SB0238

LRB10324882DTM51215b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0238

Introduced 1/31/2023, by Sen. Craig Wilcox

SYNOPSIS AS INTRODUCED:

See Index

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Modifies the provisions of the Act to apply to veterans and veteran-owned businesses. Modifies a Section concerning the short title. Changes the title of the Act to the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and makes conforming changes throughout various statutes referencing the title of the Act. Amends the Illinois Procurement Code. Removes a provision concerning procurement preferences for veterans and veteran-owned businesses. Applies administrative penalties for falsely certified businesses to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability. Defines terms. Makes conforming changes in various statutes concerning minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability. Effective immediately.

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A BILL FOR

AN ACT concerning finance.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Attorney General Act is amended by changing Section 9 as follows:

(15 ILCS 205/9)

Sec. 9. Contract aspirational goals. The Attorney General shall establish aspirational goals for contract awards for all contracts for goods and services, not including contracts for services relating to investigations or litigation. These aspirational goals shall be substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Attorney General shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Attorney General shall annually post information regarding the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)

Section 10. The Secretary of State Act is amended by changing Section 19 as follows:

(15 ILCS 305/19)

Sec. 19. Contract aspirational goals. The Secretary of State shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Secretary of State shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Secretary of State shall annually post the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)

Section 15. The State Comptroller Act is amended by changing Sections 23.9 and 23.10 as follows:

(15 ILCS 405/23.9)

Sec. 23.9. Minority Contractor Opportunity Initiative. The State Comptroller Minority Contractor Opportunity Initiative

is created to provide greater opportunities for minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses with 20 or fewer employees in this State to participate in the State procurement process. The initiative shall be administered by the Comptroller. Under this initiative, the Comptroller is responsible for the following: (i) outreach to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses capable of providing services to the State; (ii) education of minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses concerning State contracting and procurement; (iii) notification of minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses of State contracting opportunities; and (iv) maintenance of an online database of State contracts that identifies the contracts awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses that includes the total amount paid by State agencies to contractors and the percentage paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by

persons with disabilities, and small businesses.

The Business Enterprise Council created under Section 5 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act shall provide the Comptroller with names, Federal Employer Identification Numbers, and designations of Business Enterprise Program certified vendors to fulfill the Comptroller's responsibilities under this Section, including, but not limited to, identification of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities.

The Comptroller shall annually prepare and submit a report to the Governor and the General Assembly concerning the progress of this initiative including the following information for the preceding fiscal year: (i) a statement of the total amounts paid by each executive branch agency to contractors since the previous report; (ii) the percentage of the amounts that were paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses; (iii) the successes achieved and the challenges faced by the Comptroller in operating outreach programs for minorities, women, veterans, persons with disabilities, and small businesses; (iv) the challenges each executive branch agency may face in hiring qualified minority, woman, veteran, and small business employees and employees with disabilities and

contracting with qualified minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by persons with disabilities, and small businesses; and (v) any other information, findings, conclusions, and recommendations for legislative or agency action, as the Comptroller deems appropriate.

On and after the effective date of this amendatory Act of the 97th General Assembly, any bidder or offeror awarded a contract of $1,000 or more under Section 20-10, 20-15, 20-25, or 20-30 of the Illinois Procurement Code is required to pay a fee of $15 to cover expenses related to the administration of this Section. The Comptroller shall deduct the fee from the first check issued to the vendor under the contract and deposit the fee into the Comptroller's Administrative Fund. Contracts administered for statewide orders placed by agencies (commonly referred to as "statewide master contracts") are exempt from this fee.

Each Chief Procurement Officer shall provide the Comptroller with names and Federal Employer Identification Numbers of vendors registered in the Illinois Small Business Set Aside Program to aid the Comptroller in fulfilling his or her responsibilities under this Section.

(Source: P.A. 99-143, eff. 7-27-15; 100-391, eff. 8-25-17; 100-801, eff. 8-10-18.)

(15 ILCS 405/23.10)

Sec. 23.10. Contract aspirational goals. The Comptroller shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Comptroller shall not be subject to the jurisdiction of the Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Comptroller shall annually post the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.

(Source: P.A. 100-801, eff. 8-10-18.)

Section 20. The State Treasurer Act is amended by changing Section 30 as follows:

(15 ILCS 505/30)

Sec. 30. Preferences for veterans, minorities, women, and persons with disabilities.

(a) As used in this Section, ~~: (1)~~ the terms "minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned businesses", "business owned by a person with a disability", "armed forces of the United States", and

"control" have the meanings provided in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.~~; and~~

~~(2) the terms "veteran", "qualified veteran-owned small business", "qualified service disabled veteran owned small business", "qualified service disabled veteran", and "armed forces of the United States" have the meanings provided in Article 45 of the Illinois Procurement Code.~~

(b) It is hereby declared to be the policy of the State Treasurer to promote and encourage the use of businesses owned by or under the control of qualified veterans of the armed forces of the United States, ~~qualified service-disabled veterans,~~ minority persons, women, or persons with a disability in the area of goods and services. Furthermore, the State Treasurer shall utilize such businesses to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(c) It shall be an aspirational goal of the State Treasurer to use businesses owned by or under the control of qualified veterans of the armed forces of the United States, ~~qualified service-disabled veterans,~~ minority persons, women, or persons with a disability for not less than 25% of the total dollar amount of funds under management, purchases of

investment securities, and other contracts, including, but not limited to, the use of broker-dealers. The State Treasurer is authorized to establish additional aspirational goals.

(d) When the State Treasurer procures goods and services, whether through a request for proposal or otherwise, he or she is authorized to incorporate preferences in the scoring process for: (1) a minority-owned business, a women-owned business, a business owned by a person with a disability, or a ~~qualified~~ veteran-owned ~~small~~ business~~, or a qualified service disabled veteran owned small business~~; and (2) businesses having a record of support for increasing diversity and inclusion in board membership, management, employment, philanthropy, and supplier diversity, including investment professionals and investment sourcing.

When the State Treasurer utilizes a financial institution or determines the eligibility of a financial institution to participate in a banking contract, investment contract, investment activity, or other financial program of the State Treasurer, he or she shall review the financial institution's Community Reinvestment Act rating, record, and current level of financial commitment to the community prior to making a decision to utilize or determine the eligibility of such financial institution.

(e) Beginning with fiscal year 2019, and at least annually thereafter, the State Treasurer shall report on his or her utilization of minority-owned businesses, women-owned

businesses, businesses owned by a person with a disability, and ~~qualified~~ veteran-owned ~~small~~ businesses~~, or qualified service-disabled veteran-owned small businesses~~. The report shall be published on the State Treasurer's official website.

(f) The provisions of this Section take precedence over any goals established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 102-297, eff. 8-6-21.)

Section 21. The Deposit of State Moneys Act is amended by changing Section 1.1 as follows:

(15 ILCS 520/1.1) (from Ch. 130, par. 20.1)

Sec. 1.1. When investing or depositing public funds, each custodian shall, to the extent permitted by this Act and by the lawful and reasonable performance of his custodial duties, invest or deposit such funds with or in minority-owned financial institutions within this State. For the purposes of this Section, "minority-owned financial institutions" means a financial institution with 51% or more of the stock or equity of the business owned by women, minority persons, military veterans, qualified service-disabled veteran-owned, or persons with disabilities as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 45-57 of the Illinois Procurement

Code.

(Source: P.A. 102-297, eff. 8-6-21.)

Section 25. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Sections 605-503 and 605-1020 as follows:

(20 ILCS 605/605-503)

Sec. 605-503. Entrepreneurship assistance centers.

(a) The Department shall establish and support, subject to appropriation, entrepreneurship assistance centers, including the issuance of grants, at career education agencies and not-for-profit corporations, including, but not limited to, local development corporations, chambers of commerce, community-based business outreach centers, and other community-based organizations. The purpose of the centers shall be to train minority group members, women, individuals with a disability, dislocated workers, veterans, and youth entrepreneurs in the principles and practice of entrepreneurship in order to prepare those persons to pursue self-employment opportunities and to pursue a minority business enterprise or a women-owned business enterprise. The centers shall provide for training in all aspects of business development and small business management as defined by the Department.

(b) The Department shall establish criteria for selection and designation of the centers which shall include, but not be limited to:

(1) the level of support for the center from local post-secondary education institutions, businesses, and government;

(2) the level of financial assistance provided at the local and federal level to support the operations of the center;

(3) the applicant's understanding of program goals and objectives articulated by the Department;

(4) the plans of the center to supplement State and local funding through fees for services which may be based on a sliding scale based on ability to pay;

(5) the need for and anticipated impact of the center on the community in which it will function;

(6) the quality of the proposed work plan and staff of the center; and

(7) the extent of economic distress in the area to be served.

(c) Each center shall:

(1) be operated by a board of directors representing community leaders in business, education, finance, and government;

(2) be incorporated as a not-for-profit corporation;

(3) be located in an area accessible to eligible

clients;

(4) establish an advisory group of community business experts, at least one-half of whom shall be representative of the clientele to be served by the center, which shall constitute a support network to provide counseling and mentoring services to minority group members, women, individuals with a disability, dislocated workers, veterans, and youth entrepreneurs from the concept stage of development through the first one to 2 years of existence on a regular basis and as needed thereafter; and

(5) establish a referral system and linkages to existing area small business assistance programs and financing sources.

(d) Each entrepreneurship assistance center shall provide needed services to eligible clients, including, but not limited to: (i) orientation and screening of prospective entrepreneurs; (ii) analysis of business concepts and technical feasibility; (iii) market analysis; (iv) management analysis and counseling; (v) business planning and financial planning assistance; (vi) referrals to financial resources; (vii) referrals to existing educational programs for training in such areas as marketing, accounting, and other training programs as may be necessary and available; and (viii) referrals to business incubator facilities, when appropriate, for the purpose of entering into agreements to access shared support services.

(e) Applications for grants made under this Section shall be made in the manner and on forms prescribed by the Department. The application shall include, but shall not be limited to:

(1) a description of the training programs available within the geographic area to be served by the center to which eligible clients may be referred;

(2) designation of a program director;

(3) plans for providing ongoing technical assistance to program graduates, including linkages with providers of other entrepreneurial assistance programs and with providers of small business technical assistance and services;

(4) a program budget, including matching funds, in-kind and otherwise, to be provided by the applicant; and

(5) any other requirements as deemed necessary by the Department.

(f) Grants made under this Section shall be disbursed for payment of the cost of services and expenses of the program director, the instructors of the participating career education agency or not-for-profit corporation, the faculty and support personnel thereof, and any other person in the service of providing instruction and counseling in furtherance of the program.

(g) The Department shall monitor the performance of each

entrepreneurial assistance center and require quarterly reports from each center at such time and in such a manner as prescribed by the Department.

The Department shall also evaluate the entrepreneurial assistance centers established under this Section and report annually beginning on January 1, 2023, and on or before January 1 of each year thereafter, the results of the evaluation to the Governor and the General Assembly. The report shall discuss the extent to which the centers serve minority group members, women, individuals with a disability, dislocated workers, veterans, and youth entrepreneurs; the extent to which the training program is coordinated with other assistance programs targeted to small and new businesses; the ability of the program to leverage other sources of funding and support; and the success of the program in aiding entrepreneurs to start up new businesses, including the number of new business start-ups resulting from the program. The report shall recommend changes and improvements in the training program and in the quality of supplemental technical assistance offered to graduates of the training programs. The report shall be made available to the public on the Department's website. Between evaluation due dates, the Department shall maintain the necessary records and data required to satisfy the evaluation requirements.

(h) For purposes of this Section:

"Entrepreneurship assistance center" or "center" means the

business development centers or programs which provide assistance to primarily minority group members, women, individuals with a disability, dislocated workers, veterans, and youth entrepreneurs under this Section.

"Disability" means, with respect to an individual: (i) a physical or mental impairment that substantially limits one or more of the major life activities of an individual; (ii) a record of such an impairment; or (iii) being regarded as having an impairment.

"Minority business enterprise" has the same meaning as provided for "minority-owned business" under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Minority group member" has the same meaning as provided for "minority person" under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Women-owned business enterprise" has the same meaning as provided for "women-owned business" under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Veteran" means a person who served in and who has received an honorable or general discharge from, the United States Army, Navy, Air Force, Marines, Coast Guard, or reserves thereof, or who served in the Army National Guard, Air National Guard, or Illinois National Guard.

"Youth entrepreneur" means a person who is between the ages of 16 and 29 years old and ~~that~~ is seeking community support to start a business in Illinois.

(Source: P.A. 102-272, eff. 1-1-22; 102-821, eff. 1-1-23; revised 12-8-22.)

(20 ILCS 605/605-1020)

Sec. 605-1020. Entrepreneur Learner's Permit pilot program.

(a) Subject to appropriation, there is hereby established an Entrepreneur Learner's Permit pilot program that shall be administered by the Department beginning on July 1 of the first fiscal year for which an appropriation of State moneys is made for that purpose and continuing for the next 2 immediately succeeding fiscal years; however, the Department is not required to administer the program in any fiscal year for which such an appropriation has not been made. The purpose of the program shall be to encourage and assist beginning entrepreneurs in starting new businesses by providing reimbursements to those entrepreneurs for any State filing, permitting, or licensing fees associated with the formation of such a business in the State.

(b) Applicants for participation in the Entrepreneur Learner's Permit pilot program shall apply to the Department, in a form and manner prescribed by the Department, within one year after the formation of the business for which the

entrepreneur seeks reimbursement of those fees. The Department shall adopt rules for the review and approval of applications, provided that it (1) shall give priority to applicants who are women, veterans, ~~or~~ minority persons, or persons with a disability ~~or both~~, and (2) shall not approve any application by a person who will not be a beginning entrepreneur. Reimbursements under this Section shall be provided in the manner determined by the Department. In no event shall an applicant apply for participation in the program more than 3 times.

(c) The aggregate amount of all reimbursements provided by the Department pursuant to this Section shall not exceed $500,000 in any State fiscal year.

(d) On or before February 1 of the last calendar year during which the pilot program is in effect, the Department shall submit a report to the Governor and the General Assembly on the cumulative effectiveness of the Entrepreneur Learner's Permit pilot program. The review shall include, but not be limited to, the number and type of businesses that were formed in connection with the pilot program, the current status of each business formed in connection with the pilot program, the number of employees employed by each such business, the economic impact to the State from the pilot program, the satisfaction of participants in the pilot program, and a recommendation as to whether the program should be continued. The report to the General Assembly shall be filed with the

Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(e) As used in this Section:

"Beginning entrepreneur" means an individual who, at the time he or she applies for participation in the program, has less than 5 years of experience as a business owner and is not a current business owner.

"Woman", "veteran", ~~and~~ "minority person", and "person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-541, eff. 11-7-17; 100-785, eff. 8-10-18; 100-863, eff. 8-14-18; 101-81, eff. 7-12-19.)

Section 26. The Electric Vehicle Act is amended by changing Section 45 as follows:

(20 ILCS 627/45)

Sec. 45. Beneficial electrification.

(a) It is the intent of the General Assembly to decrease reliance on fossil fuels, reduce pollution from the transportation sector, increase access to electrification for all consumers, and ensure that electric vehicle adoption and increased electricity usage and demand do not place significant additional burdens on the electric system and

create benefits for Illinois residents.

(1) Illinois should increase the adoption of electric vehicles in the State to 1,000,000 by 2030.

(2) Illinois should strive to be the best state in the nation in which to drive and manufacture electric vehicles.

(3) Widespread adoption of electric vehicles is necessary to electrify the transportation sector, diversify the transportation fuel mix, drive economic development, and protect air quality.

(4) Accelerating the adoption of electric vehicles will drive the decarbonization of Illinois' transportation sector.

(5) Expanded infrastructure investment will help Illinois more rapidly decarbonize the transportation sector.

(6) Statewide adoption of electric vehicles requires increasing access to electrification for all consumers.

(7) Widespread adoption of electric vehicles requires increasing public access to charging equipment throughout Illinois, especially in low-income and environmental justice communities, where levels of air pollution burden tend to be higher.

(8) Widespread adoption of electric vehicles and charging equipment has the potential to provide customers with fuel cost savings and electric utility customers with

cost-saving benefits.

(9) Widespread adoption of electric vehicles can improve an electric utility's electric system efficiency and operational flexibility, including the ability of the electric utility to integrate renewable energy resources and make use of off-peak generation resources that support the operation of charging equipment.

(10) Widespread adoption of electric vehicles should stimulate innovation, competition, and increased choices in charging equipment and networks and should also attract private capital investments and create high-quality jobs in Illinois.

(b) As used in this Section:

"Agency" means the Environmental Protection Agency.

"Beneficial electrification programs" means programs that lower carbon dioxide emissions, replace fossil fuel use, create cost savings, improve electric grid operations, reduce increases to peak demand, improve electric usage load shape, and align electric usage with times of renewable generation. All beneficial electrification programs shall provide for incentives such that customers are induced to use electricity at times of low overall system usage or at times when generation from renewable energy sources is high. "Beneficial electrification programs" include a portfolio of the following:

(1) time-of-use electric rates;

(2) hourly pricing electric rates;

(3) optimized charging programs or programs that encourage charging at times beneficial to the electric grid;

(4) optional demand-response programs specifically related to electrification efforts;

(5) incentives for electrification and associated infrastructure tied to using electricity at off-peak times;

(6) incentives for electrification and associated infrastructure targeted to medium-duty and heavy-duty vehicles used by transit agencies;

(7) incentives for electrification and associated infrastructure targeted to school buses;

(8) incentives for electrification and associated infrastructure for medium-duty and heavy-duty government and private fleet vehicles;

(9) low-income programs that provide access to electric vehicles for communities where car ownership or new car ownership is not common;

(10) incentives for electrification in eligible communities;

(11) incentives or programs to enable quicker adoption of electric vehicles by developing public charging stations in dense areas, workplaces, and low-income communities;

(12) incentives or programs to develop electric vehicle infrastructure that minimizes range anxiety, filling the gaps in deployment, particularly in rural areas and along highway corridors;

(13) incentives to encourage the development of electrification and renewable energy generation in close proximity in order to reduce grid congestion;

(14) offer support to low-income communities who are experiencing financial and accessibility barriers such that electric vehicle ownership is not an option; and

(15) other such programs as defined by the Commission.

"Black, indigenous, and people of color" or "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Commission" means the Illinois Commerce Commission.

"Coordinator" means the Electric Vehicle Coordinator.

"Electric vehicle" means a vehicle that is exclusively powered by and refueled by electricity, must be plugged in to charge, and is licensed to drive on public roadways. "Electric vehicle" does not include electric mopeds, electric off-highway vehicles, or hybrid electric vehicles and extended-range electric vehicles that are also equipped with conventional fueled propulsion or auxiliary engines.

"Electric vehicle charging station" means a station that

delivers electricity from a source outside an electric vehicle into one or more electric vehicles.

"Environmental justice communities" means the definition of that term based on existing methodologies and findings, used and as may be updated by the Illinois Power Agency and its program administrator in the Illinois Solar for All Program.

"Equity investment eligible community" or "eligible community" means the geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, "eligible community" means the following areas:

(1) areas where residents have been historically excluded from economic opportunities, including opportunities in the energy sector, as defined pursuant to Section 10-40 of the Cannabis Regulation and Tax Act; and

(2) areas where residents have been historically subject to disproportionate burdens of pollution, including pollution from the energy sector, as established by environmental justice communities as defined by the Illinois Power Agency pursuant to Illinois Power Agency Act, excluding any racial or ethnic indicators.

"Equity investment eligible person" or "eligible person" means the persons who would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, "eligible

person" means the following people:

(1) persons whose primary residence is in an equity investment eligible community;

(2) persons who are graduates of or currently enrolled in the foster care system; or

(3) persons who were formerly incarcerated.

"Low-income" means persons and families whose income does not exceed 80% of the state median income for the current State fiscal year as established by the U.S. Department of Health and Human Services.

"Make-ready infrastructure" means the electrical and construction work necessary between the distribution circuit to the connection point of charging equipment.

"Optimized charging programs" mean programs whereby owners of electric vehicles can set their vehicles to be charged based on the electric system's current demand, retail or wholesale market rates, incentives, the carbon or other pollution intensity of the electric generation mix, the provision of grid services, efficient use of the electric grid, or the availability of clean energy generation. Optimized charging programs may be operated by utilities as well as third parties.

(c) The Commission shall initiate a workshop process no later than November 30, 2021 for the purpose of soliciting input on the design of beneficial electrification programs that the utility shall offer. The workshop shall be

coordinated by the Staff of the Commission, or a facilitator retained by Staff, and shall be organized and facilitated in a manner that encourages representation from diverse stakeholders, including stakeholders representing environmental justice and low-income communities, and ensures equitable opportunities for participation, without requiring formal intervention or representation by an attorney.

The stakeholder workshop process shall take into consideration the benefits of electric vehicle adoption and barriers to adoption, including:

(1) the benefit of lower bills for customers who do not charge electric vehicles;

(2) benefits to the distribution system from electric vehicle usage;

(3) the avoidance and reduction in capacity costs from optimized charging and off-peak charging;

(4) energy price and cost reductions;

(5) environmental benefits, including greenhouse gas emission and other pollution reductions;

(6) current barriers to mass-market adoption, including cost of ownership and availability of charging stations;

(7) current barriers to increasing access among populations that have limited access to electric vehicle ownership, communities significantly impacted by transportation-related pollution, and market segments that

create disproportionate pollution impacts;

(8) benefits of and incentives for medium-duty and heavy-duty fleet vehicle electrification;

(9) opportunities for eligible communities to benefit from electrification;

(10) geographic areas and market segments that should be prioritized for electrification infrastructure investment.

The workshops shall consider barriers, incentives, enabling rate structures, and other opportunities for the bill reduction and environmental benefits described in this subsection.

The workshop process shall conclude no later than February 28, 2022. Following the workshop, the Staff of the Commission, or the facilitator retained by the Staff, shall prepare and submit a report, no later than March 31, 2022, to the Commission that includes, but is not limited to, recommendations for transportation electrification investment or incentives in the following areas:

(i) publicly accessible Level 2 and fast-charging stations, with a focus on bringing access to transportation electrification in densely populated areas and workplaces within eligible communities;

(ii) medium-duty and heavy-duty charging infrastructure used by government and private fleet vehicles that serve or travel through environmental

justice or eligible communities;

(iii) medium-duty and heavy-duty charging infrastructure used in school bus operations, whether private or public, that primarily serve governmental or educational institutions, and also serve or travel through environmental justice or eligible communities;

(iv) public transit medium-duty and heavy-duty charging infrastructure, developed in consultation with public transportation agencies; and

(v) publicly accessible Level 2 and fast-charging stations targeted to fill gaps in deployment, particularly in rural areas and along State highway corridors.

The report must also identify the participants in the process, program designs proposed during the process, estimates of the costs and benefits of proposed programs, any material issues that remained unresolved at the conclusions of such process, and any recommendations for workshop process improvements. The report shall be used by the Commission to inform and evaluate the cost effectiveness and achievement of goals within the submitted Beneficial Electrification Plans.

(d) No later than July 1, 2022, electric utilities serving greater than 500,000 customers in the State shall file a Beneficial Electrification Plan with the Illinois Commerce Commission for programs that start no later than January 1, 2023. The plan shall take into consideration recommendations from the workshop report described in this Section. Within 45

days after the filing of the Beneficial Electrification Plan, the Commission shall, with reasonable notice, open an investigation to consider whether the plan meets the objectives and contains the information required by this Section. The Commission shall determine if the proposed plan is cost-beneficial and in the public interest. When considering if the plan is in the public interest and determining appropriate levels of cost recovery for investments and expenditures related to programs proposed by an electric utility, the Commission shall consider whether the investments and other expenditures are designed and reasonably expected to:

(1) maximize total energy cost savings and rate reductions so that nonparticipants can benefit;

(2) address environmental justice interests by ensuring there are significant opportunities for residents and businesses in eligible communities to directly participate in and benefit from beneficial electrification programs;

(3) support at least a 40% investment of make-ready infrastructure incentives to facilitate the rapid deployment of charging equipment in or serving environmental justice, low-income, and eligible communities; however, nothing in this subsection is intended to require a specific amount of spending in a particular geographic area;

(4) support at least a 5% investment target in electrifying medium-duty and heavy-duty school bus and diesel public transportation vehicles located in or serving environmental justice, low-income, and eligible communities in order to provide those communities and businesses with greater economic investment, transportation opportunities, and a cleaner environment so they can directly benefit from transportation electrification efforts; however, nothing in this subsection is intended to require a specific amount of spending in a particular geographic area;

(5) stimulate innovation, competition, private investment, and increased consumer choices in electric vehicle charging equipment and networks;

(6) contribute to the reduction of carbon emissions and meeting air quality standards, including improving air quality in eligible communities who disproportionately suffer from emissions from the medium-duty and heavy-duty transportation sector;

(7) support the efficient and cost-effective use of the electric grid in a manner that supports electric vehicle charging operations; and

(8) provide resources to support private investment in charging equipment for uses in public and private charging applications, including residential, multi-family, fleet, transit, community, and corridor applications.

The plan shall be determined to be cost-beneficial if the total cost of beneficial electrification expenditures is less than the net present value of increased electricity costs (defined as marginal avoided energy, avoided capacity, and avoided transmission and distribution system costs) avoided by programs under the plan, the net present value of reductions in other customer energy costs, net revenue from all electric charging in the service territory, and the societal value of reduced carbon emissions and surface-level pollutants, particularly in environmental justice communities. The calculation of costs and benefits should be based on net impacts, including the impact on customer rates.

The Commission shall approve, approve with modifications, or reject the plan within 270 days from the date of filing. The Commission may approve the plan if it finds that the plan will achieve the goals described in this Section and contains the information described in this Section. Proceedings under this Section shall proceed according to the rules provided by Article IX of the Public Utilities Act. Information contained in the approved plan shall be considered part of the record in any Commission proceeding under Section 16-107.6 of the Public Utilities Act, provided that a final order has not been entered prior to the initial filing date. The Beneficial Electrification Plan shall specifically address, at a minimum, the following:

(i) make-ready investments to facilitate the rapid

deployment of charging equipment throughout the State, facilitate the electrification of public transit and other vehicle fleets in the light-duty, medium-duty, and heavy-duty sectors, and align with Agency-issued rebates for charging equipment;

(ii) the development and implementation of beneficial electrification programs, including time-of-use rates and their benefit for electric vehicle users and for all customers, optimized charging programs to achieve savings identified, and new contracts and compensation for services in those programs, through signals that allow electric vehicle charging to respond to local system conditions, manage critical peak periods, serve as a demand response or peak resource, and maximize renewable energy use and integration into the grid;

(iii) optional commercial tariffs utilizing alternatives to traditional demand-based rate structures to facilitate charging for light-duty, heavy-duty, ~~light duty, heavy duty,~~ and fleet electric vehicles;

(iv) financial and other challenges to electric vehicle usage in low-income communities, and strategies for overcoming those challenges, particularly in communities where and for people for whom car ownership is not an option;

(v) methods of minimizing ratepayer impacts and exempting or minimizing, to the extent possible,

low-income ratepayers from the costs associated with facilitating the expansion of electric vehicle charging;

(vi) plans to increase access to Level 3 Public Electric Vehicle Charging Infrastructure to serve vehicles that need quicker charging times and vehicles of persons who have no other access to charging infrastructure, regardless of whether those projects participate in optimized charging programs;

(vii) whether to establish charging standards for type of plugs eligible for investment or incentive programs, and if so, what standards;

(viii) opportunities for coordination and cohesion with electric vehicle and electric vehicle charging equipment incentives established by any agency, department, board, or commission of the State, any other unit of government in the State, any national programs, or any unit of the federal government;

(ix) ideas for the development of online tools, applications, and data sharing that provide essential information to those charging electric vehicles, and enable an automated charging response to price signals, emission signals, real-time renewable generation production, and other Commission-approved or customer-desired indicators of beneficial charging times; and

(x) customer education, outreach, and incentive

programs that increase awareness of the programs and the benefits of transportation electrification, including direct outreach to eligible communities.~~;~~

(e) Proceedings under this Section shall proceed according to the rules provided by Article IX of the Public Utilities Act. Information contained in the approved plan shall be considered part of the record in any Commission proceeding under Section 16-107.6 of the Public Utilities Act, provided that a final order has not been entered prior to the initial filing date.

(f) The utility shall file an update to the plan on July 1, 2024 and every 3 years thereafter. This update shall describe transportation investments made during the prior plan period, investments planned for the following 24 months, and updates to the information required by this Section. Beginning with the first update, the utility shall develop the plan in conjunction with the distribution system planning process described in Section 16-105.17, including incorporation of stakeholder feedback from that process.

(g) Within 35 days after the utility files its report, the Commission shall, upon its own initiative, open an investigation regarding the utility's plan update to investigate whether the objectives described in this Section are being achieved. The Commission shall determine whether investment targets should be increased based on achievement of spending goals outlined in the Beneficial Electrification Plan

and consistency with outcomes directed in the plan stakeholder workshop report. If the Commission finds, after notice and hearing, that the utility's plan is materially deficient, the Commission shall issue an order requiring the utility to devise a corrective action plan, subject to Commission approval, to bring the plan into compliance with the goals of this Section. The Commission's order shall be entered within 270 days after the utility files its annual report. The contents of a plan filed under this Section shall be available for evidence in Commission proceedings. However, omission from an approved plan shall not render any future utility expenditure to be considered unreasonable or imprudent. The Commission may, upon sufficient evidence, allow expenditures that were not part of any particular distribution plan. The Commission shall consider revenues from electric vehicles in the utility's service territory in evaluating the retail rate impact. The retail rate impact from the development of electric vehicle infrastructure shall not exceed 1% per year of the total annual revenue requirements of the utility.

(h) In meeting the requirements of this Section, the utility shall demonstrate efforts to increase the use of contractors and electric vehicle charging station installers that meet multiple workforce equity actions, including, but not limited to:

(1) the business is headquartered in or the person resides in an eligible community;

(2) the business is majority owned by eligible person or the contractor is an eligible person;

(3) the business or person is certified by another municipal, State, federal, or other certification for disadvantaged businesses;

(4) the business or person meets the eligibility criteria for a certification program such as:

(A) certified under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(B) certified by another municipal, State, federal, or other certification for disadvantaged businesses;

(C) submits an affidavit showing that the vendor meets the eligibility criteria for a certification program such as those in items (A) and (B); ~~or~~

(D) if the vendor is a nonprofit, meets any of the criteria in those in item (A), (B), or (C) with the exception that the nonprofit is not required to meet any criteria related to being a for-profit entity, or is controlled by a board of directors that consists of 51% or greater individuals who are equity investment eligible persons; or

(E) ensuring that program implementation contractors and electric vehicle charging station installers pay employees working on electric vehicle

charging installations at or above the prevailing wage rate as published by the Department of Labor.

Utilities shall establish reporting procedures for vendors that ensure compliance with this subsection, but are structured to avoid, wherever possible, placing an undue administrative burden on vendors.

(i) Program data collection.

(1) In order to ensure that the benefits provided to Illinois residents and business by the clean energy economy are equitably distributed across the State, it is necessary to accurately measure the applicants and recipients of this Program. The purpose of this paragraph is to require the implementing utilities to collect all data from Program applicants and beneficiaries to track and improve equitable distribution of benefits across Illinois communities. The further purpose is to measure any potential impact of racial discrimination on the distribution of benefits and provide the utilities the information necessary to correct any discrimination through methods consistent with State and federal law.

(2) The implementing utilities shall collect demographic and geographic data for each applicant and each person or business awarded benefits or contracts under this Program.

(3) The implementing utilities shall collect the following information from applicants and Program or

procurement beneficiaries where applicable:

(A) demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program;

(B) demographic information, including racial or ethnic identity of business owners;

(C) geographic location of the residency of real persons or geographic location of the headquarters for businesses; and

(D) any other information necessary for the purpose of achieving the purpose of this paragraph.

(4) The utility shall publish, at least annually, aggregated information on the demographics of program and procurement applicants and beneficiaries. The utilities shall protect personal and confidential business information as necessary.

(5) The utilities shall conduct a regular review process to confirm the accuracy of reported data.

(6) On a quarterly basis, utilities shall collect data necessary to ensure compliance with this Section and shall communicate progress toward compliance to program implementation contractors and electric vehicle charging station installation vendors.

(7) Utilities filing Beneficial Electrification Plans under this Section shall report annually to the Illinois Commerce Commission and the General Assembly on how

hiring, contracting, job training, and other practices related to its Beneficial electrification programs enhance the diversity of vendors working on such programs. These reports must include data on vendor and employee diversity.

(j) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 102-662, eff. 9-15-21; 102-820, eff. 5-13-22; revised 9-14-22.)

Section 30. The Illinois Enterprise Zone Act is amended by changing Section 4 as follows:

(20 ILCS 655/4) (from Ch. 67 1/2, par. 604)

Sec. 4. Qualifications for enterprise zones.

