



Rep. William Davis

Filed: 4/5/2018

10000HB5120ham002

LRB100 20352 RJF 37877 a

1 AMENDMENT TO HOUSE BILL 5120

2 AMENDMENT NO. _____. Amend House Bill 5120 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Comptroller Act is amended by
5 changing Section 23.9 as follows:

6 (15 ILCS 405/23.9)

7 Sec. 23.9. Minority Contractor Opportunity Initiative. The
8 State Comptroller Minority Contractor Opportunity Initiative
9 is created to provide greater opportunities for minority-owned
10 businesses, women-owned businesses, businesses owned by
11 persons with disabilities, and small businesses with 20 or
12 fewer employees in this State to participate in the State
13 procurement process. The initiative shall be administered by
14 the Comptroller. Under this initiative, the Comptroller is
15 responsible for the following: (i) outreach to minority-owned
16 businesses, women-owned businesses, businesses owned by

1 persons with disabilities, and small businesses capable of
2 providing services to the State; (ii) education of
3 minority-owned businesses, women-owned businesses, businesses
4 owned by persons with disabilities, and small businesses
5 concerning State contracting and procurement; (iii)
6 notification of minority-owned businesses, women-owned
7 businesses, businesses owned by persons with disabilities, and
8 small businesses of State contracting opportunities; and (iv)
9 maintenance of an online database of State contracts that
10 identifies the contracts awarded to minority-owned businesses,
11 women-owned businesses, businesses owned by persons with
12 disabilities, and small businesses that includes the total
13 amount paid by State agencies to contractors and the percentage
14 paid to minority-owned businesses, women-owned businesses,
15 businesses owned by persons with disabilities, and small
16 businesses.

17 The ~~Comptroller shall work with the~~ Business Enterprise
18 Council created under Section 5 of the Business Enterprise for
19 Minorities, Women, and Persons with Disabilities Act shall
20 provide the Comptroller with names, Federal Employer
21 Identification Numbers, and designations of Business
22 Enterprise Program certified vendors to fulfill the
23 Comptroller's responsibilities under this Section, including,
24 but not limited to, . ~~The Comptroller may rely on the Business~~
25 ~~Enterprise Council's~~ identification of minority-owned
26 businesses, women-owned businesses, and businesses owned by

1 persons with disabilities.

2 The Comptroller shall annually prepare and submit a report
3 to the Governor and the General Assembly concerning the
4 progress of this initiative including the following
5 information for the preceding fiscal ~~calendar~~ year: (i) a
6 statement of the total amounts paid by each executive branch
7 agency to contractors since the previous report; (ii) the
8 percentage of the amounts that were paid to minority-owned
9 businesses, women-owned businesses, businesses owned by
10 persons with disabilities, and small businesses; (iii) the
11 successes achieved and the challenges faced by the Comptroller
12 in operating outreach programs for minorities, women, persons
13 with disabilities, and small businesses; (iv) the challenges
14 each executive branch agency may face in hiring qualified
15 minority, woman, and small business employees and employees
16 with disabilities and contracting with qualified
17 minority-owned businesses, women-owned businesses, businesses
18 owned by persons with disabilities, and small businesses; and
19 (v) ~~(iv)~~ any other information, findings, conclusions, and
20 recommendations for legislative or agency action, as the
21 Comptroller deems appropriate.

22 On and after the effective date of this amendatory Act of
23 the 97th General Assembly, any bidder or offeror awarded a
24 contract of \$1,000 or more under Section 20-10, 20-15, 20-25,
25 or 20-30 of the Illinois Procurement Code is required to pay a
26 fee of \$15 to cover expenses related to the administration of

1 this Section. The Comptroller shall deduct the fee from the
2 first check issued to the vendor under the contract and deposit
3 the fee into the Comptroller's Administrative Fund. Contracts
4 administered for statewide orders placed by agencies (commonly
5 referred to as "statewide master contracts") are exempt from
6 this fee.

7 Each Chief Procurement Officer shall provide to the
8 Comptroller information necessary to fulfill the Comptroller's
9 responsibilities under this Section, including, but not
10 limited to, identification of small businesses.

11 (Source: P.A. 99-143, eff. 7-27-15; 100-391, eff. 8-25-17.)

12 Section 10. The Business Enterprise for Minorities, Women,
13 and Persons with Disabilities Act is amended by changing
14 Sections 3 and 5 as follows:

15 (30 ILCS 575/3) (from Ch. 127, par. 132.603)

16 (Section scheduled to be repealed on June 30, 2020)

17 Sec. 3. Implementation and applicability. This Act shall be
18 applied to all State agencies and public institutions of higher
19 education. State constitutional officers shall establish
20 aspirational goals for contract awards substantially in
21 accordance with the requirements of subsection (a) of Section 4
22 and subsection (1) of Section 4f of this Act, unless otherwise
23 governed by other law. No State constitutional officer shall be
24 subject to the jurisdiction of another State constitutional

1 officer, or any agency that reports to another State
2 constitutional officer, including the Business Enterprise
3 Council established under this Act, with regard to steps taken
4 to achieve aspirational goals. Constitutional officers shall
5 annually post their utilization of businesses owned by
6 minorities, women, and persons with disabilities during the
7 preceding fiscal year on their Internet websites.

8 (Source: P.A. 99-462, eff. 8-25-15.)

