

**SB2229**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB2229**

Introduced 1/13/2016, by Sen. Chris Nybo

**SYNOPSIS AS INTRODUCED:**

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Expands the definitions of "qualified service-disabled veteran-owned small business" and "qualified veteran-owned small business" to include service-disabled veteran-owned and veteran-owned small businesses with a significant business presence in Illinois (currently, this includes only service-disabled veteran-owned and veteran-owned small businesses with their home office in Illinois) and removes the owner residency requirement. Defines "significant business presence".

LRB099 16163 JWD 40489 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning State government.

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

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

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

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

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

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

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

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

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 Department  
18 of Central Management Services' report to the General Assembly  
19 regarding continuation, increases, or decreases of the  
20 percentage goal. The recommendations shall be based upon the  
21 number of businesses that are owned by qualified veterans and  
22 on the continued need to encourage and promote businesses owned  
23 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 States  
4 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in  
5 active duty as defined under 38 U.S.C. Section 101. Service in  
6 the Merchant Marine that constitutes active duty under Section  
7 401 of federal Public Act 95-202 shall also be considered  
8 service in the armed forces for purposes of this Section.

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

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

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

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

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

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

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

13 "Significant business presence" means a business  
14 authorized to do business in Illinois, and that makes a  
15 contribution to the Illinois economy through the payment of  
16 taxes, or the purchase of made-in-Illinois construction,  
17 construction services, non-constructive, technology,  
18 commodities, or products or that has any payroll in Illinois.

19 "Small business" means a business that has annual gross  
20 sales of less than \$75,000,000 as evidenced by the federal  
21 income tax return of the business. A firm with gross sales in  
22 excess of this cap may apply to the Department of Central  
23 Management Services for certification for a particular  
24 contract if the firm can demonstrate that the contract would  
25 have significant impact on SDVOSB or VOSB as suppliers or  
26 subcontractors or in employment of veterans or

1 service-disabled veterans.

2 "State agency" has the same meaning as in Section 2 of the  
3 Business Enterprise for Minorities, Females, and Persons with  
4 Disabilities Act.

5 "Time of hostilities with a foreign country" means any  
6 period of time in the past, present, or future during which a  
7 declaration of war by the United States Congress has been or is  
8 in effect or during which an emergency condition has been or is  
9 in effect that is recognized by the issuance of a Presidential  
10 proclamation or a Presidential executive order and in which the  
11 armed forces expeditionary medal or other campaign service  
12 medals are awarded according to Presidential executive order.

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

24 (f) Certification program. The Illinois Department of  
25 Veterans' Affairs and the Department of Central Management  
26 Services shall work together to devise a certification

1 procedure to assure that businesses taking advantage of this  
2 Section are legitimately classified as qualified  
3 service-disabled veteran-owned small businesses or qualified  
4 veteran-owned small businesses.

5 (g) Penalties.

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

23 (2) Reports of violations. Each State agency shall  
24 report any alleged violation of Section 17-10.3 or  
25 subsection (d) of Section 33E-6 of the Criminal Code of  
26 2012 relating to this Section to the chief procurement



1 officers appointed pursuant to Section 10-20. The chief  
2 procurement officers appointed pursuant to Section 10-20  
3 shall subsequently report all such alleged violations to  
4 the Attorney General, who shall determine whether to bring  
5 a civil action against any person for the violation.

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

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

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

1 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;  
2 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)