

SB3893



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3893

Introduced 2/14/2020, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

30 ILCS 575/2

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that certain socially disadvantaged persons are considered minority persons under the Act. Provides that a "socially disadvantaged person" means a person individually certified by the Business Enterprise Council for Minorities, Women, and Persons with Disabilities as having been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to his or her individual qualities.

LRB101 20273 HLH 69815 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

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

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 2. Definitions.

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

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

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

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

1 Vietnam).

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

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

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

10 (f) A person who qualifies as a socially
11 disadvantaged individual.

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

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

19 (2.1) "Person with a disability" means a person with a
20 severe physical or mental disability that:

21 (a) results from:

22 amputation,

23 arthritis,

24 autism,

25 blindness,

26 burn injury,

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

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

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

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

20 (4.1) "Business owned by a person with a disability"
21 means a business that is at least 51% owned by one or more
22 persons with a disability and the management and daily
23 business operations of which are controlled by one or more
24 of the persons with disabilities who own it. A
25 not-for-profit agency for persons with disabilities that
26 is exempt from taxation under Section 501 of the Internal

1 Revenue Code of 1986 is also considered a "business owned
2 by a person with a disability".

3 (4.2) "Council" means the Business Enterprise Council
4 for Minorities, Women, and Persons with Disabilities
5 created under Section 5 of this Act.

6 (5) "State contracts" means all contracts entered into
7 by the State, any agency or department thereof, or any
8 public institution of higher education, including
9 community college districts, regardless of the source of
10 the funds with which the contracts are paid, which are not
11 subject to federal reimbursement. "State contracts" does
12 not include contracts awarded by a retirement system,
13 pension fund, or investment board subject to Section
14 1-109.1 of the Illinois Pension Code. This definition shall
15 control over any existing definition under this Act or
16 applicable administrative rule.

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

23 (6) "State agencies" shall mean all departments,
24 officers, boards, commissions, institutions and bodies
25 politic and corporate of the State, but does not include
26 the Board of Trustees of the University of Illinois, the

1 Board of Trustees of Southern Illinois University, the
2 Board of Trustees of Chicago State University, the Board of
3 Trustees of Eastern Illinois University, the Board of
4 Trustees of Governors State University, the Board of
5 Trustees of Illinois State University, the Board of
6 Trustees of Northeastern Illinois University, the Board of
7 Trustees of Northern Illinois University, the Board of
8 Trustees of Western Illinois University, municipalities or
9 other local governmental units, or other State
10 constitutional officers.

11 (7) "Public institutions of higher education" means
12 the University of Illinois, Southern Illinois University,
13 Chicago State University, Eastern Illinois University,
14 Governors State University, Illinois State University,
15 Northeastern Illinois University, Northern Illinois
16 University, Western Illinois University, the public
17 community colleges of the State, and any other public
18 universities, colleges, and community colleges now or
19 hereafter established or authorized by the General
20 Assembly.

21 (8) "Certification" means a determination made by the
22 Council or by one delegated authority from the Council to
23 make certifications, or by a State agency with statutory
24 authority to make such a certification, that a business
25 entity is a business owned by a minority, woman, or person
26 with a disability for whatever purpose. A business owned

1 and controlled by women shall be certified as a
2 "woman-owned business". A business owned and controlled by
3 women who are also minorities shall be certified as both a
4 "women-owned business" and a "minority-owned business".

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

22 (10) "Business" means a business that has annual gross
23 sales of less than \$75,000,000 as evidenced by the federal
24 income tax return of the business. A firm with gross sales
25 in excess of this cap may apply to the Council for
26 certification for a particular contract if the firm can

1 demonstrate that the contract would have significant
2 impact on businesses owned by minorities, women, or persons
3 with disabilities as suppliers or subcontractors or in
4 employment of minorities, women, or persons with
5 disabilities.

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

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

17 (13) "Socially disadvantaged person" means a person
18 individually certified by the Council as having been
19 subjected to racial or ethnic prejudice or cultural bias
20 within American society because of his or her identity as a
21 member of a group and without regard to his or her
22 individual qualities. Social disadvantage must include the
23 following:

24 (A) at least one objective distinguishing feature
25 that has contributed to social disadvantage, such as
26 race, ethnic origin, gender, disability, long-term

1 residence in an environment isolated from the
2 mainstream of American society, or other similar
3 causes not common to individuals who are not socially
4 disadvantaged;

5 (B) personal experiences of substantial and
6 chronic social disadvantage in American society; and

7 (C) negative impact on entry into or advancement in
8 the business world because of the disadvantage; the
9 Council shall consider any relevant evidence in
10 assessing this element; in every case, however, the
11 Council shall consider education, employment, and
12 business history, where applicable, to determine
13 whether the totality of circumstances shows
14 disadvantage in entering into or advancing in the
15 business world.

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

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