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1 AMENDMENT TO HOUSE BILL 2878

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2878, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "ARTICLE 5. FORMER COAL MINE EMPLOYEE PREFERENCE

6 Section 5-5. The Illinois Procurement Code is amended by  
7 adding Section 45-110 as follows:

8 (30 ILCS 500/45-110 new)

9 Sec. 45-110. Former coal mining employees.

10 (a) In this Section:

11 "Abandoned mined land reclamation project" means  
12 construction or construction-related professional services  
13 that are used for reclamation projects awarded by the  
14 Department of Natural Resources under the Abandoned Mined  
15 Lands and Water Reclamation Act.

1       "Former coal mine employee" means an individual previously  
2 employed in any capacity by a coal mining company that engaged  
3 in the extraction of coal deposits or an individual previously  
4 employed in any capacity by a coal-fired power plant.

5       (b) In awarding contracts for Abandoned Mined Land  
6 Reclamation Projects with a total value of more than \$100,000,  
7 preference shall be given to an otherwise qualified bidder  
8 who:

9           (1) provides proof that at least 2 current employees  
10 of the bidder are former coal mine employees and that all  
11 such declared former coal mine employees in the bid shall  
12 be used in the fulfillment of an awarded Abandoned Mined  
13 Land Reclamation Project; or

14           (2) commits to employing at least 2 former coal mine  
15 employees hired out of a union hall in the fulfillment of  
16 the Abandoned Mined Land Reclamation Project. Under this  
17 paragraph (2), the bidder shall provide proof that at  
18 least 2 former coal mine employees have been hired out of a  
19 union hall within 60 days after the start of construction,  
20 and the bidder shall declare that the former coal mine  
21 employees, after being hired, shall be used in the  
22 fulfillment of an awarded Abandoned Mined Land Reclamation  
23 Project.

24       When the Department of Natural Resources is to award a  
25 contract to the lowest responsible bidder, an otherwise  
26 qualified bidder who will fulfill the contract through the use

1 of former coal mine employees may be given preference over  
2 other bidders unable to do so, if the bid is not more than 2%  
3 greater than the low bid.

4 (c) This Section does not apply to any contract for any  
5 project for which federal funds are available for expenditure  
6 when its provisions may be in conflict with federal law or  
7 federal regulation.

8 ARTICLE 10. SINGLE PRIME PROCUREMENT

9 Section 10-5. The Illinois Procurement Code is amended by  
10 changing Sections 1-15.93, 30-30, 33-5, and 45-105 as follows:

11 (30 ILCS 500/1-15.93)

12 (Section scheduled to be repealed on January 1, 2026)

13 Sec. 1-15.93. Single prime. "Single prime" means the  
14 design-bid-build procurement delivery method for a building  
15 construction project in which the Capital Development Board or  
16 a public institution of higher education, as defined in  
17 Section 1-13 of this Code, is the construction agency  
18 procuring 2 or more subdivisions of work enumerated in  
19 paragraphs (1) through (5) of subsection (a) of Section 30-30  
20 of this Code under a single contract. The provisions of this  
21 Section are inoperative for public institutions of higher  
22 education on and after January 1, 2026. ~~This Section is~~  
23 repealed on January 1, 2026.

1 (Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20;  
2 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

3 (30 ILCS 500/30-30)

4 Sec. 30-30. Design-bid-build construction.

5 (a) ~~The provisions of this subsection are operative~~  
6 ~~through December 31, 2025.~~

7 Except as provided in subsection (a-5), for building  
8 construction contracts in excess of \$250,000, separate  
9 specifications may be prepared for all equipment, labor, and  
10 materials in connection with the following 5 subdivisions of  
11 the work to be performed:

12 (1) plumbing;

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

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

19 (4) electric wiring; and

20 (5) general contract work.

21 Except as provided in subsection (a-5), the specifications  
22 may be so drawn as to permit separate and independent bidding  
23 upon each of the 5 subdivisions of work. All contracts awarded  
24 for any part thereof may award the 5 subdivisions of work  
25 separately to responsible and reliable persons, firms, or

1 corporations engaged in these classes of work. The contracts,  
2 at the discretion of the construction agency, may be assigned  
3 to the successful bidder on the general contract work or to the  
4 successful bidder on the subdivision of work designated by the  
5 construction agency before the bidding as the prime  
6 subdivision of work, provided that all payments will be made  
7 directly to the contractors for the 5 subdivisions of work  
8 upon compliance with the conditions of the contract.

9 ~~For Beginning on the effective date of this amendatory Act~~  
10 ~~of the 101st General Assembly and through December 31, 2025,~~  
11 ~~for~~ single prime projects: (i) the bid of the successful low  
12 bidder shall identify the name of the subcontractor, if any,  
13 and the bid proposal costs for each of the 5 subdivisions of  
14 work set forth in this Section; (ii) the contract entered into  
15 with the successful bidder shall provide that no identified  
16 subcontractor may be terminated without the written consent of  
17 the Capital Development Board; (iii) the contract shall comply  
18 with the disadvantaged business practices of the Business  
19 Enterprise for Minorities, Women, and Persons with  
20 Disabilities Act and the equal employment practices of Section  
21 2-105 of the Illinois Human Rights Act; and (iv) the Capital  
22 Development Board shall submit an annual report to the General  
23 Assembly and Governor on the bidding, award, and performance  
24 of all single prime projects.

25 Until December 31, 2023, for ~~For~~ building construction  
26 projects with a total construction cost valued at \$5,000,000

1 or less, the Capital Development Board shall not use the  
2 single prime procurement delivery method for more than 50% of  
3 the total number of projects bid for each fiscal year. Until  
4 December 31, 2023, any ~~Any~~ project with a total construction  
5 cost valued greater than \$5,000,000 may be bid using single  
6 prime at the discretion of the Executive Director of the  
7 Capital Development Board.

8 For contracts entered into on or after January 1, 2024,  
9 the Capital Development Board shall determine whether the  
10 single prime procurement delivery method is to be pursued.  
11 Before electing to use single prime on a project, the Capital  
12 Development Board must make a written determination that must  
13 include a description as to the particular advantages of the  
14 single prime procurement method for that project and an  
15 evaluation of the items in paragraphs (1) through (4). The  
16 chief procurement officer must review the Capital Development  
17 Board's determination and consider the adequacy of information  
18 in paragraphs (1) through (4) to determine whether the Capital  
19 Development Board may proceed with single prime. Approval by  
20 the chief procurement officer shall not be unreasonably  
21 withheld. The following factors must be considered by the  
22 chief procurement officer in any determination:

23 (1) The benefit that using the single prime  
24 procurement method will have on the Capital Development  
25 Board's ability to increase participation of  
26 minority-owned firms, woman-owned firms, firms owned by

1 persons with a disability, and veteran-owned firms.

2 (2) The likelihood that single prime will be in the  
3 best interest of the State by providing a material savings  
4 of time or cost over the multiple prime delivery system.  
5 The best interest of the State justification must show the  
6 specific benefits of using the single prime method,  
7 including documentation of the estimates or scheduling  
8 impacts of any of the following: project complexity and  
9 trade coordination required, length of project,  
10 availability of skilled workforce, geographic area,  
11 project timelines, project budget, ability to secure  
12 minority, women, persons with disabilities and veteran  
13 participation, or other information.

14 (3) The type and size of the project and its  
15 suitability to the single prime procurement method.

16 (4) Whether the project will comply with the  
17 underrepresented business and equal employment practices  
18 of the State, as established in the Business Enterprise  
19 for Minorities, Women, and Persons with Disabilities Act,  
20 Section 45-57 of this Code, and Section 2-105 of the  
21 Illinois Human Rights Act.

22 If the chief procurement officer finds that the Capital  
23 Development Board's written determination is insufficient, the  
24 Capital Development Board shall have the opportunity to cure  
25 its determination. Within 15 days of receiving approval from  
26 the chief procurement officer, the Capital Development Board

1 shall provide an advisory copy of the written determination to  
2 the Procurement Policy Board and the Commission on Equity and  
3 Inclusion. The Capital Development Board must maintain the  
4 full record of determination for 5 years.

5 (a-5) Beginning on the effective date of this amendatory  
6 Act of the 102nd General Assembly and through December 31,  
7 2025, for single prime projects in which a public institution  
8 of higher education is a construction agency awarding building  
9 construction contracts in excess of \$250,000, separate  
10 specifications may be prepared for all equipment, labor, and  
11 materials in connection with the 5 subdivisions of work  
12 enumerated in subsection (a). Any public institution of higher  
13 education contract awarded for any part thereof may award 2 or  
14 more of the 5 subdivisions of work together or separately to  
15 responsible and reliable persons, firms, or corporations  
16 engaged in these classes of work if: (i) the public  
17 institution of higher education has submitted to the  
18 Procurement Policy Board and the Commission on Equity and  
19 Inclusion a written notice that includes the reasons for using  
20 the single prime method and an explanation of why the use of  
21 that method is in the best interest of the State and arranges  
22 to have the notice posted on the institution's online  
23 procurement webpage and its online procurement bulletin at  
24 least 3 business days following submission to the Procurement  
25 Policy Board and the Commission on Equity and Inclusion; (ii)  
26 the successful low bidder has prequalified with the public



1 institution of higher education; (iii) the bid of the  
2 successful low bidder identifies the name of the  
3 subcontractor, if any, and the bid proposal costs for each of  
4 the 5 subdivisions of work set forth in subsection (a); (iv)  
5 the contract entered into with the successful bidder provides  
6 that no identified subcontractor may be terminated without the  
7 written consent of the public institution of higher education;  
8 and (v) the successful low bidder has prequalified with the  
9 University of Illinois or with the Capital Development Board.

10 For building construction projects with a total  
11 construction cost valued at \$20,000,000 or less, public  
12 institutions of higher education shall not use the single  
13 prime delivery method for more than 50% of the total number of  
14 projects bid for each fiscal year. Projects with a total  
15 construction cost valued at \$20,000,000 or more may be bid  
16 using the single prime delivery method at the discretion of  
17 the public institution of higher education. With respect to  
18 any construction project described in this subsection (a-5),  
19 the public institution of higher education shall: (i) specify  
20 in writing as a public record that the project shall comply  
21 with the Business Enterprise for Minorities, Women, and  
22 Persons with Disabilities Act and the equal employment  
23 practices of Section 2-105 of the Illinois Human Rights Act;  
24 and (ii) report annually to the Governor, General Assembly,  
25 Procurement Policy Board, and Auditor General on the bidding,  
26 award, and performance of all single prime projects. On and

1 after the effective date of this amendatory Act of the 102nd  
2 General Assembly, the public institution of higher education  
3 may award in each fiscal year single prime contracts with an  
4 aggregate total value of no more than \$100,000,000. The Board  
5 of Trustees of the University of Illinois may award in each  
6 fiscal year single prime contracts with an aggregate total  
7 value of not more than \$300,000,000.

8 (b) For public institutions of higher education, the ~~The~~  
9 provisions of this subsection are operative on and after  
10 January 1, 2026. For building construction contracts in excess  
11 of \$250,000, separate specifications shall be prepared for all  
12 equipment, labor, and materials in connection with the  
13 following 5 subdivisions of the work to be performed:

14 (1) plumbing;

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

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

21 (4) electric wiring; and

22 (5) general contract work.

23 The specifications must be so drawn as to permit separate  
24 and independent bidding upon each of the 5 subdivisions of  
25 work. All contracts awarded for any part thereof shall award  
26 the 5 subdivisions of work separately to responsible and

1 reliable persons, firms, or corporations engaged in these  
2 classes of work. The contracts, at the discretion of the  
3 construction agency, may be assigned to the successful bidder  
4 on the general contract work or to the successful bidder on the  
5 subdivision of work designated by the construction agency  
6 before the bidding as the prime subdivision of work, provided  
7 that all payments will be made directly to the contractors for  
8 the 5 subdivisions of work upon compliance with the conditions  
9 of the contract.

10 (Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20;  
11 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

12 (30 ILCS 500/33-5)

13 Sec. 33-5. Definitions. In this Article:

14 "Construction management services" includes:

15 (1) services provided in the planning and  
16 pre-construction phases of a construction project  
17 including, but not limited to, consulting with, advising,  
18 assisting, and making recommendations to the Board and  
19 architect, engineer, or licensed land surveyor on all  
20 aspects of planning for project construction; reviewing  
21 all plans and specifications as they are being developed  
22 and making recommendations with respect to construction  
23 feasibility, availability of material and labor, time  
24 requirements for procurement and construction, and  
25 projected costs; making, reviewing, and refining budget

1 estimates based on the Board's program and other available  
2 information; making recommendations to the Board and the  
3 architect or engineer regarding the division of work in  
4 the plans and specifications to facilitate the bidding and  
5 awarding of contracts; soliciting the interest of capable  
6 contractors and taking bids on the project; analyzing the  
7 bids received; and preparing and maintaining a progress  
8 schedule during the design phase of the project and  
9 preparation of a proposed construction schedule; and

10 (2) services provided in the construction phase of the  
11 project including, but not limited to, maintaining  
12 competent supervisory staff to coordinate and provide  
13 general direction of the work and progress of the  
14 contractors on the project; directing the work as it is  
15 being performed for general conformance with working  
16 drawings and specifications; establishing procedures for  
17 coordinating among the Board, architect or engineer,  
18 contractors, and construction manager with respect to all  
19 aspects of the project and implementing those procedures;  
20 maintaining job site records and making appropriate  
21 progress reports; implementing labor policy in conformance  
22 with the requirements of the public owner; reviewing the  
23 safety and equal opportunity programs of each contractor  
24 for conformance with the public owner's policy and making  
25 recommendations; reviewing and processing all applications  
26 for payment by involved contractors and material suppliers

1 in accordance with the terms of the contract; making  
2 recommendations and processing requests for changes in the  
3 work and maintaining records of change orders; scheduling  
4 and conducting job meetings to ensure orderly progress of  
5 the work; developing and monitoring a project progress  
6 schedule, coordinating and expediting the work of all  
7 contractors and providing periodic status reports to the  
8 owner and the architect or engineer; and establishing and  
9 maintaining a cost control system and conducting meetings  
10 to review costs.

11 "Construction manager" means any individual, sole  
12 proprietorship, firm, partnership, corporation, or other legal  
13 entity providing construction management services for the  
14 Board and prequalified by the State in accordance with 30 ILCS  
15 500/33-10.

16 "Board" means the Capital Development Board or, to the  
17 extent that the services are to be procured by ~~for~~ a public  
18 institution of higher education, the public institution of  
19 higher education.

20 (Source: P.A. 102-1119, eff. 1-23-23.)

21 (30 ILCS 500/45-105)

22 Sec. 45-105. Bid preference for Illinois businesses.

23 (a) (Blank). ~~For the purposes of this Section:~~

24 ~~"Illinois business" means a contractor that: (i) is~~  
25 ~~headquartered in Illinois and providing, at the time that an~~

1 ~~invitation for a bid or notice of contract opportunity is~~  
2 ~~first advertised, construction or construction-related~~  
3 ~~professional services for Illinois-based projects; (ii)~~  
4 ~~conducts meaningful day-to-day business operations at a~~  
5 ~~facility in Illinois that is the place of employment for the~~  
6 ~~majority of its regular, full time workforce; (iii) holds all~~  
7 ~~appropriate State licenses; and (iv) is subject to applicable~~  
8 ~~State taxes. "Illinois business" does not include any~~  
9 ~~subcontractors.~~

10 ~~"Illinois-based project" means an individual project of~~  
11 ~~construction and other construction-related services for a~~  
12 ~~construction agency that will result in the conduct of~~  
13 ~~business within the State or the employment of individuals~~  
14 ~~within the State.~~

15 (b) It is hereby declared to be the public policy of the  
16 State of Illinois to promote the economy of Illinois through  
17 the use of Illinois businesses for all State construction  
18 contracts.

19 (c) Construction agencies procuring construction and  
20 construction-related professional services shall make  
21 reasonable efforts to contract with Illinois businesses.

22 (d) Beginning in 2022, each construction agency shall  
23 submit a report to the Governor and the General Assembly by  
24 September 1 of each year that identifies the Illinois  
25 businesses procured by the construction agency, the primary  
26 location of the construction project, the percentage of the

1 construction agency's utilization of Illinois businesses on  
2 the project as a whole, and the actions that the construction  
3 agency has undertaken to increase the use of Illinois  
4 businesses.

5 (e) In procuring construction and construction-related  
6 professional services for projects with a total value that  
7 exceeds the small purchase maximum established by Section  
8 20-20 of this Code ~~with a total construction cost of more than~~  
9 ~~\$100,000~~, construction agencies shall provide a bid preference  
10 to a responsive and responsible bidder that is an Illinois  
11 business as defined in this Section. The construction agency  
12 shall allocate to the lowest bid by an Illinois business that  
13 is responsible and responsive ~~any responsible bidder that is~~  
14 ~~an Illinois business~~ a bid preference of 4% of the contract  
15 base bid. This subsection applies only to projects where a  
16 business that is not an Illinois business submits a bid.

17 (f) This Section does not apply to any contract for any  
18 project for which federal funds are available for expenditure  
19 when its provisions may be in conflict with federal law or  
20 federal regulation.

21 (g) As used in this Section, "Illinois business" means a  
22 contractor that is operating and headquartered in Illinois and  
23 providing, at the time that an invitation for a bid or notice  
24 of contract opportunity is first advertised, construction or  
25 construction-related professional services, and is operating  
26 as:

1           (1) a sole proprietor whose primary residence is in  
2           Illinois;

3           (2) a business incorporated or organized as a domestic  
4           corporation under the Business Corporation Act of 1983;

5           (3) a business organized as a domestic partnership  
6           under the Uniform Partnership Act of 1997;

7           (4) a business organized as a domestic limited  
8           partnership under the Uniform Limited Partnership Act of  
9           2001;

10          (5) a business organized under the Limited Liability  
11          Company Act; or

12          (6) a business organized under the Professional  
13          Limited Liability Company Act.

14          "Illinois business" does not include any subcontractors.

15        (Source: P.A. 102-721, eff. 1-1-23.)

16           ARTICLE 15. AWARD TO NOT-FOR-PROFIT AGENCY FOR PERSONS WITH  
17                                           SIGNIFICANT DISABILITIES

18           Section 15-5. The Governmental Joint Purchasing Act is  
19           amended by changing Section 4.05 as follows:

20               (30 ILCS 525/4.05)

21           Sec. 4.05. Other methods of joint purchases.

22               (a) It may be determined that it is impractical to obtain  
23           competition because ~~either~~ (i) there is only one



1 economically-feasible source for the item, ~~or~~ (ii) there is a  
2 threat to public health or public safety, ~~or when~~ immediate  
3 expenditure is necessary either to prevent or minimize serious  
4 disruption in critical State services that affect health,  
5 safety, or collection of substantial State revenues, ~~or to~~  
6 ensure the integrity of State records, or (iii) it is in the  
7 best interest of the State to award a contract to a qualified  
8 not-for-profit agency for persons with significant  
9 disabilities under Section 45-35 of the Illinois Procurement  
10 Code.

11 (b) When the State of Illinois is a party to the joint  
12 purchase agreement, the applicable chief procurement officer  
13 shall make a determination regarding whether (i) whether there  
14 is only one economically feasible source for the item, ~~or~~ (ii)  
15 whether that there exists a threat to public health or public  
16 safety or ~~that~~ immediate expenditure is necessary to prevent  
17 or minimize serious disruption in critical State services, or  
18 (iii) whether the contract is eligible to be awarded to a  
19 not-for-profit agency for persons with significant  
20 disabilities under Section 45-35 of the Illinois Procurement  
21 Code.

22 (c) When there is only one economically feasible source  
23 for the item, the chief procurement officer may authorize a  
24 sole economically-feasible source contract. When there exists  
25 a threat to public health or public safety or when immediate  
26 expenditure is necessary to prevent or minimize serious

1 disruption in critical State services, the chief procurement  
2 officer may authorize an emergency procurement without  
3 competitive sealed bidding or competitive sealed proposals or  
4 prior notice. When an agency requests to award a contract to a  
5 not-for-profit agency for persons with significant  
6 disabilities under Section 45-35 of the Illinois Procurement  
7 Code, the chief procurement officer may authorize the award.

8 (d) All joint purchases made pursuant to this Section  
9 shall follow the same procedures for sole source contracts in  
10 the Illinois Procurement Code when the chief procurement  
11 officer determines there is only one economically-feasible  
12 source for the item. All joint purchases made pursuant to this  
13 Section shall follow the same procedures for emergency  
14 purchases in the Illinois Procurement Code when the chief  
15 procurement officer determines immediate expenditure is  
16 necessary to prevent or minimize serious disruption in  
17 critical State services that affect health, safety, or  
18 collection of substantial State revenues, or to ensure the  
19 integrity of State records. All joint purchases made under  
20 this Section shall follow the same procedures for  
21 not-for-profit agencies for persons with significant  
22 disabilities under Section 45-35 of the Illinois Procurement  
23 Code when the chief procurement officer determines that it is  
24 in the best interest of the State.

25 (e) Each chief procurement officer shall submit to the  
26 General Assembly by November 1 of each year a report of

1 procurements made under this Section.

2 (Source: P.A. 100-43, eff. 8-9-17.)

3 ARTICLE 20. VETERANS PREFERENCES

4 Section 20-5. 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 Commission on Equity and Inclusion, shall be  
17 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 Commission on Equity and Inclusion shall adopt  
21 rules to implement compliance with this subsection by all  
22 State agencies.

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

1 procurement officer shall report to the Commission on Equity  
2 and Inclusion on all of the following for the immediately  
3 preceding fiscal year, and by each March 1 the Commission on  
4 Equity and Inclusion shall compile and report that information  
5 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 Commission on Equity and Inclusion shall submit  
12 an annual report to the Governor and the General Assembly that  
13 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 Commission on Equity  
19 and Inclusion 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 Commission on  
26 Equity and Inclusion 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 Commission on Equity and Inclusion shall conduct a  
5 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 Commission on Equity and Inclusion 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 Commission on Equity and Inclusion's report to the General  
19 Assembly regarding continuation, increases, or decreases of  
20 the percentage goal. The recommendations shall be based upon  
21 the number of businesses that are owned by qualified veterans  
22 and on the continued need to encourage and promote businesses  
23 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 Commission on Equity  
12 and Inclusion 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 Commission on  
26 Equity and Inclusion.

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 Commission on  
8 Equity and Inclusion.

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 \$150,000,000 ~~\$75,000,000~~ as evidenced by  
14 the federal income tax return of the business. A firm with  
15 gross sales in excess of this cap may apply to the Commission  
16 on Equity and Inclusion 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 Commission on Equity and Inclusion  
18 shall work together to devise a certification procedure to  
19 assure that businesses taking advantage of this Section are  
20 legitimately classified as qualified service-disabled  
21 veteran-owned small businesses or qualified veteran-owned  
22 small businesses.

23 The Commission on Equity and Inclusion 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 Commission on Equity and Inclusion's website for the  
11 purpose of completing and submitting veteran-owned small  
12 business and service-disabled veteran-owned small business  
13 certificates.

14           The Commission on Equity and Inclusion, in consultation  
15 with the Department of Veterans' Affairs, may develop programs  
16 and agreements to encourage cities, counties, towns,  
17 townships, and other certifying entities to adopt uniform  
18 certification procedures and certification recognition  
19 programs.

20           (f-5) A business shall be certified by the Commission on  
21 Equity and Inclusion as a service-disabled veteran-owned small  
22 business or a veteran-owned small business for purposes of  
23 this Section if the Commission on Equity and Inclusion  
24 determines that the business has been certified as a  
25 service-disabled veteran-owned small business or a  
26 veteran-owned small business by the Vets First Verification

1 Program of the United States Department of Veterans Affairs,  
2 and the business has provided to the Commission on Equity and  
3 Inclusion 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 Commission on Equity and Inclusion  
14 regarding recognition of the Vets First Verification Program  
15 of the United States Department of Veterans Affairs shall be  
16 reviewed annually by the Commission on Equity and Inclusion,  
17 and recognition of service-disabled veteran-owned small  
18 businesses and veteran-owned small businesses certified by the  
19 Vets First Verification Program of the United States  
20 Department of Veterans Affairs may be discontinued by the  
21 Commission on Equity and Inclusion by rule upon a finding that  
22 the certification standards of the Vets First Verification  
23 Program of the United States Department of Veterans Affairs do  
24 not meet the certification requirements established by the  
25 Commission on Equity and Inclusion.

26 (g) Penalties.

1           (1) Administrative penalties. The chief procurement  
2 officers appointed pursuant to Section 10-20 shall suspend  
3 any person who commits a violation of Section 17-10.3 or  
4 subsection (d) of Section 33E-6 of the Criminal Code of  
5 2012 relating to this Section from bidding on, or  
6 participating as a contractor, subcontractor, or supplier  
7 in, any State contract or project for a period of not less  
8 than 3 years, and, if the person is certified as a  
9 service-disabled veteran-owned small business or a  
10 veteran-owned small business, then the Commission on  
11 Equity and Inclusion shall revoke the business's  
12 certification for a period of not less than 3 years. An  
13 additional or subsequent violation shall extend the  
14 periods of suspension and revocation for a period of not  
15 less than 5 years. The suspension and revocation shall  
16 apply to the principals of the business and any subsequent  
17 business formed or financed by, or affiliated with, those  
18 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 (h) On and after the effective date of this amendatory Act  
24 of the 102nd General Assembly, all powers, duties, rights, and  
25 responsibilities of the Department of Central Management  
26 Services with respect to the requirements of this Section are

1 transferred to the Commission on Equity and Inclusion.

2 All books, records, papers, documents, property (real and  
3 personal), contracts, causes of action, and pending business  
4 pertaining to the powers, duties, rights, and responsibilities  
5 transferred by this amendatory Act from the Department of  
6 Central Management Services to the Commission on Equity and  
7 Inclusion, including, but not limited to, material in  
8 electronic or magnetic format and necessary computer hardware  
9 and software, shall be transferred to the Commission on Equity  
10 and Inclusion.

11 The powers, duties, rights, and responsibilities  
12 transferred from the Department of Central Management Services  
13 by this amendatory Act shall be vested in and shall be  
14 exercised by the Commission on Equity and Inclusion.

15 Whenever reports or notices are now required to be made or  
16 given or papers or documents furnished or served by any person  
17 to or upon the Department of Central Management Services in  
18 connection with any of the powers, duties, rights, and  
19 responsibilities transferred by this amendatory Act, the same  
20 shall be made, given, furnished, or served in the same manner  
21 to or upon the Commission on Equity and Inclusion.

22 This amendatory Act of the 102nd General Assembly does not  
23 affect any act done, ratified, or canceled or any right  
24 occurring or established or any action or proceeding had or  
25 commenced in an administrative, civil, or criminal cause by  
26 the Department of Central Management Services before this

1 amendatory Act takes effect; such actions or proceedings may  
2 be prosecuted and continued by the Commission on Equity and  
3 Inclusion.

