



Sen. Ann Gillespie

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1 AMENDMENT TO SENATE BILL 1479

2 AMENDMENT NO. _____. Amend Senate Bill 1479 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 Section 2 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8 (Section scheduled to be repealed on June 30, 2020)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 (2.5) "Minority-led not-for-profit" means an
15 organization that is tax-exempt under Sections 501(c)(3)
16 or 501(c)(4) of the Internal Revenue Code of 1986, and for
17 which:

18 (a) at least 51% of the organization's Board of
19 Directors are minority persons,

20 (b) the Board of Directors controls the
21 organization's daily and long-term operations,

22 (c) the organization is regularly and actively
23 engaged in business activity,

24 (d) the organization is not dependent upon or
25 influenced by another non-eligible person or
26 organization, and

1 (e) the organization has not been established or
2 reorganized for the specific purpose of participating
3 in the Business Enterprise Program.

4 (3) "Minority-owned business" means a business which
5 is at least 51% owned by one or more minority persons, or
6 in the case of a corporation, at least 51% of the stock in
7 which is owned by one or more minority persons; and the
8 management and daily business operations of which are
9 controlled by one or more of the minority individuals who
10 own it.

11 (3.5) "Woman-led not-for-profit" means an organization
12 that is tax-exempt under Sections 501(c) (3) or 501(c) (4) of
13 the Internal Revenue Code of 1986, and for which:

14 (a) at least 51% of the organization's Board of
15 Directors are women,

16 (b) the Board of Directors controls the
17 organization's daily and long-term operations,

18 (c) the organization is regularly and actively
19 engaged in business activity,

20 (d) the organization is not dependent upon or
21 influenced by another non-eligible person or
22 organization, and

23 (e) the organization has not been established or
24 reorganized for the specific purpose of participating
25 in the Business Enterprise Program.

26 (4) "Women-owned business" means a business which is at

1 least 51% owned by one or more women, or, in the case of a
2 corporation, at least 51% of the stock in which is owned by
3 one or more women; and the management and daily business
4 operations of which are controlled by one or more of the
5 women who own it.

6 (4.05) "Not-for-profit led by a person with a
7 disability" means an organization that is tax-exempt under
8 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue
9 Code of 1986, and for which:

10 (a) at least 51% of the organization's Board of
11 Directors are persons with a disability,

12 (b) the Board of Directors controls the
13 organization's daily and long-term operations,

14 (c) the organization is regularly and actively
15 engaged in business activity,

16 (d) the organization is not dependent upon or
17 influenced by another non-eligible person or
18 organization, and

19 (e) the organization has not been established or
20 reorganized for the specific purpose of participating
21 in the Business Enterprise Program.

22 (4.1) "Business owned by a person with a disability"
23 means a business that is at least 51% owned by one or more
24 persons with a disability and the management and daily
25 business operations of which are controlled by one or more
26 of the persons with disabilities who own it. A

1 not-for-profit agency for persons with disabilities that
2 is exempt from taxation under Section 501 of the Internal
3 Revenue Code of 1986 is also considered a "business owned
4 by a person with a disability".

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

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

19 (5.5) "State construction contracts" means all State
20 contracts entered into by a State agency or public
21 institution of higher education for the repair,
22 remodeling, renovation or construction of a building or
23 structure, or for the construction or maintenance of a
24 highway defined in Article 2 of the Illinois Highway Code.

25 (6) "State agencies" shall mean all departments,
26 officers, boards, commissions, institutions and bodies

1 politic and corporate of the State, but does not include
2 the Board of Trustees of the University of Illinois, the
3 Board of Trustees of Southern Illinois University, the
4 Board of Trustees of Chicago State University, the Board of
5 Trustees of Eastern Illinois University, the Board of
6 Trustees of Governors State University, the Board of
7 Trustees of Illinois State University, the Board of
8 Trustees of Northeastern Illinois University, the Board of
9 Trustees of Northern Illinois University, the Board of
10 Trustees of Western Illinois University, municipalities or
11 other local governmental units, or other State
12 constitutional officers.

13 (7) "Public institutions of higher education" means
14 the University of Illinois, Southern Illinois University,
15 Chicago State University, Eastern Illinois University,
16 Governors State University, Illinois State University,
17 Northeastern Illinois University, Northern Illinois
18 University, Western Illinois University, the public
19 community colleges of the State, and any other public
20 universities, colleges, and community colleges now or
21 hereafter established or authorized by the General
22 Assembly.

23 (8) "Certification" means a determination made by the
24 Council or by one delegated authority from the Council to
25 make certifications, or by a State agency with statutory
26 authority to make such a certification, that a business

1 entity is classified as a business owned by a minority,
2 woman, or person with a disability for whatever purpose, or
3 that a not-for-profit organization meets the defined
4 classifications in this Section of a "minority-led
5 not-for-profit", "woman-led not-for-profit", or
6 "not-for-profit led by a person with a disability". A
7 business owned and controlled by women shall be certified
8 as a "woman-owned business". A business owned and
9 controlled by women who are also minorities shall be
10 certified as both a "women-owned business" and a
11 "minority-owned business". A not-for-profit organization
12 that meets 2 or more of the classifications specified under
13 this paragraph (8) shall be certified as having all of the
14 certifications met.

