



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2409

Introduced 2/10/2023, by Sen. Rachel Ventura

#### SYNOPSIS AS INTRODUCED:

775 ILCS 5/2-105

from Ch. 68, par. 2-105

Amends the Illinois Human Rights Act. Provides that, when a State agency advertises seeking new employees, it must include advertising that is targeted toward racial and ethnic communities or other individuals that are underrepresented in the agency's workforce. Provides that the agency's advertising must also include advertisements in newspapers or on radio stations whose primary audience is the underrepresented communities and individuals. Provides that an agency with less than 1,000 employees must appoint a Chief Equal Employment Opportunity officer and an agency with 1,000 or more employees must appoint a Deputy Equal Employment Opportunity officer for every office of the agency. Includes other provisions relating to the qualifications, training, and duties of a Chief or Deputy Equal Employment Opportunity officer.

LRB103 28533 DTM 54914 b

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Human Rights Act is amended by  
5 changing Section 2-105 as follows:

6 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

7 Sec. 2-105. Equal Employment Opportunities; Affirmative  
8 Action.

9 (A) Public Contracts. Every party to a public contract and  
10 every eligible bidder shall:

11 (1) Refrain from unlawful discrimination and  
12 discrimination based on citizenship status in employment  
13 and undertake affirmative action to assure equality of  
14 employment opportunity and eliminate the effects of past  
15 discrimination;

16 (2) Comply with the procedures and requirements of the  
17 Department's regulations concerning equal employment  
18 opportunities and affirmative action;

19 (3) Provide such information, with respect to its  
20 employees and applicants for employment, and assistance as  
21 the Department may reasonably request;

22 (4) Have written sexual harassment policies that shall  
23 include, at a minimum, the following information: (i) the

1           illegality of sexual harassment; (ii) the definition of  
2           sexual harassment under State law; (iii) a description of  
3           sexual harassment, utilizing examples; (iv) the vendor's  
4           internal complaint process including penalties; (v) the  
5           legal recourse, investigative, and complaint process  
6           available through the Department and the Commission; (vi)  
7           directions on how to contact the Department and  
8           Commission; and (vii) protection against retaliation as  
9           provided by Sections 6-101 and 6-101.5 of this Act. A copy  
10          of the policies shall be provided to the Department upon  
11          request. Additionally, each bidder who submits a bid or  
12          offer for a State contract under the Illinois Procurement  
13          Code shall have a written copy of the bidder's sexual  
14          harassment policy as required under this paragraph (4). A  
15          copy of the policy shall be provided to the State agency  
16          entering into the contract upon request.

17          The Department, by rule, shall establish a reasonable  
18          opportunity to cure any noncompliance with this subsection by  
19          a bidder prior to the awarding of a contract.

20          (B) State Agencies. Every State executive department,  
21          State agency, board, commission, and instrumentality shall:

22                 (1) Comply with the procedures and requirements of the  
23                 Department's regulations concerning equal employment  
24                 opportunities and affirmative action.

25                 (2) Provide such information and assistance as the  
26                 Department may request.

1           (3) Establish, maintain, and carry out a continuing  
2 affirmative action plan consistent with this Act and the  
3 regulations of the Department designed to promote equal  
4 opportunity for all State residents in every aspect of  
5 agency personnel policy and practice. For purposes of  
6 these affirmative action plans, the race and national  
7 origin categories to be included in the plans are:  
8 American Indian or Alaska Native, Asian, Black or African  
9 American, Hispanic or Latino, Native Hawaiian or Other  
10 Pacific Islander.

11           This plan shall include a current detailed status  
12 report:

13           (a) indicating, by each position in State service,  
14 the number, percentage, and average salary of  
15 individuals employed by race, national origin, sex and  
16 disability, and any other category that the Department  
17 may require by rule;

18           (b) identifying all positions in which the  
19 percentage of the people employed by race, national  
20 origin, sex and disability, and any other category  
21 that the Department may require by rule, is less than  
22 four-fifths of the percentage of each of those  
23 components in the State work force;

24           (c) specifying the goals and methods for  
25 increasing the percentage by race, national origin,  
26 sex, and disability, and any other category that the

1 Department may require by rule, in State positions;

2 (d) indicating progress and problems toward  
3 meeting equal employment opportunity goals, including,  
4 if applicable, but not limited to, Department of  
5 Central Management Services recruitment efforts,  
6 publicity, promotions, and use of options designating  
7 positions by linguistic abilities;

8 (e) establishing a numerical hiring goal for the  
9 employment of qualified persons with disabilities in  
10 the agency as a whole, to be based on the proportion of  
11 people with work disabilities in the Illinois labor  
12 force as reflected in the most recent employment data  
13 made available by the United States Census Bureau.