4 Any rules of the Department of Central Management Services  
5 that relate to its powers, duties, rights, and  
6 responsibilities under this Section and are in full force on  
7 the effective date of this amendatory Act of the 102nd General  
8 Assembly shall become the rules of the Commission on Equity  
9 and Inclusion. This amendatory Act does not affect the  
10 legality of any such rules in the Illinois Administrative  
11 Code. Any proposed rules filed with the Secretary of State by  
12 the Department of Central Management Services that are pending  
13 in the rulemaking process on the effective date of this  
14 amendatory Act and pertain to the powers, duties, rights, and  
15 responsibilities transferred, shall be deemed to have been  
16 filed by the Commission on Equity and Inclusion. As soon as  
17 practicable hereafter, the Commission on Equity and Inclusion  
18 shall revise and clarify the rules transferred to it under  
19 this amendatory Act to reflect the reorganization of powers,  
20 duties, rights, and responsibilities affected by this  
21 amendatory Act, using the procedures for recodification of  
22 rules available under the Illinois Administrative Procedure  
23 Act, except that existing title, part, and section numbering  
24 for the affected rules may be retained. The Commission on  
25 Equity and Inclusion may propose and adopt under the Illinois  
26 Administrative Procedure Act such other rules of the

1 Department of Central Management Services that will now be  
2 administered by the Commission on Equity and Inclusion.

3 (Source: P.A. 102-166, eff. 7-26-21; 102-671, eff. 11-30-21.)

4 ARTICLE 25. SMALL BUSINESS SET-ASIDE REPORTING

5 Section 25-5. The Illinois Procurement Code is amended by  
6 changing Section 45-45 as follows:

7 (30 ILCS 500/45-45)

8 Sec. 45-45. Small businesses.

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

17 (b) Small business. "Small business" means a business that  
18 is independently owned and operated and that is not dominant  
19 in its field of operation. The chief procurement officer shall  
20 establish a detailed definition by rule, using in addition to  
21 the foregoing criteria other criteria, including the number of  
22 employees and the dollar volume of business. When computing  
23 the size status of a potential contractor, annual sales and



1 receipts of the potential contractor and all of its affiliates  
2 shall be included. The maximum number of employees and the  
3 maximum dollar volume that a small business may have under the  
4 rules promulgated by the chief procurement officer may vary  
5 from industry to industry to the extent necessary to reflect  
6 differing characteristics of those industries, subject to the  
7 following limitations:

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

11 (2) No retail business or business selling services is  
12 a small business if its annual sales and receipts exceed  
13 \$8,000,000.

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

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

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

22 (d) Withdrawal of designation. A small business set-aside  
23 designation may be withdrawn by the purchasing agency when  
24 deemed in the best interests of the State. Upon withdrawal,  
25 all bids or offers shall be rejected, and the bidders or  
26 offerors shall be notified of the reason for rejection. The

1 contract shall then be awarded in accordance with this Code  
2 without the designation of small business set-aside. Each  
3 chief procurement officer shall make the annual report  
4 available on his or her official website. Each chief  
5 procurement officer shall also issue a press release in  
6 conjunction with the small business annual report that  
7 includes an executive summary of the annual report and a link  
8 to the annual report on the chief procurement officer's  
9 website.

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

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

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

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

26 (4) Making recommendations to the chief procurement

1 officer for the simplification of specifications and terms  
2 in order to increase the opportunities for small business  
3 participation.

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

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

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

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

24 Section 25-10. The Business Enterprise for Minorities,  
25 Women, and Persons with Disabilities Act is amended by

1 changing Section 8f as follows:

2 (30 ILCS 575/8f)

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

4 Sec. 8f. Annual report. The Council shall file no later  
5 than March 1 of each year, an annual report that shall detail  
6 the level of achievement toward the goals specified in this  
7 Act over the 3 most recent fiscal years. The annual report  
8 shall include, but need not be limited to the following:

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

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

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

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

24 (5) a summary of the number of contracts awarded to  
25 businesses with annual gross sales of less than



1 bodies. However, before leasing or purchasing any office or  
2 storage space, buildings, land or other facilities in any  
3 municipality the Department shall survey the existing  
4 State-owned and State-leased property to make a determination  
5 of need.

6 The leases shall be for a term not to exceed 5 years,  
7 except that the leases may contain a renewal clause subject to  
8 acceptance by the State after that date or an option to  
9 purchase. The purchases shall be made through contracts that  
10 (i) may provide for the title to the property to transfer  
11 immediately to the State or a trustee or nominee for the  
12 benefit of the State, (ii) shall provide for the consideration  
13 to be paid in installments to be made at stated intervals  
14 during a certain term not to exceed 30 years from the date of  
15 the contract, and (iii) may provide for the payment of  
16 interest on the unpaid balance at a rate that does not exceed a  
17 rate determined by adding 3 percentage points to the annual  
18 yield on United States Treasury obligations of comparable  
19 maturity as most recently published in the Wall Street Journal  
20 at the time such contract is signed. The leases and purchase  
21 contracts shall be and shall recite that they are subject to  
22 termination and cancellation in any year for which the General  
23 Assembly fails to make an appropriation to pay the rent or  
24 purchase installments payable under the terms of the lease or  
25 purchase contract. Additionally, the purchase contract shall  
26 specify that title to the office and storage space, buildings,

1 land, and other facilities being acquired under the contract  
2 shall revert to the Seller in the event of the failure of the  
3 General Assembly to appropriate suitable funds. However, this  
4 limitation on the term of the leases does not apply to leases  
5 to and with the Illinois Building Authority, as provided for  
6 in the Building Authority Act. Leases to and with that  
7 Authority may be entered into for a term not to exceed 30 years  
8 and shall be and shall recite that they are subject to  
9 termination and cancellation in any year for which the General  
10 Assembly fails to make an appropriation to pay the rent  
11 payable under the terms of the lease. These limitations do not  
12 apply if the lease or purchase contract contains a provision  
13 limiting the liability for the payment of the rentals or  
14 installments thereof solely to funds received from the Federal  
15 government.

16 (b) To lease from an airport authority office, aircraft  
17 hangar, and service buildings constructed upon a public  
18 airport under the Airport Authorities Act for the use and  
19 occupancy of the State Department of Transportation. The lease  
20 may be entered into for a term not to exceed 30 years.

21 (c) To establish training programs for teaching State  
22 leasing procedures and practices to new employees of the  
23 Department and to keep all employees of the Department  
24 informed about current leasing practices and developments in  
25 the real estate industry.

26 (d) To enter into an agreement with a municipality or

1 county to construct, remodel, or convert a structure for the  
2 purposes of its serving as a correctional institution or  
3 facility pursuant to paragraph (c) of Section 3-2-2 of the  
4 Unified Code of Corrections.

5 (e) To enter into an agreement with a private individual,  
6 trust, partnership, or corporation or a municipality or other  
7 unit of local government, when authorized to do so by the  
8 Department of Corrections, whereby that individual, trust,  
9 partnership, or corporation or municipality or other unit of  
10 local government will construct, remodel, or convert a  
11 structure for the purposes of its serving as a correctional  
12 institution or facility and then lease the structure to the  
13 Department for the use of the Department of Corrections. A  
14 lease entered into pursuant to the authority granted in this  
15 subsection shall be for a term not to exceed 30 years but may  
16 grant to the State the option to purchase the structure  
17 outright.

18 The leases shall be and shall recite that they are subject  
19 to termination and cancellation in any year for which the  
20 General Assembly fails to make an appropriation to pay the  
21 rent payable under the terms of the lease.

22 (f) On and after September 17, 1983, the powers granted to  
23 the Department under this Section shall be exercised  
24 exclusively by the Department, and no other State agency may  
25 concurrently exercise any such power unless specifically  
26 authorized otherwise by a later enacted law. This subsection



1 is not intended to impair any contract existing as of  
2 September 17, 1983.

3 ~~However, no lease for more than 10,000 square feet of~~  
4 ~~space shall be executed unless the Director, in consultation~~  
5 ~~with the Executive Director of the Capital Development Board,~~  
6 ~~has certified that leasing is in the best interest of the~~  
7 ~~State, considering programmatic requirements, availability of~~  
8 ~~vacant State owned space, the cost benefits of purchasing or~~  
9 ~~constructing new space, and other criteria as he or she shall~~  
10 ~~determine. The Director shall not permit multiple leases for~~  
11 ~~less than 10,000 square feet to be executed in order to evade~~  
12 ~~this provision.~~

13 (g) To develop and implement, in cooperation with the  
14 Interagency Energy Conservation Committee, a system for  
15 evaluating energy consumption in facilities leased by the  
16 Department, and to develop energy consumption standards for  
17 use in evaluating prospective lease sites.

18 (h) (1) After June 1, 1998 (the effective date of Public  
19 Act 90-520), the Department shall not enter into an  
20 agreement for the installment purchase or lease purchase  
21 of buildings, land, or facilities unless:

22 (A) the using agency certifies to the Department  
23 that the agency reasonably expects that the building,  
24 land, or facilities being considered for purchase will  
25 meet a permanent space need;

26 (B) the building or facilities will be

1 substantially occupied by State agencies after  
2 purchase (or after acceptance in the case of a build to  
3 suit);

4 (C) the building or facilities shall be in new or  
5 like new condition and have a remaining economic life  
6 exceeding the term of the contract;

7 (D) no structural or other major building  
8 component or system has a remaining economic life of  
9 less than 10 years;

10 (E) the building, land, or facilities:

11 (i) is free of any identifiable environmental  
12 hazard or

13 (ii) is subject to a management plan, provided  
14 by the seller and acceptable to the State, to  
15 address the known environmental hazard;

16 (F) the building, land, or facilities satisfy  
17 applicable accessibility and applicable building  
18 codes; and

19 (G) the State's cost to lease purchase or  
20 installment purchase the building, land, or facilities  
21 is less than the cost to lease space of comparable  
22 quality, size, and location over the lease purchase or  
23 installment purchase term.

24 (2) The Department shall establish the methodology for  
25 comparing lease costs to the costs of installment or lease  
26 purchases. The cost comparison shall take into account all

1 relevant cost factors, including, but not limited to, debt  
2 service, operating and maintenance costs, insurance and  
3 risk costs, real estate taxes, reserves for replacement  
4 and repairs, security costs, and utilities. The  
5 methodology shall also provide:

6 (A) that the comparison will be made using level  
7 payment plans; and

8 (B) that a purchase price must not exceed the fair  
9 market value of the buildings, land, or facilities and  
10 that the purchase price must be substantiated by an  
11 appraisal or by a competitive selection process.

12 (3) If the Department intends to enter into an  
13 installment purchase or lease purchase agreement for  
14 buildings, land, or facilities under circumstances that do  
15 not satisfy the conditions specified by this Section, it  
16 must issue a notice to the Secretary of the Senate and the  
17 Clerk of the House. The notice shall contain (i) specific  
18 details of the State's proposed purchase, including the  
19 amounts, purposes, and financing terms; (ii) a specific  
20 description of how the proposed purchase varies from the  
21 procedures set forth in this Section; and (iii) a specific  
22 justification, signed by the Director, stating why it is  
23 in the State's best interests to proceed with the  
24 purchase. The Department may not proceed with such an  
25 installment purchase or lease purchase agreement if,  
26 within 60 calendar days after delivery of the notice, the

1 General Assembly, by joint resolution, disapproves the  
2 transaction. Delivery may take place on a day and at an  
3 hour when the Senate and House are not in session so long  
4 as the offices of Secretary and Clerk are open to receive  
5 the notice. In determining the 60-day period within which  
6 the General Assembly must act, the day on which delivery  
7 is made to the Senate and House shall not be counted. If  
8 delivery of the notice to the 2 houses occurs on different  
9 days, the 60-day period shall begin on the day following  
10 the later delivery.

11 (4) On or before February 15 of each year, the  
12 Department shall submit an annual report to the Director  
13 of the Governor's Office of Management and Budget and the  
14 General Assembly regarding installment purchases or lease  
15 purchases of buildings, land, or facilities that were  
16 entered into during the preceding calendar year. The  
17 report shall include a summary statement of the aggregate  
18 amount of the State's obligations under those purchases;  
19 specific details pertaining to each purchase, including  
20 the amounts, purposes, and financing terms and payment  
21 schedule for each purchase; and any other matter that the  
22 Department deems advisable. The report shall also contain  
23 an analysis of all leases that meet both of the following  
24 criteria: (1) the lease contains a purchase option clause;  
25 and (2) the third full year of the lease has been  
26 completed. That analysis shall include, without

1 limitation, a recommendation of whether it is in the  
2 State's best interest to exercise the purchase option or  
3 to seek to renew the lease without exercising the clause.

4 The requirement for reporting shall be satisfied by  
5 filing copies of the report with each of the following:

6 (1) the Auditor General; (2) the Chairs of the  
7 Appropriations Committees; (3) the General Assembly and  
8 the Commission on Government Forecasting and  
9 Accountability as required by Section 3.1 of the General  
10 Assembly Organizations Act; and (4) the State Government  
11 Report Distribution Center for the General Assembly as is  
12 required under paragraph (t) of Section 7 of the State  
13 Library Act.

14 (Source: P.A. 99-143, eff. 7-27-15; 100-1109, eff. 1-1-19;  
15 100-1148, eff. 12-10-18.)

#### 16 ARTICLE 40. DISABILITY-SERVICE ORGANIZATIONS

17 Section 40-5. The Illinois Procurement Code is amended by  
18 changing Section 45-35 as follows:

19 (30 ILCS 500/45-35)

20 Sec. 45-35. Not-for-profit agencies for persons with  
21 significant disabilities.

22 (a) Qualification. Supplies and services may be procured  
23 without advertising or calling for bids from any qualified

1 not-for-profit agency for persons with significant  
2 disabilities that:

3 (1) complies with Illinois laws governing private  
4 not-for-profit organizations;

5 (2) provides for payment of a wage for contractual  
6 services under this Section that is no less than the  
7 applicable local or Illinois minimum wage, whichever is  
8 higher, for all employees performing work on the contract,  
9 including subcontractors performing work on the contract;

10 ~~is certified as a work center by the Wage and Hour Division~~  
11 ~~of the United States Department of Labor or is an~~  
12 ~~accredited vocational program that provides transition~~  
13 ~~services to youth between the ages of 14 1/2 and 22 in~~  
14 ~~accordance with individualized education plans under~~  
15 ~~Section 14 8.03 of the School Code and that provides~~  
16 ~~residential services at a child care institution, as~~  
17 ~~defined under Section 2.06 of the Child Care Act of 1969,~~  
18 ~~or at a group home, as defined under Section 2.16 of the~~  
19 ~~Child Care Act of 1969; and~~

20 (3) is (A) a disability-serving organization that is  
21 accredited by a nationally-recognized accrediting  
22 organization or licensed by the Department of Human  
23 Services or (B) a Center for Independent Living. ~~certified~~  
24 ~~as a developmental training provider by the Department of~~  
25 ~~Human Services.~~

26 (b) Participation. To participate, the not-for-profit

1 agency must have indicated an interest in providing the  
2 supplies and services, must meet the specifications and needs  
3 of the using agency, and must set a fair and reasonable price.

4 (c) Committee. There is created within the Department of  
5 Central Management Services a committee to facilitate the  
6 purchase of products and services from not-for-profit agencies  
7 that provide employment opportunities to persons with physical  
8 disabilities, intellectual or developmental disabilities,  
9 mental illnesses, or any combination thereof. This committee  
10 is called the State Use Committee. The State Use Committee  
11 shall consist of the Director of the Department of Central  
12 Management Services or his or her designee, the Secretary of  
13 the Department of Human Services or his or her designee, the  
14 Director of Commerce and Economic Opportunity or his or her  
15 designee, one public member representing private business who  
16 is knowledgeable of the employment needs and concerns of  
17 persons with developmental disabilities, one public member  
18 representing private business who is knowledgeable of the  
19 needs and concerns of rehabilitation facilities, one public  
20 member who is knowledgeable of the employment needs and  
21 concerns of persons with developmental disabilities, one  
22 public member who is knowledgeable of the needs and concerns  
23 of rehabilitation facilities, 2 members who have a disability,  
24 2 public members from a statewide association that represents  
25 community-based rehabilitation facilities serving or  
26 supporting individuals with intellectual or developmental

1 disabilities, and one public member from a disability-focused  
2 statewide advocacy group, all appointed by the Governor. The  
3 public members shall serve 2 year terms, commencing upon  
4 appointment and every 2 years thereafter. A public member may  
5 be reappointed, and vacancies shall be filled by appointment  
6 for the completion of the term. In the event there is a vacancy  
7 on the State Use Committee, the Governor must make an  
8 appointment to fill that vacancy within 30 calendar days after  
9 the notice of vacancy. The members shall serve without  
10 compensation but shall be reimbursed for expenses at a rate  
11 equal to that of State employees on a per diem basis by the  
12 Department of Central Management Services. All members shall  
13 be entitled to vote on issues before the State Use Committee.

14 The State Use Committee shall have the following powers  
15 and duties:

16 (1) To request from any State agency information as to  
17 product specification and service requirements in order to  
18 carry out its purpose.

19 (2) To meet quarterly or more often as necessary to  
20 carry out its purposes.

21 (3) To request a quarterly report from each  
22 participating qualified not-for-profit agency for persons  
23 with significant disabilities describing the volume of  
24 sales for each product or service sold under this Section.

25 (4) To prepare a report for the Governor and General  
26 Assembly no later than December 31 of each year. The



1 requirement for reporting to the General Assembly shall be  
2 satisfied by following the procedures set forth in Section  
3 3.1 of the General Assembly Organization Act.

4 (5) To prepare a publication that lists all supplies  
5 and services currently available from any qualified  
6 not-for-profit agency for persons with significant  
7 disabilities. This list and any revisions shall be  
8 distributed to all purchasing agencies.

9 (6) To encourage diversity in supplies and services  
10 provided by qualified not-for-profit agencies for persons  
11 with significant disabilities and discourage unnecessary  
12 duplication or competition among not-for-profit agencies.

13 (7) To develop guidelines to be followed by qualifying  
14 agencies for participation under the provisions of this  
15 Section. Guidelines shall include a list of national  
16 accrediting organizations which satisfy the requirements  
17 of item (3) of subsection (a) of this Section. The  
18 guidelines shall be developed within 6 months after the  
19 effective date of this Code and made available on a  
20 nondiscriminatory basis to all qualifying agencies. The  
21 new guidelines required under this item (7) by Public Act  
22 100-203 shall be developed within 6 months after August  
23 18, 2017 (the effective date of Public Act 100-203) and  
24 made available on a non-discriminatory basis to all  
25 qualifying not-for-profit agencies.

26 (8) To review all pricing submitted under the

1 provisions of this Section and may approve a proposed  
2 agreement for supplies or services where the price  
3 submitted is fair and reasonable. Review of pricing under  
4 this paragraph may include, but is not limited to:

5 (A) Amounts private businesses would pay for  
6 similar products or services.

7 (B) Amounts the federal government would pay  
8 contractors for similar products or services.

9 (C) The amount paid by the State for similar  
10 products or services.

11 (D) The actual cost of manufacturing the product  
12 or performing a service at a community rehabilitation  
13 program offering employment services on or off  
14 premises to persons with disabilities or mental  
15 illnesses, with adequate consideration given to legal  
16 and moral imperatives to pay workers with disabilities  
17 equitable wages.

18 (E) The usual, customary, and reasonable costs of  
19 manufacturing, marketing, and distribution.

20 (9) To, not less than every 3 years, adopt a strategic  
21 plan for increasing the number of products and services  
22 purchased from qualified not-for-profit agencies for  
23 persons with disabilities or mental illnesses, including  
24 the feasibility of developing mandatory set-aside  
25 contracts.

26 (c-5) Conditions for Use. Each chief procurement officer

1 shall, in consultation with the State Use Committee, determine  
2 which articles, materials, services, food stuffs, and supplies  
3 that are produced, manufactured, or provided by persons with  
4 significant disabilities in qualified not-for-profit agencies  
5 shall be given preference by purchasing agencies procuring  
6 those items.

7 (d) (Blank).

8 (e) Subcontracts. Subcontracts shall be permitted for  
9 agreements authorized under this Section. For the purposes of  
10 this subsection (e), "subcontract" means any acquisition from  
11 another source of supplies, not including raw materials, or  
12 services required by a qualified not-for-profit agency to  
13 provide the supplies or services that are the subject of the  
14 contract between the State and the qualified not-for-profit  
15 agency.

16 The State Use Committee shall develop guidelines to be  
17 followed by qualified not-for-profit agencies when seeking and  
18 establishing subcontracts with other persons or not-for-profit  
19 agencies in order to fulfill State contract requirements.  
20 These guidelines shall include the following:

21 (i) The State Use Committee must approve all  
22 subcontracts and substantive amendments to subcontracts  
23 prior to execution or amendment of the subcontract.

24 (ii) A qualified not-for-profit agency shall not enter  
25 into a subcontract, or any combination of subcontracts, to  
26 fulfill an entire requirement, contract, or order without

1 written State Use Committee approval.

2 (iii) A qualified not-for-profit agency shall make  
3 reasonable efforts to utilize subcontracts with other  
4 not-for-profit agencies for persons with significant  
5 disabilities.

6 (iv) For any subcontract not currently performed by a  
7 qualified not-for-profit agency, the primary qualified  
8 not-for-profit agency must provide to the State Use  
9 Committee the following: (A) a written explanation as to  
10 why the subcontract is not performed by a qualified  
11 not-for-profit agency, and (B) a written plan to transfer  
12 the subcontract to a qualified not-for-profit agency, as  
13 reasonable.

14 (Source: P.A. 102-343, eff. 8-13-21; 102-558, eff. 8-20-21.)

15 ARTICLE 45. REIMAGINING HOTEL FLORENCE ACT

16 Section 45-1. Short title. This Act may be cited as the  
17 Reimagining Hotel Florence Act. References in this Article to  
18 "this Act" mean this Article.

19 Section 45-5. Legislative intent. Originally built in  
20 1881, the Hotel Florence is located within the Pullman  
21 Historic District and was placed on the National Register of  
22 Historic Places in 1969 and was designated a National Historic  
23 Landmark on December 30, 1970. To save it from demolition the

1 Historic Pullman Foundation purchased the hotel in 1975 and  
2 maintained ownership until 1991 when the State of Illinois  
3 took title of the building. The Hotel Florence is continually  
4 closed for renovations and is a semi-closed public space.

5 The hotel sits next to the Pullman National Historic  
6 Landmark District, which was designated as a National Monument  
7 in 2015 and recently redesignated as Illinois's first National  
8 Park on December 29, 2022 and is operated by the U.S. National  
9 Park Service. This redesignation allows for the National Park  
10 Service to enter into cooperative agreements with outside  
11 parties for interpretive and educational programs at  
12 nonfederal historic properties within the boundaries of the  
13 park and to provide assistance for the preservation of  
14 nonfederal land within the boundaries of the historical park  
15 and at sites in close proximity to it, which may include the  
16 Hotel Florence.

17 The General Assembly has allocated \$21,000,000 in capital  
18 infrastructure funds to aid in the redevelopment of the Hotel  
19 Florence.

20 The General Assembly finds that allowing for the  
21 Department of Natural Resources to enter into a public-private  
22 partnership that will allow the Hotel Florence to become a  
23 fully reactivated space in a timely manner that is in the  
24 public benefit of the State and the local Pullman community.

25 Section 45-10. Definitions. In this Act:

1 "Agreement" means a public-private agreement.

2 "Contractor" means a person that has been selected to  
3 enter or has entered into a public-private agreement with the  
4 Department on behalf of the State for the development,  
5 financing, construction, management, or operation of the Hotel  
6 Florence pursuant to this Act.

7 "Department" means the Department of Natural Resources.

8 "Hotel Florence" means real property in City of Chicago  
9 located within the Pullman Historic District that is owned by  
10 the Illinois Department of Natural Resources and was acquired  
11 in 1991, at the address of 11111 S. Forrestville Avenue,  
12 Chicago, Illinois, as well as the adjacent Hotel Florence  
13 Annex building located at 537 East 111th Street, Chicago,  
14 Illinois 60628 and any associated grounds connected to either  
15 property.

16 "Maintain" or "maintenance" includes ordinary maintenance,  
17 repair, rehabilitation, capital maintenance, maintenance  
18 replacement, and any other categories of maintenance that may  
19 be designated by the Department.

20 "Offeror" means a person that responds to a request for  
21 proposals under this Act.

22 "Operate" or "operation" means to do one or more of the  
23 following: maintain, improve, equip, modify, or otherwise  
24 operate.

25 "Person" means any individual, firm, association, joint  
26 venture, partnership, estate, trust, syndicate, fiduciary,

1 corporation, or any other legal entity, group, or combination  
2 thereof.

3 "Public-private agreement" means an agreement or contract  
4 between the Department on behalf of the State and all  
5 schedules, exhibits, and attachments thereto, entered into  
6 pursuant to a competitive request for proposals process  
7 governed by this Act, for the development, financing,  
8 construction, management, or operation of the Hotel Florence  
9 under this Act.

10 "Revenues" means all revenues, including, but not limited  
11 to, income, user fees, earnings, interest, lease payments,  
12 allocations, moneys from the federal government, the State,  
13 and units of local government, including, but not limited to,  
14 federal, State, and local appropriations, grants, loans, lines  
15 of credit, and credit guarantees; bond proceeds; equity  
16 investments; service payments; or other receipts arising out  
17 of or in connection with the financing, development,  
18 construction, management, or operation of the Hotel Florence.

19 "State" means the State of Illinois.

20 Section 45-15. Authority to enter public-private  
21 agreement.

22 (a) Notwithstanding any provision of law to the contrary,  
23 the Department on behalf of the State may, pursuant to a  
24 competitive request for proposals process governed by the  
25 Illinois Procurement Code, rules adopted under that Code, and

1 this Act, enter into a public-private agreement to develop,  
2 finance, construct, lease, manage, or operate the Hotel  
3 Florence on behalf of the State, pursuant to which the  
4 contractors may receive certain revenues, including management  
5 or user fees in consideration of the payment of moneys to the  
6 State for that right.

7 (b) The term of a public-private agreement shall be no  
8 less than 25 years and no more than 75 years.

9 (c) The term of a public-private agreement may be  
10 extended, but only if the extension is specifically authorized  
11 by the General Assembly by law.

12 Section 45-20. Procurement; prequalification. The  
13 Department may establish a process for prequalification of  
14 offerors. If the Department does create such a process, it  
15 shall:

16 (1) provide a public notice of the prequalification at  
17 least 30 days prior to the date on which applications are  
18 due;

19 (2) set forth requirements and evaluation criteria in  
20 order to become prequalified;

21 (3) determine which offerors that have submitted  
22 prequalification applications, if any, meet the  
23 requirements and evaluation criteria; and

24 (4) allow only those offerors that have been  
25 prequalified to respond to the request for proposals.



