



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0122

Introduced 1/29/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Allows an authorized official of Cook County under the county's veteran-owned business program to certify to the Department of Veterans' Affairs that Cook County's certification standards do not conflict with the requirements of the Code concerning veteran-owned businesses. Requires that, upon certification, the Department of Central Management Services will notify Cook County businesses of certain information concerning the notification and ensure that parties who obtain certification under Cook County's program are immediately registered with the State as certified and qualified businesses under the Code. Requires the Department to contribute money to support the program under available appropriations. Effective immediately.

LRB101 06922 RJF 51954 b

1 AN ACT concerning finance.

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 November 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: (1) a determination made by the
10 Illinois Department of Veterans' Affairs and the Department of
11 Central Management Services that a business entity is a
12 qualified service-disabled veteran-owned small business or a
13 qualified veteran-owned small business for whatever purpose;
14 or (2) a certification made by an authorized official of Cook
15 County under that county's veteran-owned business program or
16 programs at least 60 days after the effective date of this
17 amendatory Act of the 101st General Assembly, provided that, no
18 less than 30 days after the effective date of this amendatory
19 Act of the 101st General Assembly, and on an annual basis
20 thereafter, that county official certifies to the Department of
21 Veterans' Affairs that Cook County's certification standards
22 do not conflict with the requirements of this Code, and further
23 provided that upon issuing the certification, the county
24 official immediately or as soon as practicable notifies the
25 Department of Central Management Services of the fact and
26 nature of the certification. A SDVOSB or VOSB owned and

1 controlled by women, minorities, or persons with disabilities,
2 as those terms are defined in Section 2 of the Business
3 Enterprise for Minorities, Women, and Persons with
4 Disabilities Act, may also select and designate whether that
5 business is to be certified as a "women-owned business",
6 "minority-owned business", or "business owned by a person with
7 a disability", as defined in Section 2 of the Business
8 Enterprise for Minorities, Women, and Persons with
9 Disabilities Act.

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

26 "Qualified service-disabled veteran" means a veteran who

1 has been found to have 10% or more service-connected disability
2 by the United States Department of Veterans Affairs or the
3 United States Department of Defense.

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

13 "Qualified veteran-owned small business" or "VOSB" means a
14 small business (i) that is at least 51% owned by one or more
15 qualified veterans living in Illinois or, in the case of a
16 corporation, at least 51% of the stock of which is owned by one
17 or more qualified veterans living in Illinois; (ii) that has
18 its home office in Illinois; and (iii) for which items (i) and
19 (ii) are factually verified annually by the Department of
20 Central Management Services.

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

24 "Small business" means a business that has annual gross
25 sales of less than \$75,000,000 as evidenced by the federal
26 income tax return of the business. A firm with gross sales in

1 excess of this cap may apply to the Department of Central
2 Management Services for certification for a particular
3 contract if the firm can demonstrate that the contract would
4 have significant impact on SDVOSB or VOSB as suppliers or
5 subcontractors or in employment of veterans or
6 service-disabled veterans.

7 "State agency" has the meaning provided in Section 1-15.100
8 of this Code.

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

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

1 disability and was discharged under honorable conditions.

2 (f) Certification program. The Illinois Department of
3 Veterans' Affairs and the Department of Central Management
4 Services shall work together to devise a certification
5 procedure to assure that businesses taking advantage of this
6 Section are legitimately classified as qualified
7 service-disabled veteran-owned small businesses or qualified
8 veteran-owned small businesses.

9 (f-5) Cook County certification program.

10 (1) If, no less than 30 days after the effective date
11 of this amendatory Act of the 101st General Assembly and on
12 an annual basis thereafter, an authorized Cook County
13 official certifies to the Department of Veterans' Affairs
14 that Cook County's certification standards relative to its
15 veteran-owned business program or programs continue to
16 meet the requirements of this Act, the Department of
17 Central Management Services shall, through its website and
18 other online and print materials, with an authorized
19 official of Cook County: (i) notify parties seeking
20 certification under this Code that, if they are based in
21 Cook County, they may seek and obtain certification under
22 this Act by seeking and obtaining certification under the
23 county's veteran-owned business program or programs; (ii)
24 provide the parties with a website that immediately gives
25 them access to Cook County's program or programs; and (iii)
26 ensure that parties who obtain certification under Cook

1 County's program or program are immediately registered
2 with the State as certified and qualified businesses under
3 this Code.

4 (2) Within available appropriations, the Department of
5 Central Management Services shall, by way of an annual
6 intergovernmental agreement, contribute a sum as is agreed
7 to by the parties to support efforts on the part of Cook
8 County to certify eligible veteran business enterprises on
9 behalf of the State and the county. Those efforts shall
10 include: (i) providing ongoing outreach through online
11 marketing and publicity; (ii) developing, organizing, and
12 hosting outreach events each year in the county; and (iii)
13 providing regular technical support.

14 (g) Penalties.

15 (1) Administrative penalties. The chief procurement
16 officers appointed pursuant to Section 10-20 shall suspend
17 any person who commits a violation of Section 17-10.3 or
18 subsection (d) of Section 33E-6 of the Criminal Code of
19 2012 relating to this Section from bidding on, or
20 participating as a contractor, subcontractor, or supplier
21 in, any State contract or project for a period of not less
22 than 3 years, and, if the person is certified as a
23 service-disabled veteran-owned small business or a
24 veteran-owned small business, then the Department shall
25 revoke the business's certification for a period of not
26 less than 3 years. An additional or subsequent violation

1 shall extend the periods of suspension and revocation for a
2 period of not less than 5 years. The suspension and
3 revocation shall apply to the principals of the business
4 and any subsequent business formed or financed by, or
5 affiliated with, those principals.

6 (2) Reports of violations. Each State agency shall
7 report any alleged violation of Section 17-10.3 or
8 subsection (d) of Section 33E-6 of the Criminal Code of
9 2012 relating to this Section to the chief procurement
10 officers appointed pursuant to Section 10-20. The chief
11 procurement officers appointed pursuant to Section 10-20
12 shall subsequently report all such alleged violations to
13 the Attorney General, who shall determine whether to bring
14 a civil action against any person for the violation.

15 (3) List of suspended persons. The chief procurement
16 officers appointed pursuant to Section 10-20 shall monitor
17 the status of all reported violations of Section 17-10.3 or
18 subsection (d) of Section 33E-6 of the Criminal Code of
19 1961 or the Criminal Code of 2012 relating to this Section
20 and shall maintain and make available to all State agencies
21 a central listing of all persons that committed violations
22 resulting in suspension.

23 (4) Use of suspended persons. During the period of a
24 person's suspension under paragraph (1) of this
25 subsection, a State agency shall not enter into any
26 contract with that person or with any contractor using the

1 services of that person as a subcontractor.

2 (5) Duty to check list. Each State agency shall check
3 the central listing provided by the chief procurement
4 officers appointed pursuant to Section 10-20 under
5 paragraph (3) of this subsection to verify that a person
6 being awarded a contract by that State agency, or to be
7 used as a subcontractor or supplier on a contract being
8 awarded by that State agency, is not under suspension
9 pursuant to paragraph (1) of this subsection.

10 (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;
11 100-863, eff. 8-14-18.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.