



Sen. Michael E. Hastings

**Filed: 4/1/2019**

10100SB0122sam001

LRB101 06922 RJF 58804 a

1 AMENDMENT TO SENATE BILL 122

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 122 by replacing  
3 everything after the enacting clause with the following:

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

1 be established as a goal to be awarded to SDVOSB and VOSB. That  
2 portion of a contract under which the contractor subcontracts  
3 with a SDVOSB or VOSB may be counted toward the goal of this  
4 subsection. The Department of Central Management Services  
5 shall adopt rules to implement compliance with this subsection  
6 by all State agencies.

7 (b) Fiscal year reports. By each November 1, each chief  
8 procurement officer shall report to the Department of Central  
9 Management Services on all of the following for the immediately  
10 preceding fiscal year, and by each March 1 the Department of  
11 Central Management Services shall compile and report that  
12 information to the General Assembly:

13 (1) The total number of VOSB, and the number of SDVOSB,  
14 who submitted bids for contracts under this Code.

15 (2) The total number of VOSB, and the number of SDVOSB,  
16 who entered into contracts with the State under this Code  
17 and the total value of those contracts.

18 (b-5) The Department of Central Management Services shall  
19 submit an annual report to the Governor and the General  
20 Assembly that shall include the following:

21 (1) a year-by-year comparison of the number of  
22 certifications the State has issued to veteran-owned small  
23 businesses and service-disabled veteran-owned small  
24 businesses;

25 (2) the obstacles, if any, the Department of Central  
26 Management Services faces when certifying veteran-owned

1 businesses and possible rules or changes to rules to  
2 address those issues;

3 (3) a year-by-year comparison of awarded contracts to  
4 certified veteran-owned small businesses and  
5 service-disabled veteran-owned small businesses; and

6 (4) any other information that the Department of  
7 Central Management Services deems necessary to assist  
8 veteran-owned small businesses and service-disabled  
9 veteran-owned small businesses to become certified with  
10 the State.

11 The Department of Central Management Services shall  
12 conduct a minimum of 2 outreach events per year to ensure that  
13 veteran-owned small businesses and service-disabled  
14 veteran-owned small businesses know about the procurement  
15 opportunities and certification requirements with the State.  
16 The Department of Central Management Services may receive  
17 appropriations for outreach.

18 (c) Yearly review and recommendations. Each year, each  
19 chief procurement officer shall review the progress of all  
20 State agencies under its jurisdiction in meeting the goal  
21 described in subsection (a), with input from statewide  
22 veterans' service organizations and from the business  
23 community, including businesses owned by qualified veterans,  
24 and shall make recommendations to be included in the Department  
25 of Central Management Services' report to the General Assembly  
26 regarding continuation, increases, or decreases of the

1 percentage goal. The recommendations shall be based upon the  
2 number of businesses that are owned by qualified veterans and  
3 on the continued need to encourage and promote businesses owned  
4 by qualified veterans.

5 (d) Governor's recommendations. To assist the State in  
6 reaching the goal described in subsection (a), the Governor  
7 shall recommend to the General Assembly changes in programs to  
8 assist businesses owned by qualified veterans.

9 (e) Definitions. As used in this Section:

10 "Armed forces of the United States" means the United States  
11 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in  
12 active duty as defined under 38 U.S.C. Section 101. Service in  
13 the Merchant Marine that constitutes active duty under Section  
14 401 of federal Public Act 95-202 shall also be considered  
15 service in the armed forces for purposes of this Section.

16 "Certification" means a determination made by the Illinois  
17 Department of Veterans' Affairs and the Department of Central  
18 Management Services that a business entity is a qualified  
19 service-disabled veteran-owned small business or a qualified  
20 veteran-owned small business for whatever purpose. A SDVOSB or  
21 VOSB owned and controlled by women, minorities, or persons with  
22 disabilities, as those terms are defined in Section 2 of the  
23 Business Enterprise for Minorities, Women, and Persons with  
24 Disabilities Act, may also select and designate whether that  
25 business is to be certified as a "women-owned business",  
26 "minority-owned business", or "business owned by a person with

1 a disability", as defined in Section 2 of the Business  
2 Enterprise for Minorities, Women, and Persons with  
3 Disabilities Act.

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

20 "Qualified service-disabled veteran" means a veteran who  
21 has been found to have 10% or more service-connected disability  
22 by the United States Department of Veterans Affairs or the  
23 United States Department of Defense.

24 "Qualified service-disabled veteran-owned small business"  
25 or "SDVOSB" means a small business (i) that is at least 51%  
26 owned by one or more qualified service-disabled veterans living

1 in Illinois or, in the case of a corporation, at least 51% of  
2 the stock of which is owned by one or more qualified  
3 service-disabled veterans living in Illinois; (ii) that has its  
4 home office in Illinois; and (iii) for which items (i) and (ii)  
5 are factually verified annually by the Department of Central  
6 Management Services.

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

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

18 "Small business" means a business that has annual gross  
19 sales of less than \$75,000,000 as evidenced by the federal  
20 income tax return of the business. A firm with gross sales in  
21 excess of this cap may apply to the Department of Central  
22 Management Services for certification for a particular  
23 contract if the firm can demonstrate that the contract would  
24 have significant impact on SDVOSB or VOSB as suppliers or  
25 subcontractors or in employment of veterans or  
26 service-disabled veterans.