(1) An area is qualified to become an enterprise zone which:

(a) is a contiguous area, provided that a zone area may exclude wholly surrounded territory within its boundaries;

(b) comprises a minimum of one-half square mile and not more than 12 square miles, or 15 square miles if the zone is located within the jurisdiction of 4 or more counties or municipalities, in total area, exclusive of lakes and waterways; however, in such cases where the enterprise zone is a joint effort of three or more units of

government, or two or more units of government if situated in a township which is divided by a municipality of 1,000,000 or more inhabitants, and where the certification has been in effect at least one year, the total area shall comprise a minimum of one-half square mile and not more than thirteen square miles in total area exclusive of lakes and waterways;

(c) (blank);

(d) (blank);

(e) is (1) entirely within a municipality or (2) entirely within the unincorporated areas of a county, except where reasonable need is established for such zone to cover portions of more than one municipality or county or (3) both comprises (i) all or part of a municipality and (ii) an unincorporated area of a county; and

(f) meets 3 or more of the following criteria:

(1) all or part of the local labor market area has had an annual average unemployment rate of at least 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year as reported by the Department of Employment Security;

(2) designation will result in the development of substantial employment opportunities by creating or retaining a minimum aggregate of 1,000 full-time equivalent jobs due to an aggregate investment of

$100,000,000 or more, and will help alleviate the effects of poverty and unemployment within the local labor market area;

(3) all or part of the local labor market area has a poverty rate of at least 20% according to American Community Survey; 35% or more of families with children in the area are living below 130% of the poverty line, according to the latest American Community Survey; or 20% or more households in the local labor market area receive food stamps or assistance under Supplemental Nutrition Assistance Program ("SNAP") according to the latest American Community Survey;

(4) an abandoned coal mine, a brownfield (as defined in Section 58.2 of the Environmental Protection Act), or an inactive nuclear-powered electrical generation facility where spent nuclear fuel is stored on-site is located in the proposed zone area, or all or a portion of the proposed zone was declared a federal disaster area in the 3 years preceding the date of application;

(5) the local labor market area contains a presence of large employers that have downsized over the years, the labor market area has experienced plant closures in the 5 years prior to the date of application affecting more than 50 workers, or the

local labor market area has experienced State or federal facility closures in the 5 years prior to the date of application affecting more than 50 workers;

(6) based on data from Multiple Listing Service information or other suitable sources, the local labor market area contains a high floor vacancy rate of industrial or commercial properties, vacant or demolished commercial and industrial structures are prevalent in the local labor market area, or industrial structures in the local labor market area are not used because of age, deterioration, relocation of the former occupants, or cessation of operation;

(7) the applicant demonstrates a substantial plan for using the designation to improve the State and local government tax base, including income, sales, and property taxes, including a plan for disposal of publicly-owned real property by the methods described in Section 10 of this Act;

(8) significant public infrastructure is present in the local labor market area in addition to a plan for infrastructure development and improvement;

(9) high schools or community colleges located within the local labor market area are engaged in ACT Work Keys, Manufacturing Skills Standard Certification, or other industry-based credentials that prepare students for careers;

(10) (blank); or

(11) the applicant demonstrates a substantial plan for using the designation to encourage: (i) participation by businesses owned by minorities, women, veterans, and persons with disabilities, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and (ii) the hiring of minorities, women, and persons with disabilities.

As provided in Section 10-5.3 of the River Edge Redevelopment Zone Act, upon the expiration of the term of each River Edge Redevelopment Zone in existence on August 7, 2012 (the effective date of Public Act 97-905), that River Edge Redevelopment Zone will become available for its previous designee or a new applicant to compete for designation as an enterprise zone. No preference for designation will be given to the previous designee of the zone.

(2) Any criteria established by the Department or by law which utilize the rate of unemployment for a particular area shall provide that all persons who are not presently employed and have exhausted all unemployment benefits shall be considered unemployed, whether or not such persons are actively seeking employment.

(Source: P.A. 101-81, eff. 7-12-19; 102-108, eff. 1-1-22.)

Section 31. The Reimagining Electric Vehicles in Illinois

Act is amended by changing Section 10 as follows:

(20 ILCS 686/10)

Sec. 10. Definitions. As used in this Act:

"Advanced battery" means a battery that consists of a battery cell that can be integrated into a module, pack, or system to be used in energy storage applications, including a battery used in an electric vehicle or the electric grid.

"Advanced battery component" means a component of an advanced battery, including materials, enhancements, enclosures, anodes, cathodes, electrolytes, cells, and other associated technologies that comprise an advanced battery.

"Agreement" means the agreement between a taxpayer and the Department under the provisions of Section 45 of this Act.

"Applicant" means a taxpayer that (i) operates a business in Illinois or is planning to locate a business within the State of Illinois and (ii) is engaged in interstate or intrastate commerce for the purpose of manufacturing electric vehicles, electric vehicle component parts, or electric vehicle power supply equipment. "Applicant" does not include a taxpayer who closes or substantially reduces by more than 50% operations at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a Taxpayer from expanding its operations at another location in the State. This also does not prohibit a Taxpayer from moving its operations from one

location in the State to another location in the State for the purpose of expanding the operation, provided that the Department determines that expansion cannot reasonably be accommodated within the municipality or county in which the business is located, or, in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county.

"Battery raw materials" means the raw and processed form of a mineral, metal, chemical, or other material used in an advanced battery component.

"Battery raw materials refining service provider" means a business that operates a facility that filters, sifts, and treats battery raw materials for use in an advanced battery.

"Battery recycling and reuse manufacturer" means a manufacturer that is primarily engaged in the recovery, retrieval, processing, recycling, or recirculating of battery raw materials for new use in electric vehicle batteries.

"Capital improvements" means the purchase, renovation, rehabilitation, or construction of permanent tangible land, buildings, structures, equipment, and furnishings in an approved project sited in Illinois and expenditures for goods or services that are normally capitalized, including

organizational costs and research and development costs incurred in Illinois. For land, buildings, structures, and equipment that are leased, the lease must equal or exceed the term of the agreement, and the cost of the property shall be determined from the present value, using the corporate interest rate prevailing at the time of the application, of the lease payments.

"Credit" means either a "REV Illinois Credit" or a "REV Construction Jobs Credit" agreed to between the Department and applicant under this Act.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Electric vehicle" means a vehicle that is exclusively powered by and refueled by electricity, including electricity generated through a hydrogen fuel cells or solar technology. "Electric vehicle" does not include hybrid electric vehicles, electric bicycles, or extended-range electric vehicles that are also equipped with conventional fueled propulsion or auxiliary engines.

"Electric vehicle manufacturer" means a new or existing manufacturer that is primarily focused on reequipping, expanding, or establishing a manufacturing facility in Illinois that produces electric vehicles as defined in this Section.

"Electric vehicle component parts manufacturer" means a new or existing manufacturer that is focused on reequipping, expanding, or establishing a manufacturing facility in Illinois that produces parts or accessories used in electric vehicles, as defined by this Section, including advanced battery component parts. The changes to this definition of "electric vehicle component parts manufacturer" apply to agreements under this Act that are entered into on or after the effective date of this amendatory Act of the 102nd General Assembly.

"Electric vehicle power supply equipment" means the equipment used specifically for the purpose of delivering electricity to an electric vehicle, including hydrogen fuel cells or solar refueling infrastructure.

"Electric vehicle power supply manufacturer" means a new or existing manufacturer that is focused on reequipping, expanding, or establishing a manufacturing facility in Illinois that produces electric vehicle power supply equipment used for the purpose of delivering electricity to an electric vehicle, including hydrogen fuel cell or solar refueling infrastructure.

"Energy Transition Area" means a county with less than 100,000 people or a municipality that contains one or more of the following:

(1) a fossil fuel plant that was retired from service or has significant reduced service within 6 years before

the time of the application or will be retired or have service significantly reduced within 6 years following the time of the application; or

(2) a coal mine that was closed or had operations significantly reduced within 6 years before the time of the application or is anticipated to be closed or have operations significantly reduced within 6 years following the time of the application.

"Full-time employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the applicant for consideration for at least 35 hours each week.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of new employees and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project that is the subject of an agreement.

"Institution of higher education" or "institution" means any accredited public or private university, college, community college, business, technical, or vocational school, or other accredited educational institution offering degrees and instruction beyond the secondary school level.

"Minority person" means a minority person as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"New employee" means a newly-hired full-time employee employed to work at the project site and whose work is directly related to the project.

"Noncompliance date" means, in the case of a taxpayer that is not complying with the requirements of the agreement or the provisions of this Act, the day following the last date upon which the taxpayer was in compliance with the requirements of the agreement and the provisions of this Act, as determined by the Director, pursuant to Section 70.

"Pass-through entity" means an entity that is exempt from the tax under subsection (b) or (c) of Section 205 of the Illinois Income Tax Act.

"Placed in service" means the state or condition of readiness, availability for a specifically assigned function, and the facility is constructed and ready to conduct its facility operations to manufacture goods.

"Professional employer organization" (PEO) means an employee leasing company, as defined in Section 206.1 of the Illinois Unemployment Insurance Act.

"Program" means the Reimagining Electric Vehicles in Illinois Program (the REV Illinois Program) established in this Act.

"Project" or "REV Illinois Project" means a for-profit

economic development activity for the manufacture of electric vehicles, electric vehicle component parts, or electric vehicle power supply equipment which is designated by the Department as a REV Illinois Project and is the subject of an agreement.

"Recycling facility" means a location at which the taxpayer disposes of batteries and other component parts in manufacturing of electric vehicles, electric vehicle component parts, or electric vehicle power supply equipment.

"Related member" means a person that, with respect to the taxpayer during any portion of the taxable year, is any one of the following:

(1) An individual stockholder, if the stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock.

(2) A partnership, estate, trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the taxpayer.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution

of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the Taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the taxpayer.

(5) A person to or from whom there is an attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a related member under this paragraph, 20% shall be substituted for 5% wherever 5% appears in Section 1563(e) of the Internal Revenue Code.

"Retained employee" means a full-time employee employed by the taxpayer prior to the term of the Agreement who continues to be employed during the term of the agreement whose job duties are directly related to the project. The term "retained employee" does not include any individual who has a direct or an indirect ownership interest of at least 5% in the profits, equity, capital, or value of the taxpayer or a child,

grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership of at least 5% in the profits, equity, capital, or value of the taxpayer. The changes to this definition of "retained employee" apply to agreements for credits under this Act that are entered into on or after the effective date of this amendatory Act of the 102nd General Assembly.

"REV Illinois credit" means a credit agreed to between the Department and the applicant under this Act that is based on the incremental income tax attributable to new employees and, if applicable, retained employees, and on training costs for such employees at the applicant's project.

"REV construction jobs credit" means a credit agreed to between the Department and the applicant under this Act that is based on the incremental income tax attributable to construction wages paid in connection with construction of the project facilities.

"Statewide baseline" means the total number of full-time employees of the applicant and any related member employed by such entities at the time of application for incentives under this Act.

"Taxpayer" means an individual, corporation, partnership, or other entity that has a legal obligation to pay Illinois income taxes and file an Illinois income tax return.

"Training costs" means costs incurred to upgrade the

technological skills of full-time employees in Illinois and includes: curriculum development; training materials (including scrap product costs); trainee domestic travel expenses; instructor costs (including wages, fringe benefits, tuition and domestic travel expenses); rent, purchase or lease of training equipment; and other usual and customary training costs. "Training costs" do not include costs associated with travel outside the United States (unless the Taxpayer receives prior written approval for the travel by the Director based on a showing of substantial need or other proof the training is not reasonably available within the United States), wages and fringe benefits of employees during periods of training, or administrative cost related to full-time employees of the taxpayer.

"Underserved area" means any geographic areas as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act.

(Source: P.A. 102-669, eff. 11-16-21; 102-700, eff. 4-19-22; 102-1112, eff. 12-21-22.)

Section 32. The Energy Transition Act is amended by changing Sections 5-5, 5-45, and 5-55 as follows:

(20 ILCS 730/5-5)

(Section scheduled to be repealed on September 15, 2045)

Sec. 5-5. Definitions. As used in this Act:

"Apprentice" means a participant in an apprenticeship program approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

"Apprenticeship program" means an apprenticeship and training program approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

"Black, indigenous, and people of color" or "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Community-based organizations" means an organization that: (1) provides employment, skill development, or related services to members of the community; (2) includes community colleges, nonprofits, and local governments; (3) has at least one main operating office in the community or region it serves; and (4) demonstrates relationships with local residents and other organizations serving the community.

"Department" means the Department of Commerce and Economic Opportunity, unless the text solely specifies a particular Department.

"Director" means the Director of Commerce and Economic Opportunity.

"Equity eligible contractor" or "eligible contractor" means:

(1) a business that is majority-owned by equity investment eligible individuals or persons who are or have been participants in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, Illinois Climate Works Preapprenticeship Program, or Clean Energy Primes Contractor Accelerator Program;

(2) a nonprofit or cooperative that is majority-governed by equity investment eligible individuals or persons who are or have been participants in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, Illinois Climate Works Preapprenticeship Program, or Clean Energy Primes Contractor Accelerator Program; or

(3) an equity investment eligible person or an individual who is or has been a participant in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, Illinois Climate Works Preapprenticeship Program, or Clean Energy Primes Contractor Accelerator Program and who is offering personal services as an independent contractor.

"Equity focused populations" means (i) low-income persons; (ii) persons residing in equity investment eligible communities; (iii) persons who identify as black, indigenous,

and people of color; (iv) formerly convicted persons; (v) persons who are or were in the child welfare system; (vi) energy workers; (vii) dependents of displaced energy workers; (viii) women; (ix) LGBTQ+, transgender, or gender nonconforming persons; (x) persons with disabilities; and (xi) members of any of these groups who are also youth.

"Equity investment eligible community" and "eligible community" are synonymous and mean the geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, the eligible community means the following areas:

(1) R3 Areas as established pursuant to Section 10-40 of the Cannabis Regulation and Tax Act, where residents have historically been excluded from economic opportunities, including opportunities in the energy sector; and

(2) Environmental justice communities, as defined by the Illinois Power Agency pursuant to the Illinois Power Agency Act, but excluding racial and ethnic indicators, where residents have historically been subject to disproportionate burdens of pollution, including pollution from the energy sector.

"Equity investment eligible person" and "eligible person" are synonymous and mean the persons who would most benefit from equitable investments by the State designed to combat

discrimination and foster sustainable economic growth. Specifically, eligible persons means the following people:

(1) persons whose primary residence is in an equity investment eligible community;

(2) persons who are graduates of or currently enrolled in the foster care system; or

(3) persons who were formerly incarcerated.

"Climate Works Hub" means a nonprofit organization selected by the Department to act as a workforce intermediary and to participate in the Illinois Climate Works Preapprenticeship Program. To qualify as a Climate Works Hub, the organization must demonstrate the following:

(1) the ability to effectively serve diverse and underrepresented populations, including by providing employment services to such populations;

(2) experience with the construction and building trades;

(3) the ability to recruit, prescreen, and provide preapprenticeship training to prepare workers for employment in the construction and building trades; and

(4) a plan to provide the following:

(A) preparatory classes;

(B) workplace readiness skills, such as resume preparation and interviewing techniques;

(C) strategies for overcoming barriers to entry and completion of an apprenticeship program; and

(D) any prerequisites for acceptance into an apprenticeship program.

(Source: P.A. 102-662, eff. 9-15-21.)

(20 ILCS 730/5-45)

(Section scheduled to be repealed on September 15, 2045)

Sec. 5-45. Clean Energy Contractor Incubator Program.

(a) As used in this Section, "community-based organization" means a nonprofit organization, including an accredited public college or university that:

(1) has a history of providing business-related assistance and knowledge to help entrepreneurs start, run, and grow their businesses;

(2) has knowledge of construction and clean energy trades;

(3) demonstrates relationships with local residents and other organizations serving the community; and

(4) demonstrates the ability to effectively serve diverse and underrepresented populations.

(b) Subject to appropriation, the Department shall develop, and through the Regional Administrators, administer the Clean Energy Contractor Incubator Program ("Program") to create a network of 13 Program delivery Hub Sites with program elements delivered by community-based organizations and their subcontractors geographically distributed across the State, including at least one Hub Site located in or near each of the

following areas: Chicago (South Side), Chicago (Southwest and West Sides), Waukegan, Rockford, Aurora, Joliet, Peoria, Champaign, Danville, Decatur, Carbondale, East St. Louis, and Alton.

(c) In admitting program participants, for each Contractor Incubator Hub Site the Regional Administrators shall:

(1) in each Hub Site where the applicant pool allows:

(A) dedicate at least one-third of program placements to the owners of clean energy contractor businesses and nonprofits who reside in a geographic area that is impacted by economic and environmental challenges, defined as an area that is both (i) an R3 Area, as defined pursuant to Section 10-40 of the Cannabis Regulation and Tax Act, and (ii) an environmental justice community, as defined by the Illinois Power Agency, excluding any racial or ethnic indicators used by the agency unless and until the constitutional basis for their inclusion in determining program admissions is established. Among applicants that satisfy these criteria, preference shall be given to applicants who face barriers to employment, such as low educational attainment, prior involvement with the criminal legal system, and language barriers; and applicants that are graduates of or currently enrolled in the foster care system; and

(B) dedicate at least two-thirds of program placements to the owners of clean energy contractor businesses and nonprofits that satisfy the criteria in paragraph (1) or who reside in eligible communities. Among applicants who live in eligible communities, preference shall be given to applicants who face barriers to employment, such as low educational attainment, prior involvement with the criminal legal system, and language barriers; and applicants that are graduates of or currently enrolled in the foster care system; and

(2) prioritize the remaining program placements for: applicants who are displaced energy workers as defined in the Energy Community Reinvestment Act; persons who face barriers to employment, including low educational attainment, prior involvement with the criminal legal system, and language barriers; and applicants who are graduates of or currently enrolled in the foster care system, regardless of the applicants' area of residence.

Consideration shall also be given to any current or past participant in the Clean Jobs Workforce Network Program, Illinois Climate Works Preapprenticeship Program, or Returning Residents Clean Energy Jobs Training Program.

The Department and Regional Administrators shall protect the confidentiality of any personal information provided by program applicants regarding the applicant's status as a

formerly incarcerated person or foster care recipient; however, the Department or Regional Administrators may publish aggregated data on the number of participants that were formerly incarcerated or foster care recipients so long as that publication protects the identities of those persons.

Any person who applies to the program may elect not to share with the Department or Regional Administrators whether he or she is a graduate or currently enrolled in the foster care system or was formerly convicted.

(d) Program elements at each Hub Site shall be provided by a local community-based organization. The Department shall initially select a community-based organization in each Hub Site and shall subsequently select a community-based organization in each Hub Site every 3 years. Community-based organizations delivering program elements outlined in subsection (e) may provide all elements required or may subcontract to other entities for provision of portions of program elements, including, but not limited to, administrative soft and hard skills for program participants, delivery of specific training in the core curriculum, or provision of other support functions for program delivery compliance.

(e) The Clean Energy Contractor Incubator Program shall:

(1) provide access to low-cost capital for small clean energy businesses and contractors;

(2) provide support for obtaining financial assurance,

including, but not limited to: bonding; back office services; insurance, permits, training and certifications; business planning; and low-interest loans;

(3) train, mentor, and provide other support needed to allow participant contractors to: (i) build their businesses and connect to specific projects, (ii) register as approved vendors, (iii) engage in approved vendor subcontracting and qualified installer opportunities, (iv) develop partnering and networking skills, (v) compete for capital and other resources, and (vi) execute clean energy-related project installations and subcontracts;

(4) ensure that participant contractors, community partners, and potential contractor clients are aware of and engaged in the Program;

(5) connect participant contractors with the Department of Labor for resources, training, and technical support on prevailing wage compliance;

(6) provide recruitment and ongoing engagement with entities that hire contractors and subcontractors, programs providing renewable energy resource-related projects, incentive programs, and approved vendor and qualified installer opportunities, including, but not limited to, activities such as matchmaking, events, and collaborating with other Hub Sites.

(f) Funding for the Program and independent evaluations as described in subsection (h) are subject to appropriation from

the Energy Transition Assistance Fund.

(g) The Department shall require submission of quarterly reports including program performance metrics by each Hub Site to the Regional Administrator of their Program Delivery Area. Program performance metrics include, but are not limited to:

(1) demographic data including: race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement for the owners of contractors applying, accepted into, and graduating from the Program;

(2) the number of projects completed by participant contractors, alone or in partnership, by race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement for the owners of contractors;

(3) the number of partnerships with participant contractors that are expected to result in contracts for work by the participant contractor, by race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement for the owners of contractors;

(4) changes in participant contractors' business revenue, by race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement for the owners of contractors;

(5) the number of new hires by participant contractors, by race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement;

(6) demographic data, including race, gender, geographic location, R3 residency, Environmental Justice Community residency, foster care system participation, and justice-involvement, and average wage data, for new hires by participant contractors;

(7) certifications held by participant contractors, and number of participants holding each certification, including, but not limited to, registration under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act program and other programs intended to certify BIPOC entities;

(8) the number of Program sessions attended by participant contractors, aggregated by race; and

(9) indicators relevant for assessing the general financial health of participant contractors.

(h) Within 3 years after the effective date of this Act, the Department shall select an independent evaluator to review and prepare a report on the performance of the Program and Regional Administrators. The report shall be posted publicly.

(Source: P.A. 102-662, eff. 9-15-21.)

(20 ILCS 730/5-55)

(Section scheduled to be repealed on September 15, 2045)

Sec. 5-55. Clean Energy Primes Contractor Accelerator Program.

(a) As used in this Section:

"Approved vendor" means the definition of that term used and as may be updated by the Illinois Power Agency.

"Minority business" means a minority-owned business as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Minority Business Enterprise certification" means the certification or recognition certification affidavit from the State of Illinois Department of Central Management Services Business Enterprise Program or a program with equivalent requirements.

"Program" means the Clean Energy Primes Contractor Accelerator Program.

"Returning resident" has the meaning given to that term in Section 5-50 of this Act.

(b) Subject to appropriation, the Department shall develop, and through a Primes Program Administrator and Regional Primes Program Leads described in this Section, administer the Clean Energy Primes Contractor Accelerator Program. The Program shall be administered in 3 program delivery areas: the Northern Illinois Program Delivery Area covering Northern Illinois, the Central Illinois Program

Delivery Area covering Central Illinois, and the Southern Illinois Program Delivery Area covering Southern Illinois. Prior to developing the Program, the Department shall solicit public comments, with a 30-day comment period, to gather input on Program implementation and associated community outreach options.

(c) The Program shall be available to selected contractors who best meet the following criteria:

(1) 2 or more years of experience in a clean energy or a related contracting field;

(2) at least $5,000 in annual business; and

(3) a substantial and demonstrated commitment of investing in and partnering with individuals and institutions in equity investment eligible communities.

(c-5) The Department shall develop scoring criteria to select contractors for the Program, which shall consider:

(1) projected hiring and industry job creation, including wage and benefit expectations;

(2) a clear vision of strategic business growth and how increased capitalization would benefit the business;

(3) past project work quality and demonstration of technical knowledge;

(4) capacity the applicant is anticipated to bring to project development;

(5) willingness to assume risk;

(6) anticipated revenues from future projects;

(7) history of commitment to advancing equity as demonstrated by, among other things, employment of or ownership by equity investment eligible persons and a history of partnership with equity focused community organizations or government programs; and

(8) business models that build wealth in the larger underserved community.

Applicants for Program participation shall be allowed to reapply for a future cohort if they are not selected, and the Primes Program Administrator shall inform each applicant of this option.

(d) The Department, in consultation with the Primes Program Administrator and Regional Primes Program Leads, shall select a new cohort of participant contractors from each Program Delivery Area every 18 months. Each regional cohort shall include between 3 and 5 participants. The Program shall cap contractors in the energy efficiency sector at 50% of available cohort spots and 50% of available grants and loans, if possible.

(e) The Department shall hire a Primes Program Administrator with experience in leading a large contractor-based business in Illinois; coaching and mentoring; the Illinois clean energy industry; and working with equity investment eligible community members, organizations, and businesses.

(f) The Department shall select 3 Regional Primes Program

Leads who shall report directly to the Primes Program Administrator. The Regional Primes Program Leads shall be located within their Program Delivery Area and have experience in leading a large contractor-based business in Illinois; coaching and mentoring; the Illinois clean energy industry; developing relationships with companies in the Program Delivery Area; and working with equity investment eligible community members, organizations, and businesses.

(g) The Department may determine how Program elements will be delivered or may contract with organizations with experience delivering the Program elements described in subsection (h) of this Section.

(h) The Clean Energy Primes Contractor Accelerator Program shall provide participants with:

(1) a 5-year, 6-month progressive course of one-on-one coaching to assist each participant in developing an achievable 5-year business plan, including review of monthly metrics, and advice on achieving participant's goals;

(2) operational support grants not to exceed $1,000,000 annually to support the growth of participant contractors with access to capital for upfront project costs and pre-development funding, among others. The amount of the grant shall be based on anticipated project size and scope;

(3) business coaching based on the participant's

needs;

(4) a mentorship of approximately 2 years provided by a qualified company in the participant's field;

(5) access to Clean Energy Contractor Incubator Program services;

(6) assistance with applying for Minority Business Enterprise certification and other relevant certifications and approved vendor status for programs offered by utilities or other entities;

(7) assistance with preparing bids and Request for Proposal applications;

(8) opportunities to be listed in any relevant directories and databases organized by the Department of Central Management Services;

(9) opportunities to connect with participants in other Department programs;

(10) assistance connecting with and initiating participation in the Illinois Power Agency's Adjustable Block program, the Illinois Solar for All Program, and utility programs; and

(11) financial development assistance programs such as zero-interest and low-interest loans with the Climate Bank as established by Article 850 of the Illinois Finance Authority Act or a comparable financing mechanism. The Illinois Finance Authority shall retain authority to determine loan repayment terms and conditions.

(i) The Primes Program Administrator shall:

(1) collect and report performance metrics as described in this Section;

(2) review and assess:

(i) participant work plans and annual goals; and

(ii) the mentorship program, including approved mentor companies and their stipend awards; and

(3) work with the Regional Primes Program Leads to publicize the Program; design and implement a mentorship program; and ensure participants are quickly on-boarded.

(j) The Regional Primes Program Leads shall:

(1) publicize the Program; the budget shall include funds to pay community-based organizations with a track record of working with equity investment eligible communities to complete this work;

(2) recruit qualified Program applicants;

(3) assist Program applicants with the application process;

(4) introduce participants to the Program offerings;

(5) conduct entry and annual assessments with participants to identify training, coaching, and other Program service needs;

(6) assist participants in developing goals on entry and annually, and assessing progress toward meeting the goals;

(7) establish a metric reporting system with each

participant and track the metrics for progress against the contractor's work plan and Program goals;

(8) assist participants in receiving their Minority Business Enterprise certification and any other relevant certifications and approved vendor statuses;

(9) match participants with Clean Energy Contractor Incubator Program offerings and individualized expert coaching, including training on working with returning residents and companies that employ them;

(10) pair participants with a mentor company;

(11) facilitate connections between participants and potential subcontractors and employees;

(12) dispense a participant's awarded operational grant funding;

(13) connect participants to zero-interest and low-interest loans from the Climate Bank as established by Article 850 of the Illinois Finance Authority Act or a comparable financing mechanism;

(14) encourage participants to apply for appropriate State and private business opportunities;

(15) review a participant's progress and make a recommendation to the Department about whether the participant should continue in the Program, be considered a Program graduate, and whether adjustments should be made to a participant's grant funding, loans, and related services;

(16) solicit information from participants, which participants shall be required to provide, necessary to understand the participant's business, including financial and income information, certifications that the participant is seeking to obtain, and ownership, employee, and subcontractor data, including compensation, length of service, and demographics; and

(17) other duties as required.

(k) Performance metrics. The Primes Program Administrator and Regional Primes Program Leads shall collaborate to collect and report the following metrics quarterly to the Department and Advisory Council:

(1) demographic information on cohort recruiting and formation, including racial, gender, geographic distribution data, and data on the number and percentage of R3 residents, environmental justice community residents, foster care alumni, and formerly convicted persons who are cohort applicants and admitted participants;

(2) participant contractor engagement in other Illinois clean energy programs such as the Adjustable Block program, Illinois Solar for All Program, and the utility-run energy efficiency and electric vehicle programs;

(3) retention of participants in each cohort;

(4) total projects bid, started, and completed by

participants, including information about revenue, hiring, and subcontractor relationships with projects;

(5) certifications issued;

(6) employment data for contractor hires and industry jobs created, including demographic, salary, length of service, and geographic data;

(7) grants and loans distributed; and

(8) participant satisfaction with the Program.

The metrics in paragraphs (2), (4), and (6) shall be collected from Program participants and graduates for 10 years from their entrance into the Program to help the Department and Program Administrators understand the Program's long-term effect.

Data should be anonymized where needed to protect participant privacy.

The Department shall make such reports publicly available on its website.

(l) Mentorship Program.

(1) The Regional Primes Program Leads shall recruit, and the Primes Program Administrator shall select, with approval from the Department, private companies with the following qualifications to mentor participants and assist them in succeeding in the clean energy industry:

(i) excellent standing with state clean energy programs;

(ii) 4 or more years of experience in their field;

and

(iii) a proven track record of success in their field.

(2) Mentor companies may receive a stipend, determined by the Department, for their participation. Mentor companies may identify what level of stipend they require.

(3) The Primes Program Administrator shall develop guidelines for mentor company-mentee profit sharing or purchased services agreements.

(4) The Regional Primes Program Leads shall:

(i) collaborate with mentor companies and participants to create a plan for ongoing contact such as on-the-job training, site walkthroughs, business process and structure walkthroughs, quality assurance and quality control reviews, and other relevant activities;

(ii) recommend the mentor company-mentee pairings and associated mentor company stipends for approval;

(iii) conduct an annual review of each mentor company-mentee pairing and recommend whether the pairing continues for a second year and the level of stipend that is appropriate. The review shall also ensure that any profit sharing and purchased services agreements adhere to the guidelines established by the Primes Program Administrator.

(5) Contractors may request reassignment to a new

mentor company.

(m) Disparity study. The Program Administrator shall cooperate with the Illinois Power Agency in the conduct of a disparity study, as described in subsection (c-15) of Section 1-75 of the Illinois Power Agency Act, and in the effectuation of appropriate remedies necessary to address any discrimination that such study may find. Potential remedies shall include, but not be limited to, race-conscious remedies to rapidly eliminate discrimination faced by minority businesses and works in the industry this Program serves, consistent with the law. Remedies shall be developed through consultation with individuals, companies, and organizations that have expertise on discrimination faced in the market and potential legally permissible remedies for addressing it. Notwithstanding any other requirement of this Section, the Program Administrator shall modify program participation criteria or goals as soon as the report has been published, in such a way as is consistent with state and federal law, to rapidly eliminate discrimination on minority businesses and workers in the industry this Program serves by setting standards for Program participation. This study will be paid for with funds from the Energy Transition Assistance Fund or any other lawful source.

(n) Program budget.

(1) The Department may allocate up to $3,000,000 annually to the Primes Program Administrator for each of

the 3 regional budgets from the Energy Transition Assistance Fund.

(2) The Primes Program Administrator shall work with the Illinois Finance Authority and the Climate Bank as established by Article 850 of the Illinois Finance Authority Act or comparable financing institution so that loan loss reserves may be sufficient to underwrite $7,000,000 in low-interest loans in each of the 3 Program delivery areas.

(3) Any grant and loan funding shall be made available to participants in a timely fashion.

(Source: P.A. 102-662, eff. 9-15-21.)

Section 35. The Illinois Lottery Law is amended by changing Section 9.1 as follows:

(20 ILCS 1605/9.1)

Sec. 9.1. Private manager and management agreement.

(a) As used in this Section:

"Offeror" means a person or group of persons that responds to a request for qualifications under this Section.

"Request for qualifications" means all materials and documents prepared by the Department to solicit the following from offerors:

(1) Statements of qualifications.

(2) Proposals to enter into a management agreement,

including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offer" means the last proposal submitted by an offeror in response to the request for qualifications, including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offeror" means the offeror ultimately selected by the Governor to be the private manager for the Lottery under subsection (h) of this Section.

(b) By September 15, 2010, the Governor shall select a private manager for the total management of the Lottery with integrated functions, such as lottery game design, supply of goods and services, and advertising and as specified in this Section.

(c) Pursuant to the terms of this subsection, the Department shall endeavor to expeditiously terminate the existing contracts in support of the Lottery in effect on July 13, 2009 (the effective date of Public Act 96-37) in connection with the selection of the private manager. As part of its obligation to terminate these contracts and select the private manager, the Department shall establish a mutually agreeable timetable to transfer the functions of existing

contractors to the private manager so that existing Lottery operations are not materially diminished or impaired during the transition. To that end, the Department shall do the following:

(1) where such contracts contain a provision authorizing termination upon notice, the Department shall provide notice of termination to occur upon the mutually agreed timetable for transfer of functions;

(2) upon the expiration of any initial term or renewal term of the current Lottery contracts, the Department shall not renew such contract for a term extending beyond the mutually agreed timetable for transfer of functions; or

(3) in the event any current contract provides for termination of that contract upon the implementation of a contract with the private manager, the Department shall perform all necessary actions to terminate the contract on the date that coincides with the mutually agreed timetable for transfer of functions.

