



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3864

Introduced 2/17/2023, by Rep. Hoan Huynh

#### SYNOPSIS AS INTRODUCED:

30 ILCS 575/2	
30 ILCS 575/4	from Ch. 127, par. 132.604
30 ILCS 575/7	from Ch. 127, par. 132.607
30 ILCS 575/8	from Ch. 127, par. 132.608
30 ILCS 575/8f	

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that not less than 40% of the total dollar amount of State contracts shall be established as an aspirational goal to be awarded to businesses owned by minorities. Provides that of the total amount of all State contracts awarded to businesses owned by minorities, contracts representing at least 20% shall be awarded to businesses owned by black or African American persons. Removes provisions allowing for a waiver from contract goals established under the Act. Requires the return of specified funds for failing to accomplish contract goals established under the Act. Makes conforming changes.

LRB103 31036 HLH 57654 b

1 AN ACT concerning government.

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

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

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 2. Definitions.

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

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

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

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

1 Vietnam).

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

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

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

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

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

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

19 (a) results from:

20 amputation,

21 arthritis,

22 autism,

23 blindness,

24 burn injury,

25 cancer,

26 cerebral palsy,

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

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

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

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

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

18 (4.1) "Business owned by a person with a disability"  
19 means a business that is at least 51% owned by one or more  
20 persons with a disability and the management and daily  
21 business operations of which are controlled by one or more  
22 of the persons with disabilities who own it. A  
23 not-for-profit agency for persons with disabilities that  
24 is exempt from taxation under Section 501 of the Internal  
25 Revenue Code of 1986 is also considered a "business owned  
26 by a person with a disability".

1           (4.2) "Council" means the Business Enterprise Council  
2           for Minorities, Women, and Persons with Disabilities  
3           created under Section 5 of this Act.

4           (4.3) "Commission" means, unless the context clearly  
5           indicates otherwise, the Commission on Equity and  
6           Inclusion created under the Commission on Equity and  
7           Inclusion Act.

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

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

25          (6) "State agencies" shall mean all departments,  
26          officers, boards, commissions, institutions and bodies

1 politic and corporate of the State, but does not include  
2 the Board of Trustees of the University of Illinois, the  
3 Board of Trustees of Southern Illinois University, the  
4 Board of Trustees of Chicago State University, the Board  
5 of Trustees of Eastern Illinois University, the Board of  
6 Trustees of Governors State University, the Board of  
7 Trustees of Illinois State University, the Board of  
8 Trustees of Northeastern Illinois University, the Board of  
9 Trustees of Northern Illinois University, the Board of  
10 Trustees of Western Illinois University, municipalities or  
11 other local governmental units, or other State  
12 constitutional officers.

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

23 (8) "Certification" means a determination made by the  
24 Council or by one delegated authority from the Council to  
25 make certifications, or by a State agency with statutory  
26 authority to make such a certification, that a business

1           entity is a business owned by a minority, woman, or person  
2           with a disability for whatever purpose. A business owned  
3           and controlled by women shall be certified as a  
4           "woman-owned business". A business owned and controlled by  
5           women who are also minorities shall be certified as both a  
6           "women-owned business" and a "minority-owned business".

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

24          (10) "Business" means a business that has annual gross  
25          sales of less than \$150,000,000 as evidenced by the  
26          federal income tax return of the business. A firm with



1 gross sales in excess of this cap may apply to the Council  
2 for certification for a particular contract if the firm  
3 can demonstrate that the contract would have significant  
4 impact on businesses owned by minorities, women, or  
5 persons with disabilities as suppliers or subcontractors  
6 or in employment of minorities, women, or persons with  
7 disabilities. Firms with gross sales in excess of this cap  
8 that are granted certification by the Council shall be  
9 granted certification for the life of the contract,  
10 including available renewals.

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

19 (12) "Business Enterprise Program" means the Business  
20 Enterprise Program of the Commission on Equity and  
21 Inclusion.

22 (B) When a business is owned at least 51% by any  
23 combination of minority persons, women, or persons with  
24 disabilities, even though none of the 3 classes alone holds at  
25 least a 51% interest, the ownership requirement for purposes  
26 of this Act is considered to be met. The certification

1 category for the business is that of the class holding the  
2 largest ownership interest in the business. If 2 or more  
3 classes have equal ownership interests, the certification  
4 category shall be determined by the business.