1 Section 45-25. Request for proposals process to enter into  
2 public-private agreement.

3 (a) Notwithstanding any provision of law to the contrary,  
4 the Department on behalf of the State shall select a  
5 contractor through a competitive request for proposals process  
6 governed by the Illinois Procurement Code and rules adopted  
7 under that Code and this Act.

8 (b) The competitive request for proposals process shall,  
9 at a minimum, solicit statements of qualification and  
10 proposals from offerors.

11 (c) The competitive request for proposals process shall,  
12 at a minimum, take into account the following criteria:

13 (1) the offeror's plans for the Hotel Florence  
14 project;

15 (2) the offeror's current and past business practices;

16 (3) the offeror's poor or inadequate past performance  
17 in developing, financing, constructing, managing, or  
18 operating historic landmark properties or other public  
19 assets;

20 (4) the offeror's ability to meet and past performance  
21 in meeting or exhausting good faith efforts to meet the  
22 utilization goals for business enterprises established in  
23 the Business Enterprise for Minorities, Women, and Persons  
24 with Disabilities Act;

25 (5) the offeror's ability to comply with and past

1 performance in complying with Section 2-105 of the  
2 Illinois Human Rights Act; and

3 (6) the offeror's plans to comply with the Business  
4 Enterprise for Minorities, Women, and Persons with  
5 Disabilities Act and Section 2-105 of the Illinois Human  
6 Rights Act.

7 (d) The Department shall not include terms in the request  
8 for proposals that provide an advantage, whether directly or  
9 indirectly, to any contractor presently providing goods,  
10 services, or equipment to the Department.

11 (e) The Department shall select one or more offerors as  
12 finalists.

13 (f) After the procedures required in this Section have  
14 been completed, the Department shall make a determination as  
15 to whether the offeror should be designated as the contractor  
16 for the Hotel Florence project and shall submit the decision  
17 to the Governor and to the Governor's Office of Management and  
18 Budget. After review of the Department's determination, the  
19 Governor may accept or reject the determination. If the  
20 Governor accepts the determination of the Department, the  
21 Governor shall designate the offeror for the Hotel Florence  
22 project.

23 Section 45-30. Provisions of the public-private agreement.

24 (a) The public-private agreement shall include all of the  
25 following:

1           (1) the term of the public-private agreement that is  
2 consistent with Section 45-40;

3           (2) the powers, duties, responsibilities, obligations,  
4 and functions of the Department and the contractor;

5           (3) compensation or payments to the Department, if  
6 applicable;

7           (4) compensation or payments to the contractor, if  
8 applicable;

9           (5) a provision specifying that the Department:

10           (A) has ready access to information regarding the  
11 contractor's powers, duties, responsibilities,  
12 obligations, and functions under the public-private  
13 agreement;

14           (B) has the right to demand and receive  
15 information from the contractor concerning any aspect  
16 of the contractor's powers, duties, responsibilities,  
17 obligations, and functions under the public-private  
18 agreement; and

19           (C) has the authority to direct or countermand  
20 decisions by the contractor at any time;

21           (6) a provision imposing an affirmative duty on the  
22 contractor to provide the Department with any information  
23 the contractor reasonably believes the Department would  
24 want to know or would need to know to enable the Department  
25 to exercise its powers, carry out its duties,  
26 responsibilities, and obligations, and perform its

1 functions under this Act or the public-private agreement  
2 or as otherwise required by law;

3 (7) the authority of the Department to enter into  
4 contracts with third parties pursuant to Section 45-40;

5 (8) the authority of the Department to request that  
6 the contractor reimburse the Department for third party  
7 consultants related to the monitoring the project;

8 (9) a provision governing the contractor's authority  
9 to negotiate and execute subcontracts with third parties;

10 (10) the authority of the contractor to impose user  
11 fees and the amounts of those fees;

12 (11) a provision governing the deposit and allocation  
13 of revenues including user fees;

14 (12) a provision governing rights to real and personal  
15 property of the State, the Department, the contractor, and  
16 other third parties;

17 (13) grounds for termination of the agreement by the  
18 Department or the contractor and a restatement of the  
19 Department's rights under this Act;

20 (14) a requirement that the contractor enter into a  
21 project labor agreement;

22 (15) a provision stating that construction contractors  
23 shall comply with the requirements of Section 30-22 of the  
24 Illinois Procurement Code;

25 (16) rights and remedies of the Department if the  
26 contractor defaults or otherwise fails to comply with the

1 terms of the agreement;

2 (17) procedures for amendment to the agreement; and

3 (18) all other terms, conditions, and provisions  
4 acceptable to the Department that the Department deems  
5 necessary and proper and in the public interest.

6 Section 45-35. Time limitations. The Department shall  
7 issue a request for proposals within 6 months after the  
8 effective date of this Act. The Department shall have 6 months  
9 from the date of issuance of the request for proposals to  
10 select a contractor.

11 Section 45-40. Term of agreement; reversion of property to  
12 the Department.

13 (a) The Department may terminate the contractor's  
14 authority and duties under the public-private agreement on the  
15 date set forth in the public-private agreement.

16 (b) Upon termination of the public-private agreement, the  
17 authority and duties of the contractor under this Act cease,  
18 except for those duties and obligations that extend beyond the  
19 termination, as set forth in the public-private agreement, and  
20 all interests in the Hotel Florence shall revert to the  
21 Department.

22 Section 45-45. Prohibited local action; home rule. A unit  
23 of local government, including a home rule unit, may not take

1 any action that would have the effect of impairing the  
2 public-private agreement under this Act. This Section is a  
3 denial and limitation of home rule powers and functions under  
4 subsection (h) of Section 6 of Article VII of the Illinois  
5 Constitution.

6 Section 45-50. Powers liberally construed. The powers  
7 conferred by this Act shall be liberally construed in order to  
8 accomplish their purposes and shall be in addition and  
9 supplemental to the powers conferred by any other law. If any  
10 other law or rule is inconsistent with this Act, this Act is  
11 controlling as to any public-private agreement entered into  
12 under this Act.

13 Section 45-55. Full and complete authority. This Act  
14 contains full and complete authority for agreements and leases  
15 with private entities to carry out the activities described in  
16 this Act. Except as otherwise required by law, no procedure,  
17 proceedings, publications, notices, consents, approvals,  
18 orders, or acts by the Department or any other State or local  
19 agency or official are required to enter into an agreement or  
20 lease.

21 ARTICLE 50. DURATION OF CONTRACTS

22 Section 50-5. The Illinois Procurement Code is amended by

1 changing Section 20-60 as follows:

2 (30 ILCS 500/20-60)

3 Sec. 20-60. Duration of contracts.

4 (a) Maximum duration. A contract may be entered into for  
5 any period of time deemed to be in the best interests of the  
6 State but not exceeding 10 years inclusive, beginning January  
7 1, 2010, of proposed contract renewals; provided, however, in  
8 connection with the issuance of certificates of participation  
9 or bonds, the governing board of a public institution of  
10 higher education may enter into contracts in excess of 10  
11 years but not to exceed 30 years for the purpose of financing  
12 or refinancing real or personal property. Third parties may  
13 lease State-owned dark fiber networks for any period of time  
14 deemed to be in the best interest of the State, but not  
15 exceeding 20 years. The length of a lease for real property or  
16 capital improvements shall be in accordance with the  
17 provisions of Section 40-25. The length of energy conservation  
18 program contracts or energy savings contracts or leases shall  
19 be in accordance with the provisions of Section 25-45. A  
20 contract for bond or mortgage insurance awarded by the  
21 Illinois Housing Development Authority, however, may be  
22 entered into for any period of time less than or equal to the  
23 maximum period of time that the subject bond or mortgage may  
24 remain outstanding.

25 (b) Subject to appropriation. All contracts made or

1 entered into shall recite that they are subject to termination  
2 and cancellation in any year for which the General Assembly  
3 fails to make an appropriation to make payments under the  
4 terms of the contract.

5 (c) The chief procurement officer shall file a proposed  
6 extension or renewal of a contract with the Procurement Policy  
7 Board and the Commission on Equity and Inclusion prior to  
8 entering into any extension or renewal if the cost associated  
9 with the extension or renewal exceeds \$249,999. The  
10 Procurement Policy Board or the Commission on Equity and  
11 Inclusion may object to the proposed extension or renewal  
12 within 14 calendar days and require a hearing before the Board  
13 or the Commission on Equity and Inclusion prior to entering  
14 into the extension or renewal. If the Procurement Policy Board  
15 or the Commission on Equity and Inclusion does not object  
16 within 14 calendar days or takes affirmative action to  
17 recommend the extension or renewal, the chief procurement  
18 officer may enter into the extension or renewal of a contract.  
19 This subsection does not apply to any emergency procurement,  
20 any procurement under Article 40, or any procurement exempted  
21 by Section 1-10(b) of this Code. If any State agency contract  
22 is paid for in whole or in part with federal-aid funds, grants,  
23 or loans and the provisions of this subsection would result in  
24 the loss of those federal-aid funds, grants, or loans, then  
25 the contract is exempt from the provisions of this subsection  
26 in order to remain eligible for those federal-aid funds,



1 grants, or loans, and the State agency shall file notice of  
2 this exemption with the Procurement Policy Board or the  
3 Commission on Equity and Inclusion prior to entering into the  
4 proposed extension or renewal. Nothing in this subsection  
5 permits a chief procurement officer to enter into an extension  
6 or renewal in violation of subsection (a). By August 1 each  
7 year, the Procurement Policy Board and the Commission on  
8 Equity and Inclusion shall each file a report with the General  
9 Assembly identifying for the previous fiscal year (i) the  
10 proposed extensions or renewals that were filed and whether  
11 such extensions and renewals were objected to and (ii) the  
12 contracts exempt from this subsection.

13 (d) Notwithstanding the provisions of subsection (a) of  
14 this Section, the Department of Innovation and Technology may  
15 enter into leases for dark fiber networks for any period of  
16 time deemed to be in the best interests of the State but not  
17 exceeding 20 years inclusive. The Department of Innovation and  
18 Technology may lease dark fiber networks from third parties  
19 only for the primary purpose of providing services (i) to the  
20 offices of Governor, Lieutenant Governor, Attorney General,  
21 Secretary of State, Comptroller, or Treasurer and State  
22 agencies, as defined under Section 5-15 of the Civil  
23 Administrative Code of Illinois or (ii) for anchor  
24 institutions, as defined in Section 7 of the Illinois Century  
25 Network Act. Dark fiber network lease contracts shall be  
26 subject to all other provisions of this Code and any

1 applicable rules or requirements, including, but not limited  
2 to, publication of lease solicitations, use of standard State  
3 contracting terms and conditions, and approval of vendor  
4 certifications and financial disclosures.

5 (e) As used in this Section, "dark fiber network" means a  
6 network of fiber optic cables laid but currently unused by a  
7 third party that the third party is leasing for use as network  
8 infrastructure.

9 (f) No vendor shall be eligible for renewal of a contract  
10 when that vendor has failed to meet the goals agreed to in the  
11 vendor's utilization plan, as defined in Section 2 of the  
12 Business Enterprise for Minorities, Women, and Persons with  
13 Disabilities Act, unless the State agency or public  
14 institution of higher education has determined that the vendor  
15 made good faith efforts toward meeting the contract goals. If  
16 the State agency or public institution of higher education  
17 determines that the vendor made good faith efforts, the agency  
18 or public institution of higher education may issue a waiver  
19 after concurrence by the chief procurement officer, which  
20 shall not be unreasonably withheld or impair a State agency  
21 determination to execute the renewal. The form and content of  
22 the waiver shall be prescribed by each chief procurement  
23 officer, but shall not impair a State agency or public  
24 institution of higher education determination to execute the  
25 renewal. The chief procurement officer shall post the  
26 completed form on his or her official website within 5

1 business days after receipt from the State agency or public  
2 institution of higher education. The chief procurement officer  
3 shall maintain on his or her official website a database of  
4 waivers granted under this Section with respect to contracts  
5 under his or her jurisdiction. The database shall be updated  
6 periodically and shall be searchable by contractor name and by  
7 contracting State agency or public institution of higher  
8 education.

9 (Source: P.A. 101-81, eff. 7-12-19; 101-657, Article 5,  
10 Section 5-5, eff. 7-1-21 (See Section 25 of P.A. 102-29 for  
11 effective date of P.A. 101-657, Article 5, Section 5-5);  
12 101-657, Article 40, Section 40-125, eff. 1-1-22; 102-29, eff.  
13 6-25-21; 102-721, eff. 1-1-23.)

14 ARTICLE 55. PUBLIC EDUCATION PROGRAMMING

15 Section 55-5. The Illinois Procurement Code is amended by  
16 changing Section 1-10 as follows:

17 (30 ILCS 500/1-10)

18 Sec. 1-10. Application.

19 (a) This Code applies only to procurements for which  
20 bidders, offerors, potential contractors, or contractors were  
21 first solicited on or after July 1, 1998. This Code shall not  
22 be construed to affect or impair any contract, or any  
23 provision of a contract, entered into based on a solicitation

1 prior to the implementation date of this Code as described in  
2 Article 99, including, but not limited to, any covenant  
3 entered into with respect to any revenue bonds or similar  
4 instruments. All procurements for which contracts are  
5 solicited between the effective date of Articles 50 and 99 and  
6 July 1, 1998 shall be substantially in accordance with this  
7 Code and its intent.

8 (b) This Code shall apply regardless of the source of the  
9 funds with which the contracts are paid, including federal  
10 assistance moneys. This Code shall not apply to:

11 (1) Contracts between the State and its political  
12 subdivisions or other governments, or between State  
13 governmental bodies, except as specifically provided in  
14 this Code.

15 (2) Grants, except for the filing requirements of  
16 Section 20-80.

17 (3) Purchase of care, except as provided in Section  
18 5-30.6 of the Illinois Public Aid Code and this Section.

19 (4) Hiring of an individual as an employee and not as  
20 an independent contractor, whether pursuant to an  
21 employment code or policy or by contract directly with  
22 that individual.

23 (5) Collective bargaining contracts.

24 (6) Purchase of real estate, except that notice of  
25 this type of contract with a value of more than \$25,000  
26 must be published in the Procurement Bulletin within 10

1 calendar days after the deed is recorded in the county of  
2 jurisdiction. The notice shall identify the real estate  
3 purchased, the names of all parties to the contract, the  
4 value of the contract, and the effective date of the  
5 contract.

6 (7) Contracts necessary to prepare for anticipated  
7 litigation, enforcement actions, or investigations,  
8 provided that the chief legal counsel to the Governor  
9 shall give his or her prior approval when the procuring  
10 agency is one subject to the jurisdiction of the Governor,  
11 and provided that the chief legal counsel of any other  
12 procuring entity subject to this Code shall give his or  
13 her prior approval when the procuring entity is not one  
14 subject to the jurisdiction of the Governor.

15 (8) (Blank).

16 (9) Procurement expenditures by the Illinois  
17 Conservation Foundation when only private funds are used.

18 (10) (Blank).

19 (11) Public-private agreements entered into according  
20 to the procurement requirements of Section 20 of the  
21 Public-Private Partnerships for Transportation Act and  
22 design-build agreements entered into according to the  
23 procurement requirements of Section 25 of the  
24 Public-Private Partnerships for Transportation Act.

25 (12) (A) Contracts for legal, financial, and other  
26 professional and artistic services entered into by the

1 Illinois Finance Authority in which the State of Illinois  
2 is not obligated. Such contracts shall be awarded through  
3 a competitive process authorized by the members of the  
4 Illinois Finance Authority and are subject to Sections  
5 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,  
6 as well as the final approval by the members of the  
7 Illinois Finance Authority of the terms of the contract.

8 (B) Contracts for legal and financial services entered  
9 into by the Illinois Housing Development Authority in  
10 connection with the issuance of bonds in which the State  
11 of Illinois is not obligated. Such contracts shall be  
12 awarded through a competitive process authorized by the  
13 members of the Illinois Housing Development Authority and  
14 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,  
15 and 50-37 of this Code, as well as the final approval by  
16 the members of the Illinois Housing Development Authority  
17 of the terms of the contract.

18 (13) Contracts for services, commodities, and  
19 equipment to support the delivery of timely forensic  
20 science services in consultation with and subject to the  
21 approval of the Chief Procurement Officer as provided in  
22 subsection (d) of Section 5-4-3a of the Unified Code of  
23 Corrections, except for the requirements of Sections  
24 20-60, 20-65, 20-70, and 20-160 and Article 50 of this  
25 Code; however, the Chief Procurement Officer may, in  
26 writing with justification, waive any certification

1 required under Article 50 of this Code. For any contracts  
2 for services which are currently provided by members of a  
3 collective bargaining agreement, the applicable terms of  
4 the collective bargaining agreement concerning  
5 subcontracting shall be followed.

6 On and after January 1, 2019, this paragraph (13),  
7 except for this sentence, is inoperative.

8 (14) Contracts for participation expenditures required  
9 by a domestic or international trade show or exhibition of  
10 an exhibitor, member, or sponsor.

11 (15) Contracts with a railroad or utility that  
12 requires the State to reimburse the railroad or utilities  
13 for the relocation of utilities for construction or other  
14 public purpose. Contracts included within this paragraph  
15 (15) shall include, but not be limited to, those  
16 associated with: relocations, crossings, installations,  
17 and maintenance. For the purposes of this paragraph (15),  
18 "railroad" means any form of non-highway ground  
19 transportation that runs on rails or electromagnetic  
20 guideways and "utility" means: (1) public utilities as  
21 defined in Section 3-105 of the Public Utilities Act, (2)  
22 telecommunications carriers as defined in Section 13-202  
23 of the Public Utilities Act, (3) electric cooperatives as  
24 defined in Section 3.4 of the Electric Supplier Act, (4)  
25 telephone or telecommunications cooperatives as defined in  
26 Section 13-212 of the Public Utilities Act, (5) rural

1 water or waste water systems with 10,000 connections or  
2 less, (6) a holder as defined in Section 21-201 of the  
3 Public Utilities Act, and (7) municipalities owning or  
4 operating utility systems consisting of public utilities  
5 as that term is defined in Section 11-117-2 of the  
6 Illinois Municipal Code.

7 (16) Procurement expenditures necessary for the  
8 Department of Public Health to provide the delivery of  
9 timely newborn screening services in accordance with the  
10 Newborn Metabolic Screening Act.

11 (17) Procurement expenditures necessary for the  
12 Department of Agriculture, the Department of Financial and  
13 Professional Regulation, the Department of Human Services,  
14 and the Department of Public Health to implement the  
15 Compassionate Use of Medical Cannabis Program and Opioid  
16 Alternative Pilot Program requirements and ensure access  
17 to medical cannabis for patients with debilitating medical  
18 conditions in accordance with the Compassionate Use of  
19 Medical Cannabis Program Act.

20 (18) This Code does not apply to any procurements  
21 necessary for the Department of Agriculture, the  
22 Department of Financial and Professional Regulation, the  
23 Department of Human Services, the Department of Commerce  
24 and Economic Opportunity, and the Department of Public  
25 Health to implement the Cannabis Regulation and Tax Act if  
26 the applicable agency has made a good faith determination



1 that it is necessary and appropriate for the expenditure  
2 to fall within this exemption and if the process is  
3 conducted in a manner substantially in accordance with the  
4 requirements of Sections 20-160, 25-60, 30-22, 50-5,  
5 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,  
6 50-36, 50-37, 50-38, and 50-50 of this Code; however, for  
7 Section 50-35, compliance applies only to contracts or  
8 subcontracts over \$100,000. Notice of each contract  
9 entered into under this paragraph (18) that is related to  
10 the procurement of goods and services identified in  
11 paragraph (1) through (9) of this subsection shall be  
12 published in the Procurement Bulletin within 14 calendar  
13 days after contract execution. The Chief Procurement  
14 Officer shall prescribe the form and content of the  
15 notice. Each agency shall provide the Chief Procurement  
16 Officer, on a monthly basis, in the form and content  
17 prescribed by the Chief Procurement Officer, a report of  
18 contracts that are related to the procurement of goods and  
19 services identified in this subsection. At a minimum, this  
20 report shall include the name of the contractor, a  
21 description of the supply or service provided, the total  
22 amount of the contract, the term of the contract, and the  
23 exception to this Code utilized. A copy of any or all of  
24 these contracts shall be made available to the Chief  
25 Procurement Officer immediately upon request. The Chief  
26 Procurement Officer shall submit a report to the Governor

1 and General Assembly no later than November 1 of each year  
2 that includes, at a minimum, an annual summary of the  
3 monthly information reported to the Chief Procurement  
4 Officer. This exemption becomes inoperative 5 years after  
5 June 25, 2019 (the effective date of Public Act 101-27).

6 (19) Acquisition of modifications or adjustments,  
7 limited to assistive technology devices and assistive  
8 technology services, adaptive equipment, repairs, and  
9 replacement parts to provide reasonable accommodations (i)  
10 that enable a qualified applicant with a disability to  
11 complete the job application process and be considered for  
12 the position such qualified applicant desires, (ii) that  
13 modify or adjust the work environment to enable a  
14 qualified current employee with a disability to perform  
15 the essential functions of the position held by that  
16 employee, (iii) to enable a qualified current employee  
17 with a disability to enjoy equal benefits and privileges  
18 of employment as are enjoyed by other similarly situated  
19 employees without disabilities, and (iv) that allow a  
20 customer, client, claimant, or member of the public  
21 seeking State services full use and enjoyment of and  
22 access to its programs, services, or benefits.

23 For purposes of this paragraph (19):

24 "Assistive technology devices" means any item, piece  
25 of equipment, or product system, whether acquired  
26 commercially off the shelf, modified, or customized, that

1 is used to increase, maintain, or improve functional  
2 capabilities of individuals with disabilities.

3 "Assistive technology services" means any service that  
4 directly assists an individual with a disability in  
5 selection, acquisition, or use of an assistive technology  
6 device.

7 "Qualified" has the same meaning and use as provided  
8 under the federal Americans with Disabilities Act when  
9 describing an individual with a disability.

10 (20) Procurement expenditures necessary for the  
11 Illinois Commerce Commission to hire third-party  
12 facilitators pursuant to Sections 16-105.17 and 16-108.18  
13 of the Public Utilities Act or an ombudsman pursuant to  
14 Section 16-107.5 of the Public Utilities Act, a  
15 facilitator pursuant to Section 16-105.17 of the Public  
16 Utilities Act, or a grid auditor pursuant to Section  
17 16-105.10 of the Public Utilities Act.

18 (21) Procurement expenditures for the purchase,  
19 renewal, and expansion of software, software licenses, or  
20 software maintenance agreements that support the efforts  
21 of the Illinois State Police to enforce, regulate, and  
22 administer the Firearm Owners Identification Card Act, the  
23 Firearm Concealed Carry Act, the Firearms Restraining  
24 Order Act, the Firearm Dealer License Certification Act,  
25 the Law Enforcement Agencies Data System (LEADS), the  
26 Uniform Crime Reporting Act, the Criminal Identification

1 Act, the Uniform Conviction Information Act, and the Gun  
2 Trafficking Information Act, or establish or maintain  
3 record management systems necessary to conduct human  
4 trafficking investigations or gun trafficking or other  
5 stolen firearm investigations. This paragraph (21) applies  
6 to contracts entered into on or after the effective date  
7 of this amendatory Act of the 102nd General Assembly and  
8 the renewal of contracts that are in effect on the  
9 effective date of this amendatory Act of the 102nd General  
10 Assembly.

11 (22) Contracts for public education programming,  
12 noncommercial sustaining announcements, public service  
13 announcements, and public awareness and education  
14 messaging with the nonprofit trade associations of the  
15 providers of those services that inform the public on  
16 immediate and ongoing health and safety risks and hazards.

17 Notwithstanding any other provision of law, for contracts  
18 with an annual value of more than \$100,000 entered into on or  
19 after October 1, 2017 under an exemption provided in any  
20 paragraph of this subsection (b), except paragraph (1), (2),  
21 or (5), each State agency shall post to the appropriate  
22 procurement bulletin the name of the contractor, a description  
23 of the supply or service provided, the total amount of the  
24 contract, the term of the contract, and the exception to the  
25 Code utilized. The chief procurement officer shall submit a  
26 report to the Governor and General Assembly no later than

1 November 1 of each year that shall include, at a minimum, an  
2 annual summary of the monthly information reported to the  
3 chief procurement officer.

4 (c) This Code does not apply to the electric power  
5 procurement process provided for under Section 1-75 of the  
6 Illinois Power Agency Act and Section 16-111.5 of the Public  
7 Utilities Act.

8 (d) Except for Section 20-160 and Article 50 of this Code,  
9 and as expressly required by Section 9.1 of the Illinois  
10 Lottery Law, the provisions of this Code do not apply to the  
11 procurement process provided for under Section 9.1 of the  
12 Illinois Lottery Law.

13 (e) This Code does not apply to the process used by the  
14 Capital Development Board to retain a person or entity to  
15 assist the Capital Development Board with its duties related  
16 to the determination of costs of a clean coal SNG brownfield  
17 facility, as defined by Section 1-10 of the Illinois Power  
18 Agency Act, as required in subsection (h-3) of Section 9-220  
19 of the Public Utilities Act, including calculating the range  
20 of capital costs, the range of operating and maintenance  
21 costs, or the sequestration costs or monitoring the  
22 construction of clean coal SNG brownfield facility for the  
23 full duration of construction.

24 (f) (Blank).

25 (g) (Blank).

26 (h) This Code does not apply to the process to procure or

1 contracts entered into in accordance with Sections 11-5.2 and  
2 11-5.3 of the Illinois Public Aid Code.

3 (i) Each chief procurement officer may access records  
4 necessary to review whether a contract, purchase, or other  
5 expenditure is or is not subject to the provisions of this  
6 Code, unless such records would be subject to attorney-client  
7 privilege.

8 (j) This Code does not apply to the process used by the  
9 Capital Development Board to retain an artist or work or works  
10 of art as required in Section 14 of the Capital Development  
11 Board Act.

12 (k) This Code does not apply to the process to procure  
13 contracts, or contracts entered into, by the State Board of  
14 Elections or the State Electoral Board for hearing officers  
15 appointed pursuant to the Election Code.

16 (l) This Code does not apply to the processes used by the  
17 Illinois Student Assistance Commission to procure supplies and  
18 services paid for from the private funds of the Illinois  
19 Prepaid Tuition Fund. As used in this subsection (l), "private  
20 funds" means funds derived from deposits paid into the  
21 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

22 (m) This Code shall apply regardless of the source of  
23 funds with which contracts are paid, including federal  
24 assistance moneys. Except as specifically provided in this  
25 Code, this Code shall not apply to procurement expenditures  
26 necessary for the Department of Public Health to conduct the

1 Healthy Illinois Survey in accordance with Section 2310-431 of  
2 the Department of Public Health Powers and Duties Law of the  
3 Civil Administrative Code of Illinois.

4 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;  
5 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff  
6 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,  
7 eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;  
8 102-1116, eff. 1-10-23.)