If the contracts to support the current operation of the Lottery in effect on July 13, 2009 (the effective date of Public Act 96-34) are not subject to termination as provided for in this subsection (c), then the Department may include a provision in the contract with the private manager specifying a mutually agreeable methodology for incorporation.

(c-5) The Department shall include provisions in the

management agreement whereby the private manager shall, for a fee, and pursuant to a contract negotiated with the Department (the "Employee Use Contract"), utilize the services of current Department employees to assist in the administration and operation of the Lottery. The Department shall be the employer of all such bargaining unit employees assigned to perform such work for the private manager, and such employees shall be State employees, as defined by the Personnel Code. Department employees shall operate under the same employment policies, rules, regulations, and procedures, as other employees of the Department. In addition, neither historical representation rights under the Illinois Public Labor Relations Act, nor existing collective bargaining agreements, shall be disturbed by the management agreement with the private manager for the management of the Lottery.

(d) The management agreement with the private manager shall include all of the following:

(1) A term not to exceed 10 years, including any renewals.

(2) A provision specifying that the Department:

(A) shall exercise actual control over all significant business decisions;

(A-5) has the authority to direct or countermand operating decisions by the private manager at any time;

(B) has ready access at any time to information

regarding Lottery operations;

(C) has the right to demand and receive information from the private manager concerning any aspect of the Lottery operations at any time; and

(D) retains ownership of all trade names, trademarks, and intellectual property associated with the Lottery.

(3) A provision imposing an affirmative duty on the private manager to provide the Department with material information and with any information the private manager reasonably believes the Department would want to know to enable the Department to conduct the Lottery.

(4) A provision requiring the private manager to provide the Department with advance notice of any operating decision that bears significantly on the public interest, including, but not limited to, decisions on the kinds of games to be offered to the public and decisions affecting the relative risk and reward of the games being offered, so the Department has a reasonable opportunity to evaluate and countermand that decision.

(5) A provision providing for compensation of the private manager that may consist of, among other things, a fee for services and a performance based bonus as consideration for managing the Lottery, including terms that may provide the private manager with an increase in compensation if Lottery revenues grow by a specified

percentage in a given year.

(6) (Blank).

(7) A provision requiring the deposit of all Lottery proceeds to be deposited into the State Lottery Fund except as otherwise provided in Section 20 of this Act.

(8) A provision requiring the private manager to locate its principal office within the State.

(8-5) A provision encouraging that at least 20% of the cost of contracts entered into for goods and services by the private manager in connection with its management of the Lottery, other than contracts with sales agents or technical advisors, be awarded to businesses that are a minority-owned business, a women-owned business, a veteran-owned business, or a business owned by a person with disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(9) A requirement that so long as the private manager complies with all the conditions of the agreement under the oversight of the Department, the private manager shall have the following duties and obligations with respect to the management of the Lottery:

(A) The right to use equipment and other assets used in the operation of the Lottery.

(B) The rights and obligations under contracts with retailers and vendors.

(C) The implementation of a comprehensive security program by the private manager.

(D) The implementation of a comprehensive system of internal audits.

(E) The implementation of a program by the private manager to curb compulsive gambling by persons playing the Lottery.

(F) A system for determining (i) the type of Lottery games, (ii) the method of selecting winning tickets, (iii) the manner of payment of prizes to holders of winning tickets, (iv) the frequency of drawings of winning tickets, (v) the method to be used in selling tickets, (vi) a system for verifying the validity of tickets claimed to be winning tickets, (vii) the basis upon which retailer commissions are established by the manager, and (viii) minimum payouts.

(10) A requirement that advertising and promotion must be consistent with Section 7.8a of this Act.

(11) A requirement that the private manager market the Lottery to those residents who are new, infrequent, or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the Internet as permitted by law.

(12) A code of ethics for the private manager's officers and employees.

(13) A requirement that the Department monitor and oversee the private manager's practices and take action that the Department considers appropriate to ensure that the private manager is in compliance with the terms of the management agreement, while allowing the manager, unless specifically prohibited by law or the management agreement, to negotiate and sign its own contracts with vendors.

(14) A provision requiring the private manager to periodically file, at least on an annual basis, appropriate financial statements in a form and manner acceptable to the Department.

(15) Cash reserves requirements.

(16) Procedural requirements for obtaining the prior approval of the Department when a management agreement or an interest in a management agreement is sold, assigned, transferred, or pledged as collateral to secure financing.

(17) Grounds for the termination of the management agreement by the Department or the private manager.

(18) Procedures for amendment of the agreement.

(19) A provision requiring the private manager to engage in an open and competitive bidding process for any procurement having a cost in excess of $50,000 that is not a part of the private manager's final offer. The process shall favor the selection of a vendor deemed to have submitted a proposal that provides the Lottery with the

best overall value. The process shall not be subject to the provisions of the Illinois Procurement Code, unless specifically required by the management agreement.

(20) The transition of rights and obligations, including any associated equipment or other assets used in the operation of the Lottery, from the manager to any successor manager of the lottery, including the Department, following the termination of or foreclosure upon the management agreement.

(21) Right of use of copyrights, trademarks, and service marks held by the Department in the name of the State. The agreement must provide that any use of them by the manager shall only be for the purpose of fulfilling its obligations under the management agreement during the term of the agreement.

(22) The disclosure of any information requested by the Department to enable it to comply with the reporting requirements and information requests provided for under subsection (p) of this Section.

(e) Notwithstanding any other law to the contrary, the Department shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Illinois Procurement Code, which shall take into account:

(1) the offeror's ability to market the Lottery to those residents who are new, infrequent, or lapsed players

of the Lottery, especially those who are most likely to make regular purchases on the Internet;

(2) the offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;

(3) the offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror; and

(4) the offeror's poor or inadequate past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery.

(f) The Department may retain the services of an advisor or advisors with significant experience in financial services or the management, operation, and procurement of goods, services, and equipment for a government-run lottery to assist in the preparation of the terms of the request for qualifications and selection of the private manager. Any prospective advisor seeking to provide services under this subsection (f) shall disclose any material business or financial relationship during the past 3 years with any potential offeror, or with a contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery. The Department shall

evaluate the material business or financial relationship of each prospective advisor. The Department shall not select any prospective advisor with a substantial business or financial relationship that the Department deems to impair the objectivity of the services to be provided by the prospective advisor. During the course of the advisor's engagement by the Department, and for a period of one year thereafter, the advisor shall not enter into any business or financial relationship with any offeror or any vendor identified to assist an offeror in performing its obligations under the management agreement. Any advisor retained by the Department shall be disqualified from being an offeror. The Department shall not include terms in the request for qualifications that provide a material advantage whether directly or indirectly to any potential offeror, or any contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery, including terms contained in previous responses to requests for proposals or qualifications submitted to Illinois, another State or foreign government when those terms are uniquely associated with a particular potential offeror, contractor, or subcontractor. The request for proposals offered by the Department on December 22, 2008 as "LOT08GAMESYS" and reference number "22016176" is declared void.

(g) The Department shall select at least 2 offerors as finalists to potentially serve as the private manager no later

than August 9, 2010. Upon making preliminary selections, the Department shall schedule a public hearing on the finalists' proposals and provide public notice of the hearing at least 7 calendar days before the hearing. The notice must include all of the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A brief description of the management agreement to be awarded.

(4) The identity of the offerors that have been selected as finalists to serve as the private manager.

(5) The address and telephone number of the Department.

(h) At the public hearing, the Department shall (i) provide sufficient time for each finalist to present and explain its proposal to the Department and the Governor or the Governor's designee, including an opportunity to respond to questions posed by the Department, Governor, or designee and (ii) allow the public and non-selected offerors to comment on the presentations. The Governor or a designee shall attend the public hearing. After the public hearing, the Department shall have 14 calendar days to recommend to the Governor whether a management agreement should be entered into with a particular finalist. After reviewing the Department's recommendation, the Governor may accept or reject the Department's recommendation, and shall select a final offeror as the private manager by

publication of a notice in the Illinois Procurement Bulletin on or before September 15, 2010. The Governor shall include in the notice a detailed explanation and the reasons why the final offeror is superior to other offerors and will provide management services in a manner that best achieves the objectives of this Section. The Governor shall also sign the management agreement with the private manager.

(i) Any action to contest the private manager selected by the Governor under this Section must be brought within 7 calendar days after the publication of the notice of the designation of the private manager as provided in subsection (h) of this Section.

(j) The Lottery shall remain, for so long as a private manager manages the Lottery in accordance with provisions of this Act, a Lottery conducted by the State, and the State shall not be authorized to sell or transfer the Lottery to a third party.

(k) Any tangible personal property used exclusively in connection with the lottery that is owned by the Department and leased to the private manager shall be owned by the Department in the name of the State and shall be considered to be public property devoted to an essential public and governmental function.

(l) The Department may exercise any of its powers under this Section or any other law as necessary or desirable for the execution of the Department's powers under this Section.

(m) Neither this Section nor any management agreement entered into under this Section prohibits the General Assembly from authorizing forms of gambling that are not in direct competition with the Lottery. The forms of gambling authorized by Public Act 101-31 constitute authorized forms of gambling that are not in direct competition with the Lottery.

(n) The private manager shall be subject to a complete investigation in the third, seventh, and tenth years of the agreement (if the agreement is for a 10-year term) by the Department in cooperation with the Auditor General to determine whether the private manager has complied with this Section and the management agreement. The private manager shall bear the cost of an investigation or reinvestigation of the private manager under this subsection.

(o) The powers conferred by this Section are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Section, including, but not limited to, provisions of the Illinois Procurement Code, then this Section controls as to any management agreement entered into under this Section. This Section and any rules adopted under this Section contain full and complete authority for a management agreement between the Department and a private manager. No law, procedure, proceeding, publication, notice, consent, approval, order, or act by the Department or any other officer, Department, agency, or instrumentality of the State or any political

subdivision is required for the Department to enter into a management agreement under this Section. This Section contains full and complete authority for the Department to approve any contracts entered into by a private manager with a vendor providing goods, services, or both goods and services to the private manager under the terms of the management agreement, including subcontractors of such vendors.

Upon receipt of a written request from the Chief Procurement Officer, the Department shall provide to the Chief Procurement Officer a complete and un-redacted copy of the management agreement or any contract that is subject to the Department's approval authority under this subsection (o). The Department shall provide a copy of the agreement or contract to the Chief Procurement Officer in the time specified by the Chief Procurement Officer in his or her written request, but no later than 5 business days after the request is received by the Department. The Chief Procurement Officer must retain any portions of the management agreement or of any contract designated by the Department as confidential, proprietary, or trade secret information in complete confidence pursuant to subsection (g) of Section 7 of the Freedom of Information Act. The Department shall also provide the Chief Procurement Officer with reasonable advance written notice of any contract that is pending Department approval.

Notwithstanding any other provision of this Section to the contrary, the Chief Procurement Officer shall adopt

administrative rules, including emergency rules, to establish a procurement process to select a successor private manager if a private management agreement has been terminated. The selection process shall at a minimum take into account the criteria set forth in items (1) through (4) of subsection (e) of this Section and may include provisions consistent with subsections (f), (g), (h), and (i) of this Section. The Chief Procurement Officer shall also implement and administer the adopted selection process upon the termination of a private management agreement. The Department, after the Chief Procurement Officer certifies that the procurement process has been followed in accordance with the rules adopted under this subsection (o), shall select a final offeror as the private manager and sign the management agreement with the private manager.

Through June 30, 2022, except as provided in Sections 21.5, 21.6, 21.7, 21.8, 21.9, 21.10, 21.11, 21.12, and 21.13 of this Act and Section 25-70 of the Sports Wagering Act, the Department shall distribute all proceeds of lottery tickets and shares sold in the following priority and manner:

(1) The payment of prizes and retailer bonuses.

(2) The payment of costs incurred in the operation and administration of the Lottery, including the payment of sums due to the private manager under the management agreement with the Department.

(3) On the last day of each month or as soon thereafter

as possible, the State Comptroller shall direct and the State Treasurer shall transfer from the State Lottery Fund to the Common School Fund an amount that is equal to the proceeds transferred in the corresponding month of fiscal year 2009, as adjusted for inflation, to the Common School Fund.

(4) On or before September 30 of each fiscal year, deposit any estimated remaining proceeds from the prior fiscal year, subject to payments under items (1), (2), and (3), into the Capital Projects Fund. Beginning in fiscal year 2019, the amount deposited shall be increased or decreased each year by the amount the estimated payment differs from the amount determined from each year-end financial audit. Only remaining net deficits from prior fiscal years may reduce the requirement to deposit these funds, as determined by the annual financial audit.

Beginning July 1, 2022, the Department shall distribute all proceeds of lottery tickets and shares sold in the manner and priority described in Section 9.3 of this Act, except that the Department shall make the deposit into the Capital Projects Fund that would have occurred under item (4) of this subsection (o) on or before September 30, 2022, but for the changes made to this subsection by Public Act 102-699.

(p) The Department shall be subject to the following reporting and information request requirements:

(1) the Department shall submit written quarterly

reports to the Governor and the General Assembly on the activities and actions of the private manager selected under this Section;

(2) upon request of the Chief Procurement Officer, the Department shall promptly produce information related to the procurement activities of the Department and the private manager requested by the Chief Procurement Officer; the Chief Procurement Officer must retain confidential, proprietary, or trade secret information designated by the Department in complete confidence pursuant to subsection (g) of Section 7 of the Freedom of Information Act; and

(3) at least 30 days prior to the beginning of the Department's fiscal year, the Department shall prepare an annual written report on the activities of the private manager selected under this Section and deliver that report to the Governor and General Assembly.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-561, eff. 8-23-19; 102-558, eff. 8-20-21; 102-699, eff. 4-19-22; 102-1115, eff. 1-9-23.)

Section 40. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by changing Section 2705-585 as follows:

(20 ILCS 2705/2705-585)

Sec. 2705-585. Diversity goals.

(a) To the extent permitted by any applicable federal law or regulation, all State construction projects funded from amounts (i) made available under the Governor's Fiscal Year 2009 supplemental budget or the American Recovery and Reinvestment Act of 2009 and (ii) that are appropriated to the Illinois Department of Transportation shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) The Illinois Department of Transportation shall appoint representatives to professional and artistic services selection committees representative of the State's ethnic, cultural, and geographic diversity, including, but not limited to, at least one person from each of the following: an association representing the interests of African American business owners, an association representing the interests of Latino business owners, and an association representing the interests of women business owners. These committees shall comply with all requirements of the Open Meetings Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 45. The Capital Development Board Act is amended by changing Section 16 as follows:

(20 ILCS 3105/16) (from Ch. 127, par. 783b)

Sec. 16. (a) In addition to any other power granted in this

Act to adopt rules or regulations, the Board may adopt regulations or rules relating to the issuance or renewal of the prequalification of an architect, engineer or contractor or the suspension or modification of the prequalification of any such person or entity including, without limitation, an interim or emergency suspension or modification without a hearing founded on any one or more of the bases set forth in this Section.

(b) Among the bases for an interim or emergency suspension or modification of prequalification are:

(1) A finding by the Board that the public interest, safety or welfare requires a summary suspension or modification of a prequalification without hearings.

(2) The occurrence of an event or series of events which, in the Board's opinion, warrants a summary suspension or modification of a prequalification without a hearing including, without limitation, (i) the indictment of the holder of the prequalification by a State or federal agency or other branch of government for a crime; (ii) the suspension or modification of a license or prequalification by another State agency or federal agency or other branch of government after hearings; (iii) a material breach of a contract made between the Board and an architect, engineer or contractor; and (iv) the failure to comply with State law including, without limitation, the Business Enterprise for Minorities, Women, Veterans,

and Persons with Disabilities Act, the prevailing wage requirements, and the Steel Products Procurement Act.

(c) If a prequalification is suspended or modified by the Board without hearings for any reason set forth in this Section or in Section 10-65 of the Illinois Administrative Procedure Act, as amended, the Board shall within 30 days of the issuance of an order of suspension or modification of a prequalification initiate proceedings for the suspension or modification of or other action upon the prequalification.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 50. The Illinois Finance Authority Act is amended by changing Sections 835-10 and 850-15 as follows:

(20 ILCS 3501/835-10)

Sec. 835-10. Definitions. As used or referred to in this Article 835, the following words and terms shall have the following meanings, except where the context clearly requires otherwise:

"Fund" means one or more of the Industrial Project Insurance Fund, the Illinois Agricultural Loan Guarantee Fund, or the Illinois Farmer and Agribusiness Loan Guarantee Fund, as applicable.

"Illinois Agricultural Loan Guarantee Fund" means the Illinois Agricultural Loan Guarantee Fund created under Section 830-30(c) of this Act.

"Illinois Farmer and Agribusiness Loan Guarantee Fund" means the Illinois Farmer and Agribusiness Loan Guarantee Fund created under Section 830-35(c) of this Act.

"Industrial Project Insurance Fund" means the Industrial Project Insurance Fund created under Section 805-15 of this Act.

"Qualified veteran-owned small business" means a small business (i) that is at least 51% owned by one or more qualified veterans living in Illinois or, in the case of a corporation, at least 51% of the stock of which is owned by one or more qualified veterans living in Illinois; (ii) that has its home office in Illinois; and (iii) for which items (i) and (ii) are factually verified annually by the Department of Central Management Services ~~has the meaning provided in subsection (e) of Section 45-57 of the Illinois Procurement Code~~.

(Source: P.A. 99-509, eff. 6-24-16.)

(20 ILCS 3501/850-15)

Sec. 850-15. Purposes; Climate Bank. In its role as the Climate Bank for the State, the Authority shall consider the following purposes:

(1) the distribution of the benefits of clean energy in an equitable manner, including by evaluating benefits to eligible communities and equity investment eligible persons;

(2) making clean energy accessible to all, especially eligible persons, through financing opportunities and grants for minority-owned businesses, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and for low-income communities, eligible communities, environmental justice communities, and the businesses that serve these communities; and

(3) accelerating the investment of private capital into clean energy projects in a manner reflective of the geographic, racial, ethnic, gender, and income-level diversity of the State.

(Source: P.A. 102-662, eff. 9-15-21.)

Section 51. The Illinois Power Agency Act is amended by changing Sections 1-10 and 1-75 as follows:

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

"Agency loan agreement" means any agreement pursuant to which the Illinois Finance Authority agrees to loan the proceeds of revenue bonds issued with respect to a project to the Agency upon terms providing for loan repayment installments at least sufficient to pay when due all principal of, interest and premium, if any, on those revenue bonds, and

providing for maintenance, insurance, and other matters in respect of the project.

"Authority" means the Illinois Finance Authority.

"Brownfield site photovoltaic project" means photovoltaics that are either:

(1) interconnected to an electric utility as defined in this Section, a municipal utility as defined in this Section, a public utility as defined in Section 3-105 of the Public Utilities Act, or an electric cooperative as defined in Section 3-119 of the Public Utilities Act and located at a site that is regulated by any of the following entities under the following programs:

(A) the United States Environmental Protection Agency under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended;

(B) the United States Environmental Protection Agency under the Corrective Action Program of the federal Resource Conservation and Recovery Act, as amended;

(C) the Illinois Environmental Protection Agency under the Illinois Site Remediation Program; or

(D) the Illinois Environmental Protection Agency under the Illinois Solid Waste Program; or

(2) located at the site of a coal mine that has permanently ceased coal production, permanently halted any

re-mining operations, and is no longer accepting any coal combustion residues; has both completed all clean-up and remediation obligations under the federal Surface Mining and Reclamation Act of 1977 and all applicable Illinois rules and any other clean-up, remediation, or ongoing monitoring to safeguard the health and well-being of the people of the State of Illinois, as well as demonstrated compliance with all applicable federal and State environmental rules and regulations, including, but not limited, to 35 Ill. Adm. Code Part 845 and any rules for historic fill of coal combustion residuals, including any rules finalized in Subdocket A of Illinois Pollution Control Board docket R2020-019.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation

after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu ~~btu~~ content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2015 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver additional consumer savings, in which case the facility shall use coal for at least 35% of the total feedstock over the term of any sourcing agreement; and (4) captures and

sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon dioxide emissions that the facility would otherwise emit, that uses at least 90% coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu ~~btu~~ content, and that has a valid and effective permit to construct emission sources and air pollution control equipment and approval with respect to the federal regulations for Prevention of Significant Deterioration of Air Quality (PSD) for the plant pursuant to the federal Clean Air Act; provided, however, a clean coal SNG brownfield facility shall not be a clean coal SNG facility.

"Clean energy" means energy generation that is 90% or greater free of carbon dioxide emissions.

"Commission" means the Illinois Commerce Commission.

"Community renewable generation project" means an electric generating facility that:

(1) is powered by wind, solar thermal energy, photovoltaic cells or panels, biodiesel, crops and untreated and unadulterated organic waste biomass, and hydropower that does not involve new construction or significant expansion of hydropower dams;

(2) is interconnected at the distribution system level

of an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, a public utility as defined in Section 3-105 of the Public Utilities Act, or an electric cooperative, as defined in Section 3-119 of the Public Utilities Act;

(3) credits the value of electricity generated by the facility to the subscribers of the facility; and

(4) is limited in nameplate capacity to less than or equal to 5,000 kilowatts.

"Costs incurred in connection with the development and construction of a facility" means:

(1) the cost of acquisition of all real property, fixtures, and improvements in connection therewith and equipment, personal property, and other property, rights, and easements acquired that are deemed necessary for the operation and maintenance of the facility;

(2) financing costs with respect to bonds, notes, and other evidences of indebtedness of the Agency;

(3) all origination, commitment, utilization, facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

(4) engineering, design, procurement, consulting, legal, accounting, title insurance, survey, appraisal, escrow, trustee, collateral agency, interest rate hedging, interest rate swap, capitalized interest, contingency, as

required by lenders, and other financing costs, and other expenses for professional services; and

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and starting up, commissioning, and placing that project in operation.

"Delivery services" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Delivery year" means the consecutive 12-month period beginning June 1 of a given year and ending May 31 of the following year.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of the Illinois Power Agency.

"Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.

"Distributed renewable energy generation device" means a device that is:

(1) powered by wind, solar thermal energy, photovoltaic cells or panels, biodiesel, crops and

untreated and unadulterated organic waste biomass, tree waste, and hydropower that does not involve new construction or significant expansion of hydropower dams, waste heat to power systems, or qualified combined heat and power systems;

(2) interconnected at the distribution system level of either an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, or a rural electric cooperative as defined in Section 3-119 of the Public Utilities Act;

(3) located on the customer side of the customer's electric meter and is primarily used to offset that customer's electricity load; and

(4) (blank).

"Energy efficiency" means measures that reduce the amount of electricity or natural gas consumed in order to achieve a given end use. "Energy efficiency" includes voltage optimization measures that optimize the voltage at points on the electric distribution voltage system and thereby reduce electricity consumption by electric customers' end use devices. "Energy efficiency" also includes measures that reduce the total Btus of electricity, natural gas, and other fuels needed to meet the end use or uses.

"Electric utility" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Equity investment eligible community" or "eligible community" are synonymous and mean the geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination. Specifically, the eligible communities shall be defined as the following areas:

(1) R3 Areas as established pursuant to Section 10-40 of the Cannabis Regulation and Tax Act, where residents have historically been excluded from economic opportunities, including opportunities in the energy sector; and

(2) environmental ~~Environmental~~ justice communities, as defined by the Illinois Power Agency pursuant to the Illinois Power Agency Act, where residents have historically been subject to disproportionate burdens of pollution, including pollution from the energy sector.

"Equity eligible persons" or "eligible persons" means persons who would most benefit from equitable investments by the State designed to combat discrimination, specifically:

(1) persons who graduate from or are current or former participants in the Clean Jobs Workforce Network Program, the Clean Energy Contractor Incubator Program, the Illinois Climate Works Preapprenticeship Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multi-cultural jobs

program created in paragraphs (a)(1) and (a)(3) of Section 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

(2) persons who are graduates of or currently enrolled in the foster care system;

(3) persons who were formerly incarcerated;

(4) persons whose primary residence is in an equity investment eligible community.

"Equity eligible contractor" means a business that is majority-owned by eligible persons, or a nonprofit or cooperative that is majority-governed by eligible persons, or is a natural person that is an eligible person offering personal services as an independent contractor.

"Facility" means an electric generating unit or a co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

"General contractor ~~Contractor~~" means the entity or organization with main responsibility for the building of a construction project and who is the party signing the prime construction contract for the project.

"Governmental aggregator" means one or more units of local government that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction.

"High voltage direct current converter station" means the collection of equipment that converts direct current energy

from a high voltage direct current transmission line into alternating current using Voltage Source Conversion technology and that is interconnected with transmission or distribution assets located in Illinois.

"High voltage direct current renewable energy credit" means a renewable energy credit associated with a renewable energy resource where the renewable energy resource has entered into a contract to transmit the energy associated with such renewable energy credit over high voltage direct current transmission facilities.

"High voltage direct current transmission facilities" means the collection of installed equipment that converts alternating current energy in one location to direct current and transmits that direct current energy to a high voltage direct current converter station using Voltage Source Conversion technology. "High voltage direct current transmission facilities" includes the high voltage direct current converter station itself and associated high voltage direct current transmission lines. Notwithstanding the preceding, after September 15, 2021 (the effective date of Public Act 102-662) ~~this amendatory Act of the 102nd General Assembly~~, an otherwise qualifying collection of equipment does not qualify as high voltage direct current transmission facilities unless its developer entered into a project labor agreement, is capable of transmitting electricity at 525kv with an Illinois converter station located and interconnected

in the region of the PJM Interconnection, LLC, and the system does not operate as a public utility, as that term is defined in Section 3-105 of the Public Utilities Act.

"Index price" means the real-time energy settlement price at the applicable Illinois trading hub, such as PJM-NIHUB or MISO-IL, for a given settlement period.

"Indexed renewable energy credit" means a tradable credit that represents the environmental attributes of one megawatt hour of energy produced from a renewable energy resource, the price of which shall be calculated by subtracting the strike price offered by a new utility-scale wind project or a new utility-scale photovoltaic project from the index price in a given settlement period.

"Indexed renewable energy credit counterparty" has the same meaning as "public utility" as defined in Section 3-105 of the Public Utilities Act.

"Local government" means a unit of local government as defined in Section 1 of Article VII of the Illinois Constitution.

"Municipality" means a city, village, or incorporated town.

"Municipal utility" means a public utility owned and operated by any subdivision or municipal corporation of this State.

"Nameplate capacity" means the aggregate inverter nameplate capacity in kilowatts AC.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

"Project" means the planning, bidding, and construction of a facility.

"Project labor agreement" means a pre-hire collective bargaining agreement that covers all terms and conditions of employment on a specific construction project and must include the following:

(1) provisions establishing the minimum hourly wage for each class of labor organization employee;

(2) provisions establishing the benefits and other compensation for each class of labor organization employee;

(3) provisions establishing that no strike or disputes will be engaged in by the labor organization employees;

(4) provisions establishing that no lockout or disputes will be engaged in by the general contractor building the project; and

(5) provisions for minorities and women, as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, setting forth goals for apprenticeship hours to be performed by minorities and women and setting forth goals for total

hours to be performed by underrepresented minorities and women.

A labor organization and the general contractor building the project shall have the authority to include other terms and conditions as they deem necessary.

"Public utility" has the same definition as found in Section 3-105 of the Public Utilities Act.

"Qualified combined heat and power systems" means systems that, either simultaneously or sequentially, produce electricity and useful thermal energy from a single fuel source. Such systems are eligible for "renewable energy credits" in an amount equal to its total energy output where a renewable fuel is consumed or in an amount equal to the net reduction in nonrenewable fuel consumed on a total energy output basis.

"Real property" means any interest in land together with all structures, fixtures, and improvements thereon, including lands under water and riparian rights, any easements, covenants, licenses, leases, rights-of-way, uses, and other interests, together with any liens, judgments, mortgages, or other claims or security interests related to real property.

"Renewable energy credit" means a tradable credit that represents the environmental attributes of one megawatt hour of energy produced from a renewable energy resource.

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits

from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, and hydropower that does not involve new construction or significant expansion of hydropower dams, waste heat to power systems, or qualified combined heat and power systems. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood. "Renewable energy resources" also includes high voltage direct current renewable energy credits and the associated energy converted to alternating current by a high voltage direct current converter station to the extent that: (1) the generator of such renewable energy resource contracted with a third party to transmit the energy over the high voltage direct current transmission facilities, and (2) the third-party contracting for delivery of renewable energy resources over the high voltage direct current transmission facilities have ownership rights over the unretired associated high voltage direct current renewable energy credit.

"Retail customer" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Revenue bond" means any bond, note, or other evidence of indebtedness issued by the Authority, the principal and interest of which is payable solely from revenues or income derived from any project or activity of the Agency.

"Sequester" means permanent storage of carbon dioxide by injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage, regardless of whether these activities are conducted by a clean coal facility, a clean coal SNG facility, a clean coal SNG brownfield facility, or a party with which a clean coal facility, clean coal SNG facility, or clean coal SNG brownfield facility has contracted for such purposes.

"Service area" has the same definition as found in Section 16-102 of the Public Utilities Act.

"Settlement period" means the period of time utilized by MISO and PJM and their successor organizations as the basis for settlement calculations in the real-time energy market.

"Sourcing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and

conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act, and (iii) in case of a gas utility, an agreement between the owner of a clean coal SNG brownfield facility and the gas utility, which agreement shall have the terms and conditions meeting the requirements of subsection (h-1) of Section 9-220 of the Public Utilities Act.

"Strike price" means a contract price for energy and renewable energy credits from a new utility-scale wind project or a new utility-scale photovoltaic project.

"Subscriber" means a person who (i) takes delivery service from an electric utility, and (ii) has a subscription of no less than 200 watts to a community renewable generation project that is located in the electric utility's service area. No subscriber's subscriptions may total more than 40% of the nameplate capacity of an individual community renewable generation project. Entities that are affiliated by virtue of a common parent shall not represent multiple subscriptions that total more than 40% of the nameplate capacity of an individual community renewable generation project.

"Subscription" means an interest in a community renewable generation project expressed in kilowatts, which is sized primarily to offset part or all of the subscriber's electricity usage.

"Substitute natural gas" or "SNG" means a gas manufactured by gasification of hydrocarbon feedstock, which is substantially interchangeable in use and distribution with

conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures and including avoided costs associated with reduced use of natural gas or other fuels, avoided costs associated with reduced water consumption, and avoided costs associated with reduced operation and maintenance costs, as well as other quantifiable societal benefits, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases. In discounting future societal costs and benefits for

the purpose of calculating net present values, a societal discount rate based on actual, long-term Treasury bond yields should be used. Notwithstanding anything to the contrary, the TRC test shall not include or take into account a calculation of market price suppression effects or demand reduction induced price effects.

"Utility-scale solar project" means an electric generating facility that:

(1) generates electricity using photovoltaic cells; and

(2) has a nameplate capacity that is greater than 5,000 kilowatts.

"Utility-scale wind project" means an electric generating facility that:

(1) generates electricity using wind; and

(2) has a nameplate capacity that is greater than 5,000 kilowatts.

"Waste Heat to Power Systems" means systems that capture and generate electricity from energy that would otherwise be lost to the atmosphere without the use of additional fuel.

"Zero emission credit" means a tradable credit that represents the environmental attributes of one megawatt hour of energy produced from a zero emission facility.

"Zero emission facility" means a facility that: (1) is fueled by nuclear power; and (2) is interconnected with PJM Interconnection, LLC or the Midcontinent Independent System

Operator, Inc., or their successors.

(Source: P.A. 102-662, eff. 9-15-21; revised 6-2-22.)

(20 ILCS 3855/1-75)

Sec. 1-75. Planning and Procurement Bureau. The Planning and Procurement Bureau has the following duties and responsibilities:

(a) The Planning and Procurement Bureau shall each year, beginning in 2008, develop procurement plans and conduct competitive procurement processes in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois. Beginning with the delivery year commencing on June 1, 2017, the Planning and Procurement Bureau shall develop plans and processes for the procurement of zero emission credits from zero emission facilities in accordance with the requirements of subsection (d-5) of this Section. Beginning on the effective date of this amendatory Act of the 102nd General Assembly, the Planning and Procurement Bureau shall develop plans and processes for the procurement of carbon mitigation credits from carbon-free energy resources in accordance with the requirements of subsection (d-10) of this Section. The Planning and Procurement Bureau shall also develop procurement plans and conduct competitive procurement processes in accordance with

the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Agency to prepare a procurement plan for their Illinois jurisdictional load. For the purposes of this Section, the term "eligible retail customers" has the same definition as found in Section 16-111.5(a) of the Public Utilities Act.

Beginning with the plan or plans to be implemented in the 2017 delivery year, the Agency shall no longer include the procurement of renewable energy resources in the annual procurement plans required by this subsection (a), except as provided in subsection (q) of Section 16-111.5 of the Public Utilities Act, and shall instead develop a long-term renewable resources procurement plan in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act.

In accordance with subsection (c-5) of this Section, the Planning and Procurement Bureau shall oversee the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new utility-scale solar projects to be

installed, along with energy storage facilities, at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned coal as their primary fuel source.

