

**102ND GENERAL ASSEMBLY****State of Illinois****2021 and 2022****SB0687**

Introduced 2/25/2021, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Requires the Department of Central Management Services to submit an annual report concerning certifications issued to veteran-owned small businesses and service-disabled veteran-owned small businesses. Requires the Department to conduct a minimum of 2 outreach events per year to ensure that veteran-owned small businesses and service-disabled veteran-owned small businesses know about the procurement opportunities and certification requirements with the State. Adds additional requirements concerning the certification program for veteran-owned small businesses and service-disabled veteran-owned small businesses. Provides that the Department of Central Management Services, in consultation with the Department of Veteran Affairs, may develop programs and agreements to encourage cities, counties, towns, townships, and other certifying entities to adopt uniform certification procedures and certification recognition programs. Provides that a business shall be certified by the Department of Central Management Services as a service-disabled veteran-owned small business or a veteran-owned small business if the Department determines that the business has been certified as a service-disabled veteran-owned small business or a veteran-owned small business by the Vets First Verification Program of the United States Department of Veterans Affairs, and the business has provided to the Department with specified information. Provides that the policies of the Department of Central Management Services regarding recognition of the Vets First Verification Program shall be reviewed annually. Effective immediately.

LRB102 12622 RJF 17960 b

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

8 (a) Set-aside goal. It is the goal of the State to promote
9 and encourage the continued economic development of small
10 businesses owned and controlled by qualified veterans and that
11 qualified service-disabled veteran-owned small businesses
12 (referred to as SDVOSB) and veteran-owned small businesses
13 (referred to as VOSB) participate in the State's procurement
14 process as both prime contractors and subcontractors. Not less
15 than 3% of the total dollar amount of State contracts, as
16 defined by the Director of Central Management Services, shall
17 be established as a goal to be awarded to SDVOSB and VOSB. That
18 portion of a contract under which the contractor subcontracts
19 with a SDVOSB or VOSB may be counted toward the goal of this
20 subsection. The Department of Central Management Services
21 shall adopt rules to implement compliance with this subsection
22 by all State agencies.

23 (b) Fiscal year reports. By each November 1, each chief

1 procurement officer shall report to the Department of Central
2 Management Services on all of the following for the
3 immediately preceding fiscal year, and by each March 1 the
4 Department of Central Management Services shall compile and
5 report that information to the General Assembly:

6 (1) The total number of VOSB, and the number of
7 SDVOSB, who submitted bids for contracts under this Code.

8 (2) The total number of VOSB, and the number of
9 SDVOSB, who entered into contracts with the State under
10 this Code and the total value of those contracts.

11 (b-5) The Department of Central Management Services shall
12 submit an annual report to the Governor and the General
13 Assembly that shall include the following:

14 (1) a year-by-year comparison of the number of
15 certifications the State has issued to veteran-owned small
16 businesses and service-disabled veteran-owned small
17 businesses;

18 (2) the obstacles, if any, the Department of Central
19 Management Services faces when certifying veteran-owned
20 businesses and possible rules or changes to rules to
21 address those issues;

22 (3) a year-by-year comparison of awarded contracts to
23 certified veteran-owned small businesses and
24 service-disabled veteran-owned small businesses; and

25 (4) any other information that the Department of
26 Central Management Services deems necessary to assist

1 veteran-owned small businesses and service-disabled
2 veteran-owned small businesses to become certified with
3 the State.

4 The Department of Central Management Services shall
5 conduct a minimum of 2 outreach events per year to ensure that
6 veteran-owned small businesses and service-disabled
7 veteran-owned small businesses know about the procurement
8 opportunities and certification requirements with the State.
9 The Department of Central Management Services may receive
10 appropriations for outreach.

11 (c) Yearly review and recommendations. Each year, each
12 chief procurement officer shall review the progress of all
13 State agencies under its jurisdiction in meeting the goal
14 described in subsection (a), with input from statewide
15 veterans' service organizations and from the business
16 community, including businesses owned by qualified veterans,
17 and shall make recommendations to be included in the
18 Department of Central Management Services' report to the
19 General Assembly regarding continuation, increases, or
20 decreases of the percentage goal. The recommendations shall be
21 based upon the number of businesses that are owned by
22 qualified veterans and on the continued need to encourage and
23 promote businesses owned by qualified veterans.

