



Rep. Maurice A. West, II

Filed: 3/19/2019

10100HB0142ham001

LRB101 02983 RJF 56745 a

1 AMENDMENT TO HOUSE BILL 142

2 AMENDMENT NO. _____. Amend House Bill 142 by replacing
3 everything after the enacting clause with the following:

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

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2020)

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

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

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

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

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

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

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

22 (2.05) "Person with a disability" means a person who is
23 a citizen or lawful resident of the United States and is a
24 person qualifying as a person with a disability under
25 subdivision (2.1) of this subsection (A).

26 (2.1) "Person with a disability" means a person with a

1 severe physical or mental disability that:

2 (a) results from:

3 amputation,

4 arthritis,

5 autism,

6 blindness,

7 burn injury,

8 cancer,

9 cerebral palsy,

10 Crohn's disease,

11 cystic fibrosis,

12 deafness,

13 head injury,

14 heart disease,

15 hemiplegia,

16 hemophilia,

17 respiratory or pulmonary dysfunction,

18 an intellectual disability,

19 mental illness,

20 multiple sclerosis,

21 muscular dystrophy,

22 musculoskeletal disorders,

23 neurological disorders, including stroke and

24 epilepsy,

25 paraplegia,

26 quadriplegia and other spinal cord conditions,

1 sickle cell anemia,
2 ulcerative colitis,
3 specific learning disabilities, or
4 end stage renal failure disease; and

5 (b) substantially limits one or more of the
6 person's major life activities.

7 Another disability or combination of disabilities may
8 also be considered as a severe disability for the purposes
9 of item (a) of this subdivision (2.1) if it is determined
10 by an evaluation of rehabilitation potential to cause a
11 comparable degree of substantial functional limitation
12 similar to the specific list of disabilities listed in item
13 (a) of this subdivision (2.1).

14 (3) "Minority-owned business" means a business which
15 is at least 51% owned by one or more minority persons, or
16 in the case of a corporation, at least 51% of the stock in
17 which is owned by one or more minority persons; and the
18 management and daily business operations of which are
19 controlled by one or more of the minority individuals who
20 own it.

21 (4) "Women-owned business" means a business which is at
22 least 51% owned by one or more women, or, in the case of a
23 corporation, at least 51% of the stock in which is owned by
24 one or more women; and the management and daily business
25 operations of which are controlled by one or more of the
26 women who own it.

1 (4.1) "Business owned by a person with a disability"
2 means a business that is at least 51% owned by one or more
3 persons with a disability and the management and daily
4 business operations of which are controlled by one or more
5 of the persons with disabilities who own it. A
6 not-for-profit agency for persons with disabilities that
7 is exempt from taxation under Section 501 of the Internal
8 Revenue Code of 1986 is also considered a "business owned
9 by a person with a disability".

10 (4.2) "Council" means the Business Enterprise Council
11 for Minorities, Women, and Persons with Disabilities
12 created under Section 5 of this Act.

13 (5) "State contracts" means all contracts entered into
14 by the State, any agency or department thereof, or any
15 public institution of higher education,~~including~~
16 ~~community college districts~~, regardless of the source of
17 the funds with which the contracts are paid, which are not
18 subject to federal reimbursement. "State contracts" does
19 not include contracts awarded by a retirement system,
20 pension fund, or investment board subject to Section
21 1-109.1 of the Illinois Pension Code. This definition shall
22 control over any existing definition under this Act or
23 applicable administrative rule.

24 "State construction contracts" means all State
25 contracts entered into by a State agency or public
26 institution of higher education for the repair,

1 remodeling, renovation or construction of a building or
2 structure, or for the construction or maintenance of a
3 highway defined in Article 2 of the Illinois Highway Code.

4 (6) "State agencies" shall mean all departments,
5 officers, boards, commissions, institutions and bodies
6 politic and corporate of the State, but does not include
7 the Board of Trustees of the University of Illinois, the
8 Board of Trustees of Southern Illinois University, the
9 Board of Trustees of Chicago State University, the Board of
10 Trustees of Eastern Illinois University, the Board of
11 Trustees of Governors State University, the Board of
12 Trustees of Illinois State University, the Board of
13 Trustees of Northeastern Illinois University, the Board of
14 Trustees of Northern Illinois University, the Board of
15 Trustees of Western Illinois University, municipalities or
16 other local governmental units, or other State
17 constitutional officers.