15 (9) "Control" means the exclusive or ultimate and sole
16 control of the business or not-for-profit organization
17 including, but not limited to, capital investment and all
18 other financial matters, property, acquisitions, contract
19 negotiations, legal matters, officer-director-employee
20 selection and comprehensive hiring, operating
21 responsibilities, cost-control matters, income and
22 dividend matters, financial transactions and rights of
23 other shareholders or joint partners. Control shall be
24 real, substantial and continuing, not pro forma. Control
25 shall include the power to direct or cause the direction of
26 the management and policies of the business and to make the

1 day-to-day as well as major decisions in matters of policy,
2 management and operations. Control shall be exemplified by
3 possessing the requisite knowledge and expertise to run the
4 particular business and control shall not include simple
5 majority or absentee ownership.

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

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

24 (12) "Business Enterprise Program" means the Business
25 Enterprise Program of the Department of Central Management
26 Services.

1 (B) When a business is owned at least 51% by any
2 combination of minority persons, women, or persons with
3 disabilities, even though none of the 3 classes alone holds at
4 least a 51% interest, the ownership requirement for purposes of
5 this Act is considered to be met. When a not-for-profit
6 organization's Board of Directors consists of at least 51% of
7 any combination of minority persons, women, or persons with
8 disabilities even though none of the 3 classes alone holds at
9 least 51% share, the Board membership requirement for purposes
10 of this Act is considered to be met. The certification category
11 for the business or not-for-profit organization is that of the
12 class holding the largest ownership interest in the business,
13 or the largest share of positions on the Board of Directors of
14 a not-for-profit organization. If 2 or more classes have equal
15 ownership interests, the certification category shall be
16 determined by the business or not-for-profit organization.

17 (Source: P.A. 99-143, eff. 7-27-15; 99-462, eff. 8-25-15;
18 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

19 Section 10. The Public Utilities Act is amended by changing
20 Section 5-117 as follows:

21 (220 ILCS 5/5-117)

22 Sec. 5-117. Supplier diversity goals.

23 (a) The public policy of this State is to collaboratively
24 work with companies and not-for-profit organizations that

1 serve Illinois residents to improve their supplier diversity in
2 a non-antagonistic manner.

3 (a-5) For the purposes of this Section, "minority-led
4 not-for-profit", "woman-led not-for-profit", and
5 "not-for-profit led by a person with a disability" shall have
6 the same meanings as provided under the Business Enterprise for
7 Minorities, Women, and Persons with Disabilities Act.

8 (b) The Commission shall require all gas, electric, and
9 water companies with at least 100,000 customers under its
10 authority, as well as suppliers of wind energy, solar energy,
11 hydroelectricity, nuclear energy, and any other supplier of
12 energy within this State, to submit an annual report by April
13 15, 2015 and every April 15 thereafter, in a searchable Adobe
14 PDF format, on all procurement goals and actual spending for
15 female-owned, minority-owned, veteran-owned, person with a
16 disability-owned, and small business enterprises, as well as
17 minority-led not-for-profit organizations, woman-led
18 not-for-profit organizations, and organizations that are
19 not-for-profit led by a person with a disability in the
20 previous calendar year. These goals shall be expressed as a
21 percentage of the total work performed by the entity submitting
22 the report, and the actual spending for all female-owned,
23 minority-owned, veteran-owned, person with a disability-owned,
24 and small business enterprises, as well as minority-led
25 not-for-profit organizations, woman-led not-for-profit
26 organizations, and organizations that are not-for-profit led

1 by a person with a disability, shall also be expressed as a
2 percentage of the total work performed by the entity submitting
3 the report.

4 (c) Each participating company in its annual report shall
5 include the following information:

6 (1) an explanation of the plan for the next year to
7 increase participation;

8 (2) an explanation of the plan to increase the goals;

9 (3) the areas of procurement each company shall be
10 actively seeking more participation in in the next year;

11 (4) an outline of the plan to alert and encourage
12 potential vendors in that area to seek business from the
13 company;

14 (5) an explanation of the challenges faced in finding
15 quality vendors and offer any suggestions for what the
16 Commission could do to be helpful to identify those
17 vendors;

18 (6) a list of the certifications the company
19 recognizes;

20 (7) the point of contact for any potential vendor who
21 wishes to do business with the company and explain the
22 process for a vendor to enroll with the company as a
23 minority-owned, women-owned, ~~or~~ veteran-owned, or person
24 with a disability-owned company, or as a minority-led
25 not-for-profit organization, woman-led not-for-profit
26 organization, or as an organization that is a

1 not-for-profit led by a person with a disability; and

2 (8) any particular success stories to encourage other
3 companies to emulate best practices.

4 (d) Each annual report shall include as much State-specific
5 data as possible. If the submitting entity does not submit
6 State-specific data, then the company shall include any
7 national data it does have and explain why it could not submit
8 State-specific data and how it intends to do so in future
9 reports, if possible.

10 (e) Each annual report shall include the rules,
11 regulations, and definitions used for the procurement goals in
12 the company's annual report.

13 (f) The Commission and all participating entities shall
14 hold an annual workshop open to the public in 2015 and every
15 year thereafter on the state of supplier diversity to
16 collaboratively seek solutions to structural impediments to
17 achieving stated goals, including testimony from each
18 participating entity as well as subject matter experts and
19 advocates. The Commission shall publish a database on its
20 website of the point of contact for each participating entity
21 for supplier diversity, along with a list of certifications
22 each company recognizes from the information submitted in each
23 annual report. The Commission shall publish each annual report
24 on its website and shall maintain each annual report for at
25 least 5 years.

26 (Source: P.A. 98-1056, eff. 8-26-14; 99-906, eff. 6-1-17.)".