(1) The Agency shall each year, beginning in 2008, as needed, issue a request for qualifications for experts or expert consulting firms to develop the procurement plans in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience assembling large-scale power supply plans or portfolios for end-use customers;

(B) an advanced degree in economics, mathematics, engineering, risk management, or a related area of study;

(C) 10 years of experience in the electricity sector, including managing supply risk;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit protocols and familiarity with contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(2) The Agency shall each year, as needed, issue a request for qualifications for a procurement administrator to conduct the competitive procurement processes in accordance with Section 16-111.5 of the Public Utilities Act. In order to qualify an expert or expert consulting firm must have:

(A) direct previous experience administering a large-scale competitive procurement process;

(B) an advanced degree in economics, mathematics, engineering, or a related area of study;

(C) 10 years of experience in the electricity sector, including risk management experience;

(D) expertise in wholesale electricity market rules, including those established by the Federal Energy Regulatory Commission and regional transmission organizations;

(E) expertise in credit and contract protocols;

(F) adequate resources to perform and fulfill the required functions and responsibilities; and

(G) the absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected electric utilities.

(3) The Agency shall provide affected utilities and

other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties shall, within 5 business days, notify the Agency in writing if they object to any experts or expert consulting firms on the lists. Objections shall be based on:

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

(C) evidence of inappropriate bias for or against potential bidders or the affected utilities.

The Agency shall remove experts or expert consulting firms from the lists within 10 days if there is a reasonable basis for an objection and provide the updated lists to the affected utilities and other interested parties. If the Agency fails to remove an expert or expert consulting firm from a list, an objecting party may seek review by the Commission within 5 days thereafter by filing a petition, and the Commission shall render a

ruling on the petition within 10 days. There is no right of appeal of the Commission's ruling.

(4) The Agency shall issue requests for proposals to the qualified experts or expert consulting firms to develop a procurement plan for the affected utilities and to serve as procurement administrator.

(5) The Agency shall select an expert or expert consulting firm to develop procurement plans based on the proposals submitted and shall award contracts of up to 5 years to those selected.

(6) The Agency shall select an expert or expert consulting firm, with approval of the Commission, to serve as procurement administrator based on the proposals submitted. If the Commission rejects, within 5 days, the Agency's selection, the Agency shall submit another recommendation within 3 days based on the proposals submitted. The Agency shall award a 5-year contract to the expert or expert consulting firm so selected with Commission approval.

(b) The experts or expert consulting firms retained by the Agency shall, as appropriate, prepare procurement plans, and conduct a competitive procurement process as prescribed in Section 16-111.5 of the Public Utilities Act, to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for

eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in the State of Illinois, and for eligible Illinois retail customers of small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load.

(c) Renewable portfolio standard.

(1)(A) The Agency shall develop a long-term renewable resources procurement plan that shall include procurement programs and competitive procurement events necessary to meet the goals set forth in this subsection (c). The initial long-term renewable resources procurement plan shall be released for comment no later than 160 days after June 1, 2017 (the effective date of Public Act 99-906). The Agency shall review, and may revise on an expedited basis, the long-term renewable resources procurement plan at least every 2 years, which shall be conducted in conjunction with the procurement plan under Section 16-111.5 of the Public Utilities Act to the extent practicable to minimize administrative expense. No later than 120 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall release for comment a revision to the long-term renewable resources procurement plan, updating elements of the most recently approved plan as needed to comply with this

amendatory Act of the 102nd General Assembly, and any long-term renewable resources procurement plan update published by the Agency but not yet approved by the Illinois Commerce Commission shall be withdrawn. The long-term renewable resources procurement plans shall be subject to review and approval by the Commission under Section 16-111.5 of the Public Utilities Act.

(B) Subject to subparagraph (F) of this paragraph (1), the long-term renewable resources procurement plan shall attempt to meet the goals for procurement of renewable energy credits at levels of at least the following overall percentages: 13% by the 2017 delivery year; increasing by at least 1.5% each delivery year thereafter to at least 25% by the 2025 delivery year; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals. In the event of a conflict between these goals and the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1), the long-term plan shall prioritize compliance with the new wind and new photovoltaic

procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1) over the annual percentage targets described in this subparagraph (B). The Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits that are unlikely to lead to the development of new renewable resources.

For the delivery year beginning June 1, 2017, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 13% of each utility's load for eligible retail customers and 13% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 50% of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2018, the procurement plan shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to at least 14.5% of each utility's load for eligible retail customers and 14.5% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 75% of the utility's load for retail customers who are not

eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2019, and for each year thereafter, the procurement plans shall attempt to include, subject to the prioritization outlined in this subparagraph (B), cost-effective renewable energy resources equal to a minimum percentage of each utility's load for all retail customers as follows: 16% by June 1, 2019; increasing by 1.5% each year thereafter to 25% by June 1, 2025; and 25% by June 1, 2026; increasing by at least 3% each delivery year thereafter to at least 40% by the 2030 delivery year, and continuing at no less than 40% for each delivery year thereafter. The Agency shall attempt to procure 50% by delivery year 2040. The Agency shall determine the annual increase between delivery year 2030 and delivery year 2040, if any, taking into account energy demand, other energy resources, and other public policy goals.

For each delivery year, the Agency shall first recognize each utility's obligations for that delivery year under existing contracts. Any renewable energy credits under existing contracts, including renewable energy credits as part of renewable energy resources, shall be used to meet the goals set forth in this subsection (c) for the delivery year.

(C) The long-term renewable resources procurement plan described in subparagraph (A) of this paragraph (1) shall

include the procurement of renewable energy credits from new projects in amounts equal to at least the following:

(i) 10,000,000 renewable energy credits delivered annually by the end of the 2021 delivery year, and increasing ratably to reach 45,000,000 renewable energy credits delivered annually from new wind and solar projects by the end of delivery year 2030 such that the goals in subparagraph (B) of this paragraph (1) are met entirely by procurements of renewable energy credits from new wind and photovoltaic projects. Of that amount, to the extent possible, the Agency shall procure 45% from wind projects and 55% from photovoltaic projects. Of the amount to be procured from photovoltaic projects, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy generation devices or community renewable generation projects; at least 47% from utility-scale solar projects; at least 3% from brownfield site photovoltaic projects that are not community renewable generation projects.

In developing the long-term renewable resources procurement plan, the Agency shall consider other approaches, in addition to competitive procurements, that can be used to procure renewable energy credits

from brownfield site photovoltaic projects and thereby help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in environmental justice communities, as defined using existing methodologies and findings used by the Agency and its Administrator in its Illinois Solar for All Program.

(ii) In any given delivery year, if forecasted expenses are less than the maximum budget available under subparagraph (E) of this paragraph (1), the Agency shall continue to procure new renewable energy credits until that budget is exhausted in the manner outlined in item (i) of this subparagraph (C).

(iii) For purposes of this Section:

"New wind projects" means wind renewable energy facilities that are energized after June 1, 2017 for the delivery year commencing June 1, 2017.

"New photovoltaic projects" means photovoltaic renewable energy facilities that are energized after June 1, 2017. Photovoltaic projects developed under Section 1-56 of this Act shall not apply towards the new photovoltaic project requirements in this subparagraph (C).

For purposes of calculating whether the Agency has procured enough new wind and solar renewable energy

credits required by this subparagraph (C), renewable energy facilities that have a multi-year renewable energy credit delivery contract with the utility through at least delivery year 2030 shall be considered new, however no renewable energy credits from contracts entered into before June 1, 2021 shall be used to calculate whether the Agency has procured the correct proportion of new wind and new solar contracts described in this subparagraph (C) for delivery year 2021 and thereafter.

(D) Renewable energy credits shall be cost effective. For purposes of this subsection (c), "cost effective" means that the costs of procuring renewable energy resources do not cause the limit stated in subparagraph (E) of this paragraph (1) to be exceeded and, for renewable energy credits procured through a competitive procurement event, do not exceed benchmarks based on market prices for like products in the region. For purposes of this subsection (c), "like products" means contracts for renewable energy credits from the same or substantially similar technology, same or substantially similar vintage (new or existing), the same or substantially similar quantity, and the same or substantially similar contract length and structure. Benchmarks shall reflect development, financing, or related costs resulting from requirements imposed through

other provisions of State law, including, but not limited to, requirements in subparagraphs (P) and (Q) of this paragraph (1) and the Renewable Energy Facilities Agricultural Impact Mitigation Act. Confidential benchmarks shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval. If price benchmarks for like products in the region are not available, the procurement administrator shall establish price benchmarks based on publicly available data on regional technology costs and expected current and future regional energy prices. The benchmarks in this Section shall not be used to curtail or otherwise reduce contractual obligations entered into by or through the Agency prior to June 1, 2017 (the effective date of Public Act 99-906).

(E) For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year commencing prior to June 1, 2017 shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the delivery year ending immediately prior to the procurement, and, for delivery years commencing on and after June 1, 2017, the required procurement of cost-effective renewable energy

resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) delivered by the electric utility in the delivery year ending immediately prior to the procurement, to all retail customers in its service territory. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, capacity, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured under the procurement plan for any single year shall be subject to the limitations of this subparagraph (E). Such procurement shall be reduced for all retail customers based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than 4.25% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009. To arrive at a maximum dollar amount of renewable energy resources to be procured for the particular delivery year, the resulting per kilowatthour amount shall be applied to the

actual amount of kilowatthours of electricity delivered, or applicable portion of such amount as specified in paragraph (1) of this subsection (c), as applicable, by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service territory. The calculations required by this subparagraph (E) shall be made only once for each delivery year at the time that the renewable energy resources are procured. Once the determination as to the amount of renewable energy resources to procure is made based on the calculations set forth in this subparagraph (E) and the contracts procuring those amounts are executed, no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. All costs incurred under such contracts shall be fully recoverable by the electric utility as provided in this Section.

(F) If the limitation on the amount of renewable energy resources procured in subparagraph (E) of this paragraph (1) prevents the Agency from meeting all of the goals in this subsection (c), the Agency's long-term plan shall prioritize compliance with the requirements of this subsection (c) regarding renewable energy credits in the following order:

(i) renewable energy credits under existing contractual obligations as of June 1, 2021;

(i-5) funding for the Illinois Solar for All Program, as described in subparagraph (O) of this paragraph (1);

(ii) renewable energy credits necessary to comply with the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1); and

(iii) renewable energy credits necessary to meet the remaining requirements of this subsection (c).

(G) The following provisions shall apply to the Agency's procurement of renewable energy credits under this subsection (c):

(i) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale wind projects within 160 days after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale wind projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the

actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(ii) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects within one year after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale solar projects and brownfield site photovoltaic projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or

distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. The Agency may structure this initial procurement in one or more discrete procurement events. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(iii) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and new brownfield site photovoltaic projects within 240 days after the effective date of this amendatory Act of the 102nd General Assembly in quantities necessary to meet the requirements of subparagraph (C) of this paragraph (1) through the delivery year beginning June 1, 2021.

(iv) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section

16-111.5 of the Public Utilities Act, the Agency shall open capacity for each category in the Adjustable Block program within 90 days after the effective date of this amendatory Act of the 102nd General Assembly manner:

(1) The Agency shall open the first block of annual capacity for the category described in item (i) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (i) shall be for at least 75 megawatts of total nameplate capacity. The price of the renewable energy credit for this block of capacity shall be 4% less than the price of the last open block in this category. Projects on a waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Notwithstanding anything to the contrary, for those renewable energy credits that qualify and are procured under this subitem (1) of this item (iv), the renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation, by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and in compliance by the

Program Administrator. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(2) The Agency shall open the first block of annual capacity for the category described in item (ii) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (ii) shall be for at least 75 megawatts of total nameplate capacity.

(A) The price of the renewable energy credit for any project on a waitlist for this category before the opening of this block shall be 4% less than the price of the last open block in this category. Projects on the waitlist shall be awarded contracts first in the order in which they appear on the waitlist. Any projects that are less than or equal to 25 kilowatts in size on the waitlist for this capacity shall be moved to the waitlist for paragraph (1) of this item (iv). Notwithstanding anything to the contrary, projects that were on the waitlist prior to

opening of this block shall not be required to be in compliance with the requirements of subparagraph (Q) of this paragraph (1) of this subsection (c). Notwithstanding anything to the contrary, for those renewable energy credits procured from projects that were on the waitlist for this category before the opening of this block 20% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 4-year period. The electric utility shall receive and retire all renewable energy credits generated by the project during the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(B) The price of renewable energy credits

for any project not on the waitlist for this category before the opening of the block shall be determined and published by the Agency. Projects not on a waitlist as of the opening of this block shall be subject to the requirements of subparagraph (Q) of this paragraph (1), as applicable. Projects not on a waitlist as of the opening of this block shall be subject to the contract provisions outlined in item (iii) of subparagraph (L) of this paragraph (1). The Agency shall strive to publish updated prices and an updated renewable energy credit delivery contract as quickly as possible.

(3) For opening the first 2 blocks of annual capacity for projects participating in item (iii) of subparagraph (K) of paragraph (1) of subsection (c), projects shall be selected exclusively from those projects on the ordinal waitlists of community renewable generation projects established by the Agency based on the status of those ordinal waitlists as of December 31, 2020, and only those projects previously determined to be eligible for the Agency's April 2019 community solar project selection process.

The first 2 blocks of annual capacity for item

(iii) shall be for 250 megawatts of total nameplate capacity, with both blocks opening simultaneously under the schedule outlined in the paragraphs below. Projects shall be selected as follows:

(A) The geographic balance of selected projects shall follow the Group classification found in the Agency's Revised Long-Term Renewable Resources Procurement Plan, with 70% of capacity allocated to projects on the Group B waitlist and 30% of capacity allocated to projects on the Group A waitlist.

(B) Contract awards for waitlisted projects shall be allocated proportionate to the total nameplate capacity amount across both ordinal waitlists associated with that applicant firm or its affiliates, subject to the following conditions.

(i) Each applicant firm having a waitlisted project eligible for selection shall receive no less than 500 kilowatts in awarded capacity across all groups, and no approved vendor may receive more than 20% of each Group's waitlist allocation.

(ii) Each applicant firm, upon receiving an award of program capacity

proportionate to its waitlisted capacity, may then determine which waitlisted projects it chooses to be selected for a contract award up to that capacity amount.

(iii) Assuming all other program requirements are met, applicant firms may adjust the nameplate capacity of applicant projects without losing waitlist eligibility, so long as no project is greater than 2,000 kilowatts in size.

(iv) Assuming all other program requirements are met, applicant firms may adjust the expected production associated with applicant projects, subject to verification by the Program Administrator.

(C) After a review of affiliate information and the current ordinal waitlists, the Agency shall announce the nameplate capacity award amounts associated with applicant firms no later than 90 days after the effective date of this amendatory Act of the 102nd General Assembly.

(D) Applicant firms shall submit their portfolio of projects used to satisfy those contract awards no less than 90 days after the Agency's announcement. The total nameplate

capacity of all projects used to satisfy that portfolio shall be no greater than the Agency's nameplate capacity award amount associated with that applicant firm. An applicant firm may decline, in whole or in part, its nameplate capacity award without penalty, with such unmet capacity rolled over to the next block opening for project selection under item (iii) of subparagraph (K) of this subsection (c). Any projects not included in an applicant firm's portfolio may reapply without prejudice upon the next block reopening for project selection under item (iii) of subparagraph (K) of this subsection (c).

(E) The renewable energy credit delivery contract shall be subject to the contract and payment terms outlined in item (iv) of subparagraph (L) of this subsection (c). Contract instruments used for this subparagraph shall contain the following terms:

(i) Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at 10% lower than

prices applicable to the last open block for this category, inclusive of any adders available for achieving a minimum of 50% of subscribers to the project's nameplate capacity being residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(ii) A requirement that a minimum of 50% of subscribers to the project's nameplate capacity be residential or small commercial customers with subscriptions of below 25 kilowatts in size;

(iii) Permission for the ability of a contract holder to substitute projects with other waitlisted projects without penalty should a project receive a non-binding estimate of costs to construct the interconnection facilities and any required distribution upgrades associated with that project of greater than 30 cents per watt AC of that project's nameplate capacity. In developing the applicable contract instrument, the Agency may consider whether other circumstances outside of the control of the applicant firm should also warrant project

substitution rights.

The Agency shall publish a finalized updated renewable energy credit delivery contract developed consistent with these terms and conditions no less than 30 days before applicant firms must submit their portfolio of projects pursuant to item (D).

(F) To be eligible for an award, the applicant firm shall certify that not less than prevailing wage, as determined pursuant to the Illinois Prevailing Wage Act, was or will be paid to employees who are engaged in construction activities associated with a selected project.

(4) The Agency shall open the first block of annual capacity for the category described in item (iv) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (iv) shall be for at least 50 megawatts of total nameplate capacity. Renewable energy credit prices shall be fixed, without further adjustment under any other provision of this Act or for any other reason, at the price in the last open block in the category described in item (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be

adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the contract terms outlined in item (iv) of subparagraph (L) of this paragraph (1).

(5) The Agency shall open the equivalent of 2 years of annual capacity for the category described in item (v) of subparagraph (K) of this paragraph (1). The first block of annual capacity for item (v) shall be for at least 10 megawatts of total nameplate capacity. Notwithstanding the provisions of item (v) of subparagraph (K) of this paragraph (1), for the purpose of this initial block, the agency shall accept new project applications intended to increase the diversity of areas hosting community solar projects, the business models of projects, and the size of projects, as described by the Agency in its long-term renewable resources procurement plan that is approved as of the effective date of this amendatory Act of the 102nd General Assembly. Projects in this category shall be subject to the contract terms outlined in item (iii) of subsection (L) of this paragraph (1).

(6) The Agency shall open the first blocks of annual capacity for the category described in item

(vi) of subparagraph (K) of this paragraph (1), with allocations of capacity within the block generally matching the historical share of block capacity allocated between the category described in items (i) and (ii) of subparagraph (K) of this paragraph (1). The first two blocks of annual capacity for item (vi) shall be for at least 75 megawatts of total nameplate capacity. The price of renewable energy credits for the blocks of capacity shall be 4% less than the price of the last open blocks in the categories described in items (i) and (ii) of subparagraph (K) of this paragraph (1). Pricing for future blocks of annual capacity for this category may be adjusted in the Agency's second revision to its Long-Term Renewable Resources Procurement Plan. Projects in this category shall be subject to the applicable contract terms outlined in items (ii) and (iii) of subparagraph (L) of this paragraph (1).

(v) Upon the effective date of this amendatory Act of the 102nd General Assembly, for all competitive procurements and any procurements of renewable energy credit from new utility-scale wind and new utility-scale photovoltaic projects, the Agency shall procure indexed renewable energy credits and direct respondents to offer a strike price.

(1) The purchase price of the indexed renewable energy credit payment shall be calculated for each settlement period. That payment, for any settlement period, shall be equal to the difference resulting from subtracting the strike price from the index price for that settlement period. If this difference results in a negative number, the indexed REC counterparty shall owe the seller the absolute value multiplied by the quantity of energy produced in the relevant settlement period. If this difference results in a positive number, the seller shall owe the indexed REC counterparty this amount multiplied by the quantity of energy produced in the relevant settlement period.

(2) Parties shall cash settle every month, summing up all settlements (both positive and negative, if applicable) for the prior month.

(3) To ensure funding in the annual budget established under subparagraph (E) for indexed renewable energy credit procurements for each year of the term of such contracts, which must have a minimum tenure of 20 calendar years, the procurement administrator, Agency, Commission staff, and procurement monitor shall quantify the annual cost of the contract by utilizing an

industry-standard, third-party forward price curve for energy at the appropriate hub or load zone, including the estimated magnitude and timing of the price effects related to federal carbon controls. Each forward price curve shall contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. For procurement planning purposes, the impact on the annual budget for the cost of indexed renewable energy credits for each delivery year shall be determined as the expected annual contract expenditure for that year, equaling the difference between (i) the sum across all relevant contracts of the applicable strike price multiplied by contract quantity and (ii) the sum across all relevant contracts of the forward price curve for the applicable load zone for that year multiplied by contract quantity. The contracting utility shall not assume an obligation in excess of the estimated annual cost of the contracts for indexed renewable energy credits. Forward curves shall be revised on an annual basis as updated forward price curves are released and filed with the Commission in the proceeding approving the Agency's most recent long-term renewable resources procurement plan. If the expected contract spend

is higher or lower than the total quantity of contracts multiplied by the forward price curve value for that year, the forward price curve shall be updated by the procurement administrator, in consultation with the Agency, Commission staff, and procurement monitors, using then-currently available price forecast data and additional budget dollars shall be obligated or reobligated as appropriate.

(4) To ensure that indexed renewable energy credit prices remain predictable and affordable, the Agency may consider the institution of a price collar on REC prices paid under indexed renewable energy credit procurements establishing floor and ceiling REC prices applicable to indexed REC contract prices. Any price collars applicable to indexed REC procurements shall be proposed by the Agency through its long-term renewable resources procurement plan.

(vi) All procurements under this subparagraph (G) shall comply with the geographic requirements in subparagraph (I) of this paragraph (1) and shall follow the procurement processes and procedures described in this Section and Section 16-111.5 of the Public Utilities Act to the extent practicable, and these processes and procedures may be expedited to

accommodate the schedule established by this subparagraph (G).

(H) The procurement of renewable energy resources for a given delivery year shall be reduced as described in this subparagraph (H) if an alternative retail electric supplier meets the requirements described in this subparagraph (H).

(i) Within 45 days after June 1, 2017 (the effective date of Public Act 99-906), an alternative retail electric supplier or its successor shall submit an informational filing to the Illinois Commerce Commission certifying that, as of December 31, 2015, the alternative retail electric supplier owned one or more electric generating facilities that generates renewable energy resources as defined in Section 1-10 of this Act, provided that such facilities are not powered by wind or photovoltaics, and the facilities generate one renewable energy credit for each megawatthour of energy produced from the facility.

The informational filing shall identify each facility that was eligible to satisfy the alternative retail electric supplier's obligations under Section 16-115D of the Public Utilities Act as described in this item (i).

(ii) For a given delivery year, the alternative retail electric supplier may elect to supply its

retail customers with renewable energy credits from the facility or facilities described in item (i) of this subparagraph (H) that continue to be owned by the alternative retail electric supplier.

(iii) The alternative retail electric supplier shall notify the Agency and the applicable utility, no later than February 28 of the year preceding the applicable delivery year or 15 days after June 1, 2017 (the effective date of Public Act 99-906), whichever is later, of its election under item (ii) of this subparagraph (H) to supply renewable energy credits to retail customers of the utility. Such election shall identify the amount of renewable energy credits to be supplied by the alternative retail electric supplier to the utility's retail customers and the source of the renewable energy credits identified in the informational filing as described in item (i) of this subparagraph (H), subject to the following limitations:

For the delivery year beginning June 1, 2018, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 25% multiplied by 14.5% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative

retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016.

For delivery years beginning June 1, 2019 and each year thereafter, the maximum amount of renewable energy credits to be supplied by an alternative retail electric supplier under this subparagraph (H) shall be 68% multiplied by 50% multiplied by 16% multiplied by the amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year ending May 31, 2016, provided that the 16% value shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

For each delivery year, the total amount of renewable energy credits supplied by all alternative retail electric suppliers under this subparagraph (H) shall not exceed 9% of the Illinois target renewable energy credit quantity. The Illinois target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered in the delivery year immediately preceding that delivery

year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

If the requirements set forth in items (i) through (iii) of this subparagraph (H) are met, the charges that would otherwise be applicable to the retail customers of the alternative retail electric supplier under paragraph (6) of this subsection (c) for the applicable delivery year shall be reduced by the ratio of the quantity of renewable energy credits supplied by the alternative retail electric supplier compared to that supplier's target renewable energy credit quantity. The supplier's target renewable energy credit quantity for the delivery year beginning June 1, 2018 is 14.5% multiplied by the total amount of metered electricity (megawatt-hours) delivered by the alternative retail supplier in that delivery year, provided that the 14.5% shall increase by 1.5% each delivery year thereafter to 25% by the delivery year beginning June 1, 2025, and thereafter the 25% value shall apply to each delivery year.

On or before April 1 of each year, the Agency shall annually publish a report on its website that identifies the aggregate amount of renewable energy credits supplied by alternative retail electric

suppliers under this subparagraph (H).

(I) The Agency shall design its long-term renewable energy procurement plan to maximize the State's interest in the health, safety, and welfare of its residents, including but not limited to minimizing sulfur dioxide, nitrogen oxide, particulate matter and other pollution that adversely affects public health in this State, increasing fuel and resource diversity in this State, enhancing the reliability and resiliency of the electricity distribution system in this State, meeting goals to limit carbon dioxide emissions under federal or State law, and contributing to a cleaner and healthier environment for the citizens of this State. In order to further these legislative purposes, renewable energy credits shall be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are generated from facilities located in this State. The Agency may qualify renewable energy credits from facilities located in states adjacent to Illinois or renewable energy credits associated with the electricity generated by a utility-scale wind energy facility or utility-scale photovoltaic facility and transmitted by a qualifying direct current project described in subsection (b-5) of Section 8-406 of the Public Utilities Act to a delivery point on the electric transmission grid located in this State or a state adjacent to Illinois, if the

generator demonstrates and the Agency determines that the operation of such facility or facilities will help promote the State's interest in the health, safety, and welfare of its residents based on the public interest criteria described above. For the purposes of this Section, renewable resources that are delivered via a high voltage direct current converter station located in Illinois shall be deemed generated in Illinois at the time and location the energy is converted to alternating current by the high voltage direct current converter station if the high voltage direct current transmission line: (i) after the effective date of this amendatory Act of the 102nd General Assembly, was constructed with a project labor agreement; (ii) is capable of transmitting electricity at 525kv; (iii) has an Illinois converter station located and interconnected in the region of the PJM Interconnection, LLC; (iv) does not operate as a public utility; and (v) if the high voltage direct current transmission line was energized after June 1, 2023. To ensure that the public interest criteria are applied to the procurement and given full effect, the Agency's long-term procurement plan shall describe in detail how each public interest factor shall be considered and weighted for facilities located in states adjacent to Illinois.

(J) In order to promote the competitive development of renewable energy resources in furtherance of the State's

interest in the health, safety, and welfare of its residents, renewable energy credits shall not be eligible to be counted toward the renewable energy requirements of this subsection (c) if they are sourced from a generating unit whose costs were being recovered through rates regulated by this State or any other state or states on or after January 1, 2017. Each contract executed to purchase renewable energy credits under this subsection (c) shall provide for the contract's termination if the costs of the generating unit supplying the renewable energy credits subsequently begin to be recovered through rates regulated by this State or any other state or states; and each contract shall further provide that, in that event, the supplier of the credits must return 110% of all payments received under the contract. Amounts returned under the requirements of this subparagraph (J) shall be retained by the utility and all of these amounts shall be used for the procurement of additional renewable energy credits from new wind or new photovoltaic resources as defined in this subsection (c). The long-term plan shall provide that these renewable energy credits shall be procured in the next procurement event.

Notwithstanding the limitations of this subparagraph (J), renewable energy credits sourced from generating units that are constructed, purchased, owned, or leased by an electric utility as part of an approved project,

program, or pilot under Section 1-56 of this Act shall be eligible to be counted toward the renewable energy requirements of this subsection (c), regardless of how the costs of these units are recovered. As long as a generating unit or an identifiable portion of a generating unit has not had and does not have its costs recovered through rates regulated by this State or any other state, HVDC renewable energy credits associated with that generating unit or identifiable portion thereof shall be eligible to be counted toward the renewable energy requirements of this subsection (c).

(K) The long-term renewable resources procurement plan developed by the Agency in accordance with subparagraph (A) of this paragraph (1) shall include an Adjustable Block program for the procurement of renewable energy credits from new photovoltaic projects that are distributed renewable energy generation devices or new photovoltaic community renewable generation projects. The Adjustable Block program shall be generally designed to provide for the steady, predictable, and sustainable growth of new solar photovoltaic development in Illinois. To this end, the Adjustable Block program shall provide a transparent annual schedule of prices and quantities to enable the photovoltaic market to scale up and for renewable energy credit prices to adjust at a predictable rate over time. The prices set by the Adjustable Block

program can be reflected as a set value or as the product of a formula.

The Adjustable Block program shall include for each category of eligible projects for each delivery year: a single block of nameplate capacity, a price for renewable energy credits within that block, and the terms and conditions for securing a spot on a waitlist once the block is fully committed or reserved. Except as outlined below, the waitlist of projects in a given year will carry over to apply to the subsequent year when another block is opened. Only projects energized on or after June 1, 2017 shall be eligible for the Adjustable Block program. For each category for each delivery year the Agency shall determine the amount of generation capacity in each block, and the purchase price for each block, provided that the purchase price provided and the total amount of generation in all blocks for all categories shall be sufficient to meet the goals in this subsection (c). The Agency shall strive to issue a single block sized to provide for stability and market growth. The Agency shall establish program eligibility requirements that ensure that projects that enter the program are sufficiently mature to indicate a demonstrable path to completion. The Agency may periodically review its prior decisions establishing the amount of generation capacity in each block, and the purchase price for each block, and may propose, on an

expedited basis, changes to these previously set values, including but not limited to redistributing these amounts and the available funds as necessary and appropriate, subject to Commission approval as part of the periodic plan revision process described in Section 16-111.5 of the Public Utilities Act. The Agency may define different block sizes, purchase prices, or other distinct terms and conditions for projects located in different utility service territories if the Agency deems it necessary to meet the goals in this subsection (c).

The Adjustable Block program shall include the following categories in at least the following amounts:

(i) At least 20% from distributed renewable energy generation devices with a nameplate capacity of no more than 25 kilowatts.

(ii) At least 20% from distributed renewable energy generation devices with a nameplate capacity of more than 25 kilowatts and no more than 5,000 kilowatts. The Agency may create sub-categories within this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers.

(iii) At least 30% from photovoltaic community renewable generation projects. Capacity for this category for the first 2 delivery years after the

effective date of this amendatory Act of the 102nd General Assembly shall be allocated to waitlist projects as provided in paragraph (3) of item (iv) of subparagraph (G). Starting in the third delivery year after the effective date of this amendatory Act of the 102nd General Assembly or earlier if the Agency determines there is additional capacity needed for to meet previous delivery year requirements, the following shall apply:

(1) the Agency shall select projects on a first-come, first-serve basis, however the Agency may suggest additional methods to prioritize projects that are submitted at the same time;

(2) projects shall have subscriptions of 25 kW or less for at least 50% of the facility's nameplate capacity and the Agency shall price the renewable energy credits with that as a factor;

(3) projects shall not be colocated with one or more other community renewable generation projects, as defined in the Agency's first revised long-term renewable resources procurement plan approved by the Commission on February 18, 2020, such that the aggregate nameplate capacity exceeds 5,000 kilowatts; and

(4) projects greater than 2 MW may not apply until after the approval of the Agency's revised

Long-Term Renewable Resources Procurement Plan after the effective date of this amendatory Act of the 102nd General Assembly.

(iv) At least 15% from distributed renewable generation devices or photovoltaic community renewable generation projects installed at public schools. The Agency may create subcategories within this category to account for the differences between project size or location. Projects located within environmental justice communities or within Organizational Units that fall within Tier 1 or Tier 2 shall be given priority. Each of the Agency's periodic updates to its long-term renewable resources procurement plan to incorporate the procurement described in this subparagraph (iv) shall also include the proposed quantities or blocks, pricing, and contract terms applicable to the procurement as indicated herein. In each such update and procurement, the Agency shall set the renewable energy credit price and establish payment terms for the renewable energy credits procured pursuant to this subparagraph (iv) that make it feasible and affordable for public schools to install photovoltaic distributed renewable energy devices on their premises, including, but not limited to, those public schools subject to the prioritization provisions of this subparagraph. For the purposes of

this item (iv):

"Environmental Justice Community" shall have the same meaning set forth in the Agency's long-term renewable resources procurement plan;

"Organization Unit", "Tier 1" and "Tier 2" shall have the meanings set for in Section 18-8.15 of the School Code;

"Public schools" shall have the meaning set forth in Section 1-3 of the School Code.

(v) At least 5% from community-driven community solar projects intended to provide more direct and tangible connection and benefits to the communities which they serve or in which they operate and, additionally, to increase the variety of community solar locations, models, and options in Illinois. As part of its long-term renewable resources procurement plan, the Agency shall develop selection criteria for projects participating in this category. Nothing in this Section shall preclude the Agency from creating a selection process that maximizes community ownership and community benefits in selecting projects to receive renewable energy credits. Selection criteria shall include:

(1) community ownership or community wealth-building;

(2) additional direct and indirect community

benefit, beyond project participation as a subscriber, including, but not limited to, economic, environmental, social, cultural, and physical benefits;

(3) meaningful involvement in project organization and development by community members or nonprofit organizations or public entities located in or serving the community;

(4) engagement in project operations and management by nonprofit organizations, public entities, or community members; and

(5) whether a project is developed in response to a site-specific RFP developed by community members or a nonprofit organization or public entity located in or serving the community.