18 (7) "Public institutions of higher education" means
19 the University of Illinois, Southern Illinois University,
20 Chicago State University, Eastern Illinois University,
21 Governors State University, Illinois State University,
22 Northeastern Illinois University, Northern Illinois
23 University, Western Illinois University, ~~the public~~
24 ~~community colleges of the State,~~ and any other public
25 universities, ~~colleges, and community colleges~~ now or
26 hereafter established or authorized by the General

1 Assembly.

2 (8) "Certification" means a determination made by the
3 Council or by one delegated authority from the Council to
4 make certifications, or by a State agency with statutory
5 authority to make such a certification, that a business
6 entity is a business owned by a minority, woman, or person
7 with a disability for whatever purpose. A business owned
8 and controlled by women shall be certified as a
9 "woman-owned business". A business owned and controlled by
10 women who are also minorities shall be certified as both a
11 "women-owned business" and a "minority-owned business".

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

1 business and control shall not include simple majority or
2 absentee ownership.

3 (10) "Business" means a business that has annual gross
4 sales of less than \$75,000,000 as evidenced by the federal
5 income tax return of the business. A firm with gross sales
6 in excess of this cap may apply to the Council for
7 certification for a particular contract if the firm can
8 demonstrate that the contract would have significant
9 impact on businesses owned by minorities, women, or persons
10 with disabilities as suppliers or subcontractors or in
11 employment of minorities, women, or persons with
12 disabilities.

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

21 (12) "Business Enterprise Program" means the Business
22 Enterprise Program of the Department of Central Management
23 Services.

24 (B) When a business is owned at least 51% by any
25 combination of minority persons, women, or persons with
26 disabilities, even though none of the 3 classes alone holds at

1 least a 51% interest, the ownership requirement for purposes of
2 this Act is considered to be met. The certification category
3 for the business is that of the class holding the largest
4 ownership interest in the business. If 2 or more classes have
5 equal ownership interests, the certification category shall be
6 determined by the business.

7 (Source: P.A. 99-143, eff. 7-27-15; 99-462, eff. 8-25-15;
8 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

9 (30 ILCS 575/4f)

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

11 Sec. 4f. Award of State contracts.

12 (1) It is hereby declared to be the public policy of the
13 State of Illinois to promote and encourage each State agency
14 and public institution of higher education, including
15 community colleges, to use businesses owned by minorities,
16 women, and persons with disabilities in the area of goods and
17 services, including, but not limited to, insurance services,
18 investment management services, information technology
19 services, accounting services, architectural and engineering
20 services, and legal services. Furthermore, each State agency
21 and public institution of higher education, including
22 community colleges, shall utilize such firms to the greatest
23 extent feasible within the bounds of financial and fiduciary
24 prudence, and take affirmative steps to remove any barriers to
25 the full participation of such firms in the procurement and

1 contracting opportunities afforded.

2 (a) When a State agency or public institution of higher
3 education, other than a community college, awards a
4 contract for insurance services, for each State agency or
5 public institution of higher education, it shall be the
6 aspirational goal to use insurance brokers owned by
7 minorities, women, and persons with disabilities as
8 defined by this Act, for not less than 20% of the total
9 annual premiums or fees.

10 (b) When a State agency or public institution of higher
11 education, other than a community college, awards a
12 contract for investment services, for each State agency or
13 public institution of higher education, it shall be the
14 aspirational goal to use emerging investment managers
15 owned by minorities, women, and persons with disabilities
16 as defined by this Act, for not less than 20% of the total
17 funds under management. Furthermore, it is the
18 aspirational goal that not less than 20% of the direct
19 asset managers of the State funds be minorities, women, and
20 persons with disabilities.

21 (c) When a State agency or public institution of higher
22 education, other than a community college, awards
23 contracts for information technology services, accounting
24 services, architectural and engineering services, and
25 legal services, for each State agency and public
26 institution of higher education, it shall be the

1 aspirational goal to use such firms owned by minorities,
2 women, and persons with disabilities as defined by this Act
3 and lawyers who are minorities, women, and persons with
4 disabilities as defined by this Act, for not less than 20%
5 of the total dollar amount of State contracts.