9 ARTICLE 60. CONTRACTOR DIVERSITY REPORTING

10 Section 60-5. The Business Corporation Act of 1983 is  
11 amended by adding Section 14.40 as follows:

12 (805 ILCS 5/14.40 new)

13 Sec. 14.40. State contractors reporting.

14 (a) Except as provided in subsection (b), by June 1, 2024,  
15 and each June 1 thereafter, a corporation that has contracts  
16 with this State shall provide to the Commission on Equity and  
17 Inclusion a list of its professional services suppliers by  
18 category, including, but not limited to, legal services,  
19 accounting services, media placement, technology services,  
20 asset management, and consulting services. The list shall  
21 include the percentage of owners and employees in each  
22 category that are women or minority persons. The list required  
23 under this subsection (a) shall provide the required

1 information for each of the classes of minority persons  
2 identified in Section 2 of the Business Enterprise for  
3 Minorities, Women, and Persons with Disabilities Act.

4 (b) Corporations that submit annual supplier diversity  
5 reports to the Illinois Commerce Commission in accordance with  
6 Section 8h of the Business Enterprise for Minorities, Women,  
7 and Persons with Disabilities Act are exempt from the  
8 requirements of this Section.

9 (c) This Section is repealed on July 1, 2028.

10 ARTICLE 65. REQUESTS FOR WAIVER OF ASPIRATIONAL GOALS

11 Section 5. The Business Enterprise for Minorities, Women,  
12 and Persons with Disabilities Act is amended by changing  
13 Sections 2 and 7 as follows:

14 (30 ILCS 575/2)

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

16 Sec. 2. Definitions.

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

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

22 (a) American Indian or Alaska Native (a person  
23 having origins in any of the original peoples of North



1 and South America, including Central America, and who  
2 maintains tribal affiliation or community attachment).

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

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

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

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

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

20 (2.05) "Person with a disability" means a person who  
21 is a citizen or lawful resident of the United States and is  
22 a person qualifying as a person with a disability under  
23 subdivision (2.1) of this subsection (A).

24 (2.1) "Person with a disability" means a person with a  
25 severe physical or mental disability that:

26 (a) results from:

1           amputation,  
2           arthritis,  
3           autism,  
4           blindness,  
5           burn injury,  
6           cancer,  
7           cerebral palsy,  
8           Crohn's disease,  
9           cystic fibrosis,  
10          deafness,  
11          head injury,  
12          heart disease,  
13          hemiplegia,  
14          hemophilia,  
15          respiratory or pulmonary dysfunction,  
16          an intellectual disability,  
17          mental illness,  
18          multiple sclerosis,  
19          muscular dystrophy,  
20          musculoskeletal disorders,  
21          neurological disorders, including stroke and  
22          epilepsy,  
23          paraplegia,  
24          quadriplegia and other spinal cord conditions,  
25          sickle cell anemia,  
26          ulcerative colitis,

1           specific learning disabilities, or  
2           end stage renal failure disease; and

3           (b) substantially limits one or more of the  
4           person's major life activities.

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

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

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

25          (4.1) "Business owned by a person with a disability"  
26          means a business that is at least 51% owned by one or more

1 persons with a disability and the management and daily  
2 business operations of which are controlled by one or more  
3 of the persons with disabilities who own it. A  
4 not-for-profit agency for persons with disabilities that  
5 is exempt from taxation under Section 501 of the Internal  
6 Revenue Code of 1986 is also considered a "business owned  
7 by a person with a disability".

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

11 (4.3) "Commission" means, unless the context clearly  
12 indicates otherwise, the Commission on Equity and  
13 Inclusion created under the Commission on Equity and  
14 Inclusion Act.

15 (4.4) "Certified vendor" means a minority-owned  
16 business, women-owned business, or business owned by a  
17 person with a disability that is certified by the Business  
18 Enterprise Program.

19 (4.5) "Subcontractor" means a person or entity that  
20 enters into a contractual agreement with a prime vendor to  
21 provide, on behalf of the prime vendor, goods, services,  
22 real property, or remuneration or other monetary  
23 consideration that is the subject of the primary State  
24 contract. "Subcontractor" includes a sublessee under a  
25 State contract.

26 (4.6) "Prime vendor" means any person or entity having

1       a contract that is subject to this Act with a State agency  
2       or public institution of higher education.

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

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

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

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

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

18 (8) "Certification" means a determination made by the  
19 Council or by one delegated authority from the Council to  
20 make certifications, or by a State agency with statutory  
21 authority to make such a certification, that a business  
22 entity is a business owned by a minority, woman, or person  
23 with a disability for whatever purpose. A business owned  
24 and controlled by women shall be certified as a  
25 "woman-owned business". A business owned and controlled by  
26 women who are also minorities shall be certified as both a

1 "women-owned business" and a "minority-owned business".

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

19 (10) "Business" means a business that has annual gross  
20 sales of less than \$150,000,000 as evidenced by the  
21 federal income tax return of the business. A certified  
22 vendor ~~firm~~ with gross sales in excess of this cap may  
23 apply to the Council for certification for a particular  
24 contract if the vendor ~~firm~~ can demonstrate that the  
25 contract would have significant impact on businesses owned  
26 by minorities, women, or persons with disabilities as

1 suppliers or subcontractors or in employment of  
2 minorities, women, or persons with disabilities. Firms  
3 with gross sales in excess of this cap that are granted  
4 certification by the Council shall be granted  
5 certification for the life of the contract, including  
6 available renewals.

7 (11) "Utilization plan" means an attachment that is  
8 made to a form and additional documentations included in  
9 all bids or proposals and that demonstrates the bidder's  
10 or offeror's efforts to meet the contract-specific  
11 Business Enterprise Program goal. The utilization plan  
12 shall indicate whether the prime vendor intends to meet  
13 the Business Enterprise Program goal through its own  
14 performance, if it is a certified vendor, or through the  
15 use of subcontractors that are certified vendors a  
16 vendor's proposed utilization of vendors certified by the  
17 Business Enterprise Program to meet the targeted goal. The  
18 utilization plan shall demonstrate that the Vendor has  
19 either: (1) met the entire contract goal or (2) requested  
20 a full or partial waiver of the contract goal. If the prime  
21 vendor intends to use a subcontractor that is a certified  
22 vendor to fulfill the contract goal, a participation  
23 agreement executed between the prime vendor and the  
24 certified subcontractor must be included with the  
25 utilization plan and made good faith efforts towards  
26 meeting the goal.



1           (12) "Business Enterprise Program" means the Business  
2           Enterprise Program of the Commission on Equity and  
3           Inclusion.

4           (13) "Good faith effort" means actions undertaken by a  
5           vendor to achieve a contract specific Business Enterprise  
6           Program goal that, by scope, intensity, and  
7           appropriateness to the objective, can reasonably be  
8           expected to fulfill the program's requirements.

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

18          (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;  
19          102-29, eff. 6-25-21; 102-1119, eff. 1-23-23.)

20          (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

23          (1) Individual contract exemptions. The Council, at the  
24          written request of the affected agency, public institution of  
25          higher education, or recipient of a grant or loan of State

1 funds of \$250,000 or more complying with Section 45 of the  
2 State Finance Act, may permit an individual contract or  
3 contract package, (related contracts being bid or awarded  
4 simultaneously for the same project or improvements) be made  
5 wholly or partially exempt from State contracting goals for  
6 businesses owned by minorities, women, and persons with  
7 disabilities prior to the advertisement for bids or  
8 solicitation of proposals whenever there has been a  
9 determination, reduced to writing and based on the best  
10 information available at the time of the determination, that  
11 there is an insufficient number of businesses owned by  
12 minorities, women, and persons with disabilities to ensure  
13 adequate competition and an expectation of reasonable prices  
14 on bids or proposals solicited for the individual contract or  
15 contract package in question. Any such exemptions shall be  
16 given by the Council to the Bureau on Apprenticeship Programs  
17 and Clean Energy Jobs.

18 (a) Written request for contract exemption. A written  
19 request for an individual contract exemption must include,  
20 but is not limited to, the following:

21 (i) a list of eligible businesses owned by  
22 minorities, women, and persons with disabilities;

23 (ii) a clear demonstration that the number of  
24 eligible businesses identified in subparagraph (i)  
25 above is insufficient to ensure adequate competition;

26 (iii) the difference in cost between the contract

1 proposals being offered by businesses owned by  
2 minorities, women, and persons with disabilities and  
3 the agency or public institution of higher education's  
4 expectations of reasonable prices on bids or proposals  
5 within that class; and

6 (iv) a list of eligible businesses owned by  
7 minorities, women, and persons with disabilities that  
8 the contractor has used in the current and prior  
9 fiscal years.

10 (b) Determination. The Council's determination  
11 concerning an individual contract exemption must consider,  
12 at a minimum, the following:

13 (i) the justification for the requested exemption,  
14 including whether diligent efforts were undertaken to  
15 identify and solicit eligible businesses owned by  
16 minorities, women, and persons with disabilities;

17 (ii) the total number of exemptions granted to the  
18 affected agency, public institution of higher  
19 education, or recipient of a grant or loan of State  
20 funds of \$250,000 or more complying with Section 45 of  
21 the State Finance Act that have been granted by the  
22 Council in the current and prior fiscal years; and

23 (iii) the percentage of contracts awarded by the  
24 agency or public institution of higher education to  
25 eligible businesses owned by minorities, women, and  
26 persons with disabilities in the current and prior

1 fiscal years.

2 (2) Class exemptions.

3 (a) Creation. The Council, at the written request of  
4 the affected agency or public institution of higher  
5 education, may permit an entire class of contracts be made  
6 exempt from State contracting goals for businesses owned  
7 by minorities, women, and persons with disabilities  
8 whenever there has been a determination, reduced to  
9 writing and based on the best information available at the  
10 time of the determination, that there is an insufficient  
11 number of qualified businesses owned by minorities, women,  
12 and persons with disabilities to ensure adequate  
13 competition and an expectation of reasonable prices on  
14 bids or proposals within that class. Any such exemption  
15 shall be given by the Council to the Bureau on  
16 Apprenticeship Programs and Clean Energy Jobs.

17 (a-1) Written request for class exemption. A written  
18 request for a class exemption must include, but is not  
19 limited to, the following:

20 (i) a list of eligible businesses owned by  
21 minorities, women, and persons with disabilities;

22 (ii) a clear demonstration that the number of  
23 eligible businesses identified in subparagraph (i)  
24 above is insufficient to ensure adequate competition;

25 (iii) the difference in cost between the contract  
26 proposals being offered by eligible businesses owned

1 by minorities, women, and persons with disabilities  
2 and the agency or public institution of higher  
3 education's expectations of reasonable prices on bids  
4 or proposals within that class; and

5 (iv) the number of class exemptions the affected  
6 agency or public institution of higher education  
7 requested in the current and prior fiscal years.

8 (a-2) Determination. The Council's determination  
9 concerning class exemptions must consider, at a minimum,  
10 the following:

11 (i) the justification for the requested exemption,  
12 including whether diligent efforts were undertaken to  
13 identify and solicit eligible businesses owned by  
14 minorities, women, and persons with disabilities;

15 (ii) the total number of class exemptions granted  
16 to the requesting agency or public institution of  
17 higher education that have been granted by the Council  
18 in the current and prior fiscal years; and

19 (iii) the percentage of contracts awarded by the  
20 agency or public institution of higher education to  
21 eligible businesses owned by minorities, women, and  
22 persons with disabilities the current and prior fiscal  
23 years.

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

26 (3) Waivers. Where a particular contract requires a vendor

1 ~~contractor~~ to meet a goal established pursuant to this Act,  
2 the vendor ~~contractor~~ shall have the right to request a waiver  
3 from such requirements prior to the contract award. The  
4 Business Enterprise Program shall evaluate a vendor's request  
5 for a waiver based on the vendor's documented good faith  
6 efforts to meet the contract-specific Business Enterprise  
7 Program goal. The Council shall grant the waiver when the  
8 contractor demonstrates that there has been made a good faith  
9 effort to comply with the goals for participation by  
10 businesses owned by minorities, women, and persons with  
11 disabilities. Any such waiver shall also be transmitted in  
12 writing to the Bureau on Apprenticeship Programs and Clean  
13 Energy Jobs.

14 (a) Request for waiver. A vendor's ~~contractor's~~  
15 request for a waiver under this subsection (3) must  
16 include, but is not limited to, the following, ~~if~~  
17 ~~available:~~

18 (i) a list of eligible businesses owned by  
19 minorities, women, and persons with disabilities that  
20 pertain to the the class of contracts in the requested  
21 waiver that were contacted by the vendor ~~scope of work~~  
22 ~~of the contract.~~ Eligible businesses are only eligible  
23 if the business is certified for the products or work  
24 advertised in the solicitation or bid;

25 (ii) (blank);

26 (iia) a clear demonstration that the vendor

1 ~~contractor~~ selected portions of the work to be  
2 performed by certified vendors to facilitate meeting  
3 the contract specific goal, and that certified vendors  
4 that have the capability to perform the work of the  
5 contract were eligible businesses owned by minorities,  
6 ~~women, and persons with disabilities,~~ solicited  
7 through all reasonable and available means ~~eligible~~  
8 ~~businesses, and negotiated in good faith with~~  
9 ~~interested eligible businesses;~~

10 (iib) documentation demonstrating that certified  
11 vendors businesses owned by minorities, women, and  
12 ~~persons with disabilities~~ are not rejected as being  
13 unqualified without sound reasons based on a thorough  
14 investigation of their capabilities. The certified  
15 vendor's standing within its industry, membership in  
16 specific groups, organizations, or associations, and  
17 political or social affiliations are not legitimate  
18 causes for rejecting or not contacting or negotiating  
19 with a certified vendor;

20 (iic) proof that the prime vendor solicited  
21 eligible certified vendors with: (1) sufficient time  
22 to respond; (2) adequate information about the scope,  
23 specifications, and requirements of the solicitation  
24 or bid, including plans, drawings, and addenda, to  
25 allow eligible businesses an opportunity to respond to  
26 the solicitation or bid; and (3) sufficient follow up

1 with certified vendors;

2 (iid) a clear demonstration that the prime vendor  
3 communicated with certified vendors;

4 (iie) evidence that the prime vendor negotiated  
5 with certified vendors to enter into subcontracts to  
6 provide a commercially useful function of the contract  
7 for a reasonable cost;

8 (iii) documentation demonstrating that the  
9 difference in cost between the contract proposals  
10 being offered by certified vendors is ~~contract~~  
11 ~~proposals being offered by businesses owned by~~  
12 ~~minorities, women, and persons with disabilities are~~  
13 excessive or unreasonable; ~~and~~

14 (iv) a list of certified vendors ~~businesses~~ owned  
15 by minorities, women, and persons with disabilities  
16 that the contractor has used in the current and prior  
17 fiscal years; ~~and~~

18 (v) documentation demonstrating that the vendor  
19 made efforts to utilize certified vendors despite the  
20 ability or desire of a vendor to perform the work with  
21 its own operations by selecting portions of the work  
22 to be performed by certified vendors, which may, when  
23 appropriate, include breaking out portions of the work  
24 to be performed into economically feasible units to  
25 facilitate certified vendor participation; and

26 (vi) documentation that the vendor used the



1 services of: (1) the State; (2) organizations or  
2 contractors' groups representing or composed of  
3 minorities, women, or persons with disabilities; (3)  
4 local, State, or federal assistance offices  
5 representing or assisting minorities, women, or  
6 persons with disabilities; and (4) other organizations  
7 that provide assistance in the recruitment and  
8 engagement of certified vendors.

9 If any of the information required under this  
10 subdivision (a) is not available to the vendor, despite  
11 the vendor's good faith efforts to obtain the information,  
12 the vendor's request for a waiver must contain a written  
13 explanation of why that information is not included.

14 (b) Determination. The Council's determination  
15 concerning waivers must include following:

16 (i) the justification for the requested waiver,  
17 including whether the requesting vendor ~~contractor~~  
18 made a good faith effort to identify and solicit  
19 certified vendors based on the criteria set forth in  
20 this Section ~~eligible businesses owned by minorities,~~  
21 ~~women, and persons with disabilities;~~

22 (ii) the total number of waivers the vendor  
23 ~~contractor~~ has been granted by the Council in the  
24 current and prior fiscal years;

25 (iii) (blank); and

26 (iv) the vendor's ~~contractor's~~ use of businesses

1 owned by minorities, women, and persons with  
2 disabilities in the current and prior fiscal years.

3 (3.5) (Blank).

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

11 (5) Each chief procurement officer, as defined in the  
12 Illinois Procurement Code, shall maintain on his or her  
13 official Internet website a database of the following: (i)  
14 waivers granted under this Section with respect to contracts  
15 under his or her jurisdiction; (ii) a State agency or public  
16 institution of higher education's written request for an  
17 exemption of an individual contract or an entire class of  
18 contracts; and (iii) the Council's written determination  
19 granting or denying a request for an exemption of an  
20 individual contract or an entire class of contracts. The  
21 database, which shall be updated periodically as necessary,  
22 shall be searchable by contractor name and by contracting  
23 State agency.

24 (6) Each chief procurement officer, as defined by the  
25 Illinois Procurement Code, shall maintain on its website a  
26 list of all vendors ~~firms~~ that have been prohibited from

1 bidding, offering, or entering into a contract with the State  
2 of Illinois as a result of violations of this Act.

3 Each public notice required by law of the award of a State  
4 contract shall include for each bid or offer submitted for  
5 that contract the following: (i) the bidder's or offeror's  
6 name, (ii) the bid amount, (iii) the name or names of the  
7 certified vendors ~~firms~~ identified in the bidder's or  
8 offeror's submitted utilization plan, and (iv) the ~~bid's~~  
9 ~~amount—and~~ percentage of the contract awarded to each  
10 certified vendor that is a business ~~businesses~~ owned by  
11 minorities, women, and persons with disabilities identified in  
12 the utilization plan.

13 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;  
14 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff.  
15 9-15-21.)

16 ARTICLE 75. PUBLIC INSTITUTIONS OF HIGHER EDUCATION

17 Section 75-5. The Illinois Procurement Code is amended by  
18 changing Section 1-13 as follows:

19 (30 ILCS 500/1-13)

20 Sec. 1-13. Applicability to public institutions of higher  
21 education.

22 (a) This Code shall apply to public institutions of higher  
23 education, regardless of the source of the funds with which

1 contracts are paid, except as provided in this Section.

2 (b) Except as provided in this Section, this Code shall  
3 not apply to procurements made by or on behalf of public  
4 institutions of higher education for any of the following:

5 (1) Memberships in professional, academic, research,  
6 or athletic organizations on behalf of a public  
7 institution of higher education, an employee of a public  
8 institution of higher education, or a student at a public  
9 institution of higher education.

10 (2) Procurement expenditures for events or activities  
11 paid for exclusively by revenues generated by the event or  
12 activity, gifts or donations for the event or activity,  
13 private grants, or any combination thereof.

14 (3) Procurement expenditures for events or activities  
15 for which the use of specific potential contractors is  
16 mandated or identified by the sponsor of the event or  
17 activity, provided that the sponsor is providing a  
18 majority of the funding for the event or activity.

19 (4) Procurement expenditures necessary to provide  
20 athletic, artistic or musical services, performances,  
21 events, or productions by or for a public institution of  
22 higher education.

23 (5) Procurement expenditures for periodicals, books,  
24 subscriptions, database licenses, and other publications  
25 procured for use by a university library or academic  
26 department, except for expenditures related to procuring

1 textbooks for student use or materials for resale or  
2 rental.

3 (6) Procurement expenditures for placement of students  
4 in externships, practicums, field experiences, and for  
5 medical residencies and rotations.

6 (7) Contracts for programming and broadcast license  
7 rights for university-operated radio and television  
8 stations.

9 (8) Procurement expenditures necessary to perform  
10 sponsored research and other sponsored activities under  
11 grants and contracts funded by the sponsor or by sources  
12 other than State appropriations.

13 (9) Contracts with a foreign entity for research or  
14 educational activities, provided that the foreign entity  
15 either does not maintain an office in the United States or  
16 is the sole source of the service or product.

17 (10) Procurement expenditures for any ongoing software  
18 license or maintenance agreement or competitively  
19 solicited software purchase, when the software, license,  
20 or maintenance agreement is available through only the  
21 software creator or its manufacturer and not a reseller.

22 (11) Procurement expenditures incurred outside of the  
23 United States for the recruitment of international  
24 students.

25 (12) Procurement expenditures for contracts entered  
26 into under the Public University Energy Conservation Act.

1           (13) Procurement expenditures for advertising  
2           purchased directly from a media station or the owner of  
3           the station for distribution of advertising.

4 Notice of each contract with an annual value of more than  
5 \$100,000 entered into by a public institution of higher  
6 education that is related to the procurement of goods and  
7 services identified in items (1) through (13) ~~(11)~~ of this  
8 subsection shall be published in the Procurement Bulletin  
9 within 14 calendar days after contract execution. The Chief  
10 Procurement Officer shall prescribe the form and content of  
11 the notice. Each public institution of higher education shall  
12 provide the Chief Procurement Officer, on a monthly basis, in  
13 the form and content prescribed by the Chief Procurement  
14 Officer, a report of contracts that are related to the  
15 procurement of goods and services identified in this  
16 subsection. At a minimum, this report shall include the name  
17 of the contractor, a description of the supply or service  
18 provided, the total amount of the contract, the term of the  
19 contract, and the exception to the Code utilized. A copy of any  
20 or all of these contracts shall be made available to the Chief  
21 Procurement Officer immediately upon request. The Chief  
22 Procurement Officer shall submit a report to the Governor and  
23 General Assembly no later than November 1 of each year that  
24 shall include, at a minimum, an annual summary of the monthly  
25 information reported to the Chief Procurement Officer.

26           (b-5) Except as provided in this subsection, the

1 provisions of this Code shall not apply to contracts for  
2 medical supplies or to contracts for medical services  
3 necessary for the delivery of care and treatment at medical,  
4 dental, or veterinary teaching facilities used by Southern  
5 Illinois University or the University of Illinois or at any  
6 university-operated health care center or dispensary that  
7 provides care, treatment, and medications for students,  
8 faculty, and staff. Furthermore, the provisions of this Code  
9 do not apply to the procurement by such a facility of any  
10 additional supplies or services that the operator of the  
11 facility deems necessary for the effective use and functioning  
12 of the medical supplies or services that are otherwise exempt  
13 from this Code under this subsection (b-5). However, other  
14 supplies and services needed for these teaching facilities  
15 shall be subject to the jurisdiction of the Chief Procurement  
16 Officer for Public Institutions of Higher Education who may  
17 establish expedited procurement procedures and may waive or  
18 modify certification, contract, hearing, process and  
19 registration requirements required by the Code. All  
20 procurements made under this subsection shall be documented  
21 and may require publication in the Illinois Procurement  
22 Bulletin.

23 (b-10) Procurements made by or on behalf of the University  
24 of Illinois for investment services may be entered into or  
25 renewed without being subject to the requirements of this  
26 Code. Notice of intent to renew a contract shall be published

1 in the Illinois Public Higher Education Procurement Bulletin  
2 at least 14 days prior to the execution of a renewal, and the  
3 University of Illinois shall hold a public hearing for  
4 interested parties to provide public comment. Any contract  
5 extended, renewed, or entered pursuant to this exception shall  
6 be published in the Illinois Public Higher Education  
7 Procurement Bulletin within 5 days of contract execution.

8 (c) Procurements made by or on behalf of public  
9 institutions of higher education for the fulfillment of a  
10 grant shall be made in accordance with the requirements of  
11 this Code to the extent practical.

12 Upon the written request of a public institution of higher  
13 education, the Chief Procurement Officer may waive contract,  
14 registration, certification, and hearing requirements of this  
15 Code if, based on the item to be procured or the terms of a  
16 grant, compliance is impractical. The public institution of  
17 higher education shall provide the Chief Procurement Officer  
18 with specific reasons for the waiver, including the necessity  
19 of contracting with a particular potential contractor, and  
20 shall certify that an effort was made in good faith to comply  
21 with the provisions of this Code. The Chief Procurement  
22 Officer shall provide written justification for any waivers.  
23 By November 1 of each year, the Chief Procurement Officer  
24 shall file a report with the General Assembly identifying each  
25 contract approved with waivers and providing the justification  
26 given for any waivers for each of those contracts. Notice of



1 each waiver made under this subsection shall be published in  
2 the Procurement Bulletin within 14 calendar days after  
3 contract execution. The Chief Procurement Officer shall  
4 prescribe the form and content of the notice.

5 (d) Notwithstanding this Section, a waiver of the  
6 registration requirements of Section 20-160 does not permit a  
7 business entity and any affiliated entities or affiliated  
8 persons to make campaign contributions if otherwise prohibited  
9 by Section 50-37. The total amount of contracts awarded in  
10 accordance with this Section shall be included in determining  
11 the aggregate amount of contracts or pending bids of a  
12 business entity and any affiliated entities or affiliated  
13 persons.

14 (e) Notwithstanding subsection (e) of Section 50-10.5 of  
15 this Code, the Chief Procurement Officer, with the approval of  
16 the Executive Ethics Commission, may permit a public  
17 institution of higher education to accept a bid or enter into a  
18 contract with a business that assisted the public institution  
19 of higher education in determining whether there is a need for  
20 a contract or assisted in reviewing, drafting, or preparing  
21 documents related to a bid or contract, provided that the bid  
22 or contract is essential to research administered by the  
23 public institution of higher education and it is in the best  
24 interest of the public institution of higher education to  
25 accept the bid or contract. For purposes of this subsection,  
26 "business" includes all individuals with whom a business is

1 affiliated, including, but not limited to, any officer, agent,  
2 employee, consultant, independent contractor, director,  
3 partner, manager, or shareholder of a business. The Executive  
4 Ethics Commission may promulgate rules and regulations for the  
5 implementation and administration of the provisions of this  
6 subsection (e).

7 (f) As used in this Section:

8 "Grant" means non-appropriated funding provided by a  
9 federal or private entity to support a project or program  
10 administered by a public institution of higher education and  
11 any non-appropriated funding provided to a sub-recipient of  
12 the grant.

13 "Public institution of higher education" means Chicago  
14 State University, Eastern Illinois University, Governors State  
15 University, Illinois State University, Northeastern Illinois  
16 University, Northern Illinois University, Southern Illinois  
17 University, University of Illinois, Western Illinois  
18 University, and, for purposes of this Code only, the Illinois  
19 Mathematics and Science Academy.

20 (g) (Blank).

21 (h) The General Assembly finds and declares that:

22 (1) Public Act 98-1076, which took effect on January  
23 1, 2015, changed the repeal date set for this Section from  
24 December 31, 2014 to December 31, 2016.

25 (2) The Statute on Statutes sets forth general rules  
26 on the repeal of statutes and the construction of multiple

1 amendments, but Section 1 of that Act also states that  
2 these rules will not be observed when the result would be  
3 "inconsistent with the manifest intent of the General  
4 Assembly or repugnant to the context of the statute".

5 (3) This amendatory Act of the 100th General Assembly  
6 manifests the intention of the General Assembly to remove  
7 the repeal of this Section.