24 (d) Governor's recommendations. To assist the State in
25 reaching the goal described in subsection (a), the Governor
26 shall recommend to the General Assembly changes in programs to

1 assist businesses owned by qualified veterans.

2 (e) Definitions. As used in this Section:

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

10 "Certification" means a determination made by the Illinois
11 Department of Veterans' Affairs and the Department of Central
12 Management Services that a business entity is a qualified
13 service-disabled veteran-owned small business or a qualified
14 veteran-owned small business for whatever purpose. A SDVOSB or
15 VOSB owned and controlled by women, minorities, or persons
16 with disabilities, as those terms are defined in Section 2 of
17 the Business Enterprise for Minorities, Women, and Persons
18 with Disabilities Act, may also select and designate whether
19 that business is to be certified as a "women-owned business",
20 "minority-owned business", or "business owned by a person with
21 a disability", as defined in Section 2 of the Business
22 Enterprise for Minorities, Women, and Persons with
23 Disabilities Act.

24 "Control" means the exclusive, ultimate, majority, or sole
25 control of the business, including but not limited to capital
26 investment and all other financial matters, property,

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

14 "Qualified service-disabled veteran" means a veteran who
15 has been found to have 10% or more service-connected
16 disability by the United States Department of Veterans Affairs
17 or the United States Department of Defense.

18 "Qualified service-disabled veteran-owned small business"
19 or "SDVOSB" means a small business (i) that is at least 51%
20 owned by one or more qualified service-disabled veterans
21 living in Illinois or, in the case of a corporation, at least
22 51% of the stock of which is owned by one or more qualified
23 service-disabled veterans living in Illinois; (ii) that has
24 its home office in Illinois; and (iii) for which items (i) and
25 (ii) are factually verified annually by the Department of
26 Central Management Services.

1 "Qualified veteran-owned small business" or "VOSB" means a
2 small business (i) that is at least 51% owned by one or more
3 qualified veterans living in Illinois or, in the case of a
4 corporation, at least 51% of the stock of which is owned by one
5 or more qualified veterans living in Illinois; (ii) that has
6 its home office in Illinois; and (iii) for which items (i) and
7 (ii) are factually verified annually by the Department of
8 Central Management Services.

9 "Service-connected disability" means a disability incurred
10 in the line of duty in the active military, naval, or air
11 service as described in 38 U.S.C. 101(16).

12 "Small business" means a business that has annual gross
13 sales of less than \$75,000,000 as evidenced by the federal
14 income tax return of the business. A firm with gross sales in
15 excess of this cap may apply to the Department of Central
16 Management Services for certification for a particular
17 contract if the firm can demonstrate that the contract would
18 have significant impact on SDVOSB or VOSB as suppliers or
19 subcontractors or in employment of veterans or
20 service-disabled veterans.

21 "State agency" has the meaning provided in Section
22 1-15.100 of this Code.

23 "Time of hostilities with a foreign country" means any
24 period of time in the past, present, or future during which a
25 declaration of war by the United States Congress has been or is
26 in effect or during which an emergency condition has been or is

1 in effect that is recognized by the issuance of a Presidential
2 proclamation or a Presidential executive order and in which
3 the armed forces expeditionary medal or other campaign service
4 medals are awarded according to Presidential executive order.

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

16 (f) Certification program. The Illinois Department of
17 Veterans' Affairs and the Department of Central Management
18 Services shall work together to devise a certification
19 procedure to assure that businesses taking advantage of this
20 Section are legitimately classified as qualified
21 service-disabled veteran-owned small businesses or qualified
22 veteran-owned small businesses.