6 (d) When a community college awards a contract for
7 insurance services, investment services, information
8 technology services, accounting services, architectural
9 and engineering services, and legal services, it shall be
10 the aspirational goal of each community college to use
11 businesses owned by minorities, women, and persons with
12 disabilities as defined in this Act for not less than 20%
13 of the total amount spent on contracts for these services
14 collectively. When a community college awards contracts
15 for investment services, contracts awarded to investment
16 managers who are not emerging investment managers as
17 defined in this Act shall not be considered businesses
18 owned by minorities, women, or persons with disabilities
19 for the purposes of this Section.

20 (e) When a community college awards a contract, it
21 shall be the aspirational goal of each community college to
22 use businesses owned by minorities, women, and persons with
23 disabilities, as defined in this Act, for not less than 20%
24 of the total dollar amount of all contracts entered into by
25 the community college district, regardless of the source of
26 the funds with which the contracts are paid, which are not

1 subject to federal reimbursement.

2 The percentage specified in this subsection (e)
3 relates to the total dollar amount of contracts during each
4 fiscal year, calculated by examining independently each
5 type of contract for each community college which lets such
6 contracts. Only the percentage of arrangements which
7 represents the participation of businesses owned by
8 minorities, women, and persons with disabilities on such
9 contracts shall be included.

10 (f) When a community college awards construction
11 contracts, it shall be the aspirational goal of each
12 community college to use businesses owned by minorities and
13 women, as defined in this Act, for not less than 20% of the
14 total amount of construction contracts entered into by the
15 community college district, regardless of the source of the
16 funds for which the contracts are paid, which are not
17 subject to federal reimbursement. In the case of
18 construction contracts, the provisions of this Act
19 requiring a portion of the contracts awarded to businesses
20 owned and controlled by persons with disabilities do not
21 apply.

22 (2) As used in this Section:

23 "Accounting services" means the measurement,
24 processing and communication of financial information
25 about economic entities including, but is not limited to,
26 financial accounting, management accounting, auditing,

1 cost containment and auditing services, taxation and
2 accounting information systems.

3 "Architectural and engineering services" means
4 professional services of an architectural or engineering
5 nature, or incidental services, that members of the
6 architectural and engineering professions, and individuals
7 in their employ, may logically or justifiably perform,
8 including studies, investigations, surveying and mapping,
9 tests, evaluations, consultations, comprehensive planning,
10 program management, conceptual designs, plans and
11 specifications, value engineering, construction phase
12 services, soils engineering, drawing reviews, preparation
13 of operating and maintenance manuals, and other related
14 services.

15 "Emerging investment manager" means an investment
16 manager or claims consultant having assets under
17 management below \$10 billion or otherwise adjudicating
18 claims.

19 "Information technology services" means, but is not
20 limited to, specialized technology-oriented solutions by
21 combining the processes and functions of software,
22 hardware, networks, telecommunications, web designers,
23 cloud developing resellers, and electronics.

24 "Insurance broker" means an insurance brokerage firm,
25 claims administrator, or both, that procures, places all
26 lines of insurance, or administers claims with annual

1 premiums or fees of at least \$5,000,000 but not more than
2 \$10,000,000.

3 "Legal services" means work performed by a lawyer
4 including, but not limited to, contracts in anticipation of
5 litigation, enforcement actions, or investigations.

6 (3) Each State agency and public institution of higher
7 education, including community colleges, shall adopt policies
8 that identify its plan and implementation procedures for
9 increasing the use of service firms owned by minorities, women,
10 and persons with disabilities.

11 (4) Except as provided in subsection (5), the Council shall
12 file no later than March 1 of each year an annual report to the
13 Governor and the General Assembly. The report filed with the
14 General Assembly shall be filed as required in Section 3.1 of
15 the General Assembly Organization Act. This report shall: (i)
16 identify the service firms used by each State agency and public
17 institution of higher education, (ii) identify the actions it
18 has undertaken to increase the use of service firms owned by
19 minorities, women, and persons with disabilities, including
20 encouraging non-minority-owned firms to use other service
21 firms owned by minorities, women, and persons with disabilities
22 as subcontractors when the opportunities arise, (iii) state any
23 recommendations made by the Council to each State agency and
24 public institution of higher education to increase
25 participation by the use of service firms owned by minorities,
26 women, and persons with disabilities, and (iv) include the

1 following:

2 (A) For insurance services: the names of the insurance
3 brokers or claims consultants used, the total of risk
4 managed by each State agency and public institution of
5 higher education by insurance brokers, the total
6 commissions, fees paid, or both, the lines or insurance
7 policies placed, and the amount of premiums placed; and the
8 percentage of the risk managed by insurance brokers, the
9 percentage of total commission, fees paid, or both, the
10 lines or insurance policies placed, and the amount of
11 premiums placed with each by the insurance brokers owned by
12 minorities, women, and persons with disabilities by each
13 State agency and public institution of higher education.