Selection criteria may also prioritize projects that:

(1) are developed in collaboration with or to provide complementary opportunities for the Clean Jobs Workforce Network Program, the Illinois Climate Works Preapprenticeship Program, the Returning Residents Clean Jobs Training Program, the Clean Energy Contractor Incubator Program, or the Clean Energy Primes Contractor Accelerator Program;

(2) increase the diversity of locations of

community solar projects in Illinois, including by locating in urban areas and population centers;

(3) are located in Equity Investment Eligible Communities;

(4) are not greenfield projects;

(5) serve only local subscribers;

(6) have a nameplate capacity that does not exceed 500 kW;

(7) are developed by an equity eligible contractor; or

(8) otherwise meaningfully advance the goals of providing more direct and tangible connection and benefits to the communities which they serve or in which they operate and increasing the variety of community solar locations, models, and options in Illinois.

For the purposes of this item (v):

"Community" means a social unit in which people come together regularly to effect change; a social unit in which participants are marked by a cooperative spirit, a common purpose, or shared interests or characteristics; or a space understood by its residents to be delineated through geographic boundaries or landmarks.

"Community benefit" means a range of services and activities that provide affirmative, economic,

environmental, social, cultural, or physical value to a community; or a mechanism that enables economic development, high-quality employment, and education opportunities for local workers and residents, or formal monitoring and oversight structures such that community members may ensure that those services and activities respond to local knowledge and needs.

"Community ownership" means an arrangement in which an electric generating facility is, or over time will be, in significant part, owned collectively by members of the community to which an electric generating facility provides benefits; members of that community participate in decisions regarding the governance, operation, maintenance, and upgrades of and to that facility; and members of that community benefit from regular use of that facility.

Terms and guidance within these criteria that are not defined in this item (v) shall be defined by the Agency, with stakeholder input, during the development of the Agency's long-term renewable resources procurement plan. The Agency shall develop regular opportunities for projects to submit applications for projects under this category, and develop selection criteria that gives preference to projects that better meet individual criteria as well as projects that address a higher number of criteria.

(vi) At least 10% from distributed renewable energy generation devices, which includes distributed renewable energy devices with a nameplate capacity under 5,000 kilowatts or photovoltaic community renewable generation projects, from applicants that are equity eligible contractors. The Agency may create subcategories within this category to account for the differences between project size and type. The Agency shall propose to increase the percentage in this item (vi) over time to 40% based on factors, including, but not limited to, the number of equity eligible contractors and capacity used in this item (vi) in previous delivery years.

The Agency shall propose a payment structure for contracts executed pursuant to this paragraph under which, upon a demonstration of qualification or need, applicant firms are advanced capital disbursed after contract execution but before the contracted project's energization. The amount or percentage of capital advanced prior to project energization shall be sufficient to both cover any increase in development costs resulting from prevailing wage requirements or project-labor agreements, and designed to overcome barriers in access to capital faced by equity eligible contractors. The amount or percentage of advanced capital may vary by subcategory within this category

and by an applicant's demonstration of need, with such levels to be established through the Long-Term Renewable Resources Procurement Plan authorized under subparagraph (A) of paragraph (1) of subsection (c) of this Section.

Contracts developed featuring capital advanced prior to a project's energization shall feature provisions to ensure both the successful development of applicant projects and the delivery of the renewable energy credits for the full term of the contract, including ongoing collateral requirements and other provisions deemed necessary by the Agency, and may include energization timelines longer than for comparable project types. The percentage or amount of capital advanced prior to project energization shall not operate to increase the overall contract value, however contracts executed under this subparagraph may feature renewable energy credit prices higher than those offered to similar projects participating in other categories. Capital advanced prior to energization shall serve to reduce the ratable payments made after energization under items (ii) and (iii) of subparagraph (L) or payments made for each renewable energy credit delivery under item (iv) of subparagraph (L).

(vii) The remaining capacity shall be allocated by

the Agency in order to respond to market demand. The Agency shall allocate any discretionary capacity prior to the beginning of each delivery year.

To the extent there is uncontracted capacity from any block in any of categories (i) through (vi) at the end of a delivery year, the Agency shall redistribute that capacity to one or more other categories giving priority to categories with projects on a waitlist. The redistributed capacity shall be added to the annual capacity in the subsequent delivery year, and the price for renewable energy credits shall be the price for the new delivery year. Redistributed capacity shall not be considered redistributed when determining whether the goals in this subsection (K) have been met.

Notwithstanding anything to the contrary, as the Agency increases the capacity in item (vi) to 40% over time, the Agency may reduce the capacity of items (i) through (v) proportionate to the capacity of the categories of projects in item (vi), to achieve a balance of project types.

The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from projects in diverse locations and are not concentrated in a few regional areas.

(L) Notwithstanding provisions for advancing capital prior to project energization found in item (vi) of

subparagraph (K), the procurement of photovoltaic renewable energy credits under items (i) through (vi) of subparagraph (K) of this paragraph (1) shall otherwise be subject to the following contract and payment terms:

(i) (Blank).

(ii) For those renewable energy credits that qualify and are procured under item (i) of subparagraph (K) of this paragraph (1), and any similar category projects that are procured under item (vi) of subparagraph (K) of this paragraph (1) that qualify and are procured under item (vi), the contract length shall be 15 years. The renewable energy credit delivery contract value shall be paid in full, based on the estimated generation during the first 15 years of operation, by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iii) For those renewable energy credits that

qualify and are procured under item (ii) and (v) of subparagraph (K) of this paragraph (1) and any like projects similar category that qualify and are procured under item (vi), the contract length shall be 15 years. 15% of the renewable energy credit delivery contract value, based on the estimated generation during the first 15 years of operation, shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and verified as energized and compliant by the Program Administrator. The remaining portion shall be paid ratably over the subsequent 6-year period. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility.

(iv) For those renewable energy credits that qualify and are procured under items (iii) and (iv) of subparagraph (K) of this paragraph (1), and any like projects that qualify and are procured under item (vi), the renewable energy credit delivery contract length shall be 20 years and shall be paid over the

delivery term, not to exceed during each delivery year the contract price multiplied by the estimated annual renewable energy credit generation amount. If generation of renewable energy credits during a delivery year exceeds the estimated annual generation amount, the excess renewable energy credits shall be carried forward to future delivery years and shall not expire during the delivery term. If generation of renewable energy credits during a delivery year, including carried forward excess renewable energy credits, if any, is less than the estimated annual generation amount, payments during such delivery year will not exceed the quantity generated plus the quantity carried forward multiplied by the contract price. The electric utility shall receive all renewable energy credits generated by the project during the first 20 years of operation and retire all renewable energy credits paid for under this item (iv) and return at the end of the delivery term all renewable energy credits that were not paid for. Renewable energy credits generated by the project thereafter shall not be transferred under the renewable energy credit delivery contract with the counterparty electric utility. Notwithstanding the preceding, for those projects participating under item (iii) of subparagraph (K), the contract price for a

delivery year shall be based on subscription levels as measured on the higher of the first business day of the delivery year or the first business day 6 months after the first business day of the delivery year. Subscription of 90% of nameplate capacity or greater shall be deemed to be fully subscribed for the purposes of this item (iv). For projects receiving a 20-year delivery contract, REC prices shall be adjusted downward for consistency with the incentive levels previously determined to be necessary to support projects under 15-year delivery contracts, taking into consideration any additional new requirements placed on the projects, including, but not limited to, labor standards.

(v) Each contract shall include provisions to ensure the delivery of the estimated quantity of renewable energy credits and ongoing collateral requirements and other provisions deemed appropriate by the Agency.

(vi) The utility shall be the counterparty to the contracts executed under this subparagraph (L) that are approved by the Commission under the process described in Section 16-111.5 of the Public Utilities Act. No contract shall be executed for an amount that is less than one renewable energy credit per year.

(vii) If, at any time, approved applications for

the Adjustable Block program exceed funds collected by the electric utility or would cause the Agency to exceed the limitation described in subparagraph (E) of this paragraph (1) on the amount of renewable energy resources that may be procured, then the Agency may consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis.

(viii) Nothing in this Section shall require the utility to advance any payment or pay any amounts that exceed the actual amount of revenues anticipated to be collected by the utility under paragraph (6) of this subsection (c) and subsection (k) of Section 16-108 of the Public Utilities Act inclusive of eligible funds collected in prior years and alternative compliance payments for use by the utility, and contracts executed under this Section shall expressly incorporate this limitation.

(ix) Notwithstanding other requirements of this subparagraph (L), no modification shall be required to Adjustable Block program contracts if they were already executed prior to the establishment, approval, and implementation of new contract forms as a result of this amendatory Act of the 102nd General Assembly.

(x) Contracts may be assignable, but only to entities first deemed by the Agency to have met program terms and requirements applicable to direct

program participation. In developing contracts for the delivery of renewable energy credits, the Agency shall be permitted to establish fees applicable to each contract assignment.

(M) The Agency shall be authorized to retain one or more experts or expert consulting firms to develop, administer, implement, operate, and evaluate the Adjustable Block program described in subparagraph (K) of this paragraph (1), and the Agency shall retain the consultant or consultants in the same manner, to the extent practicable, as the Agency retains others to administer provisions of this Act, including, but not limited to, the procurement administrator. The selection of experts and expert consulting firms and the procurement process described in this subparagraph (M) are exempt from the requirements of Section 20-10 of the Illinois Procurement Code, under Section 20-10 of that Code. The Agency shall strive to minimize administrative expenses in the implementation of the Adjustable Block program.

The Program Administrator may charge application fees to participating firms to cover the cost of program administration. Any application fee amounts shall initially be determined through the long-term renewable resources procurement plan, and modifications to any application fee that deviate more than 25% from the Commission's approved value must be approved by the

Commission as a long-term plan revision under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to application fees and shall notify stakeholders in advance of any planned changes.

In addition to covering the costs of program administration, the Agency, in conjunction with its Program Administrator, may also use the proceeds of such fees charged to participating firms to support public education and ongoing regional and national coordination with nonprofit organizations, public bodies, and others engaged in the implementation of renewable energy incentive programs or similar initiatives. This work may include developing papers and reports, hosting regional and national conferences, and other work deemed necessary by the Agency to position the State of Illinois as a national leader in renewable energy incentive program development and administration.

The Agency and its consultant or consultants shall monitor block activity, share program activity with stakeholders and conduct quarterly meetings to discuss program activity and market conditions. If necessary, the Agency may make prospective administrative adjustments to the Adjustable Block program design, such as making adjustments to purchase prices as necessary to achieve the goals of this subsection (c). Program modifications to any

block price that do not deviate from the Commission's approved value by more than 10% shall take effect immediately and are not subject to Commission review and approval. Program modifications to any block price that deviate more than 10% from the Commission's approved value must be approved by the Commission as a long-term plan amendment under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to the Adjustable Block design and shall notify stakeholders in advance of any planned changes.

The Agency and its program administrators for both the Adjustable Block program and the Illinois Solar for All Program, consistent with the requirements of this subsection (c) and subsection (b) of Section 1-56 of this Act, shall propose the Adjustable Block program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, where applicable, and requirements applicable to participating entities and project applications, through the development, review, and approval of the Agency's long-term renewable resources procurement plan described in this subsection (c) and paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. Terms, conditions, and requirements for program participation shall include the following:

(i) The Agency shall establish a registration

process for entities seeking to qualify for program-administered incentive funding and establish baseline qualifications for vendor approval. The Agency must maintain a list of approved entities on each program's website, and may revoke a vendor's ability to receive program-administered incentive funding status upon a determination that the vendor failed to comply with contract terms, the law, or other program requirements.

(ii) The Agency shall establish program requirements and minimum contract terms to ensure projects are properly installed and produce their expected amounts of energy. Program requirements may include on-site inspections and photo documentation of projects under construction. The Agency may require repairs, alterations, or additions to remedy any material deficiencies discovered. Vendors who have a disproportionately high number of deficient systems may lose their eligibility to continue to receive State-administered incentive funding through Agency programs and procurements.

(iii) To discourage deceptive marketing or other bad faith business practices, the Agency may require direct program participants, including agents operating on their behalf, to provide standardized disclosures to a customer prior to that customer's

execution of a contract for the development of a distributed generation system or a subscription to a community solar project.

(iv) The Agency shall establish one or multiple Consumer Complaints Centers to accept complaints regarding businesses that participate in, or otherwise benefit from, State-administered incentive funding through Agency-administered programs. The Agency shall maintain a public database of complaints with any confidential or particularly sensitive information redacted from public entries.

(v) Through a filing in the proceeding for the approval of its long-term renewable energy resources procurement plan, the Agency shall provide an annual written report to the Illinois Commerce Commission documenting the frequency and nature of complaints and any enforcement actions taken in response to those complaints.

(vi) The Agency shall schedule regular meetings with representatives of the Office of the Attorney General, the Illinois Commerce Commission, consumer protection groups, and other interested stakeholders to share relevant information about consumer protection, project compliance, and complaints received.

(vii) To the extent that complaints received

implicate the jurisdiction of the Office of the Attorney General, the Illinois Commerce Commission, or local, State, or federal law enforcement, the Agency shall also refer complaints to those entities as appropriate.

(N) The Agency shall establish the terms, conditions, and program requirements for photovoltaic community renewable generation projects with a goal to expand access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties. Subject to reasonable limitations, any plan approved by the Commission shall allow subscriptions to community renewable generation projects to be portable and transferable. For purposes of this subparagraph (N), "portable" means that subscriptions may be retained by the subscriber even if the subscriber relocates or changes its address within the same utility service territory; and "transferable" means that a subscriber may assign or sell subscriptions to another person within the same utility service territory.

Through the development of its long-term renewable resources procurement plan, the Agency may consider whether community renewable generation projects utilizing technologies other than photovoltaics should be supported

through State-administered incentive funding, and may issue requests for information to gauge market demand.

Electric utilities shall provide a monetary credit to a subscriber's subsequent bill for service for the proportional output of a community renewable generation project attributable to that subscriber as specified in Section 16-107.5 of the Public Utilities Act.

The Agency shall purchase renewable energy credits from subscribed shares of photovoltaic community renewable generation projects through the Adjustable Block program described in subparagraph (K) of this paragraph (1) or through the Illinois Solar for All Program described in Section 1-56 of this Act. The electric utility shall purchase any unsubscribed energy from community renewable generation projects that are Qualifying Facilities ("QF") under the electric utility's tariff for purchasing the output from QFs under Public Utilities Regulatory Policies Act of 1978.

The owners of and any subscribers to a community renewable generation project shall not be considered public utilities or alternative retail electricity suppliers under the Public Utilities Act solely as a result of their interest in or subscription to a community renewable generation project and shall not be required to become an alternative retail electric supplier by participating in a community renewable generation project

with a public utility.

(O) For the delivery year beginning June 1, 2018, the long-term renewable resources procurement plan required by this subsection (c) shall provide for the Agency to procure contracts to continue offering the Illinois Solar for All Program described in subsection (b) of Section 1-56 of this Act, and the contracts approved by the Commission shall be executed by the utilities that are subject to this subsection (c). The long-term renewable resources procurement plan shall allocate up to $50,000,000 per delivery year to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act; provided that for the delivery years beginning June 1, 2021, June 1, 2022, and June 1, 2023, the long-term renewable resources procurement plan may average the annual budgets over a 3-year period to account for program ramp-up. For the delivery years beginning June 1, 2021, June 1, 2024, June 1, 2027, and June 1, 2030 and additional $10,000,000 shall be provided to the Department of Commerce and Economic Opportunity to implement the workforce development programs and reporting as outlined in Section 16-108.12 of the Public Utilities Act. In making the determinations required under this subparagraph (O), the Commission shall consider the experience and performance under the programs

and any evaluation reports. The Commission shall also provide for an independent evaluation of those programs on a periodic basis that are funded under this subparagraph (O).

(P) All programs and procurements under this subsection (c) shall be designed to encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors, including minority-owned businesses, disadvantaged businesses, trade unions, graduates of any workforce training programs administered under this Act, and small businesses.

The Agency shall develop a method to optimize procurement of renewable energy credits from proposed utility-scale projects that are located in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act. If this requirement conflicts with other provisions of law or the Agency determines that full compliance with the requirements of this subparagraph (P) would be unreasonably costly or administratively impractical, the Agency is to propose alternative approaches to achieve development of renewable energy resources in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act or seek an exemption from this requirement from the Commission.

(Q) Each facility listed in subitems (i) through (viii) of item (1) of this subparagraph (Q) for which a renewable energy credit delivery contract is signed after the effective date of this amendatory Act of the 102nd General Assembly is subject to the following requirements through the Agency's long-term renewable resources procurement plan:

(1) Each facility shall be subject to the prevailing wage requirements included in the Prevailing Wage Act. The Agency shall require verification that all construction performed on the facility by the renewable energy credit delivery contract holder, its contractors, or its subcontractors relating to construction of the facility is performed by construction employees receiving an amount for that work equal to or greater than the general prevailing rate, as that term is defined in Section 3 of the Prevailing Wage Act. For purposes of this item (1), "house of worship" means property that is both (1) used exclusively by a religious society or body of persons as a place for religious exercise or religious worship and (2) recognized as exempt from taxation pursuant to Section 15-40 of the Property Tax Code. This item (1) shall apply to any the following:

(i) all new utility-scale wind projects;

(ii) all new utility-scale photovoltaic projects;

(iii) all new brownfield photovoltaic projects;

(iv) all new photovoltaic community renewable energy facilities that qualify for item (iii) of subparagraph (K) of this paragraph (1);

(v) all new community driven community photovoltaic projects that qualify for item (v) of subparagraph (K) of this paragraph (1);

(vi) all new photovoltaic distributed renewable energy generation devices on schools that qualify for item (iv) of subparagraph (K) of this paragraph (1);

(vii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (i) of subparagraph (K) of this paragraph (1); (2) are not projects that serve single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts;

(viii) all new photovoltaic distributed renewable energy generation devices that (1) qualify for item (ii) of subparagraph (K) of this paragraph (1); (2) are not projects that serve

single-family or multi-family residential buildings; and (3) are not houses of worship where the aggregate capacity including collocated projects would not exceed 100 kilowatts.

(2) Renewable energy credits procured from new utility-scale wind projects, new utility-scale solar projects, and new brownfield solar projects pursuant to Agency procurement events occurring after the effective date of this amendatory Act of the 102nd General Assembly must be from facilities built by general contractors that must enter into a project labor agreement, as defined by this Act, prior to construction. The project labor agreement shall be filed with the Director in accordance with procedures established by the Agency through its long-term renewable resources procurement plan. Any information submitted to the Agency in this item (2) shall be considered commercially sensitive information. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the plant and the individuals representing the labor organization employees participating in the project labor agreement consistent with the Project Labor Agreements Act. The agreement must also specify the terms and conditions as defined by this Act.

(3) It is the intent of this Section to ensure that

economic development occurs across Illinois communities, that emerging businesses may grow, and that there is improved access to the clean energy economy by persons who have greater economic burdens to success. The Agency shall take into consideration the unique cost of compliance of this subparagraph (Q) that might be borne by equity eligible contractors, shall include such costs when determining the price of renewable energy credits in the Adjustable Block program, and shall take such costs into consideration in a nondiscriminatory manner when comparing bids for competitive procurements. The Agency shall consider costs associated with compliance whether in the development, financing, or construction of projects. The Agency shall periodically review the assumptions in these costs and may adjust prices, in compliance with subparagraph (M) of this paragraph (1).

(R) In its long-term renewable resources procurement plan, the Agency shall establish a self-direct renewable portfolio standard compliance program for eligible self-direct customers that purchase renewable energy credits from utility-scale wind and solar projects through long-term agreements for purchase of renewable energy credits as described in this Section. Such long-term agreements may include the purchase of energy or other products on a physical or financial basis and may involve

an alternative retail electric supplier as defined in Section 16-102 of the Public Utilities Act. This program shall take effect in the delivery year commencing June 1, 2023.

(1) For the purposes of this subparagraph:

"Eligible self-direct customer" means any retail customers of an electric utility that serves 3,000,000 or more retail customers in the State and whose total highest 30-minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15-minute demand was more than 10,000 kilowatts.

"Retail customer" has the meaning set forth in Section 16-102 of the Public Utilities Act and multiple retail customer accounts under the same corporate parent may aggregate their account demands to meet the 10,000 kilowatt threshold. The criteria for determining whether this subparagraph is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the year in which the application is filed.

(2) For renewable energy credits to count toward the self-direct renewable portfolio standard compliance program, they must:

(i) qualify as renewable energy credits as defined in Section 1-10 of this Act;

(ii) be sourced from one or more renewable energy generating facilities that comply with the geographic requirements as set forth in subparagraph (I) of paragraph (1) of subsection (c) as interpreted through the Agency's long-term renewable resources procurement plan, or, where applicable, the geographic requirements that governed utility-scale renewable energy credits at the time the eligible self-direct customer entered into the applicable renewable energy credit purchase agreement;

(iii) be procured through long-term contracts with term lengths of at least 10 years either directly with the renewable energy generating facility or through a bundled power purchase agreement, a virtual power purchase agreement, an agreement between the renewable generating facility, an alternative retail electric supplier, and the customer, or such other structure as is permissible under this subparagraph (R);

(iv) be equivalent in volume to at least 40% of the eligible self-direct customer's usage, determined annually by the eligible self-direct customer's usage during the previous delivery

year, measured to the nearest megawatt-hour;

(v) be retired by or on behalf of the large energy customer;

(vi) be sourced from new utility-scale wind projects or new utility-scale solar projects; and

(vii) if the contracts for renewable energy credits are entered into after the effective date of this amendatory Act of the 102nd General Assembly, the new utility-scale wind projects or new utility-scale solar projects must comply with the requirements established in subparagraphs (P) and (Q) of paragraph (1) of this subsection (c) and subsection (c-10).

(3) The self-direct renewable portfolio standard compliance program shall be designed to allow eligible self-direct customers to procure new renewable energy credits from new utility-scale wind projects or new utility-scale photovoltaic projects. The Agency shall annually determine the amount of utility-scale renewable energy credits it will include each year from the self-direct renewable portfolio standard compliance program, subject to receiving qualifying applications. In making this determination, the Agency shall evaluate publicly available analyses and studies of the potential market size for utility-scale renewable energy long-term purchase agreements by

commercial and industrial energy customers and make that report publicly available. If demand for participation in the self-direct renewable portfolio standard compliance program exceeds availability, the Agency shall ensure participation is evenly split between commercial and industrial users to the extent there is sufficient demand from both customer classes. Each renewable energy credit procured pursuant to this subparagraph (R) by a self-direct customer shall reduce the total volume of renewable energy credits the Agency is otherwise required to procure from new utility-scale projects pursuant to subparagraph (C) of paragraph (1) of this subsection (c) on behalf of contracting utilities where the eligible self-direct customer is located. The self-direct customer shall file an annual compliance report with the Agency pursuant to terms established by the Agency through its long-term renewable resources procurement plan to be eligible for participation in this program. Customers must provide the Agency with their most recent electricity billing statements or other information deemed necessary by the Agency to demonstrate they are an eligible self-direct customer.

(4) The Commission shall approve a reduction in the volumetric charges collected pursuant to Section 16-108 of the Public Utilities Act for approved

eligible self-direct customers equivalent to the anticipated cost of renewable energy credit deliveries under contracts for new utility-scale wind and new utility-scale solar entered for each delivery year after the large energy customer begins retiring eligible new utility scale renewable energy credits for self-compliance. The self-direct credit amount shall be determined annually and is equal to the estimated portion of the cost authorized by subparagraph (E) of paragraph (1) of this subsection (c) that supported the annual procurement of utility-scale renewable energy credits in the prior delivery year using a methodology described in the long-term renewable resources procurement plan, expressed on a per kilowatthour basis, and does not include (i) costs associated with any contracts entered into before the delivery year in which the customer files the initial compliance report to be eligible for participation in the self-direct program, and (ii) costs associated with procuring renewable energy credits through existing and future contracts through the Adjustable Block Program, subsection (c-5) of this Section 1-75, and the Solar for All Program. The Agency shall assist the Commission in determining the current and future costs. The Agency must determine the self-direct credit amount for new and

existing eligible self-direct customers and submit this to the Commission in an annual compliance filing. The Commission must approve the self-direct credit amount by June 1, 2023 and June 1 of each delivery year thereafter.

(5) Customers described in this subparagraph (R) shall apply, on a form developed by the Agency, to the Agency to be designated as a self-direct eligible customer. Once the Agency determines that a self-direct customer is eligible for participation in the program, the self-direct customer will remain eligible until the end of the term of the contract. Thereafter, application may be made not less than 12 months before the filing date of the long-term renewable resources procurement plan described in this Act. At a minimum, such application shall contain the following:

(i) the customer's certification that, at the time of the customer's application, the customer qualifies to be a self-direct eligible customer, including documents demonstrating that qualification;

(ii) the customer's certification that the customer has entered into or will enter into by the beginning of the applicable procurement year, one or more bilateral contracts for new wind

projects or new photovoltaic projects, including supporting documentation;

(iii) certification that the contract or contracts for new renewable energy resources are long-term contracts with term lengths of at least 10 years, including supporting documentation;

(iv) certification of the quantities of renewable energy credits that the customer will purchase each year under such contract or contracts, including supporting documentation;

(v) proof that the contract is sufficient to produce renewable energy credits to be equivalent in volume to at least 40% of the large energy customer's usage from the previous delivery year, measured to the nearest megawatt-hour; and

(vi) certification that the customer intends to maintain the contract for the duration of the length of the contract.

(6) If a customer receives the self-direct credit but fails to properly procure and retire renewable energy credits as required under this subparagraph (R), the Commission, on petition from the Agency and after notice and hearing, may direct such customer's utility to recover the cost of the wrongfully received self-direct credits plus interest through an adder to charges assessed pursuant to Section 16-108 of the

Public Utilities Act. Self-direct customers who knowingly fail to properly procure and retire renewable energy credits and do not notify the Agency are ineligible for continued participation in the self-direct renewable portfolio standard compliance program.

(2) (Blank).

(3) (Blank).

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the 2010 delivery year and ending June 1, 2017, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the

alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(6) The electric utility shall be entitled to recover all of its costs associated with the procurement of renewable energy credits under plans approved under this Section and Section 16-111.5 of the Public Utilities Act. These costs shall include associated reasonable expenses for implementing the procurement programs, including, but not limited to, the costs of administering and evaluating the Adjustable Block program, through an automatic adjustment clause tariff in accordance with subsection (k) of Section 16-108 of the Public Utilities Act.

(7) Renewable energy credits procured from new photovoltaic projects or new distributed renewable energy generation devices under this Section after June 1, 2017 (the effective date of Public Act 99-906) must be procured from devices installed by a qualified person in compliance with the requirements of Section 16-128A of the Public Utilities Act and any rules or regulations adopted

thereunder.

In meeting the renewable energy requirements of this subsection (c), to the extent feasible and consistent with State and federal law, the renewable energy credit procurements, Adjustable Block solar program, and community renewable generation program shall provide employment opportunities for all segments of the population and workforce, including minority-owned and female-owned business enterprises, and shall not, consistent with State and federal law, discriminate based on race or socioeconomic status.

(c-5) Procurement of renewable energy credits from new renewable energy facilities installed at or adjacent to the sites of electric generating facilities that burn or burned coal as their primary fuel source.

(1) In addition to the procurement of renewable energy credits pursuant to long-term renewable resources procurement plans in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, the Agency shall conduct procurement events in accordance with this subsection (c-5) for the procurement by electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019 of renewable energy credits from new renewable energy facilities to be installed at or adjacent to the sites of electric generating facilities that, as of January 1, 2016, burned

coal as their primary fuel source and meet the other criteria specified in this subsection (c-5). For purposes of this subsection (c-5), "new renewable energy facility" means a new utility-scale solar project as defined in this Section 1-75. The renewable energy credits procured pursuant to this subsection (c-5) may be included or counted for purposes of compliance with the amounts of renewable energy credits required to be procured pursuant to subsection (c) of this Section to the extent that there are otherwise shortfalls in compliance with such requirements. The procurement of renewable energy credits by electric utilities pursuant to this subsection (c-5) shall be funded solely by revenues collected from the Coal to Solar and Energy Storage Initiative Charge provided for in this subsection (c-5) and subsection (i-5) of Section 16-108 of the Public Utilities Act, shall not be funded by revenues collected through any of the other funding mechanisms provided for in subsection (c) of this Section, and shall not be subject to the limitation imposed by subsection (c) on charges to retail customers for costs to procure renewable energy resources pursuant to subsection (c), and shall not be subject to any other requirements or limitations of subsection (c).

(2) The Agency shall conduct 2 procurement events to select owners of electric generating facilities meeting the eligibility criteria specified in this subsection

(c-5) to enter into long-term contracts to sell renewable energy credits to electric utilities serving more than 300,000 retail customers in this State as of January 1, 2019. The first procurement event shall be conducted no later than March 31, 2022, unless the Agency elects to delay it, until no later than May 1, 2022, due to its overall volume of work, and shall be to select owners of electric generating facilities located in this State and south of federal Interstate Highway 80 that meet the eligibility criteria specified in this subsection (c-5). The second procurement event shall be conducted no sooner than September 30, 2022 and no later than October 31, 2022 and shall be to select owners of electric generating facilities located anywhere in this State that meet the eligibility criteria specified in this subsection (c-5). The Agency shall establish and announce a time period, which shall begin no later than 30 days prior to the scheduled date for the procurement event, during which applicants may submit applications to be selected as suppliers of renewable energy credits pursuant to this subsection (c-5). The eligibility criteria for selection as a supplier of renewable energy credits pursuant to this subsection (c-5) shall be as follows:

(A) The applicant owns an electric generating facility located in this State that: (i) as of January 1, 2016, burned coal as its primary fuel to generate

electricity; and (ii) has, or had prior to retirement, an electric generating capacity of at least 150 megawatts. The electric generating facility can be either: (i) retired as of the date of the procurement event; or (ii) still operating as of the date of the procurement event.

(B) The applicant is not (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in (i) or (ii); and the coal-fueled electric generating facility was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public Utilities Act.

(C) If participating in the first procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 20 megawatts but no more than 100 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 2 megawatts and at

most 10 megawatts. If participating in the second procurement event, the applicant proposes and commits to construct and operate, at the site, and if necessary for sufficient space on property adjacent to the existing property, at which the electric generating facility identified in paragraph (A) is located: (i) a new renewable energy facility of at least 5 megawatts but no more than 20 megawatts of electric generating capacity, and (ii) an energy storage facility having a storage capacity equal to at least 0.5 megawatts and at most one megawatt.

(D) The applicant agrees that the new renewable energy facility and the energy storage facility will be constructed or installed by a qualified entity or entities in compliance with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted thereunder.

(E) The applicant agrees that personnel operating the new renewable energy facility and the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education

courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience performing the employee's particular work skill or function.

(F) The applicant commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the applicant's employees engaged in construction activities associated with the new renewable energy facility and the new energy storage facility and to the employees of applicant's contractors engaged in construction activities associated with the new renewable energy facility and the new energy storage facility, and that, on or before the commercial operation date of the new renewable energy facility, the applicant shall file a report with the Agency certifying that the requirements of this subparagraph (F) have been met.

(G) The applicant commits that if selected, it will negotiate a project labor agreement for the construction of the new renewable energy facility and associated energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable

job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

(H) The applicant commits to enter into a contract or contracts for the applicable duration to provide specified numbers of renewable energy credits each year from the new renewable energy facility to electric utilities that served more than 300,000 retail customers in this State as of January 1, 2019, at a price of $30 per renewable energy credit. The price per renewable energy credit shall be fixed at $30 for the applicable duration and the renewable energy credits shall not be indexed renewable energy credits as provided for in item (v) of subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of this Act. The applicable duration of each contract shall be 20 years, unless the applicant is physically interconnected to the PJM Interconnection, LLC transmission grid and had a generating capacity of at least 1,200 megawatts as of January 1, 2021, in which case the applicable duration of the contract shall be 15 years.

(I) The applicant's application is certified by an officer of the applicant and by an officer of the applicant's ultimate parent company, if any.

(3) An applicant may submit applications to contract

to supply renewable energy credits from more than one new renewable energy facility to be constructed at or adjacent to one or more qualifying electric generating facilities owned by the applicant. The Agency may select new renewable energy facilities to be located at or adjacent to the sites of more than one qualifying electric generation facility owned by an applicant to contract with electric utilities to supply renewable energy credits from such facilities.

(4) The Agency shall assess fees to each applicant to recover the Agency's costs incurred in receiving and evaluating applications, conducting the procurement event, developing contracts for sale, delivery and purchase of renewable energy credits, and monitoring the administration of such contracts, as provided for in this subsection (c-5), including fees paid to a procurement administrator retained by the Agency for one or more of these purposes.

(5) The Agency shall select the applicants and the new renewable energy facilities to contract with electric utilities to supply renewable energy credits in accordance with this subsection (c-5). In the first procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no less than 400,000 renewable energy

credits per year for the applicable duration, assuming sufficient qualifying applications to supply, in the aggregate, at least that amount of renewable energy credits per year; and not more than 580,000 renewable energy credits per year for the applicable duration. In the second procurement event, the Agency shall select applicants and new renewable energy facilities to supply renewable energy credits, at a price of $30 per renewable energy credit, aggregating to no more than 625,000 renewable energy credits per year less the amount of renewable energy credits each year contracted for as a result of the first procurement event, for the applicable durations. The number of renewable energy credits to be procured as specified in this paragraph (5) shall not be reduced based on renewable energy credits procured in the self-direct renewable energy credit compliance program established pursuant to subparagraph (R) of paragraph (1) of subsection (c) of Section 1-75.