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

7 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

9 Sec. 4. Award of State contracts.

10 (a) Except as provided in subsection (b), not less than  
11 30% of the total dollar amount of State contracts, as defined  
12 by the Secretary of the Council and approved by the Council,  
13 shall be established as an aspirational goal to be awarded to  
14 businesses owned by ~~minorities~~, women, and persons with  
15 disabilities; provided, however, that of the total amount of  
16 all State contracts awarded to businesses owned by ~~minorities~~,  
17 women, and persons with disabilities pursuant to this Section,  
18 ~~contracts representing at least 16% shall be awarded to~~  
19 ~~businesses owned by minorities~~, contracts representing at  
20 least 10% shall be awarded to women-owned businesses, and  
21 contracts representing at least 10% ~~4%~~ shall be awarded to  
22 businesses owned by persons with disabilities.

23 Additionally, not less than 40% of the total dollar amount  
24 of State contracts shall be established as an aspirational  
25 goal to be awarded to businesses owned by minorities;

1 provided, however, that of the total amount of all State  
2 contracts awarded to businesses owned by minorities, contracts  
3 representing at least 20% shall be awarded to businesses owned  
4 by black or African American persons.

5 (a-5) In addition to the aspirational goals in awarding  
6 State contracts set under subsection (a), the Commission shall  
7 by rule further establish targeted efforts to encourage the  
8 participation of businesses owned by minorities, women, and  
9 persons with disabilities on State contracts. Such efforts  
10 shall include, but not be limited to, further concerted  
11 outreach efforts to businesses owned by minorities, women, and  
12 persons with disabilities.

13 The above percentage relates to the total dollar amount of  
14 State contracts during each State fiscal year, calculated by  
15 examining independently each type of contract for each agency  
16 or public institutions of higher education which lets such  
17 contracts. Only that percentage of arrangements which  
18 represents the participation of businesses owned by  
19 minorities, women, and persons with disabilities on such  
20 contracts shall be included. State contracts subject to the  
21 requirements of this Act shall include the requirement that  
22 only expenditures to businesses owned by minorities, women,  
23 and persons with disabilities that perform a commercially  
24 useful function may be counted toward the goals set forth by  
25 this Act. Contracts shall include a definition of  
26 "commercially useful function" that is consistent with 49 CFR

1 26.55(c).

2 (b) Not less than 20% of the total dollar amount of State  
3 construction contracts is established as an aspirational goal  
4 to be awarded to businesses owned by minorities, women, and  
5 persons with disabilities; provided that, contracts  
6 representing at least 11% of the total dollar amount of State  
7 construction contracts shall be awarded to businesses owned by  
8 minorities; contracts representing at least 7% of the total  
9 dollar amount of State construction contracts shall be awarded  
10 to women-owned businesses; and contracts representing at least  
11 2% of the total dollar amount of State construction contracts  
12 shall be awarded to businesses owned by persons with  
13 disabilities.

14 (c) (Blank).

15 (c-5) All goals established under this Section shall be  
16 contingent upon the results of the most recent disparity study  
17 conducted by the State.

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

1 and the social scientific study shall be filed with the  
2 Governor and the General Assembly.

3 By December 1, 2020, the Department of Central Management  
4 Services shall conduct a new social scientific study that  
5 measures the impact of discrimination on minority and women  
6 business development in Illinois. By June 1, 2022, the  
7 Department shall issue a report of its findings and any  
8 recommendations on whether to adjust the goals for minority  
9 and women participation established in this Act. Copies of  
10 this report and the social scientific study shall be filed  
11 with the Governor and the General Assembly. By December 1,  
12 2022, the Commission on Equity and Inclusion Business  
13 Enterprise Program shall develop a model for social scientific  
14 disparity study sourcing for local governmental units to adapt  
15 and implement to address regional disparities in public  
16 procurement.

17 (e) All State contract solicitations that include Business  
18 Enterprise Program participation goals shall require bidders  
19 or offerors to include utilization plans. Utilization plans  
20 are due at the time of bid or offer submission. Failure to  
21 complete and include a utilization plan, including  
22 documentation demonstrating good faith efforts when requesting  
23 a waiver, shall render the bid or offer non-responsive.

24 Except as permitted under this Act or as otherwise  
25 mandated by federal regulation, a bidder or offeror whose bid  
26 or offer is accepted and who included in that bid a completed

1 utilization plan but who fails to meet the goals set forth in  
2 the plan shall be notified of the deficiency by the  
3 contracting agency or public institution of higher education  
4 and shall be given a period of 10 calendar days to cure the  
5 deficiency by contracting with additional subcontractors who  
6 are certified by the Business Enterprise Program or by  
7 increasing the work to be performed by previously identified  
8 vendors certified by the Business Enterprise Program.