14 (3.5) When an agency advertises seeking new employees,  
15 the agency must include advertising that is targeted  
16 toward racial and ethnic communities or other individuals  
17 that are underrepresented in the agency's workforce. The  
18 agency's advertising must also include advertisements in  
19 newspapers or on radio stations whose primary audience is  
20 the underrepresented communities and individuals.

21 (4) If the agency has 1000 or more employees, appoint  
22 a full-time Equal Employment Opportunity officer, subject  
23 to the Department's approval, whose duties shall include:

24 (a) Advising the head of the particular State  
25 agency with respect to the preparation of equal  
26 employment opportunity programs, procedures,

1 regulations, reports, and the agency's affirmative  
2 action plan.

3 (b) Evaluating in writing each fiscal year the  
4 sufficiency of the total agency program for equal  
5 employment opportunity and reporting thereon to the  
6 head of the agency with recommendations as to any  
7 improvement or correction in recruiting, hiring or  
8 promotion needed, including remedial or disciplinary  
9 action with respect to managerial or supervisory  
10 employees who have failed to cooperate fully or who  
11 are in violation of the program.

12 (c) Making changes in recruitment, training and  
13 promotion programs and in hiring and promotion  
14 procedures designed to eliminate discriminatory  
15 practices when authorized.

16 (d) Evaluating tests, employment policies,  
17 practices, and qualifications and reporting to the  
18 head of the agency and to the Department any policies,  
19 practices and qualifications that have unequal impact  
20 by race, national origin as required by Department  
21 rule, sex, or disability or any other category that  
22 the Department may require by rule, and to assist in  
23 the recruitment of people in underrepresented  
24 classifications. This function shall be performed in  
25 cooperation with the Department of Central Management  
26 Services.

1           (e) Making any aggrieved employee or applicant for  
2 employment aware of his or her remedies under this  
3 Act.

4           In any meeting, investigation, negotiation,  
5 conference, or other proceeding between a State  
6 employee and an Equal Employment Opportunity officer,  
7 a State employee (1) who is not covered by a collective  
8 bargaining agreement and (2) who is the complaining  
9 party or the subject of such proceeding may be  
10 accompanied, advised and represented by (1) an  
11 attorney licensed to practice law in the State of  
12 Illinois or (2) a representative of an employee  
13 organization whose membership is composed of employees  
14 of the State and of which the employee is a member. A  
15 representative of an employee, other than an attorney,  
16 may observe but may not actively participate, or  
17 advise the State employee during the course of such  
18 meeting, investigation, negotiation, conference, or  
19 other proceeding. Nothing in this Section shall be  
20 construed to permit any person who is not licensed to  
21 practice law in Illinois to deliver any legal services  
22 or otherwise engage in any activities that would  
23 constitute the unauthorized practice of law. Any  
24 representative of an employee who is present with the  
25 consent of the employee, shall not, during or after  
26 termination of the relationship permitted by this

1 Section with the State employee, use or reveal any  
2 information obtained during the course of the meeting,  
3 investigation, negotiation, conference, or other  
4 proceeding without the consent of the complaining  
5 party and any State employee who is the subject of the  
6 proceeding and pursuant to rules and regulations  
7 governing confidentiality of such information as  
8 promulgated by the appropriate State agency.  
9 Intentional or reckless disclosure of information in  
10 violation of these confidentiality requirements shall  
11 constitute a Class B misdemeanor.

12 (4.5) If the agency has fewer than 1,000 employees,  
13 the agency must appoint a Chief Equal Employment  
14 Opportunity officer for every office of the agency, who  
15 shall report directly to the individual in charge of each  
16 office. If the agency has 1,000 or more employees, the  
17 agency must appoint a Deputy Equal Employment Opportunity  
18 officer for every office of the agency, who shall report  
19 directly to the Equal Employment Opportunity officer and  
20 the individual in charge of each office. The Chief or  
21 Deputy Equal Employment Opportunity officer must be  
22 knowledgeable about equal employment law, procedures, and  
23 practices and about diversity issues. The agency must  
24 provide training, assistance, and advice to Chief and  
25 Deputy Equal Employment Opportunity officers. Among other  
26 duties, a Chief or Deputy Equal Employment Opportunity



1 officer must:

2 (a) implement the requirements of paragraph (3.5)  
3 of subsection (A);

4 (b) investigate and, as appropriate, resolve  
5 complaints filed about equal employment opportunity  
6 and diversities issues;

7 (c) coordinate activities with other Equal  
8 Employment Opportunity officers across the agency;

9 (d) monitor all personnel actions adopted by the  
10 office; and

11 (e) attest that the office's procedures are  
12 consistent with this Act and other State and federal  
13 equal employment opportunity laws when hiring,  
14 disciplining, and terminating employees.

