



Sen. Toi W. Hutchinson

Filed: 4/9/2018

10000SB0405sam001

LRB100 04975 RJF 37315 a

1 AMENDMENT TO SENATE BILL 405

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 405 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by  
5 adding Section 50-80 as follows:

6 (30 ILCS 500/50-80 new)

7 Sec. 50-80. Sexual harassment policy. Each bid or offer  
8 submitted for a State contract under this Code shall include a  
9 written copy of the bidder's sexual harassment policy in  
10 accordance with paragraph (4) of subsection (A) of Section  
11 2-105 of the Illinois Human Rights Act.

12 Section 10. The Economic Development for a Growing Economy  
13 Tax Credit Act is amended by changing Section 5-20 and by  
14 adding Section 5-58 as follows:

1 (35 ILCS 10/5-20)

2 Sec. 5-20. Application for a project to create and retain  
3 new jobs.

4 (a) Any Taxpayer proposing a project located or planned to  
5 be located in Illinois may request consideration for  
6 designation of its project, by formal written letter of request  
7 or by formal application to the Department, in which the  
8 Applicant states its intent to make at least a specified level  
9 of investment and intends to hire or retain a specified number  
10 of full-time employees at a designated location in Illinois. As  
11 circumstances require, the Department may require a formal  
12 application from an Applicant and a formal letter of request  
13 for assistance.

14 (b) In order to qualify for Credits under this Act, an  
15 Applicant's project must:

16 (1) if the Applicant has more than 100 employees,  
17 involve an investment of at least \$2,500,000 in capital  
18 improvements to be placed in service within the State as a  
19 direct result of the project; if the Applicant has 100 or  
20 fewer employees, then there is no capital investment  
21 requirement; ~~and~~

22 (1.5) if the Applicant has more than 100 employees,  
23 employ a number of new employees in the State equal to the  
24 lesser of (A) 10% of the number of full-time employees  
25 employed by the applicant world-wide on the date the  
26 application is filed with the Department or (B) 50 New

1 Employees; and, if the Applicant has 100 or fewer  
2 employees, employ a number of new employees in the State  
3 equal to the lesser of (A) 5% of the number of full-time  
4 employees employed by the applicant world-wide on the date  
5 the application is filed with the Department or (B) 50 New  
6 Employees; and

7 (2) (blank);

8 (3) (blank); ~~and~~

9 (4) include an annual sexual harassment policy report  
10 as provided under Section 5-58.

11 (c) After receipt of an application, the Department may  
12 enter into an Agreement with the Applicant if the application  
13 is accepted in accordance with Section 5-25.

14 (Source: P.A. 100-511, eff. 9-18-17.)

15 (35 ILCS 10/5-58 new)

16 Sec. 5-58. Sexual harassment policy report. Each taxpayer  
17 claiming a credit under this Act shall, no later than April 15  
18 of each taxable year for which the taxpayer claims a credit  
19 under this Act, submit to the Department of Commerce and  
20 Economic Opportunity a report detailing that taxpayer's sexual  
21 harassment policy, which contains, at a minimum, the following  
22 information: (i) the illegality of sexual harassment; (ii) the  
23 definition of sexual harassment under State law; (iii) a  
24 description of sexual harassment, utilizing examples; (iv) the  
25 vendor's internal complaint process, including penalties; (v)

1 the legal recourse, and investigative and complaint processes  
2 available through the Department; (vi) directions on how to  
3 contact the Department; and (vii) protection against  
4 retaliation as provided by Section 6-101 of the Illinois Human  
5 Rights Act. A copy of the policy shall be provided to the  
6 Department upon request. The reports required under this  
7 Section shall be submitted in a form and manner determined by  
8 the Department of Commerce and Economic Opportunity.