14 (B) For investment management services: the names of
15 the investment managers used, the total funds under
16 management of investment managers; the total commissions,
17 fees paid, or both; the total and percentage of funds under
18 management of emerging investment managers owned by
19 minorities, women, and persons with disabilities,
20 including the total and percentage of total commissions,
21 fees paid, or both by each State agency and public
22 institution of higher education.

23 (C) The names of service firms, the percentage and
24 total dollar amount paid for professional services by
25 category by each State agency and public institution of
26 higher education.

1 (D) The names of service firms, the percentage and
2 total dollar amount paid for services by category to firms
3 owned by minorities, women, and persons with disabilities
4 by each State agency and public institution of higher
5 education.

6 (E) The total number of contracts awarded for services
7 by category and the total number of contracts awarded to
8 firms owned by minorities, women, and persons with
9 disabilities by each State agency and public institution of
10 higher education.

11 (5) For community college districts, the Business
12 Enterprise Council shall only report the following information
13 for each community college district: (i) the name of the
14 community colleges in the district, (ii) the name and contact
15 information of a person at each community college appointed to
16 be the single point of contact for vendors owned by minorities,
17 women, or persons with disabilities, (iii) the policy of the
18 community college district concerning certified vendors, (iv)
19 the certifications recognized by the community college
20 district for determining whether a business is owned or
21 controlled by a minority, woman, or person with a disability,
22 (v) outreach efforts conducted by the community college
23 district to increase the use of certified vendors, (vi) the
24 total expenditures by the community college district in the
25 prior fiscal year in the divisions of work specified in
26 paragraphs (a), (b), and (c) of subsection (1) of this Section

1 and the amount paid to certified vendors in those divisions of
2 work, ~~and~~ (vii) the total number of contracts entered into for
3 the divisions of work specified in paragraphs (a), (b), and (c)
4 of subsection (1) of this Section and the total number of
5 contracts awarded to certified vendors providing these
6 services to the community college district, (viii) the total
7 expenditures and the total number of contracts entered into by
8 the community college district in the prior fiscal year as
9 specified in paragraph (e) of subsection (1), and the amount
10 paid to certified vendors and the total number of contracts
11 awarded to vendors, and (ix) the total expenditures and the
12 total number of contracts entered into by the community college
13 district in the prior fiscal years as specified under paragraph
14 (f) of subsection (1), and the amount paid to certified vendors
15 and the total number of contracts awarded to certified vendors.

16 The Business Enterprise Council shall not make any utilization
17 reports under this Act for community college districts for
18 Fiscal Year 2015 and Fiscal Year 2016, but shall make the
19 report required by this subsection for Fiscal Year 2017 and for
20 each fiscal year thereafter. The Business Enterprise Council
21 shall report the information in items (i), (ii), (iii), and
22 (iv) of this subsection beginning in September of 2016. The
23 Business Enterprise Council shall ~~may~~ collect the data needed
24 to make its report from the Illinois Community College Board.

25 (6) The status of the utilization of services shall be
26 discussed at each of the regularly scheduled Business

1 Enterprise Council meetings. Time shall be allotted for the
2 Council to receive, review, and discuss the progress of the use
3 of service firms owned by minorities, women, and persons with
4 disabilities by each State agency and public institution of
5 higher education; and any evidence regarding past or present
6 racial, ethnic, or gender-based discrimination which directly
7 impacts a State agency or public institution of higher
8 education contracting with such firms. If after reviewing such
9 evidence the Council finds that there is or has been such
10 discrimination against a specific group, race or sex, the
11 Council shall establish sheltered markets or adjust existing
12 sheltered markets tailored to address the Council's specific
13 findings for the divisions of work specified in paragraphs (a),
14 (b), and (c) of subsection (1) of this Section.

15 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16;
16 100-391, eff. 8-25-17.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."