8 (4) This Section was originally enacted to protect,  
9 promote, and preserve the general welfare. Any  
10 construction of this Section that results in the repeal of  
11 this Section on December 31, 2014 would be inconsistent  
12 with the manifest intent of the General Assembly and  
13 repugnant to the context of this Code.

14 It is hereby declared to have been the intent of the  
15 General Assembly that this Section not be subject to repeal on  
16 December 31, 2014.

17 This Section shall be deemed to have been in continuous  
18 effect since December 20, 2011 (the effective date of Public  
19 Act 97-643), and it shall continue to be in effect  
20 henceforward until it is otherwise lawfully repealed. All  
21 previously enacted amendments to this Section taking effect on  
22 or after December 31, 2014, are hereby validated.

23 All actions taken in reliance on or pursuant to this  
24 Section by any public institution of higher education, person,  
25 or entity are hereby validated.

26 In order to ensure the continuing effectiveness of this

1 Section, it is set forth in full and re-enacted by this  
2 amendatory Act of the 100th General Assembly. This  
3 re-enactment is intended as a continuation of this Section. It  
4 is not intended to supersede any amendment to this Section  
5 that is enacted by the 100th General Assembly.

6 In this amendatory Act of the 100th General Assembly, the  
7 base text of the reenacted Section is set forth as amended by  
8 Public Act 98-1076. Striking and underscoring is used only to  
9 show changes being made to the base text.

10 This Section applies to all procurements made on or before  
11 the effective date of this amendatory Act of the 100th General  
12 Assembly.

13 (Source: P.A. 101-640, eff. 6-12-20; 102-16, eff. 6-17-21;  
14 102-721, eff. 5-6-22; 102-1119, eff. 1-23-23.)

15 ARTICLE 80. STATE FAIRGROUNDS

16 Section 80-5. The State Fair Act is amended by adding  
17 Section 7.1 as follows:

18 (20 ILCS 210/7.1 new)

19 Sec. 7.1. Procurement for artistic or musical services,  
20 performances, events, or productions on the State Fairgrounds.

21 (a) Procurement expenditures necessary to provide artistic  
22 or musical services, performances, events, or productions  
23 under this Act at the State Fairgrounds in Springfield and

1 DuQuoin are exempt from the requirements of the Illinois  
2 Procurement Code. The expenditures may include, but are not  
3 limited to, entertainment, advertising, concessions, space  
4 rentals, sponsorships, and other services necessary to provide  
5 such events.

6 (b) Notice of each contract with an annual value of more  
7 than \$100,000 entered into by the Department that is related  
8 to the procurement of goods and services identified in this  
9 Section shall be published in the Illinois Procurement  
10 Bulletin within 30 calendar days after contract execution. The  
11 Department shall provide the chief procurement officer, on a  
12 monthly basis, a report of contracts that are related to the  
13 procurement of supplies and services identified in this  
14 Section. At a minimum, this report shall include the name of  
15 the contractor, a description of the supply or service  
16 provided, the total amount of the contract, the term of the  
17 contract, and reference to the exception in this Section. A  
18 copy of any or all of these contracts shall be made available  
19 to the chief procurement officer immediately upon request.

20 (c) This Section is repealed on July 1, 2028.

21 ARTICLE 85. TRANSPORTATION SUSTAINABILITY PROCUREMENT PROGRAM

22 Section 85-5. The Transportation Sustainability  
23 Procurement Program Act is amended by changing Section 10 as  
24 follows:

1 (30 ILCS 530/10)

2 Sec. 10. Contracts for the procurement of freight, small  
3 package delivery, and other cargo shipping and transportation  
4 services.

5 (a) The State's Chief Procurement Officers shall, in  
6 consultation with the Illinois Environmental Protection  
7 Agency, develop a sustainability program for the State's  
8 procurement of shipping and transportation services for  
9 freight, small package delivery, and other forms of cargo.

10 (b) State contracts for the procurement of freight, small  
11 package delivery, and other cargo shipping and transportation  
12 services shall require providers to report, using generally  
13 accepted reporting protocols adopted by the Agency for that  
14 purpose:

15 (1) the amount of energy the service provider consumed  
16 to provide those services to the State and the amount of  
17 associated greenhouse gas emissions, including energy use  
18 and greenhouse gases emitted as a result of the provider's  
19 use of electricity in its facilities;

20 (2) the energy use and greenhouse gas emissions by the  
21 service provider's subcontractors in the performance of  
22 those services.

23 (c) The State's solicitation for the procurement of  
24 freight, small package delivery, and other cargo shipping and  
25 transportation services shall be subject to the Illinois

1 Procurement Code or the Governmental Joint Purchasing Act and  
2 shall:

3 (1) specify how the bidder will report its energy use  
4 and associated greenhouse gas emissions under the  
5 contract; and

6 (2) call for bidders to disclose in their responses to  
7 the solicitation:

8 (A) measures they use to reduce vehicle engine  
9 idling;

10 (B) their use of multi-modal transportation, such  
11 as rail, trucks, or air transport, and how the use of  
12 those types of transportation is anticipated to reduce  
13 costs for the State;

14 (C) the extent of their use of (i) cleaner, less  
15 expensive fuels as an alternative to petroleum or (ii)  
16 more efficient vehicle propulsion systems;

17 (D) the level of transparency of the provider's  
18 reporting under subsection (b), and what independent  
19 verification and assurance measures exist for this  
20 reporting;

21 (E) their use of speed governors on heavy trucks;

22 (F) their use of recyclable packaging;

23 (G) measures of their network efficiency,  
24 including the in-vehicle use of telematics or other  
25 related technologies that provide for improved vehicle  
26 and network optimization and efficiencies;

1           (H) their energy intensity per unit of output  
2 delivered;

3           (I) how they will advance the environmental goals  
4 of the State; and

5           (J) opportunities to effectively neutralize the  
6 greenhouse gas emissions reported under subsection  
7 (b).

8           (d) In selecting providers for such services, the State,  
9 as part of a best value analysis of the responses to the  
10 State's solicitation:

11           (1) shall give appropriate weight to the disclosures  
12 in subdivision (c) (2) of this Section;

13           (2) shall give appropriate weight to the price and  
14 quality of the services being offered; and

15           (3) may accept from the service provider an optional  
16 offer at a reasonable cost of carbon neutral shipping in  
17 which the provider calculates the direct and indirect  
18 greenhouse gas emissions of the provider that are  
19 specified under subsection (b) above, and obtains  
20 independently verified carbon credits to offset those  
21 emissions and then retires the carbon credits.

22           (e) The Chief Procurement Officer identified under item  
23 (5) of Section 1-15.15 of the Illinois Procurement Code shall  
24 adopt rules to encourage all State agencies to use the least  
25 costly level of service or mode of transport (while  
26 distinguishing between express or air versus ground delivery)



1 that can achieve on-time delivery for the product being  
2 transported and delivered.

3 (Source: P.A. 98-348, eff. 8-14-13.)

4 ARTICLE 90. PUBLIC-PRIVATE PARTNERSHIP FOR TRANSPORTATION ACT

5 Section 90-5. The Public-Private Partnerships for  
6 Transportation Act is amended by changing Sections 5, 10, 15,  
7 20, 30, 35, 40, 45, 50, 55, 65, 70, 80, and 85 and by adding  
8 Section 19 as follows:

9 (630 ILCS 5/5)

10 Sec. 5. Public policy and legislative intent.

11 (a) It is the public policy of the State of Illinois to  
12 promote the design, development, construction, financing, and  
13 operation of transportation facilities that serve the needs of  
14 the public.

15 (b) Existing methods of procurement and financing of  
16 transportation facilities by responsible public entities  
17 ~~transportation agencies~~ impose limitations on the methods by  
18 which transportation facilities may be developed and operated  
19 within the State.

20 (c) Authorizing responsible public entities ~~transportation~~  
21 ~~agencies~~ to enter into public-private partnerships, whereby  
22 private entities may develop, operate, and finance  
23 transportation facilities, has the potential to promote the

1 development of transportation facilities in the State as well  
2 as investment in the State.

3 (d) It is the intent of this Act to promote public-private  
4 partnerships for transportation by authorizing responsible  
5 public entities ~~transportation agencies~~ to enter into  
6 public-private agreements related to the design, development,  
7 construction, operation, and financing of transportation  
8 facilities.

9 (e) It is the intent of this Act to encourage the practice  
10 of congestion pricing in connection with toll highways,  
11 pursuant to which higher toll rates are charged during times  
12 or in locations of most congestion.

13 (f) It is the intent of this Act to use Illinois design  
14 professionals, construction companies, and workers to the  
15 greatest extent possible by offering them the right to compete  
16 for this work.

17 (Source: P.A. 97-502, eff. 8-23-11.)

18 (630 ILCS 5/10)

19 Sec. 10. Definitions. As used in this Act:

20 "Approved proposal" means the proposal that is approved by  
21 the responsible public entity ~~transportation agency~~ pursuant  
22 to subsection (j) of Section 20 of this Act.

23 "Approved proposer" means the private entity whose  
24 proposal is the approved proposal.

25 "Authority" means the Illinois State Toll Highway

1 Authority.

2 "Contractor" means a private entity that has entered into  
3 a public-private agreement with the responsible public entity  
4 ~~transportation agency~~ to provide services to or on behalf of  
5 the responsible public entity ~~transportation agency~~.

6 "Department" means the Illinois Department of  
7 Transportation.

8 "Design-build agreement" means the agreement between the  
9 selected private entity and the responsible public entity  
10 ~~transportation agency~~ under which the selected private entity  
11 agrees to furnish design, construction, and related services  
12 for a transportation facility under this Act.

13 "Develop" or "development" means to do one or more of the  
14 following: plan, design, develop, lease, acquire, install,  
15 construct, reconstruct, rehabilitate, extend, or expand.

16 "Maintain" or "maintenance" includes ordinary maintenance,  
17 repair, rehabilitation, capital maintenance, maintenance  
18 replacement, and any other categories of maintenance that may  
19 be designated by the responsible public entity ~~transportation~~  
20 ~~agency~~.

21 ~~"Metropolitan planning organization" means a metropolitan~~  
22 ~~planning organization designated under 23 U.S.C. Section 134~~  
23 ~~whose metropolitan planning area boundaries are partially or~~  
24 ~~completely within the State.~~

25 "Operate" or "operation" means to do one or more of the  
26 following: maintain, improve, equip, modify, or otherwise

1 operate.

2 "Private entity" means any combination of one or more  
3 individuals, corporations, general partnerships, limited  
4 liability companies, limited partnerships, joint ventures,  
5 business trusts, nonprofit entities, or other business  
6 entities that are parties to a proposal for a transportation  
7 project or an agreement related to a transportation project. A  
8 public agency may provide services to a contractor as a  
9 subcontractor or subconsultant without affecting the private  
10 status of the private entity and the ability to enter into a  
11 public-private agreement. A transportation agency is not a  
12 private entity.

13 "Proposal" means all materials and documents prepared by  
14 or on behalf of a private entity relating to the proposed  
15 development, financing, or operation of a transportation  
16 facility as a transportation project.

17 "Proposer" means a private entity that has submitted an  
18 unsolicited proposal for a public-private agreement to a  
19 responsible public entity under this Act or a proposal or  
20 statement of qualifications for a public-private agreement in  
21 response to a request for proposals or a request for  
22 qualifications issued by a responsible public entity  
23 ~~transportation agency~~ under this Act.

24 "Public-private agreement" means the public-private  
25 agreement between the contractor and the responsible public  
26 entity ~~transportation agency~~ relating to one or more of the

1 development, financing, or operation of a transportation  
2 project that is entered into under this Act.

3 "Request for information" means all materials and  
4 documents prepared by or on behalf of the responsible public  
5 entity ~~transportation agency~~ to solicit information from  
6 private entities with respect to transportation projects.

7 "Request for proposals" means all materials and documents  
8 prepared by or on behalf of the responsible public entity  
9 ~~transportation agency~~ to solicit proposals from private  
10 entities to enter into a public-private agreement.

11 "Request for qualifications" means all materials and  
12 documents prepared by or on behalf of the responsible public  
13 entity ~~transportation agency~~ to solicit statements of  
14 qualification from private entities to enter into a  
15 public-private agreement.

16 "Responsible public entity" means the Department of  
17 Transportation, the Illinois State Toll Highway Authority, and  
18 any county, municipality, or other unit of local government.

19 "Revenues" means all revenues, including any combination  
20 of: income; earnings and interest; user fees; lease payments;  
21 allocations; federal, State, and local appropriations, grants,  
22 loans, lines of credit, and credit guarantees; bond proceeds;  
23 equity investments; service payments; or other receipts;  
24 arising out of or in connection with a transportation project,  
25 including the development, financing, and operation of a  
26 transportation project. The term includes money received as

1 grants, loans, lines of credit, credit guarantees, or  
2 otherwise in aid of a transportation project from the federal  
3 government, the State, a unit of local government, or any  
4 agency or instrumentality of the federal government, the  
5 State, or a unit of local government.

6 "Shortlist" means the process by which a responsible  
7 public entity ~~transportation agency~~ will review, evaluate, and  
8 rank statements of qualifications submitted in response to a  
9 request for qualifications and then identify the proposers who  
10 are eligible to submit a detailed proposal in response to a  
11 request for proposals. The identified proposers constitute the  
12 shortlist for the transportation project to which the request  
13 for proposals relates.

14 "Transportation agency" means (i) the Department or (ii)  
15 the Authority.

16 "Transportation facility" means any new or existing road,  
17 highway, toll highway, bridge, tunnel, intermodal facility,  
18 intercity or high-speed passenger rail, or other  
19 transportation facility or infrastructure, excluding airports,  
20 under the jurisdiction of a responsible public entity ~~the~~  
21 ~~Department or the Authority~~, except those facilities for the  
22 Illiana Expressway. The term "transportation facility" may  
23 refer to one or more transportation facilities that are  
24 proposed to be developed or operated as part of a single  
25 transportation project.

26 "Transportation project" or "project" means any or the

1 combination of the design, development, construction,  
2 financing, or operation with respect to all or a portion of any  
3 transportation facility under the jurisdiction of the  
4 responsible public entity ~~transportation agency~~, except those  
5 facilities for the Illiana Expressway, undertaken pursuant to  
6 this Act.

7 "Unit of local government" has the meaning ascribed to  
8 that term in Article VII, Section 1 of the Constitution of the  
9 State of Illinois and also means any unit designated as a  
10 municipal corporation.

11 "Unsolicited proposal" means a written proposal that is  
12 submitted to a responsible public entity on the initiative of  
13 the private sector entity or entities for the purpose of  
14 developing a partnership, and that is not in response to a  
15 formal or informal request issued by a responsible public  
16 entity.

17 "User fees" or "tolls" means the rates, tolls, fees, or  
18 other charges imposed by the contractor for use of all or a  
19 portion of a transportation project under a public-private  
20 agreement.

21 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

22 (630 ILCS 5/15)

23 Sec. 15. Formation of public-private agreements; project  
24 planning.

25 (a) Each responsible public entity ~~transportation agency~~

1 may exercise the powers granted by this Act to do some or all  
2 to design, develop, construct, finance, and operate any part  
3 of one or more transportation projects through public-private  
4 agreements with one or more private entities, except for  
5 transportation projects for the Illiana Expressway as defined  
6 in the Public Private Agreements for the Illiana Expressway  
7 Act. The net proceeds, if any, arising out of a transportation  
8 project or public-private agreement undertaken by the  
9 Department pursuant to this Act shall be deposited into the  
10 Public-Private Partnerships for Transportation Fund. The net  
11 proceeds arising out of a transportation project or  
12 public-private agreement undertaken by the Authority pursuant  
13 to this Act shall be deposited into the Illinois State Toll  
14 Highway Authority Fund and shall be used only as authorized by  
15 Section 23 of the Toll Highway Act.

16 ~~(b) The Authority shall not enter into a public private~~  
17 ~~agreement involving a lease or other transfer of any toll~~  
18 ~~highway, or portions thereof, under the Authority's~~  
19 ~~jurisdiction which were open to vehicular traffic on the~~  
20 ~~effective date of this Act. The Authority shall not enter into~~  
21 ~~a public private agreement for the purpose of making roadway~~  
22 ~~improvements, including but not limited to reconstruction,~~  
23 ~~adding lanes, and adding ramps, to any toll highway, or~~  
24 ~~portions thereof, under the Authority's jurisdiction which~~  
25 ~~were open to vehicular traffic on the effective date of this~~  
26 ~~Act. The Authority shall not use any revenue generated by any~~



1 ~~toll highway, or portions thereof, under the Authority's~~  
2 ~~jurisdiction which were open to vehicular traffic on the~~  
3 ~~effective date of this Act to enter into or provide funding for~~  
4 ~~a public private agreement. The Authority shall not use any~~  
5 ~~asset, or the proceeds from the sale or lease of any such~~  
6 ~~asset, which was owned by the Authority on the effective date~~  
7 ~~of this Act to enter into or provide funding for a~~  
8 ~~public private agreement.~~ The Authority may enter into a  
9 public-private partnership to design, develop, construct,  
10 finance, and operate new toll highways authorized by the  
11 Governor and the General Assembly pursuant to Section 14.1 of  
12 the Toll Highway Act, non-highway transportation projects on  
13 the toll highway system such as commuter rail or high-speed  
14 rail lines, and intelligent transportation infrastructure that  
15 will enhance the safety, efficiency, and environmental quality  
16 of the toll highway system. The Authority may operate or  
17 provide operational services such as toll collection on  
18 highways which are developed or financed, or both, through a  
19 public-private agreement entered into by another public  
20 entity, under an agreement with the public entity or  
21 contractor responsible for the transportation project.

22 (c) A contractor has:

23 (1) all powers allowed by law generally to a private  
24 entity having the same form of organization as the  
25 contractor; and

26 (2) the power to develop, finance, and operate the

1 transportation facility and to impose user fees in  
2 connection with the use of the transportation facility,  
3 subject to the terms of the public-private agreement.

4 No tolls or user fees may be imposed by the contractor  
5 except as set forth in a public-private agreement.

6 ~~(d) Each year, at least 30 days prior to the beginning of~~  
7 ~~the transportation agency's fiscal year, and at other times~~  
8 ~~the transportation agency deems necessary, the Department and~~  
9 ~~the Authority shall submit for review to the General Assembly~~  
10 ~~a description of potential projects that the transportation~~  
11 ~~agency is considering undertaking under this Act. Any~~  
12 ~~submission from the Authority shall indicate which of its~~  
13 ~~potential projects, if any, will involve the proposer~~  
14 ~~operating the transportation facility for a period of one year~~  
15 ~~or more. Prior to commencing the procurement process under an~~  
16 ~~unsolicited proposal or the issuance of any request for~~  
17 ~~qualifications or request for proposals with respect to any~~  
18 ~~potential project undertaken by a responsible public entity~~  
19 ~~the Department or the Authority pursuant to Section 19 or 20 of~~  
20 ~~this Act, the commencement of a procurement process for that~~  
21 ~~particular potential project shall be authorized by joint~~  
22 ~~resolution of the General Assembly.~~

23 (e) (Blank). ~~Each year, at least 30 days prior to the~~  
24 ~~beginning of the transportation agency's fiscal year, the~~  
25 ~~transportation agency shall submit a description of potential~~  
26 ~~projects that the transportation agency is considering~~

1 ~~undertaking under this Act to each county, municipality, and~~  
2 ~~metropolitan planning organization, with respect to each~~  
3 ~~project located within its boundaries.~~

4 (f) Any project undertaken under this Act shall be subject  
5 to all applicable planning requirements otherwise required by  
6 law, including land use planning, regional planning,  
7 transportation planning, and environmental compliance  
8 requirements.

9 (g) (Blank). ~~Any new transportation facility developed as~~  
10 ~~a project under this Act must be consistent with the regional~~  
11 ~~plan then in existence of any metropolitan planning~~  
12 ~~organization in whose boundaries the project is located.~~

13 (h) The responsible public entity ~~transportation agency~~  
14 shall hold one or more public hearings following ~~within 30~~  
15 ~~days of each of~~ its submittals to the General Assembly under  
16 subsection (d) of this Section. These public hearings shall  
17 address any potential project ~~projects~~ that the responsible  
18 public entity ~~transportation agency~~ submitted to the General  
19 Assembly for review under subsection (d). The responsible  
20 public entity ~~transportation agency~~ shall publish a notice of  
21 the hearing or hearings at least 7 days before a hearing takes  
22 place, and shall include the following in the notice: (i) the  
23 date, time, and place of the hearing and the address of the  
24 responsible public entity ~~transportation agency~~; (ii) a brief  
25 description of the potential projects that the responsible  
26 public entity ~~transportation agency~~ is considering

1 undertaking; and (iii) a statement that the public may comment  
2 on the potential projects.

3 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

4 (630 ILCS 5/19 new)

5 Sec. 19. Unsolicited proposals.

6 (a) A responsible public entity may receive unsolicited  
7 proposals for a project and may thereafter enter into a  
8 public-private agreement with a private entity, or a  
9 consortium of private entities, for the design, construction,  
10 upgrading, operating, ownership, or financing of facilities.

11 (b) A responsible public entity may consider, evaluate,  
12 and accept an unsolicited proposal for a public-private  
13 partnership project from a private entity if the proposal:

14 (1) is independently developed and drafted by the  
15 proposer without responsible public entity supervision;

16 (2) shows that the proposed project could benefit the  
17 transportation system;

18 (3) includes a financing plan to allow the project to  
19 move forward pursuant to the applicable responsible public  
20 entity's budget and finance requirements; and

21 (4) includes sufficient detail and information for the  
22 responsible public entity to evaluate the proposal in an  
23 objective and timely manner and permit a determination  
24 that the project would be worthwhile.

25 (c) The unsolicited proposal shall include the following:

1           (1) an executive summary covering the major elements  
2 of the proposal;

3           (2) qualifications concerning the experience,  
4 expertise, technical competence, and qualifications of the  
5 private entity and of each member of its management team  
6 and of other key employees, consultants, and  
7 subcontractors, including the name, address, and  
8 professional designation;

9           (3) a project description, including, when applicable:

10           (A) the limits, scope, and location of the  
11 proposed project;

12           (B) right-of-way requirements;

13           (C) connections with other facilities and  
14 improvements to those facilities necessary if the  
15 project is developed;

16           (D) a conceptual project design; and

17           (E) a statement of the project's relationship to  
18 and impact upon relevant existing plans of the  
19 responsible public entity;

20           (4) a facilities project schedule, including when  
21 applicable, estimates of:

22           (A) dates of contract award;

23           (B) start of construction;

24           (C) completion of construction;

25           (D) start of operations; and

26           (E) major maintenance or reconstruction activities

1 during the life of the proposed project agreement;

2 (5) an operating plan describing the operation of the  
3 completed facility if operation of a facility is part of  
4 the proposal, describing the management structure and  
5 approach, the proposed period of operations, enforcement,  
6 emergency response, and other relevant information;

7 (6) a finance plan describing the proposed financing  
8 of the project, identifying the source of funds to, where  
9 applicable, design, construct, maintain, and manage the  
10 project during the term of the proposed contract; and

11 (7) the legal basis for the project and licenses and  
12 certifications; the private entity must demonstrate that  
13 it has all licenses and certificates necessary to complete  
14 the project.

15 (d) Within 120 days after receiving an unsolicited  
16 proposal, the responsible public entity shall complete a  
17 preliminary evaluation of the unsolicited proposal and shall  
18 either:

19 (1) if the preliminary evaluation is unfavorable,  
20 return the proposal without further action;

21 (2) if the preliminary evaluation is favorable, notify  
22 the proposer that the responsible public entity will  
23 further evaluate the proposal; or

24 (3) request amendments, clarification, or modification  
25 of the unsolicited proposal.

26 (e) The procurement process for unsolicited proposals

1 shall be as follows:

2 (1) If the responsible public entity chooses to  
3 further evaluate an unsolicited proposal with the intent  
4 to enter into a public-private agreement for the proposed  
5 project, then the responsible public entity shall publish  
6 notice in the Illinois Procurement Bulletin or in a  
7 newspaper of general circulation covering the location of  
8 the project at least once a week for 2 weeks stating that  
9 the responsible public entity has received a proposal and  
10 will accept other proposals for the same project. The time  
11 frame within which the responsible public entity may  
12 accept other proposals shall be determined by the  
13 responsible public entity on a project-by-project basis  
14 based upon the complexity of the transportation project  
15 and the public benefit to be gained by allowing a longer or  
16 shorter period of time within which other proposals may be  
17 received; however, the time frame for allowing other  
18 proposals must be at least 21 days, but no more than 120  
19 days, after the initial date of publication.

20 (2) A copy of the notice must be mailed to each local  
21 government directly affected by the transportation  
22 project.

23 (3) The responsible public entity shall provide  
24 reasonably sufficient information, including the identity  
25 of its contact person, to enable other private entities to  
26 make proposals.

1           (4) If, after no less than 120 days, no  
2           counterproposal is received, or if the counterproposals  
3           are evaluated and found to be equal to or inferior to the  
4           original unsolicited proposal, the responsible public  
5           entity may proceed to negotiate a contract with the  
6           original proposer.

7           (5) If, after no less than 120 days, one or more  
8           counterproposals meeting unsolicited proposal standards  
9           are received, and if, in the opinion of the responsible  
10           public entity, the counterproposals are evaluated and  
11           found to be superior to the original unsolicited proposal,  
12           the responsible public entity shall proceed to determine  
13           the successful participant through a final procurement  
14           phase known as "Best and Final Offer" (BAFO). The BAFO is a  
15           process whereby a responsible public entity shall invite  
16           the original private sector party and the proponent  
17           submitting the superior counterproposal to engage in a  
18           BAFO phase. The invitation to participate in the BAFO  
19           phase will provide to each participating proposer:

20           (A) the general concepts that were considered  
21           superior to the original proposal, while keeping  
22           proprietary information contained in the proposals  
23           confidential to the extent possible; and

24           (B) the preestablished evaluation criteria or the  
25           "basis of award" to be used to determine the  
26           successful proponent.



1           (6) Offers received in response to the BAFO invitation  
2           will be reviewed by the responsible public entity and  
3           scored in accordance with a preestablished criteria, or  
4           alternatively, in accordance with the basis of award  
5           provision identified through the BAFO process. The  
6           successful proponent will be the proponent offering "best  
7           value" to the responsible public entity.

8           (7) In all cases, the basis of award will be the best  
9           value to the responsible public entity, as determined by  
10           the responsible public entity.

11           (f) After a comprehensive evaluation and acceptance of an  
12           unsolicited proposal and any alternatives, the responsible  
13           public entity may commence negotiations with a proposer,  
14           considering:

15           (1) the proposal has received a favorable  
16           comprehensive evaluation;

17           (2) the proposal is not duplicative of existing  
18           infrastructure project;

19           (3) the alternative proposal does not closely resemble  
20           a pending competitive proposal for a public-private  
21           private partnership or other procurement;

22           (4) the proposal demonstrates a unique method,  
23           approach, or concept;

24           (5) facts and circumstances that preclude or warrant  
25           additional competition;

26           (6) the availability of any funds, debts, or assets

1 that the State will contribute to the project;

2 (7) facts and circumstances demonstrating that the  
3 project will likely have a significant adverse impact on  
4 on State bond ratings; and

5 (8) indemnifications included in the proposal.