9 Section 15. The Illinois Human Rights Act is amended by  
10 changing Section 2-105 as follows:

11 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

12 Sec. 2-105. Equal Employment Opportunities; Affirmative  
13 Action.

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

16 (1) Refrain from unlawful discrimination and  
17 discrimination based on citizenship status in employment  
18 and undertake affirmative action to assure equality of  
19 employment opportunity and eliminate the effects of past  
20 discrimination;

21 (2) Comply with the procedures and requirements of the  
22 Department's regulations concerning equal employment  
23 opportunities and affirmative action;

24 (3) Provide such information, with respect to its

1 employees and applicants for employment, and assistance as  
2 the Department may reasonably request;

3 (4) Have written sexual harassment policies that shall  
4 include, at a minimum, the following information: (i) the  
5 illegality of sexual harassment; (ii) the definition of  
6 sexual harassment under State law; (iii) a description of  
7 sexual harassment, utilizing examples; (iv) the vendor's  
8 internal complaint process including penalties; (v) the  
9 legal recourse, investigative and complaint process  
10 available through the Department and the Commission; (vi)  
11 directions on how to contact the Department and Commission;  
12 and (vii) protection against retaliation as provided by  
13 Section 6-101 of this Act. A copy of the policies shall be  
14 provided to the Department upon request. Additionally,  
15 each bid or offer submitted for a State contract under the  
16 Illinois Procurement Code shall include a written copy of  
17 the bidder's sexual harassment policy as required under  
18 this paragraph (4).

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

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

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

26 (3) Establish, maintain, and carry out a continuing

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

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

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

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

23 (c) specifying the goals and methods for  
24 increasing the percentage by race, national origin,  
25 sex and disability, and any other category that the  
26 Department may require by rule, in State positions;

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

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

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

16           (a) Advising the head of the particular State  
17 agency with respect to the preparation of equal  
18 employment opportunity programs, procedures,  
19 regulations, reports, and the agency's affirmative  
20 action plan.

21           (b) Evaluating in writing each fiscal year the  
22 sufficiency of the total agency program for equal  
23 employment opportunity and reporting thereon to the  
24 head of the agency with recommendations as to any  
25 improvement or correction in recruiting, hiring or  
26 promotion needed, including remedial or disciplinary

1           action with respect to managerial or supervisory  
2           employees who have failed to cooperate fully or who are  
3           in violation of the program.

4           (c) Making changes in recruitment, training and  
5           promotion programs and in hiring and promotion  
6           procedures designed to eliminate discriminatory  
7           practices when authorized.

8           (d) Evaluating tests, employment policies,  
9           practices and qualifications and reporting to the head  
10          of the agency and to the Department any policies,  
11          practices and qualifications that have unequal impact  
12          by race, national origin as required by Department  
13          rule, sex or disability or any other category that the  
14          Department may require by rule, and to assist in the  
15          recruitment of people in underrepresented  
16          classifications. This function shall be performed in  
17          cooperation with the State Department of Central  
18          Management Services.

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

21          In any meeting, investigation, negotiation,  
22          conference, or other proceeding between a State  
23          employee and an Equal Employment Opportunity officer,  
24          a State employee (1) who is not covered by a collective  
25          bargaining agreement and (2) who is the complaining  
26          party or the subject of such proceeding may be



1 accompanied, advised and represented by (1) an  
2 attorney licensed to practice law in the State of  
3 Illinois or (2) a representative of an employee  
4 organization whose membership is composed of employees  
5 of the State and of which the employee is a member. A  
6 representative of an employee, other than an attorney,  
7 may observe but may not actively participate, or advise  
8 the State employee during the course of such meeting,  
9 investigation, negotiation, conference or other  
10 proceeding. Nothing in this Section shall be construed  
11 to permit any person who is not licensed to practice  
12 law in Illinois to deliver any legal services or  
13 otherwise engage in any activities that would  
14 constitute the unauthorized practice of law. Any  
15 representative of an employee who is present with the  
16 consent of the employee, shall not, during or after  
17 termination of the relationship permitted by this  
18 Section with the State employee, use or reveal any  
19 information obtained during the course of the meeting,  
20 investigation, negotiation, conference or other  
21 proceeding without the consent of the complaining  
22 party and any State employee who is the subject of the  
23 proceeding and pursuant to rules and regulations  
24 governing confidentiality of such information as  
25 promulgated by the appropriate State agency.  
26 Intentional or reckless disclosure of information in

1 violation of these confidentiality requirements shall  
2 constitute a Class B misdemeanor.