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

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

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

22 (f) Certification program. The Illinois Department of  
23 Veterans' Affairs and the Department of Central Management  
24 Services shall work together to devise a certification  
25 procedure to assure that businesses taking advantage of this  
26 Section are legitimately classified as qualified

1 service-disabled veteran-owned small businesses or qualified  
2 veteran-owned small businesses.

3 The Department of Central Management Services shall:

4 (1) compile and maintain a comprehensive list of  
5 certified veteran-owned small businesses and  
6 service-disabled veteran-owned small businesses;

7 (2) assist veteran-owned small businesses and  
8 service-disabled veteran-owned small businesses in  
9 complying with the procedures for bidding on state  
10 contracts;

11 (3) provide training for State agencies regarding the  
12 goal setting process and compliance with veteran-owned  
13 small business and service-disabled veteran-owned small  
14 business goals; and

15 (4) implement and maintain an electronic portal on the  
16 Department's website for the purpose of completing and  
17 submitting veteran-owned small business and  
18 service-disabled veteran-owned small business  
19 certificates.

20 The Department of Central Management Services, in  
21 consultation with the Department of Veteran Affairs, may  
22 develop programs and agreements to encourage cities, counties,  
23 towns, townships, and other certifying entities to adopt  
24 uniform certification procedures and certification recognition  
25 programs.

26 (f-5) A business shall be certified by the Department of



1 Central Management Services as a service-disabled  
2 veteran-owned small business or a veteran-owned small business  
3 for purposes of this Section if the Department of Central  
4 Management Services determines that the business has been  
5 certified as a service-disabled veteran-owned small business  
6 or a veteran-owned small business by the Vets First  
7 Verification Program of the United States Department of  
8 Veterans Affairs, and the business has provided to the  
9 Department of Central Management Services the following:

10 (1) documentation showing certification as a  
11 service-disabled veteran-owned small business or a  
12 veteran-owned small business by the Vets First  
13 Verification Program of the United States Department of  
14 Veterans Affairs;

15 (2) proof that the business has its home office in  
16 Illinois; and

17 (3) proof that the qualified veterans or qualified  
18 service-disabled veterans live in the State of Illinois.

19 The policies of the Department of Central Management  
20 Services regarding recognition of the Vets First Verification  
21 Program of the United States Department of Veterans Affairs  
22 shall be reviewed annually by the Department of Central  
23 Management Services, and recognition of service-disabled  
24 veteran-owned small businesses and veteran-owned small  
25 businesses certified by the Vets First Verification Program of  
26 the United States Department of Veterans Affairs may be

1 discontinued by the Department of Central Management Services  
2 by rule upon a finding that the certification standards of the  
3 Vets First Verification Program of the United States Department  
4 of Veterans Affairs do not meet the certification requirements  
5 established by the Department of Central Management Services.

6 (g) Penalties.

7 (1) Administrative penalties. The chief procurement  
8 officers appointed pursuant to Section 10-20 shall suspend  
9 any person who commits a violation of Section 17-10.3 or  
10 subsection (d) of Section 33E-6 of the Criminal Code of  
11 2012 relating to this Section from bidding on, or  
12 participating as a contractor, subcontractor, or supplier  
13 in, any State contract or project for a period of not less  
14 than 3 years, and, if the person is certified as a  
15 service-disabled veteran-owned small business or a  
16 veteran-owned small business, then the Department shall  
17 revoke the business's certification for a period of not  
18 less than 3 years. An additional or subsequent violation  
19 shall extend the periods of suspension and revocation for a  
20 period of not less than 5 years. The suspension and  
21 revocation shall apply to the principals of the business  
22 and any subsequent business formed or financed by, or  
23 affiliated with, those principals.

24 (2) Reports of violations. Each State agency shall  
25 report any alleged violation of Section 17-10.3 or  
26 subsection (d) of Section 33E-6 of the Criminal Code of

1 2012 relating to this Section to the chief procurement  
2 officers appointed pursuant to Section 10-20. The chief  
3 procurement officers appointed pursuant to Section 10-20  
4 shall subsequently report all such alleged violations to  
5 the Attorney General, who shall determine whether to bring  
6 a civil action against any person for the violation.

7 (3) List of suspended persons. The chief procurement  
8 officers appointed pursuant to Section 10-20 shall monitor  
9 the status of all reported violations of Section 17-10.3 or  
10 subsection (d) of Section 33E-6 of the Criminal Code of  
11 1961 or the Criminal Code of 2012 relating to this Section  
12 and shall maintain and make available to all State agencies  
13 a central listing of all persons that committed violations  
14 resulting in suspension.

15 (4) Use of suspended persons. During the period of a  
16 person's suspension under paragraph (1) of this  
17 subsection, a State agency shall not enter into any  
18 contract with that person or with any contractor using the  
19 services of that person as a subcontractor.

20 (5) Duty to check list. Each State agency shall check  
21 the central listing provided by the chief procurement  
22 officers appointed pursuant to Section 10-20 under  
23 paragraph (3) of this subsection to verify that a person  
24 being awarded a contract by that State agency, or to be  
25 used as a subcontractor or supplier on a contract being  
26 awarded by that State agency, is not under suspension

1           pursuant to paragraph (1) of this subsection.

2           (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;  
3           100-863, eff. 8-14-18.)

4           Section 99. Effective date. This Act takes effect upon  
5           becoming law."