9 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

10 (Section scheduled to be repealed on June 30, 2020)

11 Sec. 5. Business Enterprise Council.

12 (1) To help implement, monitor and enforce the goals of
13 this Act, there is created the Business Enterprise Council for
14 Minorities, Women, and Persons with Disabilities, hereinafter
15 referred to as the Council, composed of the Secretary of Human
16 Services and the Directors of the Department of Human Rights,
17 the Department of Commerce and Economic Opportunity, the
18 Department of Central Management Services, the Department of
19 Transportation and the Capital Development Board, or their duly
20 appointed representatives, with the Comptroller, or his or her
21 designee, serving as an advisory member of the Council. Ten
22 individuals representing businesses that are minority-owned or
23 women-owned or owned by persons with disabilities, 2
24 individuals representing the business community, and a
25 representative of public institutions of higher education

1 shall be appointed by the Governor. These members shall serve 2
2 year terms and shall be eligible for reappointment. Any vacancy
3 occurring on the Council shall also be filled by the Governor.
4 Any member appointed to fill a vacancy occurring prior to the
5 expiration of the term for which his predecessor was appointed
6 shall be appointed for the remainder of such term. Members of
7 the Council shall serve without compensation but shall be
8 reimbursed for any ordinary and necessary expenses incurred in
9 the performance of their duties.

10 The Director of the Department of Central Management
11 Services shall serve as the Council chairperson and shall
12 select, subject to approval of the council, a Secretary
13 responsible for the operation of the program who shall serve as
14 the Division Manager of the Business Enterprise for Minorities,
15 Women, and Persons with Disabilities Division of the Department
16 of Central Management Services.

17 The Director of each State agency and the chief executive
18 officer of each public institutions of higher education shall
19 appoint a liaison to the Council. The liaison shall be
20 responsible for submitting to the Council any reports and
21 documents necessary under this Act.

22 (2) The Council's authority and responsibility shall be to:

23 (a) Devise a certification procedure to assure that
24 businesses taking advantage of this Act are legitimately
25 classified as businesses owned by minorities, women, or
26 persons with disabilities.

1 (b) Maintain a list of all businesses legitimately
2 classified as businesses owned by minorities, women, or
3 persons with disabilities to provide to State agencies and
4 public institutions of higher education.

5 (c) Review rules and regulations for the
6 implementation of the program for businesses owned by
7 minorities, women, and persons with disabilities.

8 (d) Review compliance plans submitted by each State
9 agency and public institutions of higher education
10 pursuant to this Act.

11 (e) Make annual reports as provided in Section 8f to
12 the Governor and the General Assembly on the status of the
13 program.

14 (f) Serve as a central clearinghouse for information on
15 State contracts, including the maintenance of a list of all
16 pending State contracts upon which businesses owned by
17 minorities, women, and persons with disabilities may bid.
18 At the Council's discretion, maintenance of the list may
19 include 24-hour electronic access to the list along with
20 the bid and application information.

21 (g) Establish a toll free telephone number to
22 facilitate information requests concerning the
23 certification process and pending contracts.

24 (3) No premium bond rate of a surety company for a bond
25 required of a business owned by a minority, woman, or person
26 with a disability bidding for a State contract shall be higher

1 than the lowest rate charged by that surety company for a
2 similar bond in the same classification of work that would be
3 written for a business not owned by a minority, woman, or
4 person with a disability.

5 (4) Any Council member who has direct financial or personal
6 interest in any measure pending before the Council shall
7 disclose this fact to the Council and refrain from
8 participating in the determination upon such measure.

9 (5) The Secretary shall have the following duties and
10 responsibilities:

11 (a) To be responsible for the day-to-day operation of
12 the Council.

13 (b) To serve as a coordinator for all of the State's
14 programs for businesses owned by minorities, women, and
15 persons with disabilities and as the information and
16 referral center for all State initiatives for businesses
17 owned by minorities, women, and persons with disabilities.

18 (c) To establish an enforcement procedure whereby the
19 Council may recommend to the appropriate State legal
20 officer that the State exercise its legal remedies which
21 shall include (1) termination of the contract involved, (2)
22 prohibition of participation by the respondent in public
23 contracts for a period not to exceed 3 years, (3)
24 imposition of a penalty not to exceed any profit acquired
25 as a result of violation, or (4) any combination thereof.
26 Such procedures shall require prior approval by Council.

1 (d) To devise appropriate policies, regulations and
2 procedures for including participation by businesses owned
3 by minorities, women, and persons with disabilities as
4 prime contractors including, but not limited to, (i)
5 encouraging the inclusions of qualified businesses owned
6 by minorities, women, and persons with disabilities on
7 solicitation lists, (ii) investigating the potential of
8 blanket bonding programs for small construction jobs,
9 (iii) investigating and making recommendations concerning
10 the use of the sheltered market process.

11 (e) To devise procedures for the waiver of the
12 participation goals in appropriate circumstances.

13 (f) To accept donations and, with the approval of the
14 Council or the Director of Central Management Services,
15 grants related to the purposes of this Act; to conduct
16 seminars related to the purpose of this Act and to charge
17 reasonable registration fees; and to sell directories,
18 vendor lists and other such information to interested
19 parties, except that forms necessary to become eligible for
20 the program shall be provided free of charge to a business
21 or individual applying for the program.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."