6 (630 ILCS 5/20)

7 Sec. 20. Competitive procurement ~~Procurement~~ process.

8 (a) A responsible public entity may solicit proposals for  
9 a transportation project from private entities. The  
10 responsible public entity ~~transportation agency~~ ~~seeking to~~  
11 ~~enter into a public-private partnership with a private entity~~  
12 ~~for the development, finance, and operation of a~~  
13 ~~transportation facility as a transportation project~~ shall  
14 determine and set forth the criteria for the selection  
15 process. The responsible public entity ~~transportation agency~~  
16 shall use (i) a competitive sealed bidding process, (ii) a  
17 competitive sealed proposal process, or (iii) a design-build  
18 procurement process in accordance with Section 25 of this Act.  
19 Before using one of these processes the responsible public  
20 entity ~~transportation agency~~ may use a request for information  
21 to obtain information relating to possible public-private  
22 partnerships.

23 (b) If a transportation project will require the  
24 performance of design work, the responsible public entity  
25 ~~transportation agency~~ shall use the shortlist selection

1 process set forth in subsection (g) of this Section to  
2 evaluate and shortlist private entities based on  
3 qualifications, including but not limited to design  
4 qualifications.

5 A request for qualifications, request for proposals, or  
6 public-private agreement awarded to a contractor for a  
7 transportation project shall require that any subsequent need  
8 for architectural, engineering, or land surveying services  
9 which arises after the submittal of the request for  
10 qualifications or request for proposals or the awarding of the  
11 public-private agreement shall be procured by the contractor  
12 using a qualifications-based selection process consisting of:

- 13 (1) the publication of notice of availability of  
14 services;
- 15 (2) a statement of desired qualifications;
- 16 (3) an evaluation based on the desired qualifications;
- 17 (4) the development of a shortlist ranking the firms  
18 in order of qualifications; and
- 19 (5) negotiations with the ranked firms for a fair and  
20 reasonable fee.

21 Compliance with the Architectural, Engineering, and Land  
22 Surveying Qualifications Based Selection Act shall be deemed  
23 prima facie compliance with this subsection (b). Every  
24 transportation project contract shall include provisions  
25 setting forth the requirements of this subsection (b).

26 (c) (Blank). ~~Prior to commencing a procurement for a~~

1 ~~transportation project under this Act, the transportation~~  
2 ~~agency shall notify any other applicable public agency,~~  
3 ~~including the Authority, in all cases involving toll~~  
4 ~~facilities where the Department would commence the~~  
5 ~~procurement, of its interest in undertaking the procurement~~  
6 ~~and shall provide the other public agency or agencies with an~~  
7 ~~opportunity to offer to develop and implement the~~  
8 ~~transportation project. The transportation agency shall supply~~  
9 ~~the other public agency or agencies with no less than the same~~  
10 ~~level and type of information concerning the project that the~~  
11 ~~transportation agency would supply to private entities in the~~  
12 ~~procurement, unless that information is not then available, in~~  
13 ~~which case the transportation agency shall supply the other~~  
14 ~~public agency or agencies with the maximum amount of relevant~~  
15 ~~information about the project as is then reasonably available.~~  
16 ~~The transportation agency shall make available to the other~~  
17 ~~public agencies the same subsidies, benefits, concessions, and~~  
18 ~~other consideration that it intends to make available to the~~  
19 ~~private entities in the procurement.~~

20 ~~The public agencies shall have a maximum period of 60 days~~  
21 ~~to review the information about the proposed transportation~~  
22 ~~project and to respond to the transportation agency in writing~~  
23 ~~to accept or reject the opportunity to develop and implement~~  
24 ~~the transportation project. If a public agency rejects the~~  
25 ~~opportunity during the 60 day period, then the public agency~~  
26 ~~may not participate in the procurement for the proposed~~

1 ~~transportation project by submitting a proposal of its own. If~~  
2 ~~a public agency fails to accept or reject this opportunity in~~  
3 ~~writing within the 60-day period, it shall be deemed to have~~  
4 ~~rejected the opportunity.~~

5 ~~If a public agency accepts the opportunity within the~~  
6 ~~60-day period, then the public agency shall have up to 120 days~~  
7 ~~(or a longer period, if extended by the transportation~~  
8 ~~agency), to (i) submit to the transportation agency a~~  
9 ~~reasonable plan for development of the transportation project;~~  
10 ~~(ii) if applicable, make an offer of reasonable consideration~~  
11 ~~for the opportunity to undertake the transportation project;~~  
12 ~~and (iii) negotiate a mutually acceptable intergovernmental~~  
13 ~~agreement with the transportation agency that facilitates the~~  
14 ~~development of the transportation project and requires that~~  
15 ~~the transportation agency follow its procurement procedures~~  
16 ~~under the Illinois Procurement Code and applicable rules~~  
17 ~~rather than this Act. In considering whether a public agency's~~  
18 ~~plan for developing and implementing the project is~~  
19 ~~reasonable, the transportation agency shall consider the~~  
20 ~~public agency's history of developing and implementing similar~~  
21 ~~projects, the public agency's current capacity to develop and~~  
22 ~~implement the proposed project, the user charges, if any,~~  
23 ~~contemplated by the public agency's plan and how these user~~  
24 ~~charges compare with user charges that would be imposed by a~~  
25 ~~private entity developing and implementing the same project,~~  
26 ~~the project delivery schedule proposed by the public agency,~~

1 ~~and other reasonable factors that are necessary, including~~  
2 ~~consideration of risks and whether subsidy costs may be~~  
3 ~~reduced, to determine whether development and implementation~~  
4 ~~of the project by the public agency is in the best interest of~~  
5 ~~the people of this State.~~

6 (d) (Blank). ~~If the transportation agency rejects or fails~~  
7 ~~to negotiate mutually acceptable terms regarding a public~~  
8 ~~agency's plan for developing and implementing the~~  
9 ~~transportation project during the 120-day period described in~~  
10 ~~subsection (c), then the public agency may not participate in~~  
11 ~~the procurement for the proposed transportation project by~~  
12 ~~submitting a proposal of its own. Following a rejection or~~  
13 ~~failure to reach agreement regarding a public agency's plan,~~  
14 ~~if the transportation agency later proceeds with a procurement~~  
15 ~~in which it materially changes (i) the nature or scope of the~~  
16 ~~project; (ii) any subsidies, benefits, concessions, or other~~  
17 ~~significant project related considerations made available to~~  
18 ~~the bidders; or (iii) any other terms of the project, as~~  
19 ~~compared to when the transportation agency supplied~~  
20 ~~information about the project to public agencies under~~  
21 ~~subsection (c), then the transportation agency shall give~~  
22 ~~public agencies another opportunity in accordance with~~  
23 ~~subsection (c) to provide proposals for developing and~~  
24 ~~implementing the project.~~

25 (e) (Blank). ~~Nothing in this Section 20 requires a~~  
26 ~~transportation agency to go through a procurement process~~

1 ~~prior to developing and implementing a project through a~~  
2 ~~public agency as described in subsection (c).~~

3 (f) All procurement processes shall incorporate  
4 requirements and set forth goals for participation by  
5 disadvantaged business enterprises as allowed under State and  
6 federal law.

7 (g) The responsible public entity ~~transportation agency~~  
8 shall establish a process to shortlist potential private  
9 entities. The responsible public entity ~~transportation agency~~  
10 shall: (i) provide a public notice of the shortlisting process  
11 for such period as deemed appropriate by the agency; (ii) set  
12 forth requirements and evaluation criteria in a request for  
13 qualifications; (iii) develop a shortlist by determining which  
14 private entities that have submitted statements of  
15 qualification, if any, meet the minimum requirements and best  
16 satisfy the evaluation criteria set forth in the request for  
17 qualifications; and (iv) allow only those entities, or groups  
18 of entities such as unincorporated joint ventures, that have  
19 been shortlisted to submit proposals or bids. Throughout the  
20 procurement period and as necessary following the award of a  
21 contract, the responsible public entity ~~transportation agency~~  
22 shall make publicly available on its website information  
23 regarding firms that are prequalified by the responsible  
24 public entity ~~transportation agency~~ pursuant to Section 20 of  
25 the Architectural, Engineering, and Land Surveying  
26 Qualifications Based Selection Act to provide architectural,

1 engineering, and land surveying services. The responsible  
2 public entities ~~transportation agencies~~ shall require private  
3 entities to use firms prequalified under this Act to provide  
4 architectural, engineering, and land surveying services. Firms  
5 identified to provide architectural, engineering, and land  
6 surveying services in a statement of qualifications shall be  
7 prequalified under the Act to provide the identified services  
8 prior to the responsible public entity's ~~transportation~~  
9 ~~agency's~~ award of the contract.

10 (h) Competitive sealed bidding requirements:

11 (1) All contracts shall be awarded by competitive  
12 sealed bidding except as otherwise provided in subsection  
13 (i) of this Section, Section 18 of this Act, and Section 25  
14 of this Act.

15 (2) An invitation for bids shall be issued and shall  
16 include a description of the public-private partnership  
17 with a private entity for the development, finance, and  
18 operation of a transportation facility as a transportation  
19 project, and the material contractual terms and conditions  
20 applicable to the procurement.

21 (3) Public notice of the invitation for bids shall be  
22 published in the State of Illinois Procurement Bulletin at  
23 least 21 days before the date set in the invitation for the  
24 opening of bids.

25 (4) Bids shall be opened publicly in the presence of  
26 one or more witnesses at the time and place designated in



1 the invitation for bids. The name of each bidder, the  
2 amount of each bid, and other relevant information as may  
3 be specified by rule shall be recorded. After the award of  
4 the contract, the winning bid and the record of each  
5 unsuccessful bid shall be open to public inspection.

6 (5) Bids shall be unconditionally accepted without  
7 alteration or correction, except as authorized in this  
8 Act. Bids shall be evaluated based on the requirements set  
9 forth in the invitation for bids, which may include  
10 criteria to determine acceptability such as inspection,  
11 testing, quality, workmanship, delivery, and suitability  
12 for a particular purpose. Those criteria that will affect  
13 the bid price and be considered in evaluation for award,  
14 such as discounts, transportation costs, and total or life  
15 cycle costs, shall be objectively measurable. The  
16 invitation for bids shall set forth the evaluation  
17 criteria to be used.

18 (6) Correction or withdrawal of inadvertently  
19 erroneous bids before or after award, or cancellation of  
20 awards of contracts based on bid mistakes, shall be  
21 permitted in accordance with rules. After bid opening, no  
22 changes in bid prices or other provisions of bids  
23 prejudicial to the interest of the State or fair  
24 competition shall be permitted. All decisions to permit  
25 the correction or withdrawal of bids based on bid mistakes  
26 shall be supported by written determination made by the

1        responsible public entity ~~transportation agency~~.

2            (7) The contract shall be awarded with reasonable  
3        promptness by written notice to the lowest responsible and  
4        responsive bidder whose bid meets the requirements and  
5        criteria set forth in the invitation for bids, except when  
6        the responsible public entity ~~transportation agency~~  
7        determines it is not in the best interest of the State and  
8        by written explanation determines another bidder shall  
9        receive the award. The explanation shall appear in the  
10       appropriate volume of the State of Illinois Procurement  
11       Bulletin. The written explanation must include:

12            (A) a description of the responsible public  
13        entity's ~~agency's~~ needs;

14            (B) a determination that the anticipated cost will  
15        be fair and reasonable;

16            (C) a listing of all responsible and responsive  
17        bidders; and

18            (D) the name of the bidder selected, pricing, and  
19        the reasons for selecting that bidder.

20            (8) When it is considered impracticable to initially  
21        prepare a purchase description to support an award based  
22        on price, an invitation for bids may be issued requesting  
23        the submission of unpriced offers to be followed by an  
24        invitation for bids limited to those bidders whose offers  
25        have been qualified under the criteria set forth in the  
26        first solicitation.

1 (i) Competitive sealed proposal requirements:

2 (1) When the responsible public entity ~~transportation~~  
3 ~~agency~~ determines in writing that the use of competitive  
4 sealed bidding or design-build procurement is either not  
5 practicable or not advantageous to the State, a contract  
6 may be entered into by competitive sealed proposals.

7 (2) Proposals shall be solicited through a request for  
8 proposals.

9 (3) Public notice of the request for proposals shall  
10 be published in the State of Illinois Procurement Bulletin  
11 at least 21 days before the date set in the invitation for  
12 the opening of proposals.

13 (4) Proposals shall be opened publicly in the presence  
14 of one or more witnesses at the time and place designated  
15 in the request for proposals, but proposals shall be  
16 opened in a manner to avoid disclosure of contents to  
17 competing offerors during the process of negotiation. A  
18 record of proposals shall be prepared and shall be open  
19 for public inspection after contract award.

20 (5) The requests for proposals shall state the  
21 relative importance of price and other evaluation factors.  
22 Proposals shall be submitted in 2 parts: (i) covering  
23 items except price; and (ii) covering price. The first  
24 part of all proposals shall be evaluated and ranked  
25 independently of the second part of all proposals.

26 (6) As provided in the request for proposals and under

1 any applicable rules, discussions may be conducted with  
2 responsible offerors who submit proposals determined to be  
3 reasonably susceptible of being selected for award for the  
4 purpose of clarifying and assuring full understanding of  
5 and responsiveness to the solicitation requirements. Those  
6 offerors shall be accorded fair and equal treatment with  
7 respect to any opportunity for discussion and revision of  
8 proposals. Revisions may be permitted after submission and  
9 before award for the purpose of obtaining best and final  
10 offers. In conducting discussions there shall be no  
11 disclosure of any information derived from proposals  
12 submitted by competing offerors. If information is  
13 disclosed to any offeror, it shall be provided to all  
14 competing offerors.

15 (7) Awards shall be made to the responsible offeror  
16 whose proposal is determined in writing to be the most  
17 advantageous to the State, taking into consideration price  
18 and the evaluation factors set forth in the request for  
19 proposals. The contract file shall contain the basis on  
20 which the award is made.

21 (j) The responsible public entity ~~In the case of a~~  
22 ~~proposal or proposals to the Department or the Authority, the~~  
23 ~~transportation agency~~ shall determine, based on its review and  
24 evaluation of the proposal or proposals received ~~in response~~  
25 ~~to the request for proposals~~, which one or more proposals, if  
26 any, best serve the public purpose of this Act and ~~satisfy the~~

1 ~~criteria set forth in the request for proposals and, with~~  
2 ~~respect to such proposal or proposals,~~ shall:

3 (1) submit the proposal or proposals to the Commission  
4 on Government Forecasting and Accountability, which,  
5 within 20 days of submission by the responsible public  
6 entity ~~transportation agency,~~ shall complete a review of  
7 the proposal or proposals and report on the value of the  
8 proposal or proposals to the State;

9 (2) hold one or more public hearings on the proposal  
10 or proposals, publish notice of the hearing or hearings at  
11 least 7 days before the hearing, and include the following  
12 in the notice: (i) the date, time, and place of the hearing  
13 and the address of the responsible public entity  
14 ~~transportation agency,~~ (ii) the subject matter of the  
15 hearing, (iii) a description of the agreement to be  
16 awarded, (iv) the determination made by the responsible  
17 public entity ~~transportation agency~~ that such proposal or  
18 proposals best serve the public purpose of this Act ~~and~~  
19 ~~satisfy the criteria set forth in the request for~~  
20 ~~proposals,~~ and (v) that the public may be heard on the  
21 proposal or proposals during the public hearing; and

22 (3) determine whether or not to recommend to the  
23 Governor that the Governor approve the proposal or  
24 proposals.

25 The Governor may approve one or more proposals recommended  
26 by the Department or the Authority based upon the review,

1 evaluation, and recommendation of the responsible public  
2 entity ~~transportation agency~~, the review and report of the  
3 Commission on Government Forecasting and Accountability, the  
4 public hearing, and the best interests of the State.

5 (k) In addition to any other rights under this Act, in  
6 connection with any procurement under this Act, the following  
7 rights are reserved to each responsible public entity  
8 ~~transportation agency~~:

9 (1) to withdraw a request for information, a request  
10 for qualifications, or a request for proposals at any  
11 time, and to publish a new request for information,  
12 request for qualifications, or request for proposals;

13 (2) to not approve a proposal for any reason;

14 (3) to not award a public-private agreement for any  
15 reason;

16 (4) to request clarifications to any statement of  
17 information, qualifications, or proposal received, to seek  
18 one or more revised proposals or one or more best and final  
19 offers, or to conduct negotiations with one or more  
20 private entities that have submitted proposals;

21 (5) to modify, during the pendency of a procurement,  
22 the terms, provisions, and conditions of a request for  
23 information, request for qualifications, or request for  
24 proposals or the technical specifications or form of a  
25 public-private agreement;

26 (6) to interview proposers; and

1           (7) any other rights available to the responsible  
2           public entity ~~transportation agency~~ under applicable law  
3           and regulations.

4           (1) If a proposal is approved, the responsible public  
5           entity ~~transportation agency~~ shall execute the public-private  
6           agreement, publish notice of the execution of the  
7           public-private agreement on its website and in a newspaper or  
8           newspapers of general circulation within the county or  
9           counties in which the transportation project is to be located,  
10          and publish the entire agreement on its website. Any action to  
11          contest the validity of a public-private agreement entered  
12          into under this Act must be brought no later than 60 days after  
13          the date of publication of the notice of execution of the  
14          public-private agreement.

15          (m) For any transportation project with an estimated  
16          construction cost of over \$50,000,000, the responsible public  
17          entity ~~transportation agency~~ may also require the approved  
18          proposer to pay the costs for an independent audit of any and  
19          all traffic and cost estimates associated with the approved  
20          proposal, as well as a review of all public costs and potential  
21          liabilities to which taxpayers could be exposed (including  
22          improvements to other transportation facilities that may be  
23          needed as a result of the approved proposal, failure by the  
24          approved proposer to reimburse the transportation agency for  
25          services provided, and potential risk and liability in the  
26          event the approved proposer defaults on the public-private

1 agreement or on bonds issued for the project). If required by  
2 the responsible public entity ~~transportation agency~~, this  
3 independent audit must be conducted by an independent  
4 consultant selected by the transportation agency, and all  
5 information from the review must be fully disclosed.

6 (n) The responsible public entity ~~transportation agency~~  
7 may also apply for, execute, or endorse applications submitted  
8 by private entities to obtain federal credit assistance for  
9 qualifying projects developed or operated pursuant to this  
10 Act.

11 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

12 (630 ILCS 5/30)

13 Sec. 30. Interim agreements.

14 (a) Prior to or in connection with the negotiation of the  
15 public-private agreement, the responsible public entity  
16 ~~transportation agency~~ may enter into an interim agreement with  
17 the approved proposer. Such interim agreement may:

18 (1) permit the approved proposer to commence  
19 activities relating to a proposed project as the  
20 responsible public entity ~~transportation agency~~ and the  
21 approved proposer shall agree to and for which the  
22 approved proposer may be compensated, including, but not  
23 limited to, project planning, advance right-of-way  
24 acquisition, design and engineering, environmental  
25 analysis and mitigation, survey, conducting transportation



1 and revenue studies, and ascertaining the availability of  
2 financing for the proposed facility or facilities;

3 (2) establish the process and timing of the exclusive  
4 negotiation of a public-private agreement with an approved  
5 proposer;

6 (3) require that in the event the responsible public  
7 entity ~~transportation agency~~ determines not to proceed  
8 with a project after the approved proposer and the  
9 responsible public entity ~~transportation agency~~ have  
10 executed an interim agreement, and thereby terminates the  
11 interim agreement or declines to proceed with negotiation  
12 of a public-private agreement with an approved proposer,  
13 the responsible public entity ~~transportation agency~~ shall  
14 pay to the approved proposer certain fees and costs  
15 incurred by the approved proposer;

16 (4) establish the ownership in the State or in the  
17 Authority of the concepts and designs in the event of  
18 termination of the interim agreement;

19 (5) establish procedures for the selection of  
20 professional design firms and subcontractors, which shall  
21 include procedures consistent with the Architectural,  
22 Engineering, and Land Surveying Qualifications Based  
23 Selection Act for the selection of design professional  
24 firms and may include, in the discretion of the  
25 responsible public entity ~~transportation agency~~,  
26 procedures consistent with the low bid procurement

1 procedures outlined in the Illinois Procurement Code for  
2 the selection of construction companies; and

3 (6) contain any other provisions related to any aspect  
4 of the transportation project that the parties may deem  
5 appropriate.

6 (b) A responsible public entity ~~transportation agency~~ may  
7 enter into an interim agreement with multiple approved  
8 proposers if the responsible public entity ~~transportation~~  
9 ~~agency~~ determines in writing that it is in the public interest  
10 to do so.

11 (c) The approved proposer shall select firms that are  
12 prequalified by the responsible public entity ~~transportation~~  
13 ~~agency~~ pursuant to Section 20 of the Architectural,  
14 Engineering, and Land Surveying Qualifications Based Selection  
15 Act to provide architectural, engineering, and land surveying  
16 services to undertake activities related to the transportation  
17 project.

18 (Source: P.A. 97-502, eff. 8-23-11.)

19 (630 ILCS 5/35)

20 Sec. 35. Public-private agreements.

21 (a) Unless undertaking actions otherwise permitted in an  
22 interim agreement entered into under Section 30 of this Act,  
23 before developing, financing, or operating the transportation  
24 project, the approved proposer shall enter into a  
25 public-private agreement with the transportation agency.

1 Subject to the requirements of this Act, a public-private  
2 agreement may provide that the approved proposer, acting on  
3 behalf of the responsible public entity ~~transportation agency~~,  
4 is partially or entirely responsible for any combination of  
5 developing, financing, or operating the transportation project  
6 under terms set forth in the public-private agreement.

7 (b) The public-private agreement may, as determined  
8 appropriate by the responsible public entity ~~transportation~~  
9 ~~agency~~ for the particular transportation project, provide for  
10 some or all of the following:

11 (1) Development, financing, and operation of the  
12 transportation project under terms set forth in the  
13 public-private agreement, in any form as deemed  
14 appropriate by the responsible public entity  
15 ~~transportation agency~~, including, but not limited to, a  
16 long-term concession and lease, a design-bid-build  
17 agreement, a design-build agreement, a  
18 design-build-maintain agreement, a design-build-finance  
19 agreement, a design-build-operate-maintain agreement and a  
20 design-build-finance-operate-maintain agreement.

21 (2) Delivery of performance and payment bonds or other  
22 performance security determined suitable by the  
23 responsible public entity ~~transportation agency~~, including  
24 letters of credit, United States bonds and notes, parent  
25 guaranties, and cash collateral, in connection with the  
26 development, financing, or operation of the transportation

1 project, in the forms and amounts set forth in the  
2 public-private agreement or otherwise determined as  
3 satisfactory by the responsible public entity  
4 ~~transportation agency~~ to protect the responsible public  
5 entity ~~transportation agency~~ and payment bond  
6 beneficiaries who have a direct contractual relationship  
7 with the contractor or a subcontractor of the contractor  
8 to supply labor or material. The payment or performance  
9 bond or alternative form of performance security is not  
10 required for the portion of a public-private agreement  
11 that includes only design, planning, or financing  
12 services, the performance of preliminary studies, or the  
13 acquisition of real property.

14 (3) Review of plans for any development or operation,  
15 or both, of the transportation project by the responsible  
16 public entity ~~transportation agency~~.

17 (4) Inspection of any construction of or improvements  
18 to the transportation project by the responsible public  
19 entity ~~transportation agency~~ or another entity designated  
20 by the responsible public entity ~~transportation agency~~ or  
21 under the public-private agreement to ensure that the  
22 construction or improvements conform to the standards set  
23 forth in the public-private agreement or are otherwise  
24 acceptable to the responsible public entity ~~transportation~~  
25 ~~agency~~.

26 (5) Maintenance of:

1 (A) one or more policies of public liability  
2 insurance (copies of which shall be filed with the  
3 responsible public entity ~~transportation agency~~  
4 accompanied by proofs of coverage); or

5 (B) self-insurance;

6 each in form and amount as set forth in the public-private  
7 agreement or otherwise satisfactory to the responsible  
8 public entity ~~transportation agency~~ as reasonably  
9 sufficient to insure coverage of tort liability to the  
10 public and employees and to enable the continued operation  
11 of the transportation project.

12 (6) Where operations are included within the  
13 contractor's obligations under the public-private  
14 agreement, monitoring of the maintenance practices of the  
15 contractor by the responsible public entity ~~transportation~~  
16 ~~agency~~ or another entity designated by the responsible  
17 public entity ~~transportation agency~~ or under the  
18 public-private agreement and the taking of the actions the  
19 responsible public entity ~~transportation agency~~ finds  
20 appropriate to ensure that the transportation project is  
21 properly maintained.

22 (7) Reimbursement to be paid to the responsible public  
23 entity ~~transportation agency~~ as set forth in the  
24 public-private agreement for services provided by the  
25 responsible public entity ~~transportation agency~~.

26 (8) Filing of appropriate financial statements and

1 reports as set forth in the public-private agreement or as  
2 otherwise in a form acceptable to the responsible public  
3 entity ~~transportation agency~~ on a periodic basis.

4 (9) Compensation or payments to the contractor.  
5 Compensation or payments may include any or a combination  
6 of the following:

7 (A) a base fee and additional fee for project  
8 savings as the design-builder of a construction  
9 project;

10 (B) a development fee, payable on a lump-sum  
11 basis, progress payment basis, time and materials  
12 basis, or another basis deemed appropriate by the  
13 responsible public entity ~~transportation agency~~;

14 (C) an operations fee, payable on a lump-sum  
15 basis, time and material basis, periodic basis, or  
16 another basis deemed appropriate by the responsible  
17 public entity ~~transportation agency~~;

18 (D) some or all of the revenues, if any, arising  
19 out of operation of the transportation project;

20 (E) a maximum rate of return on investment or  
21 return on equity or a combination of the two;

22 (F) in-kind services, materials, property,  
23 equipment, or other items;

24 (G) compensation in the event of any termination;

25 (H) availability payments or similar arrangements  
26 whereby payments are made to the contractor pursuant

1 to the terms set forth in the public-private agreement  
2 or related agreements; or

3 (I) other compensation set forth in the  
4 public-private agreement or otherwise deemed  
5 appropriate by the responsible public entity  
6 ~~transportation agency~~.