23 The Department of Central Management Services shall:

24 (1) compile and maintain a comprehensive list of
25 certified veteran-owned small businesses and
26 service-disabled veteran-owned small businesses;

1 (2) assist veteran-owned small businesses and
2 service-disabled veteran-owned small businesses in
3 complying with the procedures for bidding on state
4 contracts;

5 (3) provide training for State agencies regarding the
6 goal setting process and compliance with veteran-owned
7 small business and service-disabled veteran-owned small
8 business goals; and

9 (4) implement and maintain an electronic portal on the
10 Department's website for the purpose of completing and
11 submitting veteran-owned small business and
12 service-disabled veteran-owned small business
13 certificates.

14 The Department of Central Management Services, in
15 consultation with the Department of Veteran Affairs, may
16 develop programs and agreements to encourage cities, counties,
17 towns, townships, and other certifying entities to adopt
18 uniform certification procedures and certification recognition
19 programs.

20 (f-5) A business shall be certified by the Department of
21 Central Management Services as a service-disabled
22 veteran-owned small business or a veteran-owned small business
23 for purposes of this Section if the Department of Central
24 Management Services determines that the business has been
25 certified as a service-disabled veteran-owned small business
26 or a veteran-owned small business by the Vets First

1 Verification Program of the United States Department of
2 Veterans Affairs, and the business has provided to the
3 Department of Central Management Services the following:

4 (1) documentation showing certification as a
5 service-disabled veteran-owned small business or a
6 veteran-owned small business by the Vets First
7 Verification Program of the United States Department of
8 Veterans Affairs;

9 (2) proof that the business has its home office in
10 Illinois; and

11 (3) proof that the qualified veterans or qualified
12 service-disabled veterans live in the State of Illinois.

13 The policies of the Department of Central Management
14 Services regarding recognition of the Vets First Verification
15 Program of the United States Department of Veterans Affairs
16 shall be reviewed annually by the Department of Central
17 Management Services, and recognition of service-disabled
18 veteran-owned small businesses and veteran-owned small
19 businesses certified by the Vets First Verification Program of
20 the United States Department of Veterans Affairs may be
21 discontinued by the Department of Central Management Services
22 by rule upon a finding that the certification standards of the
23 Vets First Verification Program of the United States
24 Department of Veterans Affairs do not meet the certification
25 requirements established by the Department of Central
26 Management Services.

1 (g) Penalties.

2 (1) Administrative penalties. The chief procurement
3 officers appointed pursuant to Section 10-20 shall suspend
4 any person who commits a violation of Section 17-10.3 or
5 subsection (d) of Section 33E-6 of the Criminal Code of
6 2012 relating to this Section from bidding on, or
7 participating as a contractor, subcontractor, or supplier
8 in, any State contract or project for a period of not less
9 than 3 years, and, if the person is certified as a
10 service-disabled veteran-owned small business or a
11 veteran-owned small business, then the Department shall
12 revoke the business's certification for a period of not
13 less than 3 years. An additional or subsequent violation
14 shall extend the periods of suspension and revocation for
15 a period of not less than 5 years. The suspension and
16 revocation shall apply to the principals of the business
17 and any subsequent business formed or financed by, or
18 affiliated with, those principals.

19 (2) Reports of violations. Each State agency shall
20 report any alleged violation of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 2012 relating to this Section to the chief procurement
23 officers appointed pursuant to Section 10-20. The chief
24 procurement officers appointed pursuant to Section 10-20
25 shall subsequently report all such alleged violations to
26 the Attorney General, who shall determine whether to bring

1 a civil action against any person for the violation.

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

10 (4) Use of suspended persons. During the period of a
11 person's suspension under paragraph (1) of this
12 subsection, a State agency shall not enter into any
13 contract with that person or with any contractor using the
14 services of that person as a subcontractor.

15 (5) Duty to check list. Each State agency shall check
16 the central listing provided by the chief procurement
17 officers appointed pursuant to Section 10-20 under
18 paragraph (3) of this subsection to verify that a person
19 being awarded a contract by that State agency, or to be
20 used as a subcontractor or supplier on a contract being
21 awarded by that State agency, is not under suspension
22 pursuant to paragraph (1) of this subsection.

23 (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;
24 100-863, eff. 8-14-18.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.