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

6 (a) Develop a written sexual harassment policy  
7 that includes at a minimum the following information:

8 (i) the illegality of sexual harassment; (ii) the  
9 definition of sexual harassment under State law; (iii)  
10 a description of sexual harassment, utilizing  
11 examples; (iv) the agency's internal complaint process  
12 including penalties; (v) the legal recourse,  
13 investigative and complaint process available through  
14 the Department and the Commission; (vi) directions on  
15 how to contact the Department and Commission; and (vii)  
16 protection against retaliation as provided by Section  
17 6-101 of this Act. The policy shall be reviewed  
18 annually.

19 (b) Post in a prominent and accessible location and  
20 distribute in a manner to assure notice to all agency  
21 employees without exception the agency's sexual  
22 harassment policy. Such documents may meet, but shall  
23 not exceed, the 6th grade literacy level. Distribution  
24 shall be effectuated within 90 days of the effective  
25 date of this amendatory Act of 1992 and shall occur  
26 annually thereafter.

1           (c) Provide training on sexual harassment  
2 prevention and the agency's sexual harassment policy  
3 as a component of all ongoing or new employee training  
4 programs.

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

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

10           (b) The State executive department, State agency,  
11 board, commission, or instrumentality in which the  
12 layoffs are to occur must notify each employee targeted  
13 for layoff, the employee's union representative (if  
14 applicable), and the State Dislocated Worker Unit at  
15 the Department of Commerce and Economic Opportunity.

16           (c) The State executive department, State agency,  
17 board, commission, or instrumentality in which the  
18 layoffs are to occur must conform to applicable  
19 collective bargaining agreements.

20           (d) The State executive department, State agency,  
21 board, commission, or instrumentality in which the  
22 layoffs are to occur should notify each employee  
23 targeted for layoff that transitional assistance may  
24 be available to him or her under the Economic  
25 Dislocation and Worker Adjustment Assistance Act  
26 administered by the Department of Commerce and

1 Economic Opportunity. Failure to give such notice  
2 shall not invalidate the layoff or postpone its  
3 effective date.

4 As used in this subsection (B), "disability" shall be  
5 defined in rules promulgated under the Illinois Administrative  
6 Procedure Act.

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

9 (1) fail to comply with the public contractor's or  
10 eligible bidder's duty to refrain from unlawful  
11 discrimination and discrimination based on citizenship  
12 status in employment under subsection (A)(1) of this  
13 Section; or

14 (2) fail to comply with the public contractor's or  
15 eligible bidder's duties of affirmative action under  
16 subsection (A) of this Section, provided however, that the  
17 Department has notified the public contractor or eligible  
18 bidder in writing by certified mail that the public  
19 contractor or eligible bidder may not be in compliance with  
20 affirmative action requirements of subsection (A). A  
21 minimum of 60 days to comply with the requirements shall be  
22 afforded to the public contractor or eligible bidder before  
23 the Department may issue formal notice of non-compliance.

24 (D) As used in this Section:

25 (1) "American Indian or Alaska Native" means a person  
26 having origins in any of the original peoples of North and

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

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

8 (3) "Black or African American" means a person having  
9 origins in any of the black racial groups of Africa. Terms  
10 such as "Haitian" or "Negro" can be used in addition to  
11 "Black or African American".

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

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

18 (Source: P.A. 99-933, eff. 1-27-17.)".