(6) The obligation to purchase renewable energy credits from the applicants and their new renewable energy facilities selected by the Agency shall be allocated to the electric utilities based on their respective percentages of kilowatthours delivered to delivery services customers to the aggregate kilowatthour deliveries by the electric utilities to delivery services customers for the year ended December 31, 2021. In order

to achieve these allocation percentages between or among the electric utilities, the Agency shall require each applicant that is selected in the procurement event to enter into a contract with each electric utility for the sale and purchase of renewable energy credits from each new renewable energy facility to be constructed and operated by the applicant, with the sale and purchase obligations under the contracts to aggregate to the total number of renewable energy credits per year to be supplied by the applicant from the new renewable energy facility.

(7) The Agency shall submit its proposed selection of applicants, new renewable energy facilities to be constructed, and renewable energy credit amounts for each procurement event to the Commission for approval. The Commission shall, within 2 business days after receipt of the Agency's proposed selections, approve the proposed selections if it determines that the applicants and the new renewable energy facilities to be constructed meet the selection criteria set forth in this subsection (c-5) and that the Agency seeks approval for contracts of applicable durations aggregating to no more than the maximum amount of renewable energy credits per year authorized by this subsection (c-5) for the procurement event, at a price of $30 per renewable energy credit.

(8) The Agency, in conjunction with its procurement administrator if one is retained, the electric utilities,

and potential applicants for contracts to produce and supply renewable energy credits pursuant to this subsection (c-5), shall develop a standard form contract for the sale, delivery and purchase of renewable energy credits pursuant to this subsection (c-5). Each contract resulting from the first procurement event shall allow for a commercial operation date for the new renewable energy facility of either June 1, 2023 or June 1, 2024, with such dates subject to adjustment as provided in this paragraph. Each contract resulting from the second procurement event shall provide for a commercial operation date on June 1 next occurring up to 48 months after execution of the contract. Each contract shall provide that the owner shall receive payments for renewable energy credits for the applicable durations beginning with the commercial operation date of the new renewable energy facility. The form contract shall provide for adjustments to the commercial operation and payment start dates as needed due to any delays in completing the procurement and contracting processes, in finalizing interconnection agreements and installing interconnection facilities, and in obtaining other necessary governmental permits and approvals. The form contract shall be, to the maximum extent possible, consistent with standard electric industry contracts for sale, delivery, and purchase of renewable energy credits while taking into account the

specific requirements of this subsection (c-5). The form contract shall provide for over-delivery and under-delivery of renewable energy credits within reasonable ranges during each 12-month period and penalty, default, and enforcement provisions for failure of the selling party to deliver renewable energy credits as specified in the contract and to comply with the requirements of this subsection (c-5). The standard form contract shall specify that all renewable energy credits delivered to the electric utility pursuant to the contract shall be retired. The Agency shall make the proposed contracts available for a reasonable period for comment by potential applicants, and shall publish the final form contract at least 30 days before the date of the first procurement event.

(9) Coal to Solar and Energy Storage Initiative Charge.

(A) By no later than July 1, 2022, each electric utility that served more than 300,000 retail customers in this State as of January 1, 2019 shall file a tariff with the Commission for the billing and collection of a Coal to Solar and Energy Storage Initiative Charge in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act, with such tariff to be effective, following review and approval or modification by the Commission, beginning January 1,

2023. The tariff shall provide for the calculation and setting of the electric utility's Coal to Solar and Energy Storage Initiative Charge to collect revenues estimated to be sufficient, in the aggregate, (i) to enable the electric utility to pay for the renewable energy credits it has contracted to purchase in the delivery year beginning June 1, 2023 and each delivery year thereafter from new renewable energy facilities located at the sites of qualifying electric generating facilities, and (ii) to fund the grant payments to be made in each delivery year by the Department of Commerce and Economic Opportunity, or any successor department or agency, which shall be referred to in this subsection (c-5) as the Department, pursuant to paragraph (10) of this subsection (c-5). The electric utility's tariff shall provide for the billing and collection of the Coal to Solar and Energy Storage Initiative Charge on each kilowatthour of electricity delivered to its delivery services customers within its service territory and shall provide for an annual reconciliation of revenues collected with actual costs, in accordance with subsection (i-5) of Section 16-108 of the Public Utilities Act.

(B) Each electric utility shall remit on a monthly basis to the State Treasurer, for deposit in the Coal to Solar and Energy Storage Initiative Fund provided

for in this subsection (c-5), the electric utility's collections of the Coal to Solar and Energy Storage Initiative Charge in the amount estimated to be needed by the Department for grant payments pursuant to grant contracts entered into by the Department pursuant to paragraph (10) of this subsection (c-5).

(10) Coal to Solar and Energy Storage Initiative Fund.

(A) The Coal to Solar and Energy Storage Initiative Fund is established as a special fund in the State treasury. The Coal to Solar and Energy Storage Initiative Fund is authorized to receive, by statutory deposit, that portion specified in item (B) of paragraph (9) of this subsection (c-5) of moneys collected by electric utilities through imposition of the Coal to Solar and Energy Storage Initiative Charge required by this subsection (c-5). The Coal to Solar and Energy Storage Initiative Fund shall be administered by the Department to provide grants to support the installation and operation of energy storage facilities at the sites of qualifying electric generating facilities meeting the criteria specified in this paragraph (10).

(B) The Coal to Solar and Energy Storage Initiative Fund shall not be subject to sweeps, administrative charges, or chargebacks, including, but not limited to, those authorized under Section 8h of

the State Finance Act, that would in any way result in the transfer of those funds from the Coal to Solar and Energy Storage Initiative Fund to any other fund of this State or in having any such funds utilized for any purpose other than the express purposes set forth in this paragraph (10).

(C) The Department shall utilize up to $280,500,000 in the Coal to Solar and Energy Storage Initiative Fund for grants, assuming sufficient qualifying applicants, to support installation of energy storage facilities at the sites of up to 3 qualifying electric generating facilities located in the Midcontinent Independent System Operator, Inc., region in Illinois and the sites of up to 2 qualifying electric generating facilities located in the PJM Interconnection, LLC region in Illinois that meet the criteria set forth in this subparagraph (C). The criteria for receipt of a grant pursuant to this subparagraph (C) are as follows:

(1) the electric generating facility at the site has, or had prior to retirement, an electric generating capacity of at least 150 megawatts;

(2) the electric generating facility burns (or burned prior to retirement) coal as its primary source of fuel;

(3) if the electric generating facility is

retired, it was retired subsequent to January 1, 2016;

(4) the owner of the electric generating facility has not been selected by the Agency pursuant to this subsection (c-5) of this Section to enter into a contract to sell renewable energy credits to one or more electric utilities from a new renewable energy facility located or to be located at or adjacent to the site at which the electric generating facility is located;

(5) the electric generating facility located at the site was at one time owned, in whole or in part, by a public utility as defined in Section 3-105 of the Public Utilities Act;

(6) the electric generating facility at the site is not owned by (i) an electric cooperative as defined in Section 3-119 of the Public Utilities Act, or (ii) an entity described in subsection (b)(1) of Section 3-105 of the Public Utilities Act, or an association or consortium of or an entity owned by entities described in items (i) or (ii);

(7) the proposed energy storage facility at the site will have energy storage capacity of at least 37 megawatts;

(8) the owner commits to place the energy

storage facility into commercial operation on either June 1, 2023, June 1, 2024, or June 1, 2025, with such date subject to adjustment as needed due to any delays in completing the grant contracting process, in finalizing interconnection agreements and in installing interconnection facilities, and in obtaining necessary governmental permits and approvals;

(9) the owner agrees that the new energy storage facility will be constructed or installed by a qualified entity or entities consistent with the requirements of subsection (g) of Section 16-128A of the Public Utilities Act and any rules adopted under that Section;

(10) the owner agrees that personnel operating the energy storage facility will have the requisite skills, knowledge, training, experience, and competence, which may be demonstrated by completion or current participation and ultimate completion by employees of an accredited or otherwise recognized apprenticeship program for the employee's particular craft, trade, or skill, including through training and education courses and opportunities offered by the owner to employees of the coal-fueled electric generating facility or by previous employment experience

performing the employee's particular work skill or function;

(11) the owner commits that not less than the prevailing wage, as determined pursuant to the Prevailing Wage Act, will be paid to the owner's employees engaged in construction activities associated with the new energy storage facility and to the employees of the owner's contractors engaged in construction activities associated with the new energy storage facility, and that, on or before the commercial operation date of the new energy storage facility, the owner shall file a report with the Department certifying that the requirements of this subparagraph (11) have been met; and

(12) the owner commits that if selected to receive a grant, it will negotiate a project labor agreement for the construction of the new energy storage facility that includes provisions requiring the parties to the agreement to work together to establish diversity threshold requirements and to ensure best efforts to meet diversity targets, improve diversity at the applicable job site, create diverse apprenticeship opportunities, and create opportunities to employ former coal-fired power plant workers.

The Department shall accept applications for this grant program until March 31, 2022 and shall announce the award of grants no later than June 1, 2022. The Department shall make the grant payments to a recipient in equal annual amounts for 10 years following the date the energy storage facility is placed into commercial operation. The annual grant payments to a qualifying energy storage facility shall be $110,000 per megawatt of energy storage capacity, with total annual grant payments pursuant to this subparagraph (C) for qualifying energy storage facilities not to exceed $28,050,000 in any year.

(D) Grants of funding for energy storage facilities pursuant to subparagraph (C) of this paragraph (10), from the Coal to Solar and Energy Storage Initiative Fund, shall be memorialized in grant contracts between the Department and the recipient. The grant contracts shall specify the date or dates in each year on which the annual grant payments shall be paid.

(E) All disbursements from the Coal to Solar and Energy Storage Initiative Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as custodian of the Fund upon vouchers signed by the Director of the Department or by the person or persons designated by the Director of the Department for that

purpose. The Comptroller is authorized to draw the warrants upon vouchers so signed. The Treasurer shall accept all written warrants so signed and shall be released from liability for all payments made on those warrants.

(11) Diversity, equity, and inclusion plans.

(A) Each applicant selected in a procurement event to contract to supply renewable energy credits in accordance with this subsection (c-5) and each owner selected by the Department to receive a grant or grants to support the construction and operation of a new energy storage facility or facilities in accordance with this subsection (c-5) shall, within 60 days following the Commission's approval of the applicant to contract to supply renewable energy credits or within 60 days following execution of a grant contract with the Department, as applicable, submit to the Commission a diversity, equity, and inclusion plan setting forth the applicant's or owner's numeric goals for the diversity composition of its supplier entities for the new renewable energy facility or new energy storage facility, as applicable, which shall be referred to for purposes of this paragraph (11) as the project, and the applicant's or owner's action plan and schedule for achieving those goals.

(B) For purposes of this paragraph (11), diversity composition shall be based on the percentage, which shall be a minimum of 25%, of eligible expenditures for contract awards for materials and services (which shall be defined in the plan) to business enterprises owned by minority persons, women, veterans, or persons with disabilities as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, to LGBTQ business enterprises, to veteran-owned business enterprises, and to business enterprises located in environmental justice communities. The diversity composition goals of the plan may include eligible expenditures in areas for vendor or supplier opportunities in addition to development and construction of the project, and may exclude from eligible expenditures materials and services with limited market availability, limited production and availability from suppliers in the United States, such as solar panels and storage batteries, and material and services that are subject to critical energy infrastructure or cybersecurity requirements or restrictions. The plan may provide that the diversity composition goals may be met through Tier 1 Direct or Tier 2 subcontracting expenditures or a combination thereof for the project.

(C) The plan shall provide for, but not be limited

to: (i) internal initiatives, including multi-tier initiatives, by the applicant or owner, or by its engineering, procurement and construction contractor if one is used for the project, which for purposes of this paragraph (11) shall be referred to as the EPC contractor, to enable diverse businesses to be considered fairly for selection to provide materials and services; (ii) requirements for the applicant or owner or its EPC contractor to proactively solicit and utilize diverse businesses to provide materials and services; and (iii) requirements for the applicant or owner or its EPC contractor to hire a diverse workforce for the project. The plan shall include a description of the applicant's or owner's diversity recruiting efforts both for the project and for other areas of the applicant's or owner's business operations. The plan shall provide for the imposition of financial penalties on the applicant's or owner's EPC contractor for failure to exercise best efforts to comply with and execute the EPC contractor's diversity obligations under the plan. The plan may provide for the applicant or owner to set aside a portion of the work on the project to serve as an incubation program for qualified businesses, as specified in the plan, owned by minority persons, women, persons with disabilities, LGBTQ persons, and veterans, and

businesses located in environmental justice communities, seeking to enter the renewable energy industry.

(D) The applicant or owner may submit a revised or updated plan to the Commission from time to time as circumstances warrant. The applicant or owner shall file annual reports with the Commission detailing the applicant's or owner's progress in implementing its plan and achieving its goals and any modifications the applicant or owner has made to its plan to better achieve its diversity, equity and inclusion goals. The applicant or owner shall file a final report on the fifth June 1 following the commercial operation date of the new renewable energy resource or new energy storage facility, but the applicant or owner shall thereafter continue to be subject to applicable reporting requirements of Section 5-117 of the Public Utilities Act.

(c-10) Equity accountability system. It is the purpose of this subsection (c-10) to create an equity accountability system, which includes the minimum equity standards for all renewable energy procurements, the equity category of the Adjustable Block Program, and the equity prioritization for noncompetitive procurements, that is successful in advancing priority access to the clean energy economy for businesses and workers from communities that have been excluded from economic

opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes. Further, it is the purpose of this subsection to ensure that this equity accountability system is successful in advancing equity across Illinois by providing access to the clean energy economy for businesses and workers from communities that have been historically excluded from economic opportunities in the energy sector, have been subject to disproportionate levels of pollution, and have disproportionately experienced negative public health outcomes.

(1) Minimum equity standards. The Agency shall create programs with the purpose of increasing access to and development of equity eligible contractors, who are prime contractors and subcontractors, across all of the programs it manages. All applications for renewable energy credit procurements shall comply with specific minimum equity commitments. Starting in the delivery year immediately following the next long-term renewable resources procurement plan, at least 10% of the project workforce for each entity participating in a procurement program outlined in this subsection (c-10) must be done by equity eligible persons or equity eligible contractors. The Agency shall increase the minimum percentage each delivery year thereafter by increments that ensure a statewide

average of 30% of the project workforce for each entity participating in a procurement program is done by equity eligible persons or equity eligible contractors by 2030. The Agency shall propose a schedule of percentage increases to the minimum equity standards in its draft revised renewable energy resources procurement plan submitted to the Commission for approval pursuant to paragraph (5) of subsection (b) of Section 16-111.5 of the Public Utilities Act. In determining these annual increases, the Agency shall have the discretion to establish different minimum equity standards for different types of procurements and different regions of the State if the Agency finds that doing so will further the purposes of this subsection (c-10). The proposed schedule of annual increases shall be revisited and updated on an annual basis. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, clean energy industry representatives, and community-based organizations that work with such persons and contractors.

(A) At the start of each delivery year, the Agency shall require a compliance plan from each entity participating in a procurement program of subsection (c) of this Section that demonstrates how they will achieve compliance with the minimum equity standard percentage for work completed in that delivery year.

If an entity applies for its approved vendor or designee status between delivery years, the Agency shall require a compliance plan at the time of application.

(B) Halfway through each delivery year, the Agency shall require each entity participating in a procurement program to confirm that it will achieve compliance in that delivery year, when applicable. The Agency may offer corrective action plans to entities that are not on track to achieve compliance.

(C) At the end of each delivery year, each entity participating and completing work in that delivery year in a procurement program of subsection (c) shall submit a report to the Agency that demonstrates how it achieved compliance with the minimum equity standards percentage for that delivery year.

(D) The Agency shall prohibit participation in procurement programs by an approved vendor or designee, as applicable, or entities with which an approved vendor or designee, as applicable, shares a common parent company if an approved vendor or designee, as applicable, failed to meet the minimum equity standards for the prior delivery year. Waivers approved for lack of equity eligible persons or equity eligible contractors in a geographic area of a project shall not count against the approved vendor or

designee. The Agency shall offer a corrective action plan for any such entities to assist them in obtaining compliance and shall allow continued access to procurement programs upon an approved vendor or designee demonstrating compliance.

(E) The Agency shall pursue efficiencies achieved by combining with other approved vendor or designee reporting.

(2) Equity accountability system within the Adjustable Block program. The equity category described in item (vi) of subparagraph (K) of subsection (c) is only available to applicants that are equity eligible contractors.

(3) Equity accountability system within competitive procurements. Through its long-term renewable resources procurement plan, the Agency shall develop requirements for ensuring that competitive procurement processes, including utility-scale solar, utility-scale wind, and brownfield site photovoltaic projects, advance the equity goals of this subsection (c-10). Subject to Commission approval, the Agency shall develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors, whether as bidders or as participants on project development, is optimized, including requiring that winning or successful applicants for utility-scale projects are or will partner with equity eligible contractors and giving preference to

bids through which a higher portion of contract value flows to equity eligible contractors. To the extent practicable, entities participating in competitive procurements shall also be required to meet all the equity accountability requirements for approved vendors and their designees under this subsection (c-10). In developing these requirements, the Agency shall also consider whether equity goals can be further advanced through additional measures.

(4) In the first revision to the long-term renewable energy resources procurement plan and each revision thereafter, the Agency shall include the following:

(A) The current status and number of equity eligible contractors listed in the Energy Workforce Equity Database designed in subsection (c-25), including the number of equity eligible contractors with current certifications as issued by the Agency.

(B) A mechanism for measuring, tracking, and reporting project workforce at the approved vendor or designee level, as applicable, which shall include a measurement methodology and records to be made available for audit by the Agency or the Program Administrator.

(C) A program for approved vendors, designees, eligible persons, and equity eligible contractors to receive trainings, guidance, and other support from

the Agency or its designee regarding the equity category outlined in item (vi) of subparagraph (K) of paragraph (1) of subsection (c) and in meeting the minimum equity standards of this subsection (c-10).

(D) A process for certifying equity eligible contractors and equity eligible persons. The certification process shall coordinate with the Energy Workforce Equity Database set forth in subsection (c-25).

(E) An application for waiver of the minimum equity standards of this subsection, which the Agency shall have the discretion to grant in rare circumstances. The Agency may grant such a waiver where the applicant provides evidence of significant efforts toward meeting the minimum equity commitment, including: use of the Energy Workforce Equity Database; efforts to hire or contract with entities that hire eligible persons; and efforts to establish contracting relationships with eligible contractors. The Agency shall support applicants in understanding the Energy Workforce Equity Database and other resources for pursuing compliance of the minimum equity standards. Waivers shall be project-specific, unless the Agency deems it necessary to grant a waiver across a portfolio of projects, and in effect for no longer than one year. Any waiver extension or

subsequent waiver request from an applicant shall be subject to the requirements of this Section and shall specify efforts made to reach compliance. When considering whether to grant a waiver, and to what extent, the Agency shall consider the degree to which similarly situated applicants have been able to meet these minimum equity commitments. For repeated waiver requests for specific lack of eligible persons or eligible contractors available, the Agency shall make recommendations to target recruitment to add such eligible persons or eligible contractors to the database.

(5) The Agency shall collect information about work on projects or portfolios of projects subject to these minimum equity standards to ensure compliance with this subsection (c-10). Reporting in furtherance of this requirement may be combined with other annual reporting requirements. Such reporting shall include proof of certification of each equity eligible contractor or equity eligible person during the applicable time period.

(6) The Agency shall keep confidential all information and communication that provides private or personal information.

(7) Modifications to the equity accountability system. As part of the update of the long-term renewable resources procurement plan to be initiated in 2023, or sooner if the

Agency deems necessary, the Agency shall determine the extent to which the equity accountability system described in this subsection (c-10) has advanced the goals of this amendatory Act of the 102nd General Assembly, including through the inclusion of equity eligible persons and equity eligible contractors in renewable energy credit projects. If the Agency finds that the equity accountability system has failed to meet those goals to its fullest potential, the Agency may revise the following criteria for future Agency procurements: (A) the percentage of project workforce, or other appropriate workforce measure, certified as equity eligible persons or equity eligible contractors; (B) definitions for equity investment eligible persons and equity investment eligible community; and (C) such other modifications necessary to advance the goals of this amendatory Act of the 102nd General Assembly effectively. Such revised criteria may also establish distinct equity accountability systems for different types of procurements or different regions of the State if the Agency finds that doing so will further the purposes of such programs. Revisions shall be developed with stakeholder input, including from equity eligible persons, equity eligible contractors, and community-based organizations that work with such persons and contractors.

(c-15) Racial discrimination elimination powers and

process.

(1) Purpose. It is the purpose of this subsection to empower the Agency and other State actors to remedy racial discrimination in Illinois' clean energy economy as effectively and expediently as possible, including through the use of race-conscious remedies, such as race-conscious contracting and hiring goals, as consistent with State and federal law.

(2) Racial disparity and discrimination review process.

(A) Within one year after awarding contracts using the equity actions processes established in this Section, the Agency shall publish a report evaluating the effectiveness of the equity actions point criteria of this Section in increasing participation of equity eligible persons and equity eligible contractors. The report shall disaggregate participating workers and contractors by race and ethnicity. The report shall be forwarded to the Governor, the General Assembly, and the Illinois Commerce Commission and be made available to the public.

(B) As soon as is practicable thereafter, the Agency, in consultation with the Department of Commerce and Economic Opportunity, Department of Labor, and other agencies that may be relevant, shall commission and publish a disparity and availability

study that measures the presence and impact of discrimination on minority businesses and workers in Illinois' clean energy economy. The Agency may hire consultants and experts to conduct the disparity and availability study, with the retention of those consultants and experts exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Illinois Power Agency shall forward a copy of its findings and recommendations to the Governor, the General Assembly, and the Illinois Commerce Commission. If the disparity and availability study establishes a strong basis in evidence that there is discrimination in Illinois' clean energy economy, the Agency, Department of Commerce and Economic Opportunity, Department of Labor, Department of Corrections, and other appropriate agencies shall take appropriate remedial actions, including race-conscious remedial actions as consistent with State and federal law, to effectively remedy this discrimination. Such remedies may include modification of the equity accountability system as described in subsection (c-10).

(c-20) Program data collection.

(1) Purpose. Data collection, data analysis, and reporting are critical to ensure that the benefits of the clean energy economy provided to Illinois residents and

businesses are equitably distributed across the State. The Agency shall collect data from program applicants in order to track and improve equitable distribution of benefits across Illinois communities for all procurements the Agency conducts. The Agency shall use this data to, among other things, measure any potential impact of racial discrimination on the distribution of benefits and provide information necessary to correct any discrimination through methods consistent with State and federal law.

(2) Agency collection of program data. The Agency shall collect demographic and geographic data for each entity awarded contracts under any Agency-administered program.

(3) Required information to be collected. The Agency shall collect the following information from applicants and program participants where applicable:

(A) demographic information, including racial or ethnic identity for real persons employed, contracted, or subcontracted through the program and owners of businesses or entities that apply to receive renewable energy credits from the Agency;

(B) geographic location of the residency of real persons employed, contracted, or subcontracted through the program and geographic location of the headquarters of the business or entity that applies to receive renewable energy credits from the Agency; and

(C) any other information the Agency determines is necessary for the purpose of achieving the purpose of this subsection.

(4) Publication of collected information. The Agency shall publish, at least annually, information on the demographics of program participants on an aggregate basis.

(5) Nothing in this subsection shall be interpreted to limit the authority of the Agency, or other agency or department of the State, to require or collect demographic information from applicants of other State programs.

(c-25) Energy Workforce Equity Database.

(1) The Agency, in consultation with the Department of Commerce and Economic Opportunity, shall create an Energy Workforce Equity Database, and may contract with a third party to do so ("database program administrator"). If the Department decides to contract with a third party, that third party shall be exempt from the requirements of Section 20-10 of the Illinois Procurement Code. The Energy Workforce Equity Database shall be a searchable database of suppliers, vendors, and subcontractors for clean energy industries that is:

(A) publicly accessible;

(B) easy for people to find and use;

(C) organized by company specialty or field;

(D) region-specific; and

(E) populated with information including, but not limited to, contacts for suppliers, vendors, or subcontractors who are minority and women-owned business enterprise certified or who participate or have participated in any of the programs described in this Act.

(2) The Agency shall create an easily accessible, public facing online tool using the database information that includes, at a minimum, the following:

(A) a map of environmental justice and equity investment eligible communities;

(B) job postings and recruiting opportunities;

(C) a means by which recruiting clean energy companies can find and interact with current or former participants of clean energy workforce training programs;

(D) information on workforce training service providers and training opportunities available to prospective workers;

(E) renewable energy company diversity reporting;

(F) a list of equity eligible contractors with their contact information, types of work performed, and locations worked in;

(G) reporting on outcomes of the programs described in the workforce programs of the Energy Transition Act, including information such as, but not

limited to, retention rate, graduation rate, and placement rates of trainees; and

(H) information about the Jobs and Environmental Justice Grant Program, the Clean Energy Jobs and Justice Fund, and other sources of capital.

(3) The Agency shall ensure the database is regularly updated to ensure information is current and shall coordinate with the Department of Commerce and Economic Opportunity to ensure that it includes information on individuals and entities that are or have participated in the Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, Returning Residents Clean Jobs Training Program, or Clean Energy Primes Contractor Accelerator Program.

(c-30) Enforcement of minimum equity standards. All entities seeking renewable energy credits must submit an annual report to demonstrate compliance with each of the equity commitments required under subsection (c-10). If the Agency concludes the entity has not met or maintained its minimum equity standards required under the applicable subparagraphs under subsection (c-10), the Agency shall deny the entity's ability to participate in procurement programs in subsection (c), including by withholding approved vendor or designee status. The Agency may require the entity to enter into a corrective action plan. An entity that is not recertified for failing to meet required equity actions in

subparagraph (c-10) may reapply once they have a corrective action plan and achieve compliance with the minimum equity standards.

(d) Clean coal portfolio standard.

(1) The procurement plans shall include electricity generated using clean coal. Each utility shall enter into one or more sourcing agreements with the initial clean coal facility, as provided in paragraph (3) of this subsection (d), covering electricity generated by the initial clean coal facility representing at least 5% of each utility's total supply to serve the load of eligible retail customers in 2015 and each year thereafter, as described in paragraph (3) of this subsection (d), subject to the limits specified in paragraph (2) of this subsection (d). It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities. For purposes of this subsection (d), "cost-effective" means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff,

Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

A utility party to a sourcing agreement shall immediately retire any emission credits that it receives in connection with the electricity covered by such agreement.

Utilities shall maintain adequate records documenting the purchases under the sourcing agreement to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act.

A utility shall be deemed to have complied with the clean coal portfolio standard specified in this subsection (d) if the utility enters into a sourcing agreement as required by this subsection (d).

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For

purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:

(A) in 2010, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(B) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2011 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009;

(D) in 2013, the greater of an additional 0.5% of

the amount paid per kilowatthour by those customers during the year ending May 31, 2012 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009; and

(E) thereafter, the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute.

No later than June 30, 2015, the Commission shall review the limitation on the total amount paid under sourcing agreements, if any, with clean coal facilities pursuant to this subsection (d) and report to the General Assembly its findings as to whether that limitation unduly constrains the amount of electricity generated by cost-effective clean coal facilities that is covered by sourcing agreements.

(3) Initial clean coal facility. In order to promote

development of clean coal facilities in Illinois, each electric utility subject to this Section shall execute a sourcing agreement to source electricity from a proposed clean coal facility in Illinois (the "initial clean coal facility") that will have a nameplate capacity of at least 500 MW when commercial operation commences, that has a final Clean Air Act permit on June 1, 2009 (the effective date of Public Act 95-1027), and that will meet the definition of clean coal facility in Section 1-10 of this Act when commercial operation commences. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of paragraph (4) of this subsection (d) and shall be executed within 90 days after any such approval by the General Assembly. The Agency and the Commission shall have authority to inspect all books and records associated with the initial clean coal facility during the term of such a sourcing agreement. A utility's sourcing agreement for electricity produced by the initial clean coal facility shall include:

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this subsection (d), which shall:

(i) be determined using a cost of service methodology employing either a level or deferred

capital recovery component, based on a capital structure consisting of 45% equity and 55% debt, and a return on equity as may be approved by the Federal Energy Regulatory Commission, which in any case may not exceed the lower of 11.5% or the rate of return approved by the General Assembly pursuant to paragraph (4) of this subsection (d); and

(ii) provide that all miscellaneous net revenue, including but not limited to net revenue from the sale of emission allowances, if any, substitute natural gas, if any, grants or other support provided by the State of Illinois or the United States Government, firm transmission rights, if any, by-products produced by the facility, energy or capacity derived from the facility and not covered by a sourcing agreement pursuant to paragraph (3) of this subsection (d) or item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, whether generated from the synthesis gas derived from coal, from SNG, or from natural gas, shall be credited against the revenue requirement for this initial clean coal facility;

(B) power purchase provisions, which shall:

(i) provide that the utility party to such

sourcing agreement shall pay the contract price for electricity delivered under such sourcing agreement;

(ii) require delivery of electricity to the regional transmission organization market of the utility that is party to such sourcing agreement;

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount purchased by the utility in any year will be limited by paragraph (2) of

this subsection (d); and

(iv) be considered pre-existing contracts in such utility's procurement plans for eligible retail customers;

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d) of Section 16-115 of the Public Utilities Act, provided that the amount paid by the utility in

any year will be limited by paragraph (2) of this subsection (d);

(ii) provide that the utility's payment obligation in respect of the quantity of electricity determined pursuant to the preceding clause (i) shall be limited to an amount equal to (1) the difference between the contract price determined pursuant to subparagraph (A) of paragraph (3) of this subsection (d) and the day-ahead price for electricity delivered to the regional transmission organization market of the utility that is party to such sourcing agreement (or any successor delivery point at which such utility's supply obligations are financially settled on an hourly basis) (the "reference price") on the day preceding the day on which the electricity is delivered to the initial clean coal facility busbar, multiplied by (2) the quantity of electricity determined pursuant to the preceding clause (i); and

(iii) not require the utility to take physical delivery of the electricity produced by the facility;

(D) general provisions, which shall:

(i) specify a term of no more than 30 years, commencing on the commercial operation date of the

facility;

(ii) provide that utilities shall maintain adequate records documenting purchases under the sourcing agreements entered into to comply with this subsection (d) and shall file an accounting with the load forecast that must be filed with the Agency by July 15 of each year, in accordance with subsection (d) of Section 16-111.5 of the Public Utilities Act;

(iii) provide that all costs associated with the initial clean coal facility will be periodically reported to the Federal Energy Regulatory Commission and to purchasers in accordance with applicable laws governing cost-based wholesale power contracts;

(iv) permit the Illinois Power Agency to assume ownership of the initial clean coal facility, without monetary consideration and otherwise on reasonable terms acceptable to the Agency, if the Agency so requests no less than 3 years prior to the end of the stated contract term;

(v) require the owner of the initial clean coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately

reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial

clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility willfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

(vii) require Commission review: (1) to determine the justness, reasonableness, and prudence of the inputs to the formula referenced in subparagraphs (A)(i) through (A)(iii) of paragraph (3) of this subsection (d), prior to an adjustment in those inputs including, without limitation, the capital structure and return on equity, fuel costs, and other operations and maintenance costs and (2) to approve the costs to be passed through to customers under the sourcing agreement by which the utility satisfies its statutory obligations. Commission review shall occur no less than every 3 years, regardless of whether any adjustments have been proposed, and shall be completed within 9 months;

(viii) limit the utility's obligation to such amount as the utility is allowed to recover through tariffs filed with the Commission, provided that neither the clean coal facility nor the utility waives any right to assert federal pre-emption or any other argument in response to a purported disallowance of recovery costs;

(ix) limit the utility's or alternative retail electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and

energy and such power and energy is being delivered to the facility busbar;

(x) provide that the owner or owners of the initial clean coal facility, which is the counterparty to such sourcing agreement, shall have the right from time to time to elect whether the obligations of the utility party thereto shall be governed by the power purchase provisions or the contract for differences provisions;

(xi) append documentation showing that the formula rate and contract, insofar as they relate to the power purchase provisions, have been approved by the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act;

(xii) provide that any changes to the terms of the contract, insofar as such changes relate to the power purchase provisions, are subject to review under the public interest standard applied by the Federal Energy Regulatory Commission pursuant to Sections 205 and 206 of the Federal Power Act; and

(xiii) conform with customary lender requirements in power purchase agreements used as the basis for financing non-utility generators.

(4) Effective date of sourcing agreements with the

initial clean coal facility. Any proposed sourcing agreement with the initial clean coal facility shall not become effective unless the following reports are prepared and submitted and authorizations and approvals obtained:

(i) Facility cost report. The owner of the initial clean coal facility shall submit to the Commission, the Agency, and the General Assembly a front-end engineering and design study, a facility cost report, method of financing (including but not limited to structure and associated costs), and an operating and maintenance cost quote for the facility (collectively "facility cost report"), which shall be prepared in accordance with the requirements of this paragraph (4) of subsection (d) of this Section, and shall provide the Commission and the Agency access to the work papers, relied upon documents, and any other backup documentation related to the facility cost report.