9 Deficiencies that may be cured include: (i) scrivener's  
10 errors, such as transposed numbers; (ii) information submitted  
11 in an incorrect form or format; (iii) mistakes resulting from  
12 failure to follow instructions or to identify and adequately  
13 document good faith efforts taken to comply with the  
14 utilization plan; or (iv) a proposal to use a firm whose  
15 Business Enterprise Program certification has lapsed or is not  
16 yet recognized. Cure is not authorized if the bidder or  
17 offeror submits a blank utilization plan, a utilization plan  
18 that shows lack of reasonable effort to complete the form on  
19 time, or a utilization plan that states the contract will be  
20 self-performed, by a non-certified vendor, without showing  
21 good faith efforts or a request for a waiver. All cure activity  
22 shall address the deficiencies identified by the purchasing  
23 agency and shall require clear documentation, including that  
24 of good faith efforts, to address those deficiencies. Any  
25 increase in cost to a contract for the addition of a  
26 subcontractor to cure a bid's deficiency shall not affect the

1 bid price and shall not be used in the request for an exemption  
2 under this Act, and, in no case, shall an identified  
3 subcontractor with a Business Enterprise Program certification  
4 made under this Act be terminated from a contract without the  
5 written consent of the State agency or public institution of  
6 higher education entering into the contract. The purchasing  
7 agency or public institution of higher education shall make  
8 the determination whether the cure is adequate.

9 Vendors certified with the Business Enterprise Program at  
10 the time and date submittals are due and who do not submit a  
11 utilization plan or have utilization plan deficiencies shall  
12 have 10 business days to submit a utilization plan or to  
13 correct the utilization plan deficiencies.

14 (f) (Blank).

15 (g) (Blank).

16 (h) State agencies and public institutions of higher  
17 education shall notify the Commission on Equity and Inclusion  
18 of all non-responsive bids or proposals for State contracts.

19 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;  
20 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article  
21 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21;  
22 102-558, eff. 8-20-21; 102-1119, eff. 1-23-23.)

23 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

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

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

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

26           (ii) a clear demonstration that the number of



1 eligible businesses identified in subparagraph (i)  
2 above is insufficient to ensure adequate competition;

3 (iii) the difference in cost between the contract  
4 proposals being offered by businesses owned by  
5 minorities, women, and persons with disabilities and  
6 the agency or public institution of higher education's  
7 expectations of reasonable prices on bids or proposals  
8 within that class; and

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

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

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

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

26 (iii) the percentage of contracts awarded by the

1 agency or public institution of higher education to  
2 eligible businesses owned by minorities, women, and  
3 persons with disabilities in the current and prior  
4 fiscal years.

5 (2) Class exemptions.

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

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

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

25 (ii) a clear demonstration that the number of  
26 eligible businesses identified in subparagraph (i)

1 above is insufficient to ensure adequate competition;

2 (iii) the difference in cost between the contract  
3 proposals being offered by eligible businesses owned  
4 by minorities, women, and persons with disabilities  
5 and the agency or public institution of higher  
6 education's expectations of reasonable prices on bids  
7 or proposals within that class; and

8 (iv) the number of class exemptions the affected  
9 agency or public institution of higher education  
10 requested in the current and prior fiscal years.

11 (a-2) Determination. The Council's determination  
12 concerning class exemptions must consider, at a minimum,  
13 the following:

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

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

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

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

3 (3) (Blank). ~~Waivers. Where a particular contract requires~~  
4 ~~a contractor to meet a goal established pursuant to this Act,~~  
5 ~~the contractor shall have the right to request a waiver from~~  
6 ~~such requirements prior to the contract award. The Council~~  
7 ~~shall grant the waiver when the contractor demonstrates that~~  
8 ~~there has been made a good faith effort to comply with the~~  
9 ~~goals for participation by businesses owned by minorities,~~  
10 ~~women, and persons with disabilities. Any such waiver shall~~  
11 ~~also be transmitted in writing to the Bureau on Apprenticeship~~  
12 ~~Programs and Clean Energy Jobs.~~

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

16 ~~(i) a list of eligible businesses owned by~~  
17 ~~minorities, women, and persons with disabilities that~~  
18 ~~pertain to the scope of work of the contract. Eligible~~  
19 ~~businesses are only eligible if the business is~~  
20 ~~certified for the products or work advertised in the~~  
21 ~~solicitation;~~

22 ~~(ii) (blank);~~

23 ~~(iia) a clear demonstration that the contractor~~  
24 ~~selected portions of the work to be performed by~~  
25 ~~eligible businesses owned by minorities, women, and~~  
26 ~~persons with disabilities, solicited through all~~

1 ~~reasonable and available means eligible businesses,~~  
2 ~~and negotiated in good faith with interested eligible~~  
3 ~~businesses;~~

4 ~~(iib) documentation demonstrating that businesses~~  
5 ~~owned by minorities, women, and persons with~~  
6 ~~disabilities are not rejected as being unqualified~~  
7 ~~without sound reasons based on a thorough~~  
8 ~~investigation of their capabilities;~~

