



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5875

by Rep. Debbie Meyers-Martin

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Commission on Fair Practices in Procurement and Contracting Act. Establishes the Commission on Fair Practices in Procurement and Contracting. Provides for the purpose and functions of the Commission. Provides for the membership of the Commission and related requirements. Provides that the Department of Central Management Services shall assist the Commission and provide administrative support to the Commission. Provides meeting requirements for the Commission. Provides for the adoption of rules. Defines terms. Provides legislative findings. Effective immediately.

LRB101 23276 RJF 74425 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 1. Short title. This Act may be cited as the  
5 Commission on Fair Practices in Procurement and Contracting  
6 Act.

7 Section 5. Legislative findings.

8 (1) It is the public policy of the State of Illinois  
9 that businesses owned by minorities, women, and persons  
10 with disabilities should participate equitably and  
11 contract with the State through its procurement processes.

12 (2) The Business Enterprise Program, which exists to  
13 foster an inclusive and competitive business environment,  
14 commissioned a Disparity and Availability Study in 2015  
15 which found that disparities still significantly exist  
16 between the availability and utilization of Business  
17 Enterprise Program certified businesses compared to  
18 non-Business Enterprise Program certified owned  
19 businesses.

20 (3) The 2015 Disparity and Availability Study and  
21 Business Enterprise Program's most recent annual reports  
22 still identify significant ongoing disparities between the  
23 4 participating classes of Business Enterprise Program

1 business owners as well as between all Business Enterprise  
2 Program certified companies in comparison to white male  
3 majority owned businesses awarded State contracts.

4 (4) Recent research and policy recommendations from  
5 State task forces and other studies reveal there is more  
6 work that must be done to increase access and equity in  
7 State procurement and contracting in Illinois.

8 (5) Ongoing commitment to reviewing and correcting of  
9 exclusive contracting patterns is necessary to not only  
10 encourage but also facilitate full participation by  
11 business owners of diverse backgrounds that have  
12 historically faced unique barriers to entry and corporate  
13 growth in our economy.

14 (6) Therefore, there exists an urgent and substantial  
15 need for the establishment of a legislatively authorized  
16 body to monitor, analyze, formulate policy  
17 recommendations, and produce reports on the State of  
18 Illinois' progress in the implementation of fair practices  
19 in procurement and contracting statewide.

20 Section 10. Definitions. As used in this Act:

21 "Commission" means the Commission on Fair Practices in  
22 Procurement and Contracting created under this Act.

23 "Department" means the Department of Central Management  
24 Services.

25 "Disparity Study" means the State of Illinois 2015

1 Disparity and Availability Study.

2 "Program" means the Business Enterprise Program for  
3 Minorities, Women, and Persons with Disabilities created under  
4 the Business Enterprise for Minorities, Women, and Persons with  
5 Disabilities Act.

6 "State agency" means any agency under the jurisdiction of  
7 the Governor whose procurement contracting is regulated by the  
8 Chief Procurement Officer for General Services.

9 "State contract" or "State contracts" has the same meaning  
10 provided under Section 2 of the Business Enterprise for  
11 Minorities, Women, and Persons with Disabilities Act.

12 Section 15. Commission on Fair Practices in Procurement and  
13 Contracting.

14 (a) Pursuant to the promotion of economic equity through  
15 increased access and participation in the State of Illinois  
16 procurement and contracting processes, there is hereby created  
17 a permanent Commission on Fair Practices in Procurement and  
18 Contracting.

19 (b) The purpose of the Commission is the ongoing study of  
20 Program certified businesses and their participation in State  
21 procurement, contracting, and as awardees. The Commission  
22 shall be an advisory body that will not make binding  
23 recommendations or determinations.

24 (c) The Commission shall perform the following functions:

25 (1) issue regularly proposed solutions to systemic

1 causes limiting Program certified business participation  
2 in State procurements;

3 (2) review on a quarterly basis State agency  
4 performance as it relates to Program certified businesses  
5 to increase transparency surrounding State agency  
6 compliance. Report results are to be made available to  
7 Program certified businesses and the public at-large;

8 (3) review State agency performance and issue  
9 recommendations as warranted on the eradication of  
10 historic disparities and barriers to State procurement,  
11 awarding of State contracts, and receipt of State funds by  
12 Program certified businesses;

13 (4) receive from each State agency a plan, including  
14 goals on how to eradicate historic disparities and barriers  
15 that prevent fairness, access, equality, and parity for  
16 Program certified businesses, and review and provide  
17 recommendations to State agencies on such plans;

18 (5) recommend performance incentives for State  
19 agencies that meet or exceed their planned goals and  
20 publish, at least annually, a list of those State agencies  
21 that fail to meet their planned goals;

22 (6) conduct meetings and accept public comment from  
23 representatives of Program certified businesses on their  
24 interaction with State agencies and experiences in seeking  
25 to overcome historic barriers to participation in State  
26 procurement and contracting, and issue recommendations to

1 State agencies based on such comments and other  
2 information;

3 (7) conduct inquiries of State agencies to identify and  
4 evaluate existing administrative, operational, and  
5 personnel policies and procedures as they relate to Program  
6 certified and non-Program certified owned business  
7 participation in State procurements; and

8 (8) issue annually 3 separate reports (one each for  
9 minority-owned businesses, women-owned businesses, and  
10 businesses owned by persons with a disability) to the  
11 Governor and the General Assembly, which shall include data  
12 and recommendations on disparities between utilization  
13 ratios within Program certified owned business groups, as  
14 well as in comparison to non-certified Program companies  
15 awarded State contracts in Illinois.

16 Section 20. Commission membership.

17 (a) The Commission shall consist of the following members:

18 (1) four members appointed by the Governor,  
19 representing the Capital Development Board, the Department  
20 of Transportation, the Department of Health and Family  
21 Services, and the Department of Human Services;

22 (2) one member from the Department of Central  
23 Management Services as a representative of the Department  
24 and the Program;

25 (3) four members of the public, representing Program

1 certified businesses, appointed by the Governor, of which  
2 one is a member of the Business Enterprise Council for  
3 Minorities, Women, and Persons with Disabilities;

4 (4) one member of the House of Representatives  
5 appointed by the Speaker of the House of Representatives;

6 (5) one member of the House of Representatives,  
7 appointed by the Minority Leader of the House of  
8 Representatives;

9 (6) one member of the Senate appointed by the President  
10 of the Senate; and

11 (7) one member of the Senate appointed by the Minority  
12 Leader of the Senate.

13 (b) The chairperson or co-chairpersons of the Commission  
14 shall be designated by the Governor.

15 (c) Members of the Commission shall serve without  
16 compensation.

17 (d) The Department shall assist the Commission and provide  
18 administrative support to the Commission, including, but not  
19 limited to: (i) providing an Ethics Officer to the Commission;  
20 (ii) responding to Freedom of Information Act requests on  
21 behalf of the Commission; and (iii) assisting the Commission in  
22 complying with State ethics laws.

23 Section 25. Meetings. The Commission shall hold its first  
24 meeting in January 2021, and meet at least quarterly  
25 thereafter, and annually publish a report of its findings to be

1 issued to the Governor, the General Assembly, appropriate  
2 committees, certified Program organizations, and the public  
3 through the support of the Department. The Commission and its  
4 meetings are subject to the requirements of the Open Meetings  
5 Act.

6 Section 30. Rules. The Commission may adopt all rules,  
7 policies, and procedures necessary to carry out its duties and  
8 functions under this Act.

9 Section 999. Effective date. This Act takes effect upon  
10 becoming law.