15 (5) Establish, maintain, and carry out a continuing  
16 sexual harassment program that shall include the  
17 following:

18 (a) Develop a written sexual harassment policy  
19 that includes at a minimum the following information:  
20 (i) the illegality of sexual harassment; (ii) the  
21 definition of sexual harassment under State law; (iii)  
22 a description of sexual harassment, utilizing  
23 examples; (iv) the agency's internal complaint process  
24 including penalties; (v) the legal recourse,  
25 investigative, and complaint process available through  
26 the Department and the Commission; (vi) directions on

1           how to contact the Department and Commission; and  
2           (vii) protection against retaliation as provided by  
3           Section 6-101 of this Act. The policy shall be  
4           reviewed annually.

5           (b) Post in a prominent and accessible location  
6           and distribute in a manner to assure notice to all  
7           agency employees without exception the agency's sexual  
8           harassment policy. Such documents may meet, but shall  
9           not exceed, the 6th grade literacy level. Distribution  
10          shall be effectuated within 90 days of the effective  
11          date of this amendatory Act of 1992 and shall occur  
12          annually thereafter.

13          (c) Provide training on sexual harassment  
14          prevention and the agency's sexual harassment policy  
15          as a component of all ongoing or new employee training  
16          programs.

17          (6) Notify the Department 30 days before effecting any  
18          layoff. Once notice is given, the following shall occur:

19               (a) No layoff may be effective earlier than 10  
20               working days after notice to the Department, unless an  
21               emergency layoff situation exists.

22               (b) The State executive department, State agency,  
23               board, commission, or instrumentality in which the  
24               layoffs are to occur must notify each employee  
25               targeted for layoff, the employee's union  
26               representative (if applicable), and the State

1 Dislocated Worker Unit at the Department of Commerce  
2 and Economic Opportunity.

3 (c) The State executive department, State agency,  
4 board, commission, or instrumentality in which the  
5 layoffs are to occur must conform to applicable  
6 collective bargaining agreements.

7 (d) The State executive department, State agency,  
8 board, commission, or instrumentality in which the  
9 layoffs are to occur should notify each employee  
10 targeted for layoff that transitional assistance may  
11 be available to him or her under the Economic  
12 Dislocation and Worker Adjustment Assistance Act  
13 administered by the Department of Commerce and  
14 Economic Opportunity. Failure to give such notice  
15 shall not invalidate the layoff or postpone its  
16 effective date.

17 As used in this subsection (B), "disability" shall be  
18 defined in rules promulgated under the Illinois Administrative  
19 Procedure Act.

20 (C) Civil Rights Violations. It is a civil rights  
21 violation for any public contractor or eligible bidder to:

22 (1) fail to comply with the public contractor's or  
23 eligible bidder's duty to refrain from unlawful  
24 discrimination and discrimination based on citizenship  
25 status in employment under subsection (A)(1) of this  
26 Section; or

1           (2) fail to comply with the public contractor's or  
2 eligible bidder's duties of affirmative action under  
3 subsection (A) of this Section, provided however, that the  
4 Department has notified the public contractor or eligible  
5 bidder in writing by certified mail that the public  
6 contractor or eligible bidder may not be in compliance  
7 with affirmative action requirements of subsection (A). A  
8 minimum of 60 days to comply with the requirements shall  
9 be afforded to the public contractor or eligible bidder  
10 before the Department may issue formal notice of  
11 non-compliance.

12       (D) As used in this Section:

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

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

22           (3) "Black or African American" means a person having  
23 origins in any of the black racial groups of Africa.

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

1           (5) "Native Hawaiian or Other Pacific Islander" means  
2           a person having origins in any of the original peoples of  
3           Hawaii, Guam, Samoa, or other Pacific Islands.  
4           (Source: P.A. 102-362, eff. 1-1-22; 102-465, eff. 1-1-22;  
5           102-721, eff. 1-1-23; 102-813, eff. 5-13-22.)