11.)

Section 220. The Business Corporation Act of 1983 is amended by changing Section 14.05 as follows:

(805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

Sec. 14.05. Annual report of domestic or foreign corporation. Each domestic corporation organized under any general law or special act of this State authorizing the corporation to issue shares, other than homestead associations, building and loan associations, banks and insurance companies (which includes a syndicate or limited
syndicate regulated under Article V 1/2 of the Illinois Insurance Code or member of a group of underwriters regulated under Article V of that Code), and each foreign corporation (except members of a group of underwriters regulated under Article V of the Illinois Insurance Code) authorized to transact business in this State, shall file, within the time prescribed by this Act, an annual report setting forth:

(a) The name of the corporation.

(b) The address, including street and number, or rural route number, of its registered office in this State, and the name of its registered agent at that address.

(c) The address, including street and number, or rural route number, of its principal office.

(d) The names and respective addresses, including street and number, or rural route number, of its directors and officers.

(e) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class.

(f) A statement of the aggregate number of issued shares, itemized by classes, and series, if any, within a class.

(g) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as defined in this Act.

(h) Either a statement that (1) all the property of the corporation is located in this State and all of its
business is transacted at or from places of business in this State, or the corporation elects to pay the annual franchise tax on the basis of its entire paid-in capital, or (2) a statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property located within this State, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation and the gross amount thereof transacted by the corporation at or from places of business in this State as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the anniversary month or in the case of a corporation which has established an extended filing month, as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the extended filing month; however, in the case of a domestic corporation that has not completed its first fiscal year, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of incorporation and the last day of the third month preceding the anniversary month. In the case of a foreign corporation that has not been authorized to transact business in this State for a period of 12 months and has not commenced transacting business prior to
obtaining authority, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of its authorization to transact business in this State and the last day of the third month preceding the anniversary month. If the data referenced in item (2) of this subsection is not completed, the franchise tax provided for in this Act shall be computed on the basis of the entire paid-in capital.

(i) A statement, including the basis therefor, of status as a "minority-owned business" or as a "women-owned business" as those terms are defined in the Business Enterprise for Minorities, Women, **Veterans**, and Persons with Disabilities Act.

(j) Additional information as may be necessary or appropriate in order to enable the Secretary of State to administer this Act and to verify the proper amount of fees and franchise taxes payable by the corporation.

The annual report shall be made on forms prescribed and furnished by the Secretary of State, and the information therein required by paragraphs (a) through (d), both inclusive, of this Section, shall be given as of the date of the execution of the annual report and the information therein required by paragraphs (e), (f), and (g) of this Section shall be given as of the last day of the third month preceding the anniversary
month, except that the information required by paragraphs (e),
(f), and (g) shall, in the case of a corporation which has
established an extended filing month, be given in its final
transition annual report and each subsequent annual report as
of the close of its fiscal year on or immediately preceding the
last day of the third month prior to its extended filing month.
It shall be executed by the corporation by its president, a
vice-president, secretary, assistant secretary, treasurer or
other officer duly authorized by the board of directors of the
corporation to execute those reports, and verified by him or
her, or, if the corporation is in the hands of a receiver or
trustee, it shall be executed on behalf of the corporation and
verified by the receiver or trustee.
(Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18;
100-863, eff. 8-14-18.)

Section 999. Effective date. This Act takes effect upon
becoming law.
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