7 (10) Compensation or payments to the responsible  
8 public entity ~~transportation agency~~, if any. Compensation  
9 or payments may include any or a combination of the  
10 following:

11 (A) a concession or lease payment or other fee,  
12 which may be payable upfront or on a periodic basis or  
13 on another basis deemed appropriate by the responsible  
14 public entity ~~transportation agency~~;

15 (B) sharing of revenues, if any, from the  
16 operation of the transportation project;

17 (C) sharing of project savings from the  
18 construction of the transportation project;

19 (D) payment for any services, materials,  
20 equipment, personnel, or other items provided by the  
21 responsible public entity ~~transportation agency~~ to the  
22 contractor under the public-private agreement or in  
23 connection with the transportation project; or

24 (E) other compensation set forth in the  
25 public-private agreement or otherwise deemed  
26 appropriate by the responsible public entity

1 ~~transportation agency.~~

2 (11) The date and terms of termination of the  
3 contractor's authority and duties under the public-private  
4 agreement and the circumstances under which the  
5 contractor's authority and duties may be terminated prior  
6 to that date.

7 (12) Reversion of the transportation project to the  
8 responsible public entity ~~transportation agency~~ at the  
9 termination or expiration of the public-private agreement.

10 (13) Rights and remedies of the responsible public  
11 entity ~~transportation agency~~ in the event that the  
12 contractor defaults or otherwise fails to comply with the  
13 terms of the public-private agreement.

14 (14) Procedures for the selection of professional  
15 design firms and subcontractors, which shall include  
16 procedures consistent with the Architectural, Engineering,  
17 and Land Surveying Qualifications Based Selection Act for  
18 the selection of professional design firms and may  
19 include, in the discretion of the responsible public  
20 entity ~~transportation agency~~, procedures consistent with  
21 the low bid procurement procedures outlined in the  
22 Illinois Procurement Code for the selection of  
23 construction companies.

24 (15) Other terms, conditions, and provisions that the  
25 responsible public entity ~~transportation agency~~ believes  
26 are in the public interest.



1           (c) The responsible public entity ~~transportation agency~~  
2 may fix and revise the amounts of user fees that a contractor  
3 may charge and collect for the use of any part of a  
4 transportation project in accordance with the public-private  
5 agreement. In fixing the amounts, the responsible public  
6 entity ~~transportation agency~~ may establish maximum amounts for  
7 the user fees and may provide that the maximums and any  
8 increases or decreases of those maximums shall be based upon  
9 the indices, methodologies, or other factors the responsible  
10 public entity ~~transportation agency~~ considers appropriate.

11           (d) A public-private agreement may:

12           (1) authorize the imposition of tolls in any manner  
13 determined appropriate by the responsible public entity  
14 ~~transportation agency~~ for the transportation project;

15           (2) authorize the contractor to adjust the user fees  
16 for the use of the transportation project, so long as the  
17 amounts charged and collected by the contractor do not  
18 exceed the maximum amounts established by the responsible  
19 public entity ~~transportation agency~~ under the  
20 public-private agreement;

21           (3) provide that any adjustment by the contractor  
22 permitted under paragraph (2) of this subsection (d) may  
23 be based on the indices, methodologies, or other factors  
24 described in the public-private agreement or approved by  
25 the responsible public entity ~~transportation agency~~;

26           (4) authorize the contractor to charge and collect

1 user fees through methods, including, but not limited to,  
2 automatic vehicle identification systems, electronic toll  
3 collection systems, and, to the extent permitted by law,  
4 global positioning system-based, photo-based, or  
5 video-based toll collection enforcement, provided that to  
6 the maximum extent feasible the contractor will (i)  
7 utilize open road tolling methods that allow payment of  
8 tolls at highway speeds and (ii) comply with United States  
9 Department of Transportation requirements and best  
10 practices with respect to tolling methods; and

11 (5) authorize the collection of user fees by a third  
12 party.

13 (e) In the public-private agreement, the responsible  
14 public entity ~~transportation agency~~ may agree to make grants  
15 or loans for the development or operation, or both, of the  
16 transportation project from time to time from amounts received  
17 from the federal government or any agency or instrumentality  
18 of the federal government or from any State or local agency.

19 (f) Upon the termination or expiration of the  
20 public-private agreement, including a termination for default,  
21 the responsible public entity ~~transportation agency~~ shall have  
22 the right to take over the transportation project and to  
23 succeed to all of the right, title, and interest in the  
24 transportation project. Upon termination or expiration of the  
25 public-private agreement relating to a transportation project  
26 undertaken by the Department, all real property acquired as a

1 part of the transportation project shall be held in the name of  
2 the State of Illinois. Upon termination or expiration of the  
3 public-private agreement relating to a transportation project  
4 undertaken by the Authority, all real property acquired as a  
5 part of the transportation project shall be held in the name of  
6 the Authority.

7 (g) If a responsible public entity ~~transportation agency~~  
8 elects to take over a transportation project as provided in  
9 subsection (f) of this Section, the responsible public entity  
10 ~~transportation agency~~ may do the following:

11 (1) develop, finance, or operate the project,  
12 including through a public-private agreement entered into  
13 in accordance with this Act; or

14 (2) impose, collect, retain, and use user fees, if  
15 any, for the project.

16 (h) If a responsible public entity ~~transportation agency~~  
17 elects to take over a transportation project as provided in  
18 subsection (f) of this Section, the responsible public entity  
19 ~~transportation agency~~ may use the revenues, if any, for any  
20 lawful purpose, including to:

21 (1) make payments to individuals or entities in  
22 connection with any financing of the transportation  
23 project, including through a public-private agreement  
24 entered into in accordance with this Act;

25 (2) permit a contractor to receive some or all of the  
26 revenues under a public-private agreement entered into

1 under this Act;

2 (3) pay development costs of the project;

3 (4) pay current operation costs of the project or  
4 facilities;

5 (5) pay the contractor for any compensation or payment  
6 owing upon termination; and

7 (6) pay for the development, financing, or operation  
8 of any other project or projects the responsible public  
9 entity ~~transportation agency~~ deems appropriate.

10 (i) The full faith and credit of the State or any political  
11 subdivision of the State or the responsible public entity  
12 ~~transportation agency~~ is not pledged to secure any financing  
13 of the contractor by the election to take over the  
14 transportation project. Assumption of development or  
15 operation, or both, of the transportation project does not  
16 obligate the State or any political subdivision of the State  
17 or the responsible public entity ~~transportation agency~~ to pay  
18 any obligation of the contractor.

19 (j) The responsible public entity ~~transportation agency~~  
20 may enter into a public-private agreement with multiple  
21 approved proposers if the responsible public entity  
22 ~~transportation agency~~ determines in writing that it is in the  
23 public interest to do so.

24 (k) A public-private agreement shall not include any  
25 provision under which the responsible public entity  
26 ~~transportation agency~~ agrees to restrict or to provide

1 compensation to the private entity for the construction or  
2 operation of a competing transportation facility during the  
3 term of the public-private agreement.

4 (1) With respect to a public-private agreement entered  
5 into by the Department, the Department shall certify in its  
6 State budget request to the Governor each year the amount  
7 required by the Department during the next State fiscal year  
8 to enable the Department to make any payment obligated to be  
9 made by the Department pursuant to that public-private  
10 agreement, and the Governor shall include that amount in the  
11 State budget submitted to the General Assembly.

12 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

13 (630 ILCS 5/40)

14 Sec. 40. Development and operations standards for  
15 transportation projects.

16 (a) The plans and specifications, if any, for each project  
17 developed under this Act must comply with:

18 (1) the responsible public entity's ~~transportation~~  
19 ~~agency's~~ standards for other projects of a similar nature  
20 or as otherwise provided in the public-private agreement;

21 (2) the Professional Engineering Practice Act of 1989,  
22 the Structural Engineering Practice Act of 1989, the  
23 Illinois Architecture Practice Act of 1989, the  
24 requirements of Section 30-22 of the Illinois Procurement  
25 Code as they apply to responsible bidders, and the

1 Illinois Professional Land Surveyor Act of 1989; and

2 (3) any other applicable State or federal standards.

3 (b) Each highway project constructed or operated under  
4 this Act is considered to be part of:

5 (1) the State highway system for purposes of  
6 identification, maintenance standards, and enforcement of  
7 traffic laws if the highway project is under the  
8 jurisdiction of the Department; or

9 (2) the toll highway system for purposes of  
10 identification, maintenance standards, and enforcement of  
11 traffic laws if the highway project is under the  
12 jurisdiction of the Authority.

13 (c) Any unit of local government or State agency may enter  
14 into agreements with the contractor for maintenance or other  
15 services under this Act.

16 (d) Any electronic toll collection system used on a toll  
17 highway, bridge, or tunnel as part of a transportation project  
18 must be compatible with the electronic toll collection system  
19 used by the Authority. The Authority is authorized to  
20 construct, operate, and maintain any electronic toll  
21 collection system used on a toll highway, bridge, or tunnel as  
22 part of a transportation project pursuant to an agreement with  
23 the responsible public entity ~~transportation agency~~ or the  
24 contractor responsible for the transportation project. All  
25 private entities and public agencies shall have an equal  
26 opportunity to contract with the Authority to provide

1 construction, operation, and maintenance services. In  
2 addition, during the procurement of a public-private  
3 agreement, these construction, operation, and maintenance  
4 services shall be available under identical terms to each  
5 private entity participating in the procurement. To the extent  
6 that a public-private agreement or an agreement with a public  
7 agency under subsection (c) of Section 20 of this Act  
8 authorizes tolling, the responsible public entities  
9 ~~transportation agencies~~ and any contractor under a  
10 public-private partnership or a public agency under an  
11 agreement pursuant to subsection (c) of Section 20 of this Act  
12 shall comply with subsection (a-5) of Section 10 of the Toll  
13 Highway Act as it relates to toll enforcement.

14 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

15 (630 ILCS 5/45)

16 Sec. 45. Financial arrangements.

17 (a) The responsible public entity ~~transportation agency~~  
18 may do any combination of applying for, executing, or  
19 endorsing applications submitted by private entities to obtain  
20 federal, State, or local credit assistance for transportation  
21 projects developed, financed, or operated under this Act,  
22 including loans, lines of credit, and guarantees.

23 (b) The responsible public entity ~~transportation agency~~  
24 may take any action to obtain federal, State, or local  
25 assistance for a transportation project that serves the public

1 purpose of this Act and may enter into any contracts required  
2 to receive the federal assistance. The responsible public  
3 entity ~~transportation agency~~ may determine that it serves the  
4 public purpose of this Act for all or any portion of the costs  
5 of a transportation project to be paid, directly or  
6 indirectly, from the proceeds of a grant or loan, line of  
7 credit, or loan guarantee made by a local, State, or federal  
8 government or any agency or instrumentality of a local, State,  
9 or federal government. Such assistance may include, but not be  
10 limited to, federal credit assistance pursuant to the  
11 Transportation Infrastructure Finance and Innovation Act  
12 (TIFIA).

13 (c) The responsible public entity ~~transportation agency~~  
14 may agree to make grants or loans for the development,  
15 financing, or operation of a transportation project from time  
16 to time, from amounts received from the federal, State, or  
17 local government or any agency or instrumentality of the  
18 federal, State, or local government.

19 (d) Any financing of a transportation project may be in  
20 the amounts and upon the terms and conditions that are  
21 determined by the parties to the public-private agreement.

22 (e) For the purpose of financing a transportation project,  
23 the contractor and the responsible public entity  
24 ~~transportation agency~~ may do the following:

25 (1) propose to use any and all revenues that may be  
26 available to them;



1 (2) enter into grant agreements;

2 (3) access any other funds available to the  
3 responsible public entity ~~transportation agency~~; and

4 (4) accept grants from the responsible public entity  
5 ~~transportation agency~~ or other public or private agency or  
6 entity.

7 (f) For the purpose of financing a transportation project,  
8 public funds, including public or private pension funds, may  
9 be used and mixed and aggregated with funds provided by or on  
10 behalf of the contractor or other private entities.

11 (g) For the purpose of financing a transportation project,  
12 each responsible public entity ~~transportation agency~~ is  
13 authorized to do any combination of applying for, executing,  
14 or endorsing applications for an allocation of tax-exempt bond  
15 financing authorization provided by Section 142(m) of the  
16 United States Internal Revenue Code, as well as financing  
17 available under any other federal law or program.

18 (h) Any bonds, debt, or other securities or other  
19 financing issued by or on behalf of a contractor for the  
20 purposes of a project undertaken under this Act shall not be  
21 deemed to constitute a debt of the State or any political  
22 subdivision of the State or a pledge of the faith and credit of  
23 the State or any political subdivision of the State.

24 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

1           Sec. 50. Acquisition of property.

2           (a) The responsible public entity ~~transportation agency~~  
3 may exercise any power of condemnation or eminent domain,  
4 including quick-take powers, that it has under law, including,  
5 in the case of the Department, all powers for acquisition of  
6 property rights granted it in the Illinois Highway Code, for  
7 the purpose of acquiring any lands or estates or interests in  
8 land for a transportation project to the extent provided in  
9 the public-private agreement or otherwise to the extent that  
10 the responsible public entity ~~transportation agency~~ finds that  
11 the action serves the public purpose of this Act and deems it  
12 appropriate in the exercise of its powers under this Act.

13           (b) The responsible public entity ~~transportation agency~~  
14 and a contractor may enter into the leases, licenses,  
15 easements, and other grants of property interests that the  
16 responsible public entity ~~transportation agency~~ determines  
17 necessary to carry out this Act.

18           (Source: P.A. 97-502, eff. 8-23-11.)

19           (630 ILCS 5/55)

20           Sec. 55. Labor.

21           (a) A public-private agreement related to a transportation  
22 project pertaining to the building, altering, repairing,  
23 maintaining, improving, or demolishing a transportation  
24 facility shall require the contractor and all subcontractors  
25 to comply with the requirements of Section 30-22 of the

1 Illinois Procurement Code as they apply to responsible bidders  
2 and to present satisfactory evidence of that compliance to the  
3 responsible public entity ~~transportation agency~~, unless the  
4 transportation project is federally funded and the application  
5 of those requirements would jeopardize the receipt or use of  
6 federal funds in support of the transportation project.

7 (b) A public-private agreement related to a transportation  
8 project pertaining to a new transportation facility shall  
9 require the contractor to enter into a project labor agreement  
10 utilized by the Department.

11 (Source: P.A. 97-502, eff. 8-23-11.)

12 (630 ILCS 5/65)

13 Sec. 65. Term of agreement; reversion of property to  
14 responsible public entity ~~transportation agency~~.

15 (a) The term of a public-private agreement, including all  
16 extensions, may not exceed 99 years.

17 (b) The responsible public entity ~~transportation agency~~  
18 shall terminate the contractor's authority and duties under  
19 the public-private agreement on the date set forth in the  
20 public-private agreement.

21 (c) Upon termination of the public-private agreement, the  
22 authority and duties of the contractor under this Act cease,  
23 except for those duties and obligations that extend beyond the  
24 termination, as set forth in the public-private agreement, and  
25 all interests in the transportation facility shall revert to

1 the responsible public entity ~~transportation agency~~.

2 (Source: P.A. 97-502, eff. 8-23-11.)

3 (630 ILCS 5/70)

4 Sec. 70. Additional powers of responsible public entities  
5 ~~transportation agencies~~ with respect to transportation  
6 projects.

7 (a) Each responsible public entity ~~transportation agency~~  
8 may exercise any powers provided under this Act in  
9 participation or cooperation with any governmental entity and  
10 enter into any contracts to facilitate that participation or  
11 cooperation without compliance with any other statute. Each  
12 responsible public entity ~~transportation agency~~ shall  
13 cooperate with each other and with other governmental entities  
14 in carrying out transportation projects under this Act.

15 (b) Each responsible public entity ~~transportation agency~~  
16 may make and enter into all contracts and agreements necessary  
17 or incidental to the performance of the responsible public  
18 entity's ~~transportation agency's~~ duties and the execution of  
19 the responsible public entity's ~~transportation agency's~~ powers  
20 under this Act. Except as otherwise required by law, these  
21 contracts or agreements are not subject to any approvals other  
22 than the approval of the responsible public entity  
23 ~~transportation agency~~ and may be for any term of years and  
24 contain any terms that are considered reasonable by the  
25 responsible public entity ~~transportation agency~~.

1 (c) Each responsible public entity ~~transportation agency~~  
2 may pay the costs incurred under a public-private agreement  
3 entered into under this Act from any funds available to the  
4 responsible public entity ~~transportation agency~~ under this Act  
5 or any other statute.

6 (d) A responsible public entity ~~transportation agency~~ or  
7 other State agency may not take any action that would impair a  
8 public-private agreement entered into under this Act.

9 (e) Each responsible public entity ~~transportation agency~~  
10 may enter into an agreement between and among the contractor,  
11 the responsible public entity ~~transportation agency~~, and the  
12 Illinois State Police concerning the provision of law  
13 enforcement assistance with respect to a transportation  
14 project that is the subject of a public-private agreement  
15 under this Act.

16 (f) Each responsible public entity ~~transportation agency~~  
17 is authorized to enter into arrangements with the Illinois  
18 State Police related to costs incurred in providing law  
19 enforcement assistance under this Act.

20 (Source: P.A. 102-538, eff. 8-20-21.)

21 (630 ILCS 5/80)

22 Sec. 80. Powers liberally construed. The powers conferred  
23 by this Act shall be liberally construed in order to  
24 accomplish their purposes and shall be in addition and  
25 supplemental to the powers conferred by any other law. If any

1 other law or rule is inconsistent with this Act, this Act is  
2 controlling as to any public-private agreement entered into  
3 under this Act. To implement the powers conferred by this Act,  
4 the responsible public entity ~~transportation agency~~ may  
5 establish rules and procedures for the procurement of a  
6 public-private agreement under this Act. Nothing contained in  
7 this Act is intended to supersede applicable federal law or to  
8 foreclose the use or potential use of federal funds. In the  
9 event any provision of this Act is inconsistent with  
10 applicable federal law or would have the effect of foreclosing  
11 the use or potential use of federal funds, the applicable  
12 federal law or funding condition shall prevail, but only to  
13 the extent of such inconsistency.

14 (Source: P.A. 97-502, eff. 8-23-11.)

15 (630 ILCS 5/85)

16 Sec. 85. Full and complete authority. This Act contains  
17 full and complete authority for agreements and leases with  
18 private entities to carry out the activities described in this  
19 Act. Except as otherwise required by law, no procedure,  
20 proceedings, publications, notices, consents, approvals,  
21 orders, or acts by the responsible public entity  
22 ~~transportation agency~~ or any other State or local agency or  
23 official are required to enter into an agreement or lease.

24 (Source: P.A. 97-502, eff. 8-23-11.)

1           ARTICLE 95. LICENSING OF SOFTWARE APPLICATIONS

2           Section 95-5. The Illinois Procurement Code is amended by  
3 adding Section 20-57 as follows:

4           (30 ILCS 500/20-57 new)

5           Sec. 20-57. Software licensing contracts. A contract  
6 entered into by a public agency for the licensing of software  
7 applications designed to run on generally available desktop or  
8 server hardware may not limit the public agency's ability to  
9 install or run the software on the hardware of the public  
10 agency's choosing.

11           ARTICLE 97. PUBLIC CONSTRUCTION BONDS

12           Section 97-5. The Public Construction Bond Act is amended  
13 by changing Section 1 as follows:

14           (30 ILCS 550/1) (from Ch. 29, par. 15)

15           Sec. 1. Except as otherwise provided by this Act, until  
16 January 1, 2029, all officials, boards, commissions, or agents  
17 of this State, or of any political subdivision thereof, in  
18 making contracts for public work of any kind costing over  
19 \$150,000 ~~\$50,000~~ to be performed for the State, or of any  
20 political subdivision thereof, shall require every contractor  
21 for the work to furnish, supply and deliver a bond to the

1 State, or to the political subdivision thereof entering into  
2 the contract, as the case may be, with good and sufficient  
3 sureties. The surety on the bond shall be a company that is  
4 licensed by the Department of Insurance authorizing it to  
5 execute surety bonds and the company shall have a financial  
6 strength rating of at least A- as rated by A.M. Best Company,  
7 Inc., Moody's Investors Service, Standard & Poor's  
8 Corporation, or a similar rating agency. The amount of the  
9 bond shall be fixed by the officials, boards, commissions,  
10 commissioners or agents, and the bond, among other conditions,  
11 shall be conditioned for the completion of the contract, for  
12 the payment of material, apparatus, fixtures, and machinery  
13 used in the work and for all labor performed in the work,  
14 whether by subcontractor or otherwise.

15 Until January 1, 2029, when making contracts for public  
16 works to be constructed, the Department of Transportation and  
17 the Illinois State Toll Highway Authority shall require every  
18 contractor for those works to furnish, supply, and deliver a  
19 bond to the Department or the Authority, as the case may be,  
20 with good and sufficient sureties only if the public works  
21 contract will cost more than \$500,000. The Department of  
22 Transportation and the Illinois State Toll Highway Authority  
23 shall publicly display the following information by website or  
24 annual report and shall provide that information to interested  
25 parties upon request:

26 (1) a list of each of its defaulted public works



1 contracts, including the value of the award, the adjusted  
2 contract value, and the amount remaining unpaid by the  
3 Department or Authority, as applicable;

4 (2) the number and the aggregate amount of payment  
5 claims made under the Mechanics Lien Act along with the  
6 number of contracts in which payment claims are made under  
7 the Mechanics Lien Act;

8 (3) for each of its public improvement contracts,  
9 regardless of the contract value, the aggregate annual  
10 revenue of the contractor derived from contracts with the  
11 State;

12 (4) for each of its public works contracts, regardless  
13 of contract value, the identity of the surety providing  
14 the contract bond, payment and performance bond, or both;  
15 and

16 (5) for each of its public works contracts, regardless  
17 of the bond threshold, a list of bidders for each public  
18 works contract, and the amount bid by each bidder.

19 Until January 1, 2029, local governmental units may  
20 require a bond, by ordinance or resolution, for public works  
21 contracts valued at \$150,000 or less.

22 On and after January 1, 2029, all officials, boards,  
23 commissions, or agents of this State, or of any political  
24 subdivision thereof, in making contracts for public work of  
25 any kind costing over \$50,000 to be performed for the State, or  
26 of any political subdivision thereof, shall require every

1 contractor for the work to furnish, supply and deliver a bond  
2 to the State, or to the political subdivision thereof entering  
3 into the contract, as the case may be, with good and sufficient  
4 sureties. The surety on the bond shall be a company that is  
5 licensed by the Department of Insurance authorizing it to  
6 execute surety bonds and the company shall have a financial  
7 strength rating of at least A- as rated by A.M. Best Company,  
8 Inc., Moody's Investors Service, Standard & Poor's  
9 Corporation, or a similar rating agency. The amount of the  
10 bond shall be fixed by the officials, boards, commissions,  
11 commissioners or agents, and the bond, among other conditions,  
12 shall be conditioned for the completion of the contract, for  
13 the payment of material, apparatus, fixtures, and machinery  
14 used in the work and for all labor performed in the work,  
15 whether by subcontractor or otherwise.

16 If the contract is for emergency repairs as provided in  
17 the Illinois Procurement Code, proof of payment for all labor,  
18 materials, apparatus, fixtures, and machinery may be furnished  
19 in lieu of the bond required by this Section.

20 Each such bond is deemed to contain the following  
21 provisions whether such provisions are inserted in such bond  
22 or not:

23 "The principal and sureties on this bond agree that all  
24 the undertakings, covenants, terms, conditions and agreements  
25 of the contract or contracts entered into between the  
26 principal and the State or any political subdivision thereof

1 will be performed and fulfilled and to pay all persons, firms  
2 and corporations having contracts with the principal or with  
3 subcontractors, all just claims due them under the provisions  
4 of such contracts for labor performed or materials furnished  
5 in the performance of the contract on account of which this  
6 bond is given, when such claims are not satisfied out of the  
7 contract price of the contract on account of which this bond is  
8 given, after final settlement between the officer, board,  
9 commission or agent of the State or of any political  
10 subdivision thereof and the principal has been made.".

11 Each bond securing contracts between the Capital  
12 Development Board or any board of a public institution of  
13 higher education and a contractor shall contain the following  
14 provisions, whether the provisions are inserted in the bond or  
15 not:

16 "Upon the default of the principal with respect to  
17 undertakings, covenants, terms, conditions, and agreements,  
18 the termination of the contractor's right to proceed with the  
19 work, and written notice of that default and termination by  
20 the State or any political subdivision to the surety  
21 ("Notice"), the surety shall promptly remedy the default by  
22 taking one of the following actions:

23 (1) The surety shall complete the work pursuant to a  
24 written takeover agreement, using a completing contractor  
25 jointly selected by the surety and the State or any  
26 political subdivision; or

1           (2) The surety shall pay a sum of money to the obligee,  
2           up to the penal sum of the bond, that represents the  
3           reasonable cost to complete the work that exceeds the  
4           unpaid balance of the contract sum.

5           The surety shall respond to the Notice within 15 working  
6           days of receipt indicating the course of action that it  
7           intends to take or advising that it requires more time to  
8           investigate the default and select a course of action. If the  
9           surety requires more than 15 working days to investigate the  
10          default and select a course of action or if the surety elects  
11          to complete the work with a completing contractor that is not  
12          prepared to commence performance within 15 working days after  
13          receipt of Notice, and if the State or any political  
14          subdivision determines it is in the best interest of the State  
15          to maintain the progress of the work, the State or any  
16          political subdivision may continue to work until the  
17          completing contractor is prepared to commence performance.  
18          Unless otherwise agreed to by the procuring agency, in no case  
19          may the surety take longer than 30 working days to advise the  
20          State or political subdivision on the course of action it  
21          intends to take. The surety shall be liable for reasonable  
22          costs incurred by the State or any political subdivision to  
23          maintain the progress to the extent the costs exceed the  
24          unpaid balance of the contract sum, subject to the penal sum of  
25          the bond.".

26          The surety bond required by this Section may be acquired

1 from the company, agent or broker of the contractor's choice.  
2 The bond and sureties shall be subject to the right of  
3 reasonable approval or disapproval, including suspension, by  
4 the State or political subdivision thereof concerned. Except  
5 as otherwise provided in this Section, in the case of State  
6 construction contracts, a contractor shall not be required to  
7 post a cash bond or letter of credit in addition to or as a  
8 substitute for the surety bond required by this Section.

9 Prior to the completion of 50% of the contract for public  
10 works, a local governmental unit may not withhold retainage  
11 from any payment to a contractor who furnishes the bond or bond  
12 substitute required by this Act in an amount in excess of 10%  
13 of any payment made prior to the date of completion of 50% of  
14 the contract for public works. When a contract for public  
15 works is 50% complete, the local governmental unit shall  
16 reduce the retainage so that no more than 5% is held. After the  
17 contract is 50% complete, no more than 5% of the amount of any  
18 subsequent payments made under the contract for public works  
19 may be withheld as retainage.

20 Prior to the completion of 50% of the contract for public  
21 works, the contractor and their respective subcontractors  
22 shall not withhold from their subcontractors retainage in  
23 excess of 10% of any payment made prior to the date of  
24 completion of 50% of the contract for public works. When the  
25 contract for public works is 50% complete, the contractor and  
26 its subcontractors shall reduce the retainage so that no more

1 than 5% is withheld from their respective subcontractors.  
2 After the contract is 50% complete, the contractor and its  
3 subcontractors shall not withhold more than 5% of the amount  
4 of any subsequent payments made under the contract to their  
5 respective subcontractors.