9 ~~(iii) documentation demonstrating that the~~  
10 ~~contract proposals being offered by businesses owned~~  
11 ~~by minorities, women, and persons with disabilities~~  
12 ~~are excessive or unreasonable; and~~

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

17 ~~(b) Determination. The Council's determination~~  
18 ~~concerning waivers must include following:~~

19 ~~(i) the justification for the requested waiver,~~  
20 ~~including whether the requesting contractor made a~~  
21 ~~good faith effort to identify and solicit eligible~~  
22 ~~businesses owned by minorities, women, and persons~~  
23 ~~with disabilities;~~

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

1                   ~~(iii) (blank); and~~  
2                   ~~(iv) the contractor's use of businesses owned by~~  
3                   ~~minorities, women, and persons with disabilities in~~  
4                   ~~the current and prior fiscal years.~~

5                   (3.5) (Blank).

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

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

26                   (6) Each chief procurement officer, as defined by the

1 Illinois Procurement Code, shall maintain on its website a  
2 list of all firms that have been prohibited from bidding,  
3 offering, or entering into a contract with the State of  
4 Illinois as a result of violations of this Act.

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

14 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;  
15 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff.  
16 9-15-21.)

17 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

19 Sec. 8. Enforcement.

20 (1) The Commission on Equity and Inclusion shall make such  
21 findings, recommendations and proposals to the Governor as are  
22 necessary and appropriate to enforce this Act. If, as a result  
23 of its monitoring activities, the Commission determines that  
24 its goals and policies are not being met by any State agency or  
25 public institution of higher education, the Commission may

1 recommend any or all of the following actions:

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

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

26 (i) assurances of stronger and better focused



1 solicitation efforts to obtain more businesses owned  
2 by minorities, women, and persons with disabilities as  
3 potential sources of supply;

4 (ii) division of job or project requirements, when  
5 economically feasible, into tasks or quantities to  
6 permit participation of businesses owned by  
7 minorities, women, and persons with disabilities;

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

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

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

21 (2) State agencies and public institutions of higher  
22 education shall monitor a vendor's compliance with its  
23 utilization plan and the terms of its contract. Without  
24 limitation, a vendor's failure to comply with its contractual  
25 commitments as contained in the utilization plan; failure to  
26 cooperate in providing information regarding its compliance

1 with its utilization plan; or the provision of false or  
2 misleading information or statements concerning compliance,  
3 certification status, or eligibility of the Business  
4 Enterprise Program-certified vendor, good faith efforts, or  
5 any other material fact or representation shall constitute a  
6 material breach of the contract and entitle the State agency  
7 or public institution of higher education to declare a  
8 default, terminate the contract, or exercise those remedies  
9 provided for in the contract, at law, or in equity.

10 (3) Prior to the expiration or termination of a contract,  
11 State agencies and public institutions of higher education  
12 shall evaluate the contractor's fulfillment of the contract  
13 goals for participation by businesses owned by minorities,  
14 women, and persons with disabilities. The agency or public  
15 institution of higher education shall prepare a report of the  
16 vendor's compliance with the contract goals and file it with  
17 the Secretary. If the Secretary determines that the vendor did  
18 not fulfill the contract goals, the vendor shall be in breach  
19 of the contract and may be subject to remedies or sanctions,  
20 unless the vendor can show that it made good faith efforts to  
21 meet the contract goals. Any vendor failing to meet the  
22 contract goals established under this Act shall return all  
23 funds which were allocated for, but not awarded to, black or  
24 African American owned businesses. The vendor shall have 60  
25 days after completion of any project to return such funds.  
26 Such remedies or sanctions for failing to make good faith

1 efforts may include (i) disqualification of the contractor  
2 from doing business with the State for a period of no more than  
3 one year or (ii) cancellation, without any penalty to the  
4 State, of any contract entered into by the vendor. The  
5 Business Enterprise Program shall develop procedures for  
6 determining whether a vendor has made good faith efforts to  
7 meet the contract goals upon the expiration or termination of  
8 a contract.

9 (Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

10 (30 ILCS 575/8f)

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

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

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

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

24 (3) an analysis of the level of overall goal  
25 achievement concerning purchases from minority-owned

1 businesses, women-owned businesses, and businesses owned  
2 by persons with disabilities;

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

7 (5) a summary of the number of contracts awarded to  
8 businesses with annual gross sales of less than  
9 \$1,000,000; of \$1,000,000 or more, but less than  
10 \$5,000,000; of \$5,000,000 or more, but less than  
11 \$10,000,000; and of \$10,000,000 or more;~~;~~

12 (6) the total procurement budget of the State and the  
13 percentage of the State budget spent on procurement; and

14 (7) the amount of revenue procured by black or African  
15 American owned businesses through State contracts.

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