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation

facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

(iii) General Assembly approval. The proposed sourcing agreements shall not take effect unless, based on the facility cost report and the Commission's report, the General Assembly enacts authorizing legislation approving (A) the projected price, stated in cents per kilowatthour, to be charged for electricity generated by the initial clean coal facility, (B) the projected impact on residential and small business customers' bills over the life of the sourcing agreements, and (C) the maximum allowable return on equity for the project; and

(iv) Commission review. If the General Assembly enacts authorizing legislation pursuant to

subparagraph (iii) approving a sourcing agreement, the Commission shall, within 90 days of such enactment, complete a review of such sourcing agreement. During such time period, the Commission shall implement any directive of the General Assembly, resolve any disputes between the parties to the sourcing agreement concerning the terms of such agreement, approve the form of such agreement, and issue an order finding that the sourcing agreement is prudent and reasonable. The facility cost report shall be prepared as follows:

(A) The facility cost report shall be prepared by duly licensed engineering and construction firms detailing the estimated capital costs payable to one or more contractors or suppliers for the engineering, procurement and construction of the components comprising the initial clean coal facility and the estimated costs of operation and maintenance of the facility. The facility cost report shall include:

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural, mechanical, electrical, control, and safety systems.

(ii) an estimate of the capital cost of the

balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

The quoted construction costs shall be expressed in nominal dollars as of the date that the quote is prepared and shall include capitalized financing costs during construction, taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the construction cost quote is expressed.

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to construct and operate the clean coal facility.

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide

the estimated cost of delivered fuel, personnel, maintenance contracts, chemicals, catalysts, consumables, spares, and other fixed and variable operations and maintenance costs. The delivered fuel cost estimate will be provided by a recognized third party expert or experts in the fuel and transportation industries. The balance of the operating and maintenance cost quote, excluding delivered fuel costs, will be developed based on the inputs provided by duly licensed engineering and construction firms performing the construction cost quote, potential vendors under long-term service agreements and plant operating agreements, or recognized third party plant operator or operators.

The operating and maintenance cost quote (including the cost of the front end engineering and design study) shall be expressed in nominal dollars as of the date that the quote is prepared and shall include taxes, insurance, and other owner's costs, and an assumed escalation in materials and labor beyond the date as of which the operating and maintenance cost quote is expressed.

(D) The facility cost report shall also include an analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and an

analysis of the expected capacity factor for the initial clean coal facility.

(E) Amounts paid to third parties unrelated to the owner or owners of the initial clean coal facility to prepare the core plant construction cost quote, including the front end engineering and design study, and the operating and maintenance cost quote will be reimbursed through Coal Development Bonds.

(5) Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act. Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities. In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis. In the case of

sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis. The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval. The Commission shall have authority to inspect all books and records associated with these clean coal facilities during the term of any such contract.

(6) Costs incurred under this subsection (d) or pursuant to a contract entered into under this subsection (d) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.

(d-5) Zero emission standard.

(1) Beginning with the delivery year commencing on June 1, 2017, the Agency shall, for electric utilities that serve at least 100,000 retail customers in this State, procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the actual amount of electricity delivered by each electric utility to retail customers in the State during

calendar year 2014. For an electric utility serving fewer than 100,000 retail customers in this State that requested, under Section 16-111.5 of the Public Utilities Act, that the Agency procure power and energy for all or a portion of the utility's Illinois load for the delivery year commencing June 1, 2016, the Agency shall procure contracts with zero emission facilities that are reasonably capable of generating cost-effective zero emission credits in an amount approximately equal to 16% of the portion of power and energy to be procured by the Agency for the utility. The duration of the contracts procured under this subsection (d-5) shall be for a term of 10 years ending May 31, 2027. The quantity of zero emission credits to be procured under the contracts shall be all of the zero emission credits generated by the zero emission facility in each delivery year; however, if the zero emission facility is owned by more than one entity, then the quantity of zero emission credits to be procured under the contracts shall be the amount of zero emission credits that are generated from the portion of the zero emission facility that is owned by the winning supplier.

The 16% value identified in this paragraph (1) is the average of the percentage targets in subparagraph (B) of paragraph (1) of subsection (c) of this Section for the 5 delivery years beginning June 1, 2017.

The procurement process shall be subject to the

following provisions:

(A) Those zero emission facilities that intend to participate in the procurement shall submit to the Agency the following eligibility information for each zero emission facility on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the zero emission facility;

(ii) the amount of power generated annually for each of the years 2005 through 2015, and the projected zero emission credits to be generated over the remaining useful life of the zero emission facility, which shall be used to determine the capability of each facility;

(iii) the annual zero emission facility cost projections, expressed on a per megawatthour basis, over the next 6 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; non-fuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued

operations, provided that "necessary" means, for purposes of this item (iii), that the costs could reasonably be avoided only by ceasing operations of the zero emission facility; and

(iv) a commitment to continue operating, for the duration of the contract or contracts executed under the procurement held under this subsection (d-5), the zero emission facility that produces the zero emission credits to be procured in the procurement.

The information described in item (iii) of this subparagraph (A) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(B) The price for each zero emission credit procured under this subsection (d-5) for each delivery year shall be in an amount that equals the Social Cost of Carbon, expressed on a price per megawatthour basis. However, to ensure that the procurement remains

affordable to retail customers in this State if electricity prices increase, the price in an applicable delivery year shall be reduced below the Social Cost of Carbon by the amount ("Price Adjustment") by which the market price index for the applicable delivery year exceeds the baseline market price index for the consecutive 12-month period ending May 31, 2016. If the Price Adjustment is greater than or equal to the Social Cost of Carbon in an applicable delivery year, then no payments shall be due in that delivery year. The components of this calculation are defined as follows:

(i) Social Cost of Carbon: The Social Cost of Carbon is $16.50 per megawatthour, which is based on the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each year of the program. Beginning with the delivery year commencing June 1, 2023, the price per megawatthour shall increase by $1 per megawatthour, and continue to increase by an additional $1 per megawatthour each delivery year thereafter.

(ii) Baseline market price index: The baseline market price index for the consecutive 12-month

period ending May 31, 2016 is $31.40 per megawatthour, which is based on the sum of (aa) the average day-ahead energy price across all hours of such 12-month period at the PJM Interconnection LLC Northern Illinois Hub, (bb) 50% multiplied by the Base Residual Auction, or its successor, capacity price for the rest of the RTO zone group determined by PJM Interconnection LLC, divided by 24 hours per day, and (cc) 50% multiplied by the Planning Resource Auction, or its successor, capacity price for Zone 4 determined by the Midcontinent Independent System Operator, Inc., divided by 24 hours per day.

(iii) Market price index: The market price index for a delivery year shall be the sum of projected energy prices and projected capacity prices determined as follows:

(aa) Projected energy prices: the projected energy prices for the applicable delivery year shall be calculated once for the year using the forward market price for the PJM Interconnection, LLC Northern Illinois Hub. The forward market price shall be calculated as follows: the energy forward prices for each month of the applicable delivery year averaged for each trade date

during the calendar year immediately preceding that delivery year to produce a single energy forward price for the delivery year. The forward market price calculation shall use data published by the Intercontinental Exchange, or its successor.

(bb) Projected capacity prices:

(I) For the delivery years commencing June 1, 2017, June 1, 2018, and June 1, 2019, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the rest of the RTO zone group as determined by PJM Interconnection LLC, divided by 24 hours per day and, (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

(II) For the delivery year commencing

June 1, 2020, and each year thereafter, the projected capacity price shall be equal to the sum of (1) 50% multiplied by the Base Residual Auction, or its successor, price for the ComEd zone as determined by PJM Interconnection LLC, divided by 24 hours per day, and (2) 50% multiplied by the resource auction price determined in the resource auction administered by the Midcontinent Independent System Operator, Inc., in which the largest percentage of load cleared for Local Resource Zone 4, divided by 24 hours per day, and where such price is determined by the Midcontinent Independent System Operator, Inc.

For purposes of this subsection (d-5):

"Rest of the RTO" and "ComEd Zone" shall have the meaning ascribed to them by PJM Interconnection, LLC.

"RTO" means regional transmission organization.

(C) No later than 45 days after June 1, 2017 (the effective date of Public Act 99-906), the Agency shall publish its proposed zero emission standard procurement plan. The plan shall be consistent with

the provisions of this paragraph (1) and shall provide that winning bids shall be selected based on public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. In particular, the selection of winning bids shall take into account the incremental environmental benefits resulting from the procurement, such as any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would cease to exist if the procurements were not held, including the preservation of zero emission facilities. The plan shall also describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement and given full effect.

For purposes of developing the plan, the Agency shall consider any reports issued by a State agency, board, or commission under House Resolution 1146 of the 98th General Assembly and paragraph (4) of subsection (d) of this Section, as well as publicly available analyses and studies performed by or for regional transmission organizations that serve the

State and their independent market monitors.

Upon publishing of the zero emission standard procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 10 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 60 days later than June 1, 2017 (the effective date of Public Act 99-906), the Agency shall revise the plan as necessary based on the comments received and file its zero emission standard procurement plan with the Commission.

If the Commission determines that the plan will result in the procurement of cost-effective zero emission credits, then the Commission shall, after notice and hearing, but no later than 45 days after the Agency filed the plan, approve the plan or approve with modification. For purposes of this subsection (d-5), "cost effective" means the projected costs of procuring zero emission credits from zero emission facilities do not cause the limit stated in paragraph (2) of this subsection to be exceeded.

(C-5) As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of

successful bidders:

(i) identify how the winning bids satisfy the public interest criteria described in subparagraph (C) of this paragraph (1) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of winning bids takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would have ceased to exist if the procurements had not been held, such as the preservation of zero emission facilities;

(iii) quantify the environmental benefit of preserving the resources identified in item (ii) of this subparagraph (C-5), including the following:

(aa) the value of avoided greenhouse gas emissions measured as the product of the zero emission facilities' output over the contract term multiplied by the U.S. Environmental

Protection Agency eGrid subregion carbon dioxide emission rate and the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each delivery year; and

(bb) the costs of replacement with other zero carbon dioxide resources, including wind and photovoltaic, based upon the simple average of the following:

(I) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale wind projects in the procurement events specified in item (i) of subparagraph (G) of paragraph (1) of subsection (c) of this Section; and

(II) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects in the procurement events specified in item (ii) of subparagraph (G) of paragraph (1) of subsection (c) of this Section and, after January 1, 2015, renewable energy

credits from photovoltaic distributed generation projects in procurement events held under subsection (c) of this Section.

Each utility shall enter into binding contractual arrangements with the winning suppliers.

The procurement described in this subsection (d-5), including, but not limited to, the execution of all contracts procured, shall be completed no later than May 10, 2017. Based on the effective date of Public Act 99-906, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (C) and (D) of this paragraph (1). The procurement and plan approval processes required by this subsection (d-5) shall be conducted in conjunction with the procurement and plan approval processes required by subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, to the extent practicable. Notwithstanding whether a procurement event is conducted under Section 16-111.5 of the Public Utilities Act, the Agency shall immediately initiate a procurement process on June 1, 2017 (the effective date of Public Act 99-906).

(D) Following the procurement event described in this paragraph (1) and consistent with subparagraph (B) of this paragraph (1), the Agency shall calculate

the payments to be made under each contract for the next delivery year based on the market price index for that delivery year. The Agency shall publish the payment calculations no later than May 25, 2017 and every May 25 thereafter.

(E) Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the zero emission facility may, as applicable, suspend or terminate performance under the contracts in the following instances:

(i) A zero emission facility shall be excused from its performance under the contract for any cause beyond the control of the resource, including, but not restricted to, acts of God, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, acts of public enemy, explosions, orders, regulations or restrictions imposed by governmental, military, or lawfully established civilian authorities, which, in any of the foregoing cases, by exercise of commercially reasonable efforts the zero emission facility could not reasonably have been expected to avoid, and which, by the exercise of commercially

reasonable efforts, it has been unable to overcome. In such event, the zero emission facility shall be excused from performance for the duration of the event, including, but not limited to, delivery of zero emission credits, and no payment shall be due to the zero emission facility during the duration of the event.

(ii) A zero emission facility shall be permitted to terminate the contract if legislation is enacted into law by the General Assembly that imposes or authorizes a new tax, special assessment, or fee on the generation of electricity, the ownership or leasehold of a generating unit, or the privilege or occupation of such generation, ownership, or leasehold of generation units by a zero emission facility. However, the provisions of this item (ii) do not apply to any generally applicable tax, special assessment or fee, or requirements imposed by federal law.

(iii) A zero emission facility shall be permitted to terminate the contract in the event that the resource requires capital expenditures in excess of $40,000,000 that were neither known nor reasonably foreseeable at the time it executed the contract and that a prudent owner or operator of

such resource would not undertake.

(iv) A zero emission facility shall be permitted to terminate the contract in the event the Nuclear Regulatory Commission terminates the resource's license.

(F) If the zero emission facility elects to terminate a contract under subparagraph (E) of this paragraph (1), then the Commission shall reopen the docket in which the Commission approved the zero emission standard procurement plan under subparagraph (C) of this paragraph (1) and, after notice and hearing, enter an order acknowledging the contract termination election if such termination is consistent with the provisions of this subsection (d-5).

(2) For purposes of this subsection (d-5), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d-5), the total amount paid for electric service includes, without limitation, amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.

Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5) shall provide that the total of zero emission credits procured under a procurement plan shall be subject to the limitations of this paragraph (2). For each delivery year,

the contractual volume receiving payments in such year shall be reduced for all retail customers based on the amount necessary to limit the net increase that delivery year to the costs of those credits included in the amounts paid by eligible retail customers in connection with electric service to no more than 1.65% of the amount paid per kilowatthour by eligible retail customers during the year ending May 31, 2009. The result of this computation shall apply to and reduce the procurement for all retail customers, and all those customers shall pay the same single, uniform cents per kilowatthour charge under subsection (k) of Section 16-108 of the Public Utilities Act. To arrive at a maximum dollar amount of zero emission credits to be paid for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered by the electric utility in the delivery year immediately prior to the procurement, to all retail customers in its service territory. Unpaid contractual volume for any delivery year shall be paid in any subsequent delivery year in which such payments can be made without exceeding the amount specified in this paragraph (2). The calculations required by this paragraph (2) shall be made only once for each procurement plan year. Once the determination as to the amount of zero emission credits to be paid is made based on the calculations set forth in this

paragraph (2), no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. All costs incurred under those contracts and in implementing this subsection (d-5) shall be recovered by the electric utility as provided in this Section.

No later than June 30, 2019, the Commission shall review the limitation on the amount of zero emission credits procured under this subsection (d-5) and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of cost-effective zero emission credits.

(3) Six years after the execution of a contract under this subsection (d-5), the Agency shall determine whether the actual zero emission credit payments received by the supplier over the 6-year period exceed the Average ZEC Payment. In addition, at the end of the term of a contract executed under this subsection (d-5), or at the time, if any, a zero emission facility's contract is terminated under subparagraph (E) of paragraph (1) of this subsection (d-5), then the Agency shall determine whether the actual zero emission credit payments received by the supplier over the term of the contract exceed the Average ZEC Payment, after taking into account any amounts previously credited back to the utility under this paragraph (3). If the Agency determines that the actual zero emission credit

payments received by the supplier over the relevant period exceed the Average ZEC Payment, then the supplier shall credit the difference back to the utility. The amount of the credit shall be remitted to the applicable electric utility no later than 120 days after the Agency's determination, which the utility shall reflect as a credit on its retail customer bills as soon as practicable; however, the credit remitted to the utility shall not exceed the total amount of payments received by the facility under its contract.

For purposes of this Section, the Average ZEC Payment shall be calculated by multiplying the quantity of zero emission credits delivered under the contract times the average contract price. The average contract price shall be determined by subtracting the amount calculated under subparagraph (B) of this paragraph (3) from the amount calculated under subparagraph (A) of this paragraph (3), as follows:

(A) The average of the Social Cost of Carbon, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract.

(B) The average of the market price indices, as defined in subparagraph (B) of paragraph (1) of this subsection (d-5), during the term of the contract, minus the baseline market price index, as defined in subparagraph (B) of paragraph (1) of this subsection

(d-5).

If the subtraction yields a negative number, then the Average ZEC Payment shall be zero.

(4) Cost-effective zero emission credits procured from zero emission facilities shall satisfy the applicable definitions set forth in Section 1-10 of this Act.

(5) The electric utility shall retire all zero emission credits used to comply with the requirements of this subsection (d-5).

(6) Electric utilities shall be entitled to recover all of the costs associated with the procurement of zero emission credits through an automatic adjustment clause tariff in accordance with subsection (k) and (m) of Section 16-108 of the Public Utilities Act, and the contracts executed under this subsection (d-5) shall provide that the utilities' payment obligations under such contracts shall be reduced if an adjustment is required under subsection (m) of Section 16-108 of the Public Utilities Act.

(7) This subsection (d-5) shall become inoperative on January 1, 2028.

(d-10) Nuclear Plant Assistance; carbon mitigation credits.

(1) The General Assembly finds:

(A) The health, welfare, and prosperity of all Illinois citizens require that the State of Illinois act

to avoid and not increase carbon emissions from electric generation sources while continuing to ensure affordable, stable, and reliable electricity to all citizens.

(B) Absent immediate action by the State to preserve existing carbon-free energy resources, those resources may retire, and the electric generation needs of Illinois' retail customers may be met instead by facilities that emit significant amounts of carbon pollution and other harmful air pollutants at a high social and economic cost until Illinois is able to develop other forms of clean energy.

(C) The General Assembly finds that nuclear power generation is necessary for the State's transition to 100% clean energy, and ensuring continued operation of nuclear plants advances environmental and public health interests through providing carbon-free electricity while reducing the air pollution profile of the Illinois energy generation fleet.

(D) The clean energy attributes of nuclear generation facilities support the State in its efforts to achieve 100% clean energy.

(E) The State currently invests in various forms of clean energy, including, but not limited to, renewable energy, energy efficiency, and low-emission vehicles, among others.

(F) The Environmental Protection Agency commissioned

an independent audit which provided a detailed assessment of the financial condition of the Illinois nuclear fleet to evaluate its financial viability and whether the environmental benefits of such resources were at risk. The report identified the risk of losing the environmental benefits of several specific nuclear units. The report also identified that the LaSalle County Generating Station will continue to operate through 2026 and therefore is not eligible to participate in the carbon mitigation credit program.

(G) Nuclear plants provide carbon-free energy, which helps to avoid many health-related negative impacts for Illinois residents.

(H) The procurement of carbon mitigation credits representing the environmental benefits of carbon-free generation will further the State's efforts at achieving 100% clean energy and decarbonizing the electricity sector in a safe, reliable, and affordable manner. Further, the procurement of carbon emission credits will enhance the health and welfare of Illinois residents through decreased reliance on more highly polluting generation.

(I) The General Assembly therefore finds it necessary to establish carbon mitigation credits to ensure decreased reliance on more carbon-intensive energy resources, for transitioning to a fully decarbonized electricity sector, and to help ensure health and welfare of the State's

residents.

(2) As used in this subsection:

"Baseline costs" means costs used to establish a customer protection cap that have been evaluated through an independent audit of a carbon-free energy resource conducted by the Environmental Protection Agency that evaluated projected annual costs for operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this definition, that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource.

"Carbon mitigation credit" means a tradable credit that represents the carbon emission reduction attributes of one megawatt-hour of energy produced from a carbon-free energy resource.

"Carbon-free energy resource" means a generation facility that: (1) is fueled by nuclear power; and (2) is interconnected to PJM Interconnection, LLC.

(3) Procurement.

(A) Beginning with the delivery year commencing on June 1, 2022, the Agency shall, for electric utilities

serving at least 3,000,000 retail customers in the State, seek to procure contracts for no more than approximately 54,500,000 cost-effective carbon mitigation credits from carbon-free energy resources because such credits are necessary to support current levels of carbon-free energy generation and ensure the State meets its carbon dioxide emissions reduction goals. The Agency shall not make a partial award of a contract for carbon mitigation credits covering a fractional amount of a carbon-free energy resource's projected output.

(B) Each carbon-free energy resource that intends to participate in a procurement shall be required to submit to the Agency the following information for the resource on or before the date established by the Agency:

(i) the in-service date and remaining useful life of the carbon-free energy resource;

(ii) the amount of power generated annually for each of the past 10 years, which shall be used to determine the capability of each facility;

(iii) a commitment to be reflected in any contract entered into pursuant to this subsection (d-10) to continue operating the carbon-free energy resource at a capacity factor of at least 88% annually on average for the duration of the contract or contracts executed under the procurement held under this subsection (d-10), except in an instance described in

subparagraph (E) of paragraph (1) of subsection (d-5) of this Section or made impracticable as a result of compliance with law or regulation;

(iv) financial need and the risk of loss of the environmental benefits of such resource, which shall include the following information:

(I) the carbon-free energy resource's cost projections, expressed on a per megawatt-hour basis, over the next 5 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this subitem (I), that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource; and

(II) the carbon-free energy resource's revenue projections, including energy, capacity, ancillary services, any other direct State support, known or anticipated federal attribute credits, known or

anticipated tax credits, and any other direct federal support.

The information described in this subparagraph (B) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of the Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.

(C) The Agency shall solicit bids for the contracts described in this subsection (d-10) from carbon-free energy resources that have satisfied the requirements of subparagraph (B) of this paragraph (3). The contracts procured pursuant to a procurement event shall reflect, and be subject to, the following terms, requirements, and limitations:

(i) Contracts are for delivery of carbon mitigation credits, and are not energy or capacity sales contracts requiring physical delivery. Pursuant to item (iii), contract payments shall fully deduct the value of any monetized federal production tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits if

applicable.

(ii) Contracts for carbon mitigation credits shall commence with the delivery year beginning on June 1, 2022 and shall be for a term of 5 delivery years concluding on May 31, 2027.

(iii) The price per carbon mitigation credit to be paid under a contract for a given delivery year shall be equal to an accepted bid price less the sum of:

(I) one of the following energy price indices, selected by the bidder at the time of the bid for the term of the contract:

(aa) the weighted-average hourly day-ahead price for the applicable delivery year at the busbar of all resources procured pursuant to this subsection (d-10), weighted by actual production from the resources; or

(bb) the projected energy price for the PJM Interconnection, LLC Northern Illinois Hub for the applicable delivery year determined according to subitem (aa) of item (iii) of subparagraph (B) of paragraph (1) of subsection (d-5).

(II) the Base Residual Auction Capacity Price for the ComEd zone as determined by PJM Interconnection, LLC, divided by 24 hours per day, for the applicable delivery year for the first 3

delivery years, and then any subsequent delivery years unless the PJM Interconnection, LLC applies the Minimum Offer Price Rule to participating carbon-free energy resources because they supply carbon mitigation credits pursuant to this Section at which time, upon notice by the carbon-free energy resource to the Commission and subject to the Commission's confirmation, the value under this subitem shall be zero, as further described in the carbon mitigation credit procurement plan; and

(III) any value of monetized federal tax credits, direct payments, or similar subsidy provided to the carbon-free energy resource from any unit of government that is not already reflected in energy prices.

If the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net positive value, then the electric utility counterparty to the contract shall multiply such net value by the applicable contract quantity and remit the amount to the supplier.

To protect retail customers from retail rate impacts that may arise upon the initiation of carbon policy changes, if the price-per-megawatt-hour

calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net negative value, then the supplier counterparty to the contract shall multiply such net value by the applicable contract quantity and remit such amount to the electric utility counterparty. The electric utility shall reflect such amounts remitted by suppliers as a credit on its retail customer bills as soon as practicable.

(iv) To ensure that retail customers in Northern Illinois do not pay more for carbon mitigation credits than the value such credits provide, and notwithstanding the provisions of this subsection (d-10), the Agency shall not accept bids for contracts that exceed a customer protection cap equal to the baseline costs of carbon-free energy resources.

The baseline costs for the applicable year shall be the following:

(I) For the delivery year beginning June 1, 2022, the baseline costs shall be an amount equal to $30.30 per megawatt-hour.

(II) For the delivery year beginning June 1, 2023, the baseline costs shall be an amount equal to $32.50 per megawatt-hour.

(III) For the delivery year beginning June 1, 2024, the baseline costs shall be an amount equal

to $33.43 per megawatt-hour.

(IV) For the delivery year beginning June 1, 2025, the baseline costs shall be an amount equal to $33.50 per megawatt-hour.

(V) For the delivery year beginning June 1, 2026, the baseline costs shall be an amount equal to $34.50 per megawatt-hour.

An Environmental Protection Agency consultant forecast, included in a report issued April 14, 2021, projects that a carbon-free energy resource has the opportunity to earn on average approximately $30.28 per megawatt-hour, for the sale of energy and capacity during the time period between 2022 and 2027. Therefore, the sale of carbon mitigation credits provides the opportunity to receive an additional amount per megawatt-hour in addition to the projected prices for energy and capacity.

Although actual energy and capacity prices may vary from year-to-year, the General Assembly finds that this customer protection cap will help ensure that the cost of carbon mitigation credits will be less than its value, based upon the social cost of carbon identified in the Technical Support Document issued in February 2021 by the U.S. Interagency Working Group on Social Cost of Greenhouse Gases and the PJM Interconnection, LLC carbon dioxide marginal

emission rate for 2020, and that a carbon-free energy resource receiving payment for carbon mitigation credits receives no more than necessary to keep those units in operation.

(D) No later than 7 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall publish its proposed carbon mitigation credit procurement plan. The Plan shall provide that winning bids shall be selected by taking into consideration which resources best match public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. The selection of winning bids shall also take into account the incremental environmental benefits resulting from the procurement or procurements, such as any existing environmental benefits that are preserved by a procurement held under this subsection (d-10) and would cease to exist if the procurement were not held, including the preservation of carbon-free energy resources. For those bidders having the same public interest criteria score, the relative ranking of such bidders shall be determined by price. The Plan shall describe in detail how each public interest factor shall be considered and weighted in the bid selection process to

ensure that the public interest criteria are applied to the procurement. The Plan shall, to the extent practical and permissible by federal law, ensure that successful bidders make commercially reasonable efforts to apply for federal tax credits, direct payments, or similar subsidy programs that support carbon-free generation and for which the successful bidder is eligible. Upon publishing of the carbon mitigation credit procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 7 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 19 days later than the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall revise the plan as necessary based on the comments received and file its carbon mitigation credit procurement plan with the Commission.

(E) If the Commission determines that the plan is likely to result in the procurement of cost-effective carbon mitigation credits, then the Commission shall, after notice and hearing and opportunity for comment, but no later than 42 days after the Agency filed the plan, approve the plan or approve it with modification. For purposes of this subsection (d-10), "cost-effective" means carbon mitigation credits that are procured from

carbon-free energy resources at prices that are within the limits specified in this paragraph (3). As part of the Commission's review and acceptance or rejection of the procurement results, the Commission shall, in its public notice of successful bidders:

(i) identify how the selected carbon-free energy resources satisfy the public interest criteria described in this paragraph (3) of minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State;

(ii) specifically address how the selection of carbon-free energy resources takes into account the incremental environmental benefits resulting from the procurement, including any existing environmental benefits that are preserved by the procurements held under this amendatory Act of the 102nd General Assembly and would have ceased to exist if the procurements had not been held, such as the preservation of carbon-free energy resources;

(iii) quantify the environmental benefit of preserving the carbon-free energy resources procured pursuant to this subsection (d-10), including the following:

(I) an assessment value of avoided greenhouse

gas emissions measured as the product of the carbon-free energy resources' output over the contract term, using generally accepted methodologies for the valuation of avoided emissions; and

(II) an assessment of costs of replacement with other carbon-free energy resources and renewable energy resources, including wind and photovoltaic generation, based upon an assessment of the prices paid for renewable energy credits through programs and procurements conducted pursuant to subsection (c) of Section 1-75 of this Act, and the additional storage necessary to produce the same or similar capability of matching customer usage patterns.

(F) The procurements described in this paragraph (3), including, but not limited to, the execution of all contracts procured, shall be completed no later than December 3, 2021. The procurement and plan approval processes required by this paragraph (3) shall be conducted in conjunction with the procurement and plan approval processes required by Section 16-111.5 of the Public Utilities Act, to the extent practicable. However, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (D) and (E) of this paragraph (3) to meet

the December 3, 2021 contract execution deadline. Following the completion of such procurements, and consistent with this paragraph (3), the Agency shall calculate the payments to be made under each contract in a timely fashion.

(F-1) Costs incurred by the electric utility pursuant to a contract authorized by this subsection (d-10) shall be deemed prudently incurred and reasonable in amount, and the electric utility shall be entitled to full cost recovery pursuant to a tariff or tariffs filed with the Commission.

(G) The counterparty electric utility shall retire all carbon mitigation credits used to comply with the requirements of this subsection (d-10).

(H) If a carbon-free energy resource is sold to another owner, the rights, obligations, and commitments under this subsection (d-10) shall continue to the subsequent owner.

(I) This subsection (d-10) shall become inoperative on January 1, 2028.

(e) The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(f) The Agency shall submit the final procurement plan to the Commission. The Agency shall revise a procurement plan if the Commission determines that it does not meet the standards

set forth in Section 16-111.5 of the Public Utilities Act.

(g) The Agency shall assess fees to each affected utility to recover the costs incurred in preparation of the annual procurement plan for the utility.

(h) The Agency shall assess fees to each bidder to recover the costs incurred in connection with a competitive procurement process.

(i) A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit can only be used once to comply with a single portfolio or other standard as set forth in subsection (c), subsection (d), or subsection (d-5) of this Section, respectively. A renewable energy credit, carbon emission credit, zero emission credit, or carbon mitigation credit cannot be used to satisfy the requirements of more than one standard. If more than one type of credit is issued for the same megawatt hour of energy, only one credit can be used to satisfy the requirements of a single standard. After such use, the credit must be retired together with any other credits issued for the same megawatt hour of energy.

(Source: P.A. 101-81, eff. 7-12-19; 101-113, eff. 1-1-20; 102-662, eff. 9-15-21.)

Section 55. The Illinois Health Information Exchange and Technology Act is amended by changing Section 20 as follows:

(20 ILCS 3860/20)

(Section scheduled to be repealed on January 1, 2027)

Sec. 20. Powers and duties of the Illinois Health Information Exchange Office. The Office has the following powers, together with all powers incidental or necessary to accomplish the purposes of this Act:

(1) The Office shall create and administer the ILHIE using information systems and processes that are secure, are cost effective, and meet all other relevant privacy and security requirements under State and federal law.

(2) The Office shall establish and adopt standards and requirements for the use of health information and the requirements for participation in the ILHIE by persons or entities including, but not limited to, health care providers, payors, and local health information exchanges.

(3) The Office shall establish minimum standards for accessing the ILHIE to ensure that the appropriate security and privacy protections apply to health information, consistent with applicable federal and State standards and laws. The Office shall have the power to suspend, limit, or terminate the right to participate in the ILHIE for non-compliance or failure to act, with respect to applicable standards and laws, in the best interests of patients, users of the ILHIE, or the public. The Office may seek all remedies allowed by law to address any violation of the terms of participation in the ILHIE.

(4) The Office shall identify barriers to the adoption of electronic health records systems, including researching the rates and patterns of dissemination and use of electronic health record systems throughout the State. The Office shall make the results of the research available on the Department of Healthcare and Family Services' website.

(5) The Office shall prepare educational materials and educate the general public on the benefits of electronic health records, the ILHIE, and the safeguards available to prevent unauthorized disclosure of health information.

(6) The Office may appoint or designate an institutional review board in accordance with federal and State law to review and approve requests for research in order to ensure compliance with standards and patient privacy and security protections as specified in paragraph (3) of this Section.

(7) The Office may enter into all contracts and agreements necessary or incidental to the performance of its powers under this Act. The Office's expenditures of private funds are exempt from the Illinois Procurement Code, pursuant to Section 1-10 of that Act. Notwithstanding this exception, the Office shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(8) The Office may solicit and accept grants, loans,

contributions, or appropriations from any public or private source and may expend those moneys, through contracts, grants, loans, or agreements, on activities it considers suitable to the performance of its duties under this Act.

(9) The Office may determine, charge, and collect any fees, charges, costs, and expenses from any healthcare provider or entity in connection with its duties under this Act. Moneys collected under this paragraph (9) shall be deposited into the Health Information Exchange Fund.

(10) The Office may employ and discharge staff, including administrative, technical, expert, professional, and legal staff, as is necessary or convenient to carry out the purposes of this Act and as authorized by the Personnel Code.

(10.5) Staff employed by the Illinois Health Information Exchange Authority on the effective date of this amendatory Act of the 101st General Assembly shall transfer to the Office within the Department of Healthcare and Family Services.

(10.6) The status and rights of employees transferring from the Illinois Health Information Exchange Authority under paragraph (10.5) shall not be affected by such transfer except that, notwithstanding any other State law to the contrary, those employees shall maintain their seniority and their positions shall convert to titles of

comparable organizational level under the Personnel Code and become subject to the Personnel Code. Other than the changes described in this paragraph, the rights of employees, the State of Illinois, and State agencies under the Personnel Code or under any pension, retirement, or annuity plan shall not be affected by this amendatory Act of the 101st General Assembly. Transferring personnel shall continue their service within the Office.