6 When other than motor fuel tax funds, federal-aid funds,  
7 or other funds received from the State are used, a political  
8 subdivision may allow the contractor to provide a  
9 non-diminishing irrevocable bank letter of credit, in lieu of  
10 the bond required by this Section, on contracts under \$100,000  
11 to comply with the requirements of this Section. Any such bank  
12 letter of credit shall contain all provisions required for  
13 bonds by this Section.

14 In order to reduce barriers to entry for diverse and small  
15 businesses, the Department of Transportation may implement a  
16 5-year pilot program to allow a contractor to provide a  
17 non-diminishing irrevocable bank letter of credit in lieu of  
18 the bond required by this Section on contracts under \$500,000.  
19 Projects selected by the Department of Transportation for this  
20 pilot program must be classified by the Department as low-risk  
21 scope of work contracts. The Department shall adopt rules to  
22 define the criteria for pilot project selection and  
23 implementation of the pilot program.

24 In ~~For the purposes of this Section: , the terms~~  
25 ~~"material"~~

26 "Local governmental unit" has the meaning ascribed to it

1 in Section 2 of the Local Government Prompt Payment Act.

2 "Material", "labor", "apparatus", "fixtures", and  
3 "machinery" include those rented items that are on the  
4 construction site and those rented tools that are used or  
5 consumed on the construction site in the performance of the  
6 contract on account of which the bond is given.

7 (Source: P.A. 101-65, eff. 1-1-20; 102-968, eff. 1-1-23.)

8 ARTICLE 98 VENDOR CONTRIBUTION LIMITS AND REGISTRATION  
9 REQUIREMENTS

10 Section 98-5. The Illinois Procurement Code is amended by  
11 changing Sections 20-160 and 50-37 as follows:

12 (30 ILCS 500/20-160)

13 Sec. 20-160. Business entities; certification;  
14 registration with the State Board of Elections.

15 (a) For purposes of this Section, the terms "business  
16 entity", "contract", "State contract", "contract with a State  
17 agency", "State agency", "affiliated entity", and "affiliated  
18 person" have the meanings ascribed to those terms in Section  
19 50-37.

20 (b) Every bid and offer submitted to and every contract  
21 executed by the State on or after January 1, 2009 (the  
22 effective date of Public Act 95-971) and every submission to a  
23 vendor portal shall contain (1) a certification by the bidder,

1 offeror, vendor, or contractor that either (i) the bidder,  
2 offeror, vendor, or contractor is not required to register as  
3 a business entity with the State Board of Elections pursuant  
4 to this Section or (ii) the bidder, offeror, vendor, or  
5 contractor has registered as a business entity with the State  
6 Board of Elections and acknowledges a continuing duty to  
7 update the registration and (2) a statement that the contract  
8 is voidable under Section 50-60 for the bidder's, offeror's,  
9 vendor's, or contractor's failure to comply with this Section.

10 (c) Each business entity (i) whose aggregate pending bids  
11 and proposals on State contracts ~~annually~~ total more than  
12 \$50,000, (ii) whose aggregate pending bids and proposals on  
13 State contracts combined with the business entity's aggregate  
14 ~~annual~~ total value of State contracts exceed \$50,000, or (iii)  
15 whose contracts with State agencies, in the aggregate,  
16 ~~annually~~ total more than \$50,000 shall register with the State  
17 Board of Elections in accordance with Section 9-35 of the  
18 Election Code. A business entity required to register under  
19 this subsection due to item (i) or (ii) has a continuing duty  
20 to ensure that the registration is accurate during the period  
21 beginning on the date of registration and ending on the day  
22 after the date the contract is awarded; any change in  
23 information must be reported to the State Board of Elections 5  
24 business days following such change or no later than a day  
25 before the contract is awarded, whichever date is earlier. A  
26 business entity required to register under this subsection due



1 to item (iii) has a continuing duty to ensure that the  
2 registration is accurate in accordance with subsection (e).

3 (d) Any business entity, not required under subsection (c)  
4 to register, whose aggregate pending bids and proposals on  
5 State contracts ~~annually~~ total more than \$50,000, or whose  
6 aggregate pending bids and proposals on State contracts  
7 combined with the business entity's aggregate ~~annual~~ total  
8 value of State contracts exceed \$50,000, shall register with  
9 the State Board of Elections in accordance with Section 9-35  
10 of the Election Code prior to submitting to a State agency the  
11 bid or proposal whose value causes the business entity to fall  
12 within the monetary description of this subsection. A business  
13 entity required to register under this subsection has a  
14 continuing duty to ensure that the registration is accurate  
15 during the period beginning on the date of registration and  
16 ending on the day after the date the contract is awarded. Any  
17 change in information must be reported to the State Board of  
18 Elections within 5 business days following such change or no  
19 later than a day before the contract is awarded, whichever  
20 date is earlier.

21 (e) A business entity whose contracts with State agencies,  
22 in the aggregate, ~~annually~~ total more than \$50,000 must  
23 maintain its registration under this Section and has a  
24 continuing duty to ensure that the registration is accurate  
25 for the duration of the term of office of the incumbent  
26 officeholder awarding the contracts or for a period of 2 years

1 following the expiration or termination of the contracts,  
2 whichever is longer. A business entity, required to register  
3 under this subsection, has a continuing duty to report any  
4 changes on a quarterly basis to the State Board of Elections  
5 within 14 calendar days following the last day of January,  
6 April, July, and October of each year. Any update pursuant to  
7 this paragraph that is received beyond that date is presumed  
8 late and the civil penalty authorized by subsection (e) of  
9 Section 9-35 of the Election Code may be assessed.

10 Also, if a business entity required to register under this  
11 subsection has a pending bid or offer, any change in  
12 information shall be reported to the State Board of Elections  
13 within 7 calendar days following such change or no later than a  
14 day before the contract is awarded, whichever date is earlier.

15 (f) A business entity's continuing duty under this Section  
16 to ensure the accuracy of its registration includes the  
17 requirement that the business entity notify the State Board of  
18 Elections of any change in information, including, but not  
19 limited to, changes of affiliated entities or affiliated  
20 persons.

21 (g) For any bid or offer for a contract with a State agency  
22 by a business entity required to register under this Section,  
23 the chief procurement officer shall verify that the business  
24 entity is required to register under this Section and is in  
25 compliance with the registration requirements on the date the  
26 bid or offer is due. A chief procurement officer shall not

1 accept a bid or offer if the business entity is not in  
2 compliance with the registration requirements as of the date  
3 bids or offers are due. Upon discovery of noncompliance with  
4 this Section, if the bidder or offeror made a good faith effort  
5 to comply with registration efforts prior to the date the bid  
6 or offer is due, a chief procurement officer may provide the  
7 bidder or offeror 5 business days to achieve compliance. A  
8 chief procurement officer may extend the time to prove  
9 compliance by as long as necessary in the event that there is a  
10 failure within the State Board of Elections' registration  
11 system.

12 (h) A registration, and any changes to a registration,  
13 must include the business entity's verification of accuracy  
14 and subjects the business entity to the penalties of the laws  
15 of this State for perjury.

16 In addition to any penalty under Section 9-35 of the  
17 Election Code, intentional, willful, or material failure to  
18 disclose information required for registration shall render  
19 the contract, bid, offer, or other procurement relationship  
20 voidable by the chief procurement officer if he or she deems it  
21 to be in the best interest of the State of Illinois.

22 (i) This Section applies regardless of the method of  
23 source selection used in awarding the contract.

24 (Source: P.A. 100-43, eff. 8-9-17; 101-81, eff. 7-12-19.)

1           Sec. 50-37. Prohibition of political contributions.

2           (a) As used in this Section:

3           The terms "contract", "State contract", and "contract  
4           with a State agency" each mean any contract, as defined in  
5           this Code, between a business entity and a State agency  
6           let or awarded pursuant to this Code. The terms  
7           "contract", "State contract", and "contract with a State  
8           agency" do not include cost reimbursement contracts;  
9           purchase of care agreements as defined in Section 1-15.68  
10          of this Code; contracts for projects eligible for full or  
11          partial federal-aid funding reimbursements authorized by  
12          the Federal Highway Administration; grants, including but  
13          are not limited to grants for job training or  
14          transportation; and grants, loans, or tax credit  
15          agreements for economic development purposes.

16          "Contribution" means a contribution as defined in  
17          Section 9-1.4 of the Election Code.

18          "Declared candidate" means a person who has filed a  
19          statement of candidacy and petition for nomination or  
20          election in the principal office of the State Board of  
21          Elections.

22          "State agency" means and includes all boards,  
23          commissions, agencies, institutions, authorities, and  
24          bodies politic and corporate of the State, created by or  
25          in accordance with the Illinois Constitution or State  
26          statute, of the executive branch of State government and

1 does include colleges, universities, public employee  
2 retirement systems, and institutions under the  
3 jurisdiction of the governing boards of the University of  
4 Illinois, Southern Illinois University, Illinois State  
5 University, Eastern Illinois University, Northern Illinois  
6 University, Western Illinois University, Chicago State  
7 University, Governors State University, Northeastern  
8 Illinois University, and the Illinois Board of Higher  
9 Education.

10 "Officeholder" means the Governor, Lieutenant  
11 Governor, Attorney General, Secretary of State,  
12 Comptroller, or Treasurer. The Governor shall be  
13 considered the officeholder responsible for awarding all  
14 contracts by all officers and employees of, and potential  
15 contractors and others doing business with, executive  
16 branch State agencies under the jurisdiction of the  
17 Executive Ethics Commission and not within the  
18 jurisdiction of the Attorney General, the Secretary of  
19 State, the Comptroller, or the Treasurer.

20 "Sponsoring entity" means a sponsoring entity as  
21 defined in Section 9-3 of the Election Code.

22 "Affiliated person" means (i) any person with any  
23 ownership interest or distributive share of the bidding or  
24 contracting business entity in excess of 7.5%, (ii)  
25 executive employees of the bidding or contracting business  
26 entity, and (iii) the spouse of any such persons.

1 "Affiliated person" does not include a person prohibited  
2 by federal law from making contributions or expenditures  
3 in connection with a federal, state, or local election.

4 "Affiliated entity" means (i) any corporate parent and  
5 each operating subsidiary of the bidding or contracting  
6 business entity, (ii) each operating subsidiary of the  
7 corporate parent of the bidding or contracting business  
8 entity, (iii) any organization recognized by the United  
9 States Internal Revenue Service as a tax-exempt  
10 organization described in Section 501(c) of the Internal  
11 Revenue Code of 1986 (or any successor provision of  
12 federal tax law) established by the bidding or contracting  
13 business entity, any affiliated entity of that business  
14 entity, or any affiliated person of that business entity,  
15 or (iv) any political committee for which the bidding or  
16 contracting business entity, or any 501(c) organization  
17 described in item (iii) related to that business entity,  
18 is the sponsoring entity. "Affiliated entity" does not  
19 include an entity prohibited by federal law from making  
20 contributions or expenditures in connection with a  
21 federal, state, or local election.

22 "Business entity" means any entity doing business for  
23 profit, whether organized as a corporation, partnership,  
24 sole proprietorship, limited liability company or  
25 partnership, or otherwise.

26 "Executive employee" means (i) the President,

1 Chairman, or Chief Executive Officer of a business entity  
2 and any other individual that fulfills equivalent duties  
3 as the President, Chairman of the Board, or Chief  
4 Executive Officer of a business entity; and (ii) any  
5 employee of a business entity whose compensation is  
6 determined directly, in whole or in part, by the award or  
7 payment of contracts by a State agency to the entity  
8 employing the employee. A regular salary that is paid  
9 irrespective of the award or payment of a contract with a  
10 State agency shall not constitute "compensation" under  
11 item (ii) of this definition. "Executive employee" does  
12 not include any person prohibited by federal law from  
13 making contributions or expenditures in connection with a  
14 federal, state, or local election.

15 (b) Any business entity whose contracts with State  
16 agencies, in the aggregate, ~~annually~~ total more than \$50,000,  
17 and any affiliated entities or affiliated persons of such  
18 business entity, are prohibited from making any contributions  
19 to any political committees established to promote the  
20 candidacy of (i) the officeholder responsible for awarding the  
21 contracts or (ii) any other declared candidate for that  
22 office. This prohibition shall be effective for the duration  
23 of the term of office of the incumbent officeholder awarding  
24 the contracts or for a period of 2 years following the  
25 expiration or termination of the contracts, whichever is  
26 longer.

1 (c) Any business entity whose aggregate pending bids and  
2 offers on State contracts total more than \$50,000, or whose  
3 aggregate pending bids and offers on State contracts combined  
4 with the business entity's aggregate ~~annual~~ total value of  
5 State contracts exceed \$50,000, and any affiliated entities or  
6 affiliated persons of such business entity, are prohibited  
7 from making any contributions to any political committee  
8 established to promote the candidacy of the officeholder  
9 responsible for awarding the contract on which the business  
10 entity has submitted a bid or offer during the period  
11 beginning on the date the invitation for bids, request for  
12 proposals, or any other procurement opportunity is issued and  
13 ending on the day after the date the contract is awarded.

14 (c-5) For the purposes of the prohibitions under  
15 subsections (b) and (c) of this Section, (i) any contribution  
16 made to a political committee established to promote the  
17 candidacy of the Governor or a declared candidate for the  
18 office of Governor shall also be considered as having been  
19 made to a political committee established to promote the  
20 candidacy of the Lieutenant Governor, in the case of the  
21 Governor, or the declared candidate for Lieutenant Governor  
22 having filed a joint petition, or write-in declaration of  
23 intent, with the declared candidate for Governor, as  
24 applicable, and (ii) any contribution made to a political  
25 committee established to promote the candidacy of the  
26 Lieutenant Governor or a declared candidate for the office of



1 Lieutenant Governor shall also be considered as having been  
2 made to a political committee established to promote the  
3 candidacy of the Governor, in the case of the Lieutenant  
4 Governor, or the declared candidate for Governor having filed  
5 a joint petition, or write-in declaration of intent, with the  
6 declared candidate for Lieutenant Governor, as applicable.

7 (d) All contracts between State agencies and a business  
8 entity that violate subsection (b) or (c) shall be voidable  
9 under Section 50-60. If a business entity violates subsection  
10 (b) 3 or more times within a 36-month period, then all  
11 contracts between State agencies and that business entity  
12 shall be void, and that business entity shall not bid or  
13 respond to any invitation to bid or request for proposals from  
14 any State agency or otherwise enter into any contract with any  
15 State agency for 3 years from the date of the last violation. A  
16 notice of each violation and the penalty imposed shall be  
17 published in both the Procurement Bulletin and the Illinois  
18 Register.

19 (e) Any political committee that has received a  
20 contribution in violation of subsection (b) or (c) shall pay  
21 an amount equal to the value of the contribution to the State  
22 no more than 30 calendar days after notice of the violation  
23 concerning the contribution appears in the Illinois Register.  
24 Payments received by the State pursuant to this subsection  
25 shall be deposited into the general revenue fund.

26 (Source: P.A. 97-411, eff. 8-16-11; 98-1076, eff. 1-1-15.)

1           ARTICLE 100. LAND MAINTENANCE ACTIVITY PROJECTS

2           Section 100-5. The Illinois Solid Waste Management Act is  
3 amended by changing Section 3 as follows:

4           (415 ILCS 20/3) (from Ch. 111 1/2, par. 7053)

5           Sec. 3. State agency materials recycling program.

6           (a) All State agencies and local governments shall  
7 consider whether compost products can be used in the land  
8 maintenance activity project when soliciting and reviewing  
9 bids for land maintenance activity projects. If compost  
10 products can be used in the project, the State agency or local  
11 government must use compost products unless the compost  
12 products: ~~responsible for the maintenance of public lands in~~  
13 ~~the State shall, to the maximum extent feasible, use compost~~  
14 ~~materials in all land maintenance activities which are to be~~  
15 ~~paid with public funds.~~

16           (1) are not available within a reasonable period of  
17 time;

18           (2) do not comply with existing purchasing standards;

19           or

20           (3) do not comply with federal or State health and  
21 safety standards.

22           Beginning January 1, 2024, the Department of  
23 Transportation shall report each year to the General Assembly:

1           (i) the volume of compost used in State highway  
2           construction projects;

3           (ii) the status of compost and compost-based products  
4           used in State highway construction projects; and

5           (iii) recommendations to maximize the use of compost  
6           as a recycled material in State highway construction  
7           projects.

8           State agencies and local governments are encouraged to  
9           give priority to purchasing compost products from companies  
10           that produce compost products locally, are certified by a  
11           nationally recognized organization, and produce compost  
12           products that are derived from municipal solid waste compost  
13           programs.

14           (a-5) All State agencies responsible for the maintenance  
15           of public lands in the State shall review its procurement  
16           specifications and policies to determine (1) if incorporating  
17           compost materials will help reduce stormwater run-off and  
18           increase infiltration of moisture in land maintenance  
19           activities and (2) the current recycled content usage and  
20           potential for additional recycled content usage by the Agency  
21           in land maintenance activities and report to the General  
22           Assembly by December 15, 2015.

23           (b) The Department of Central Management Services, in  
24           coordination with the Agency, shall implement waste reduction  
25           programs, including source separation and collection, for  
26           office wastepaper, corrugated containers, newsprint and mixed

1 paper, in all State buildings as appropriate and feasible.  
2 Such waste reduction programs shall be designed to achieve  
3 waste reductions of at least 25% of all such waste by December  
4 31, 1995, and at least 50% of all such waste by December 31,  
5 2000. Any source separation and collection program shall  
6 include, at a minimum, procedures for collecting and storing  
7 recyclable materials, bins or containers for storing  
8 materials, and contractual or other arrangements with buyers  
9 of recyclable materials. If market conditions so warrant, the  
10 Department of Central Management Services, in coordination  
11 with the Agency, may modify programs developed pursuant to  
12 this Section.

13 The Department of Commerce and Community Affairs (now  
14 Department of Commerce and Economic Opportunity) shall conduct  
15 waste categorization studies of all State facilities for  
16 calendar years 1991, 1995 and 2000. Such studies shall be  
17 designed to assist the Department of Central Management  
18 Services to achieve the waste reduction goals established in  
19 this subsection.

20 (c) Each State agency shall, upon consultation with the  
21 Agency, periodically review its procurement procedures and  
22 specifications related to the purchase of products or  
23 supplies. Such procedures and specifications shall be modified  
24 as necessary to require the procuring agency to seek out  
25 products and supplies that contain recycled materials, and to  
26 ensure that purchased products or supplies are reusable,

1 durable or made from recycled materials whenever economically  
2 and practically feasible. In choosing among products or  
3 supplies that contain recycled material, consideration shall  
4 be given to products and supplies with the highest recycled  
5 material content that is consistent with the effective and  
6 efficient use of the product or supply.

7 (d) Wherever economically and practically feasible, the  
8 Department of Central Management Services shall procure  
9 recycled paper and paper products as follows:

10 (1) Beginning July 1, 1989, at least 10% of the total  
11 dollar value of paper and paper products purchased by the  
12 Department of Central Management Services shall be  
13 recycled paper and paper products.

14 (2) Beginning July 1, 1992, at least 25% of the total  
15 dollar value of paper and paper products purchased by the  
16 Department of Central Management Services shall be  
17 recycled paper and paper products.

18 (3) Beginning July 1, 1996, at least 40% of the total  
19 dollar value of paper and paper products purchased by the  
20 Department of Central Management Services shall be  
21 recycled paper and paper products.

22 (4) Beginning July 1, 2000, at least 50% of the total  
23 dollar value of paper and paper products purchased by the  
24 Department of Central Management Services shall be  
25 recycled paper and paper products.

26 (e) Paper and paper products purchased from private

1 vendors pursuant to printing contracts are not considered  
2 paper products for the purposes of subsection (d). However,  
3 the Department of Central Management Services shall report to  
4 the General Assembly on an annual basis the total dollar value  
5 of printing contracts awarded to private sector vendors that  
6 included the use of recycled paper.

7 (f) (1) Wherever economically and practically feasible,  
8 the recycled paper and paper products referred to in  
9 subsection (d) shall contain postconsumer or recovered  
10 paper materials as specified by paper category in this  
11 subsection:

12 (i) Recycled high grade printing and writing paper  
13 shall contain at least 50% recovered paper material.  
14 Such recovered paper material, until July 1, 1994,  
15 shall consist of at least 20% deinked stock or  
16 postconsumer material; and beginning July 1, 1994,  
17 shall consist of at least 25% deinked stock or  
18 postconsumer material; and beginning July 1, 1996,  
19 shall consist of at least 30% deinked stock or  
20 postconsumer material; and beginning July 1, 1998,  
21 shall consist of at least 40% deinked stock or  
22 postconsumer material; and beginning July 1, 2000,  
23 shall consist of at least 50% deinked stock or  
24 postconsumer material.

25 (ii) Recycled tissue products, until July 1, 1994,  
26 shall contain at least 25% postconsumer material; and

1 beginning July 1, 1994, shall contain at least 30%  
2 postconsumer material; and beginning July 1, 1996,  
3 shall contain at least 35% postconsumer material; and  
4 beginning July 1, 1998, shall contain at least 40%  
5 postconsumer material; and beginning July 1, 2000,  
6 shall contain at least 45% postconsumer material.

7 (iii) Recycled newsprint, until July 1, 1994,  
8 shall contain at least 40% postconsumer material; and  
9 beginning July 1, 1994, shall contain at least 50%  
10 postconsumer material; and beginning July 1, 1996,  
11 shall contain at least 60% postconsumer material; and  
12 beginning July 1, 1998, shall contain at least 70%  
13 postconsumer material; and beginning July 1, 2000,  
14 shall contain at least 80% postconsumer material.

15 (iv) Recycled unbleached packaging, until July 1,  
16 1994, shall contain at least 35% postconsumer  
17 material; and beginning July 1, 1994, shall contain at  
18 least 40% postconsumer material; and beginning July 1,  
19 1996, shall contain at least 45% postconsumer  
20 material; and beginning July 1, 1998, shall contain at  
21 least 50% postconsumer material; and beginning July 1,  
22 2000, shall contain at least 55% postconsumer  
23 material.

24 (v) Recycled paperboard, until July 1, 1994, shall  
25 contain at least 80% postconsumer material; and  
26 beginning July 1, 1994, shall contain at least 85%

1 postconsumer material; and beginning July 1, 1996,  
2 shall contain at least 90% postconsumer material; and  
3 beginning July 1, 1998, shall contain at least 95%  
4 postconsumer material.

5 (2) For the purposes of this Section, "postconsumer  
6 material" includes:

7 (i) paper, paperboard, and fibrous wastes from  
8 retail stores, office buildings, homes, and so forth,  
9 after the waste has passed through its end usage as a  
10 consumer item, including used corrugated boxes, old  
11 newspapers, mixed waste paper, tabulating cards, and  
12 used cordage; and

13 (ii) all paper, paperboard, and fibrous wastes  
14 that are diverted or separated from the municipal  
15 solid waste stream.

16 (3) For the purposes of this Section, "recovered paper  
17 material" includes:

18 (i) postconsumer material;

19 (ii) dry paper and paperboard waste generated  
20 after completion of the papermaking process (that is,  
21 those manufacturing operations up to and including the  
22 cutting and trimming of the paper machine reel into  
23 smaller rolls or rough sheets), including envelope  
24 cuttings, bindery trimmings, and other paper and  
25 paperboard waste resulting from printing, cutting,  
26 forming, and other converting operations, or from bag,



1 box and carton manufacturing, and butt rolls, mill  
2 wrappers, and rejected unused stock; and

3 (iii) finished paper and paperboard from obsolete  
4 inventories of paper and paperboard manufacturers,  
5 merchants, wholesalers, dealers, printers, converters,  
6 or others.

7 (g) The Department of Central Management Services may  
8 adopt regulations to carry out the provisions and purposes of  
9 this Section.

10 (h) Every State agency shall, in its procurement  
11 documents, specify that, whenever economically and practically  
12 feasible, a product to be procured must consist, wholly or in  
13 part, of recycled materials, or be recyclable or reusable in  
14 whole or in part. When applicable, if state guidelines are not  
15 already prescribed, State agencies shall follow USEPA  
16 guidelines for federal procurement.

17 (i) All State agencies shall cooperate with the Department  
18 of Central Management Services in carrying out this Section.  
19 The Department of Central Management Services may enter into  
20 cooperative purchasing agreements with other governmental  
21 units in order to obtain volume discounts, or for other  
22 reasons in accordance with the Governmental Joint Purchasing  
23 Act, or in accordance with the Intergovernmental Cooperation  
24 Act if governmental units of other states or the federal  
25 government are involved.

26 (j) The Department of Central Management Services shall

1 submit an annual report to the General Assembly concerning its  
2 implementation of the State's collection and recycled paper  
3 procurement programs. This report shall include a description  
4 of the actions that the Department of Central Management  
5 Services has taken in the previous fiscal year to implement  
6 this Section. This report shall be submitted on or before  
7 November 1 of each year.

8 (k) The Department of Central Management Services, in  
9 cooperation with all other appropriate departments and  
10 agencies of the State, shall institute whenever economically  
11 and practically feasible the use of re-refined motor oil in  
12 all State-owned motor vehicles and the use of remanufactured  
13 and retread tires whenever such use is practical, beginning no  
14 later than July 1, 1992.

15 (l) (Blank).

16 (m) The Department of Central Management Services, in  
17 coordination with the Department of Commerce and Community  
18 Affairs (now Department of Commerce and Economic Opportunity),  
19 has implemented an aluminum can recycling program in all State  
20 buildings within 270 days of the effective date of this  
21 amendatory Act of 1997. The program provides for (1) the  
22 collection and storage of used aluminum cans in bins or other  
23 appropriate containers made reasonably available to occupants  
24 and visitors of State buildings and (2) the sale of used  
25 aluminum cans to buyers of recyclable materials.

26 Proceeds from the sale of used aluminum cans shall be

1 deposited into I-CYCLE accounts maintained in the Facilities  
2 Management Revolving Fund and, subject to appropriation, shall  
3 be used by the Department of Central Management Services and  
4 any other State agency to offset the costs of implementing the  
5 aluminum can recycling program under this Section.

6 All State agencies having an aluminum can recycling  
7 program in place shall continue with their current plan. If a  
8 State agency has an existing recycling program in place,  
9 proceeds from the aluminum can recycling program may be  
10 retained and distributed pursuant to that program, otherwise  
11 all revenue resulting from these programs shall be forwarded  
12 to Central Management Services, I-CYCLE for placement into the  
13 appropriate account within the Facilities Management Revolving  
14 Fund, minus any operating costs associated with the program.

15 (Source: P.A. 101-636, eff. 6-10-20; 102-444, eff. 8-20-21.)

16 ARTICLE 999. EFFECTIVE DATE

17 Section 999-99. Effective date. This Act takes effect  
18 January 1, 2024."