(11) The Office shall consult and coordinate with the Department of Public Health to further the Office's collection of health information from health care providers for public health purposes. The collection of public health information shall include identifiable information for use by the Office or other State agencies to comply with State and federal laws. Any identifiable information so collected shall be privileged and confidential in accordance with Sections 8-2101, 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil Procedure.

(12) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its

administration of the Illinois Health Information Exchange, shall be exempt from inspection and copying under the Freedom of Information Act. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(13) To address gaps in the adoption of, workforce preparation for, and exchange of electronic health records that result in regional and socioeconomic disparities in the delivery of care, the Office may evaluate such gaps and provide resources as available, giving priority to healthcare providers serving a significant percentage of Medicaid or uninsured patients and in medically underserved or rural areas.

(14) The Office shall perform its duties under this Act in consultation with the Office of the Governor and with the Departments of Public Health, Insurance, and Human Services.

(Source: P.A. 100-391, eff. 8-25-17; 101-649, eff. 7-7-20.)

Section 60. The Illinois Global Partnership Act is amended by changing Section 20 as follows:

(20 ILCS 3948/20)

Sec. 20. Board of directors. IGP shall be governed by a board of directors. The IGP board of directors shall consist of 14 members. Five of the members shall be voting members appointed by the Governor with the advice and consent of the Senate. The Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the Lieutenant Governor, the Director of Agriculture, the Director of Commerce and Economic Opportunity, the Chairperson of the Illinois Arts Council, and the Director of the Illinois Finance Authority, or the designee of each, shall be non-voting ex officio members.

Of the members appointed by the Governor, one member must have a background in agriculture, one member must have a background in manufacturing, and one member must have a background in international business relations.

Of the initial members appointed by the Governor, 3 members shall serve 4-year terms and 2 members shall serve 2-year terms as designated by the Governor. Thereafter, members appointed by the Governor shall serve 4-year terms. A vacancy among members appointed by the Governor shall be filled by appointment by the Governor for the remainder of the vacated term.

Members of the board shall receive no compensation but shall be reimbursed for expenses incurred in the performance of their duties.

The Governor shall designate the chairman of the board

until a successor is designated. The board shall meet at the call of the chair.

No less than 90 days after a majority of the members of the board of directors of the IGP is appointed by the Governor, the board shall develop a policy adopted by resolution of the board stating the board's plan for the use of services provided by businesses owned by minorities, women, veterans, and persons with disabilities, as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The board shall provide a copy of this resolution to the Governor and the General Assembly upon its adoption.

On December 31 of each year, the board shall report to the General Assembly and the Governor regarding the use of services provided by businesses owned by minorities, women, veterans, and persons with disabilities, as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 61. The Illinois Workforce Innovation Board Act is amended by changing Section 4.5 as follows:

(20 ILCS 3975/4.5)

Sec. 4.5. Duties.

(a) The Board must perform all the functions of a state

workforce innovation board under the federal Workforce Innovation and Opportunity Act, any amendments to that Act, and any other applicable federal statutes. The Board must also perform all other functions that are not inconsistent with the federal Workforce Innovation and Opportunity Act or this Act and that are assumed by the Board under its bylaws or assigned to it by the Governor.

(b) The Board must cooperate with the General Assembly and make recommendations to the Governor and the General Assembly concerning legislation necessary to improve upon statewide and local workforce development systems in order to increase occupational skill attainment, employment, retention, or earnings of participants and thereby improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the State. The Board must annually submit a report to the General Assembly on the progress of the State in achieving state performance measures under the federal Workforce Innovation and Opportunity Act, including information on the levels of performance achieved by the State with respect to the core indicators of performance and the customer satisfaction indicator under that Act. The report must include any other items that the Governor may be required to report to the Secretary of the United States Department of Labor.

(b-5) The Board shall implement a method for measuring the progress of the State's workforce development system by using

benchmarks specified in the federal Workforce Innovation and Opportunity Act.

The Board shall identify the most significant early indicators for each benchmark, establish a mechanism to collect data and track the benchmarks on an annual basis, and then use the results to set goals for each benchmark, to inform planning, and to ensure the effective use of State resources.

(c) Nothing in this Act shall be construed to require or allow the Board to assume or supersede the statutory authority granted to, or impose any duties or requirements on, the State Board of Education, the Board of Higher Education, the Illinois Community College Board, any State agencies created under the Civil Administrative Code of Illinois, or any local education agencies.

(d) No actions taken by the Illinois Human Resource Investment Council before the effective date of this amendatory Act of the 92nd General Assembly and no rights, powers, duties, or obligations from those actions are impaired solely by this amendatory Act of the 92nd General Assembly. All actions taken by the Illinois Human Resource Investment Council before the effective date of this amendatory Act of the 92nd General Assembly are ratified and validated.

(e) Upon the effective date of this amendatory Act of the 101st General Assembly, the Board shall conduct a feasibility study regarding the consolidation of all workforce development programs funded by the federal Workforce Innovation and

Opportunity Act and conducted by the State of Illinois into one solitary agency to create greater access to job training for underserved populations. The Board shall utilize resources currently made available to them, including, but not limited to, partnering with institutions of higher education and those agencies currently charged with overseeing or administering workforce programs. The feasibility study shall:

(1) assess the impact of consolidation on access for participants, including minority persons as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, persons with limited English proficiency, persons with disabilities, and youth, and how consolidation would increase equitable access to workforce resources;

(2) assess the cost of consolidation and estimate any long-term savings anticipated from the action;

(3) assess the impact of consolidation on agencies in which the programs currently reside, including, but not limited to, the Department of Commerce and Economic Opportunity, the Department of Employment Security, the Department of Human Services, the Community College Board, the Board of Higher Education, the Department of Corrections, the Department on Aging, the Department of Veterans' Affairs, and the Department of Children and Family Services;

(4) assess the impact of consolidation on State

government employees and union contracts;

(5) consider if the consolidation will provide avenues to maximize federal funding;

(6) provide recommendations for the future structure of workforce development programs, including a proposed timeline for implementation;

(7) provide direction for implementation by July 1, 2022 with regard to recommendations that do not require legislative change;

(8) if legislative change is necessary, include legislative language for consideration by the 102nd General Assembly.

The Board shall submit its recommendations the Governor and the General Assembly by May 1, 2021.

(Source: P.A. 100-477, eff. 9-8-17; 101-654, eff. 3-8-21.)

Section 65. The Illinois State Auditing Act is amended by changing Section 2-16 as follows:

(30 ILCS 5/2-16)

Sec. 2-16. Contract aspirational goals. The Auditor General shall establish aspirational goals for contract awards substantially in accordance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless otherwise governed by other law. The Auditor General shall not be subject to the jurisdiction of the

Business Enterprise Council established under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act with regard to steps taken to achieve aspirational goals. The Auditor General shall annually post the Office's utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year on the Office's Internet websites.
(Source: P.A. 100-801, eff. 8-10-18; 101-81, eff. 7-12-19.)

Section 70. The State Finance Act is amended by changing Section 45 as follows:

(30 ILCS 105/45)

Sec. 45. Award of capital funds. Each award by grant or loan of State funds of $250,000 or more for capital construction costs or professional services is conditioned upon the recipient's written certification that the recipient shall comply with the business enterprise program practices for minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act (30 ILCS 575/) and the equal employment practices of Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105). This Section, however, does not apply to any grant or loan (i) for which a grant or loan agreement was executed before the effective date

of this amendatory Act of the 96th General Assembly, (ii) for which prior-incurred costs are being reimbursed, or (iii) for a federally funded program under which the requirement of this Section would contravene federal law. Each recipient shall submit the written certification and business enterprise program plan for minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities before signing the relevant grant or loan agreement. Each grant or loan agreement shall include a provision that the grant or loan recipient agrees to comply with the provisions of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act (30 ILCS 575/) and the equal employment practices of Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105).

Each business enterprise program plan shall apply only to the State-funded portion of the relevant capital project and must be in compliance with all certification and other requirements of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 75. The General Obligation Bond Act is amended by changing Sections 8 and 15.5 as follows:

(30 ILCS 330/8) (from Ch. 127, par. 658)

Sec. 8. Bond sale expenses.

(a) An amount not to exceed 0.5 percent of the principal amount of the proceeds of sale of each bond sale is authorized to be used to pay the reasonable costs of issuance and sale, including, without limitation, underwriter's discounts and fees, but excluding bond insurance, of State of Illinois general obligation bonds authorized and sold pursuant to this Act, provided that no salaries of State employees or other State office operating expenses shall be paid out of non-appropriated proceeds, provided further that the percent shall be 1.0% for each sale of "Build America Bonds" or "Qualified School Construction Bonds" as defined in subsections (d) and (e) of Section 9, respectively. The Governor's Office of Management and Budget shall compile a summary of all costs of issuance on each sale (including both costs paid out of proceeds and those paid out of appropriated funds) and post that summary on its web site within 20 business days after the issuance of the Bonds. The summary shall include, as applicable, the respective percentages of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the bond issue and an identification of all costs of issuance paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities. The terms "minority-owned businesses", "women-owned businesses", "veteran-owned businesses", and "business owned by a person

with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. That posting shall be maintained on the web site for a period of at least 30 days. In addition, the Governor's Office of Management and Budget shall provide a written copy of each summary of costs to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Commission on Government Forecasting and Accountability within 20 business days after each issuance of the Bonds. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Governor's Office of Management and Budget may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to a third party for having promoted

the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 330/15.5)

Sec. 15.5. Compliance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. Notwithstanding any other provision of law, the Governor's Office of Management and Budget shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 80. The Build Illinois Bond Act is amended by changing Sections 5 and 8.3 as follows:

(30 ILCS 425/5) (from Ch. 127, par. 2805)

Sec. 5. Bond sale expenses.

(a) An amount not to exceed 0.5% of the principal amount of the proceeds of the sale of each bond sale is authorized to be used to pay reasonable costs of each issuance and sale of Bonds authorized and sold pursuant to this Act, including, without limitation, underwriter's discounts and fees, but excluding bond insurance, advertising, printing, bond rating, travel of outside vendors, security, delivery, legal and financial advisory services, initial fees of trustees, registrars, paying agents and other fiduciaries, initial costs of credit or liquidity enhancement arrangements, initial fees of indexing and remarketing agents, and initial costs of interest rate swaps, guarantees or arrangements to limit interest rate risk, as determined in the related Bond Sale Order, from the proceeds of each Bond sale, provided that no salaries of State employees or other State office operating expenses shall be paid out of non-appropriated proceeds, and provided further that the percent shall be 1.0% for each sale of "Build America Bonds" as defined in subsection (c) of Section 6. The Governor's Office of Management and Budget shall compile a summary of all costs of issuance on each sale (including both costs paid out of proceeds and those paid out of appropriated funds) and post that summary on its web site within 20 business days after the issuance of the bonds. That posting shall be maintained on the web site for a period of at least 30 days. In

addition, the Governor's Office of Management and Budget shall provide a written copy of each summary of costs to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Commission on Government Forecasting and Accountability within 20 business days after each issuance of the bonds. This summary shall include, as applicable, the respective percentage of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the Bond issue, and an identification of all costs of issuance paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities. The terms "minority-owned businesses", "women-owned businesses", "veteran-owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Governor's Office of Management and Budget may file a statement that specified costs are paid

under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to any third party for having promoted the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 425/8.3)

Sec. 8.3. Compliance with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. Notwithstanding any other provision of law, the

Governor's Office of Management and Budget shall comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 85. The Illinois Procurement Code is amended by changing Sections 15-25, 20-15, 20-60, 30-30, 45-45, and 45-65 and by adding Section 45-58 as follows:

(30 ILCS 500/15-25)

Sec. 15-25. Bulletin content.

(a) Invitations for bids. Notice of each and every contract that is offered, including renegotiated contracts and change orders, shall be published in the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least the date first offered, the date submission of offers is due, the location that offers are to be submitted to, the purchasing State agency, the responsible State purchasing officer, a brief purchase description, the method of source selection, information of how to obtain a comprehensive purchase description and any disclosure and contract forms, and encouragement to potential contractors to hire ~~qualified veterans, as defined by Section 45-67 of this Code, and~~ qualified Illinois minorities, women, veterans, persons with disabilities, and residents discharged

from any Illinois adult correctional center.

(a-5) All businesses listed on the Illinois Unified Certification Program Disadvantaged Business Enterprise Directory, the Business Enterprise Program of the Department of Central Management Services, and any small business database created pursuant to Section 45-45 of this Code shall be furnished written instructions and information on how to register for the Illinois Procurement Bulletin. This information shall be provided to each business within 30 calendar days after the business's notice of certification or qualification.

(b) Contracts let. Notice of each and every contract that is let, including renegotiated contracts and change orders, shall be issued electronically to those bidders submitting responses to the solicitations, inclusive of the unsuccessful bidders, immediately upon contract let. Failure of any chief procurement officer to give such notice shall result in tolling the time for filing a bid protest up to 7 calendar days.

For purposes of this subsection (b), "contracts let" means a construction agency's act of advertising an invitation for bids for one or more construction projects.

(b-5) Contracts awarded. Notice of each and every contract that is awarded, including renegotiated contracts and change orders, shall be issued electronically to the successful responsible bidder, offeror, or contractor and published in

the Bulletin. The applicable chief procurement officer may provide by rule an organized format for the publication of this information, but in any case it must include at least all of the information specified in subsection (a) as well as the name of the successful responsible bidder, offeror, the contract price, the number of unsuccessful bidders or offerors and any other disclosure specified in any Section of this Code. This notice must be posted in the online electronic Bulletin prior to execution of the contract.

For purposes of this subsection (b-5), "contract award" means the determination that a particular bidder or offeror has been selected from among other bidders or offerors to receive a contract, subject to the successful completion of final negotiations. "Contract award" is evidenced by the posting of a Notice of Award or a Notice of Intent to Award to the respective volume of the Illinois Procurement Bulletin.

(c) Emergency purchase disclosure. Any chief procurement officer or State purchasing officer exercising emergency purchase authority under this Code shall publish a written description and reasons and the total cost, if known, or an estimate if unknown and the name of the responsible chief procurement officer and State purchasing officer, and the business or person contracted with for all emergency purchases in the Bulletin. This notice must be posted in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of a hearing to extend an

emergency contract must be posted in the online electronic Procurement Bulletin no later than 14 calendar days prior to the hearing.

(c-5) Business Enterprise Program report. Each purchasing agency shall, with the assistance of the applicable chief procurement officer, post in the online electronic Bulletin a copy of its annual report of utilization of businesses owned by minorities, women, veterans, and persons with disabilities as submitted to the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities pursuant to Section 6(c) of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act within 10 calendar days after its submission of its report to the Council.

(c-10) Renewals. Notice of each contract renewal shall be posted in the Bulletin within 14 calendar days of the determination to execute a renewal of the contract. The notice shall include at least all of the information required in subsection (a) or (b), as applicable.

(c-15) Sole source procurements. Before entering into a sole source contract, a chief procurement officer exercising sole source procurement authority under this Code shall publish a written description of intent to enter into a sole source contract along with a description of the item to be procured and the intended sole source contractor. This notice must be posted in the online electronic Procurement Bulletin

before a sole source contract is awarded and at least 14 calendar days before the hearing required by Section 20-25.

(d) Other required disclosure. The applicable chief procurement officer shall provide by rule for the organized publication of all other disclosure required in other Sections of this Code in a timely manner.

(e) The changes to subsections (b), (c), (c-5), (c-10), and (c-15) of this Section made by Public Act 96-795 apply to reports submitted, offers made, and notices on contracts executed on or after July 1, 2010 (the effective date of Public Act 96-795).

(f) Each chief procurement officer shall, in consultation with the agencies under his or her jurisdiction, provide the Procurement Policy Board with the information and resources necessary, and in a manner, to effectuate the purpose of Public Act 96-1444.

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

(30 ILCS 500/20-15)

Sec. 20-15. Competitive sealed proposals.

(a) Conditions for use. When provided under this Code or under rules, or when the purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State, a contract may be entered into by competitive sealed proposals.

(b) Request for proposals. Proposals shall be solicited through a request for proposals.

(c) Public notice. Public notice of the request for proposals shall be published in the Illinois Procurement Bulletin at least 14 calendar days before the date set in the invitation for the opening of proposals.

(d) Receipt of proposals. Proposals shall be opened publicly or via an electronic procurement system in the presence of one or more witnesses at the time and place designated in the request for proposals, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after contract award.

(e) Evaluation factors. The requests for proposals shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 3 parts: the first, price; the second, commitment to diversity; and the third, all other items. Each part of all proposals shall be evaluated and ranked independently of the other parts of all proposals. The results of the evaluation of all 3 parts shall be used in ranking of proposals.

(e-5) Method of scoring.

(1) The point scoring methodology for competitive sealed proposals shall provide points for commitment to diversity. Those points shall be equivalent to 20% of the

points assigned to the third part of the proposal, all other items.

(2) Factors to be considered in the award of points for the commitment to diversity component shall be set by rule by the applicable chief procurement officer and may include, but are not limited to:

(A) whether or how well the offeror, on the solicitation being evaluated, met the goal of contracting or subcontracting with businesses owned by women, minorities, or persons with disabilities;

(B) whether the offeror, on the solicitation being evaluated, assisted businesses owned by women, minorities, or persons with disabilities in obtaining lines of credit, insurance, necessary equipment, supplies, materials, or related assistance or services;

(C) the percentage of prior year revenues of the offeror that involve businesses owned by women, minorities, or persons with disabilities;

(D) whether the offeror has a written supplier diversity program, including, but not limited to, use of diverse vendors in the supply chain and a training or mentoring program with businesses owned by women, minorities, or persons with disabilities; and

(E) the percentage of members of the offeror's governing board, senior executives, and managers who

are women, minorities, or persons with disabilities.

(3) If any State agency or public institution of higher education contract is eligible to be paid for or reimbursed, in whole or in part, with federal-aid funds, grants, or loans, and the provisions of this subsection (e-5) would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this Section in order to remain eligible for those federal-aid funds, grants, or loans. For the purposes of this subsection (e-5):

"Manager" means a person who controls or administers all or part of a company or similar organization.

"Minorities" has the same meaning as "minority person" under Section 2 of the Business Enterprise for Minorities, Women, Veterans and Persons with Disabilities Act.

"Persons with disabilities" has the same meaning as "person with a disability" under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Senior executive" means the chief executive officer, chief operating officer, chief financial officer, or anyone else in charge of a principal business unit or function.

"Women" has the same meaning as "woman" under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(f) Discussion with responsible offerors and revisions of offers or proposals. As provided in the request for proposals and under rules, discussions may be conducted with responsible offerors who submit offers or proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.

(g) Award. Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(Source: P.A. 101-657, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of 101-657); 102-29, eff. 6-25-21.)

(30 ILCS 500/20-60)

Sec. 20-60. Duration of contracts.

(a) Maximum duration. A contract may be entered into for any period of time deemed to be in the best interests of the State but not exceeding 10 years inclusive, beginning January 1, 2010, of proposed contract renewals. Third parties may lease State-owned dark fiber networks for any period of time deemed to be in the best interest of the State, but not exceeding 20 years. The length of a lease for real property or capital improvements shall be in accordance with the provisions of Section 40-25. The length of energy conservation program contracts or energy savings contracts or leases shall be in accordance with the provisions of Section 25-45. A contract for bond or mortgage insurance awarded by the Illinois Housing Development Authority, however, may be entered into for any period of time less than or equal to the maximum period of time that the subject bond or mortgage may remain outstanding.

(b) Subject to appropriation. All contracts made or entered into shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the contract.

(c) The chief procurement officer shall file a proposed extension or renewal of a contract with the Procurement Policy Board and the Commission on Equity and Inclusion prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds $249,999. The

Procurement Policy Board or the Commission on Equity and Inclusion may object to the proposed extension or renewal within 14 calendar days and require a hearing before the Board or the Commission on Equity and Inclusion prior to entering into the extension or renewal. If the Procurement Policy Board or the Commission on Equity and Inclusion does not object within 14 calendar days or takes affirmative action to recommend the extension or renewal, the chief procurement officer may enter into the extension or renewal of a contract. This subsection does not apply to any emergency procurement, any procurement under Article 40, or any procurement exempted by Section 1-10(b) of this Code. If any State agency contract is paid for in whole or in part with federal-aid funds, grants, or loans and the provisions of this subsection would result in the loss of those federal-aid funds, grants, or loans, then the contract is exempt from the provisions of this subsection in order to remain eligible for those federal-aid funds, grants, or loans, and the State agency shall file notice of this exemption with the Procurement Policy Board or the Commission on Equity and Inclusion prior to entering into the proposed extension or renewal. Nothing in this subsection permits a chief procurement officer to enter into an extension or renewal in violation of subsection (a). By August 1 each year, the Procurement Policy Board and the Commission on Equity and Inclusion shall each file a report with the General Assembly identifying for the previous fiscal year (i) the

proposed extensions or renewals that were filed and whether such extensions and renewals were objected to and (ii) the contracts exempt from this subsection.

(d) Notwithstanding the provisions of subsection (a) of this Section, the Department of Innovation and Technology may enter into leases for dark fiber networks for any period of time deemed to be in the best interests of the State but not exceeding 20 years inclusive. The Department of Innovation and Technology may lease dark fiber networks from third parties only for the primary purpose of providing services (i) to the offices of Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and State agencies, as defined under Section 5-15 of the Civil Administrative Code of Illinois or (ii) for anchor institutions, as defined in Section 7 of the Illinois Century Network Act. Dark fiber network lease contracts shall be subject to all other provisions of this Code and any applicable rules or requirements, including, but not limited to, publication of lease solicitations, use of standard State contracting terms and conditions, and approval of vendor certifications and financial disclosures.

(e) As used in this Section, "dark fiber network" means a network of fiber optic cables laid but currently unused by a third party that the third party is leasing for use as network infrastructure.

(f) No vendor shall be eligible for renewal of a contract

when that vendor has failed to meet the goals agreed to in the vendor's utilization plan, as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, unless the State agency or public institution of higher education has determined that the vendor made good faith efforts toward meeting the contract goals. If the State agency or public institution of higher education determines that the vendor made good faith efforts, the agency or public institution of higher education may issue a waiver after concurrence by the chief procurement officer, which shall not be unreasonably withheld or impair a State agency determination to execute the renewal. The form and content of the waiver shall be prescribed by each chief procurement officer, but shall not impair a State agency or public institution of higher education determination to execute the renewal. The chief procurement officer shall post the completed form on his or her official website within 5 business days after receipt from the State agency or public institution of higher education. The chief procurement officer shall maintain on his or her official website a database of waivers granted under this Section with respect to contracts under his or her jurisdiction. The database shall be updated periodically and shall be searchable by contractor name and by contracting State agency or public institution of higher education.

(Source: P.A. 101-81, eff. 7-12-19; 101-657, Article 5,

Section 5-5, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of P.A. 101-657, Article 5, Section 5-5); 101-657, Article 40, Section 40-125, eff. 1-1-22; 102-29, eff. 6-25-21; 102-721, eff. 1-1-23.)

(30 ILCS 500/30-30)

Sec. 30-30. Design-bid-build construction.

(a) The provisions of this subsection are operative through December 31, 2023.

For building construction contracts in excess of $250,000, separate specifications may be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications may be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof may award the 5 subdivisions of work separately to responsible and reliable

persons, firms, or corporations engaged in these classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

Beginning on the effective date of this amendatory Act of the 101st General Assembly and through December 31, 2023, for single prime projects: (i) the bid of the successful low bidder shall identify the name of the subcontractor, if any, and the bid proposal costs for each of the 5 subdivisions of work set forth in this Section; (ii) the contract entered into with the successful bidder shall provide that no identified subcontractor may be terminated without the written consent of the Capital Development Board; (iii) the contract shall comply with the disadvantaged business practices of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the equal employment practices of Section 2-105 of the Illinois Human Rights Act; and (iv) the Capital Development Board shall submit an annual report to the General Assembly and Governor on the bidding, award, and performance of all single prime projects.

For building construction projects with a total

construction cost valued at $5,000,000 or less, the Capital Development Board shall not use the single prime procurement delivery method for more than 50% of the total number of projects bid for each fiscal year. Any project with a total construction cost valued greater than $5,000,000 may be bid using single prime at the discretion of the Executive Director of the Capital Development Board.

(b) The provisions of this subsection are operative on and after January 1, 2024. For building construction contracts in excess of $250,000, separate specifications shall be prepared for all equipment, labor, and materials in connection with the following 5 subdivisions of the work to be performed:

(1) plumbing;

(2) heating, piping, refrigeration, and automatic temperature control systems, including the testing and balancing of those systems;

(3) ventilating and distribution systems for conditioned air, including the testing and balancing of those systems;

(4) electric wiring; and

(5) general contract work.

The specifications must be so drawn as to permit separate and independent bidding upon each of the 5 subdivisions of work. All contracts awarded for any part thereof shall award the 5 subdivisions of work separately to responsible and reliable persons, firms, or corporations engaged in these

classes of work. The contracts, at the discretion of the construction agency, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the construction agency before the bidding as the prime subdivision of work, provided that all payments will be made directly to the contractors for the 5 subdivisions of work upon compliance with the conditions of the contract.

(Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20; 102-671, eff. 11-30-21.)

(30 ILCS 500/45-45)

Sec. 45-45. Small businesses.

(a) Set-asides. Each chief procurement officer has authority to designate as small business set-asides a fair proportion of construction, supply, and service contracts for award to small businesses in Illinois. Advertisements for bids or offers for those contracts shall specify designation as small business set-asides. In awarding the contracts, only bids or offers from qualified small businesses shall be considered.

(b) Small business. "Small business" means a business that is independently owned and operated and that is not dominant in its field of operation. The chief procurement officer shall establish a detailed definition by rule, using in addition to the foregoing criteria other criteria, including the number of

employees and the dollar volume of business. When computing the size status of a potential contractor, annual sales and receipts of the potential contractor and all of its affiliates shall be included. The maximum number of employees and the maximum dollar volume that a small business may have under the rules promulgated by the chief procurement officer may vary from industry to industry to the extent necessary to reflect differing characteristics of those industries, subject to the following limitations:

(1) No wholesale business is a small business if its annual sales for its most recently completed fiscal year exceed $13,000,000.

(2) No retail business or business selling services is a small business if its annual sales and receipts exceed $8,000,000.

(3) No manufacturing business is a small business if it employs more than 250 persons.

(4) No construction business is a small business if its annual sales and receipts exceed $14,000,000.

(c) Fair proportion. For the purpose of subsection (a), for State agencies of the executive branch, a fair proportion of construction contracts shall be no less than 25% nor more than 40% of the annual total contracts for construction.

(d) Withdrawal of designation. A small business set-aside designation may be withdrawn by the purchasing agency when deemed in the best interests of the State. Upon withdrawal,

all bids or offers shall be rejected, and the bidders or offerors shall be notified of the reason for rejection. The contract shall then be awarded in accordance with this Code without the designation of small business set-aside.

(e) Small business specialist. Each chief procurement officer shall designate one or more individuals to serve as its small business specialist. The small business specialists shall collectively work together to accomplish the following duties:

(1) Compiling and maintaining a comprehensive list of potential small contractors. In this duty, he or she shall cooperate with the Federal Small Business Administration in locating potential sources for various products and services.

(2) Assisting small businesses in complying with the procedures for bidding on State contracts.

(3) Examining requests from State agencies for the purchase of property or services to help determine which invitations to bid are to be designated small business set-asides.

(4) Making recommendations to the chief procurement officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

(5) Assisting in investigations by purchasing agencies to determine the responsibility of bidders or offerors on

small business set-asides.

(f) Small business annual report. Each small business specialist designated under subsection (e) shall annually before November 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report shall include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The report shall also include the total value of awards made to businesses owned by minorities, women, veterans, and persons with disabilities, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, in the preceding fiscal year under the designation of small business set-aside.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act.

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

(30 ILCS 500/45-58 new)

Sec. 45-58. Penalties for false representation as a minority, woman, veteran, or person with a disability.

(a) Administrative penalties. The chief procurement officers appointed under Section 10-20 shall suspend any person who commits a violation of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 2012

relating to the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act from bidding on, or participating as a contractor, subcontractor, or supplier in, any State contract or project for a period of not less than 3 years, and shall revoke the certification of being a minority-owned business, woman-owned business, veteran-owned business, or business owned by a person with a disability for a period of not less than 3 years. An additional or subsequent violation shall extend the periods of suspension and revocation for a period of not less than 5 years. The suspension and revocation shall apply to the principals of the business and any subsequent business formed or financed by, or affiliated with, those principals.

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

(c) List of suspended persons. The chief procurement officers appointed pursuant to Section 10-20 shall monitor the status of all reported violations of Section 17-10.3 or subsection (d) of Section 33E-6 of the Criminal Code of 1961 or

the Criminal Code of 2012 relating to this Section and shall maintain and make available to all State agencies a central listing of all persons that committed violations resulting in suspension.

(d) Use of suspended persons. During the period of a person's suspension under subsection (a) of this subsection, a State agency shall not enter into any contract with that person or with any contractor using the services of that person as a subcontractor.

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

(30 ILCS 500/45-65)

Sec. 45-65. Additional preferences. This Code is subject to applicable provisions of:

(1) the Public Purchases in Other States Act;

(2) the Illinois Mined Coal Act;

(3) the Steel Products Procurement Act;

(4) the Veterans Preference Act;

(5) the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and

(6) the Procurement of Domestic Products Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 500/45-57 rep.)

Section 90. The Illinois Procurement Code is amended by repealing Section 45-57.

Section 95. The Design-Build Procurement Act is amended by changing Sections 5, 15, 30, and 46 as follows:

(30 ILCS 537/5)

(Section scheduled to be repealed on July 1, 2027)

Sec. 5. Legislative policy. It is the intent of the General Assembly that the Capital Development Board be allowed to use the design-build delivery method for public projects if it is shown to be in the State's best interest for that particular project. It shall be the policy of the Capital Development Board in the procurement of design-build services to publicly announce all requirements for design-build services and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The Capital Development Board shall, prior to issuing requests for proposals, promulgate and publish procedures for the solicitation and award of contracts pursuant to this Act.

The Capital Development Board shall, for each public

project or projects permitted under this Act, make a written determination, including a description as to the particular advantages of the design-build procurement method, that it is in the best interests of this State to enter into a design-build contract for the project or projects. In making that determination, the following factors shall be considered:

(1) The probability that the design-build procurement method will be in the best interests of the State by providing a material savings of time or cost over the design-bid-build or other delivery system.

(2) The type and size of the project and its suitability to the design-build procurement method.

(3) The ability of the State construction agency to define and provide comprehensive scope and performance criteria for the project.

No State construction agency may use a design-build procurement method unless the agency determines in writing that the project will comply with the disadvantaged business and equal employment practices of the State as established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

The Capital Development Board shall within 15 days after the initial determination provide an advisory copy to the Procurement Policy Board and maintain the full record of determination for 5 years.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 537/15)

(Section scheduled to be repealed on July 1, 2027)

Sec. 15. Solicitation of proposals.

(a) When the State construction agency elects to use the design-build delivery method, it must issue a notice of intent to receive requests for proposals for the project at least 14 days before issuing the request for the proposal. The State construction agency must publish the advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The State construction agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the use of additional prequalification criteria by the State construction agency.

(5) Material requirements of the contract, including but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The State construction agency may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21

calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $10 million, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The State construction agency shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 537/30)

(Section scheduled to be repealed on July 1, 2027)

Sec. 30. Procedures for Selection.

(a) The State construction agency must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The State construction agency shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the agency has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must

maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase I evaluation of design-build entities: (1) experience of personnel; (2) successful experience with similar project types; (3) financial capability; (4) timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm; (7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or

performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided however, no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The State construction agency must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the State agency.

(c) The State construction agency shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each

request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase II technical evaluation of design-build entities: (1) compliance with objectives of the project; (2) compliance of proposed services to the request for proposal requirements; (3) quality of products or materials proposed; (4) quality of design parameters; (5) design concepts; (6) innovation in meeting the scope and performance criteria; and (7) constructability of the proposed project. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The State construction agency shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighing factor shall be 25%.

The State construction agency shall directly employ or

retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the State construction agency may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 537/46)

(Section scheduled to be repealed on July 1, 2027)

Sec. 46. Reports and evaluation. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the proposal process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to

what degree each design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 96. The Public-Private Partnership for Civic and Transit Infrastructure Project Act is amended by changing Section 25-5 as follows:

(30 ILCS 558/25-5)

Sec. 25-5. Public policy and legislative findings.

(a) It is in the best interest of the State of Illinois to encourage private investment in public transit-oriented infrastructure projects with broad economic development, civic and diversity equity, and community impacts, and to encourage related private development activities that will generate new State and local revenues to fund such public infrastructure, as well as to fund other statewide priorities.

(b) Existing methods of procurement and financing of transit-oriented public infrastructure projects serving the needs of the public limit the State's ability to access underutilized private land for such public infrastructure projects and to encourage private, tax-generating development on and adjacent to such public infrastructure projects.

(c) A private entity has proposed a civic and transit infrastructure project, to be completed in one or more phases, which presents an opportunity for a prudent State investment that will develop a major public transit infrastructure asset that has the potential to connect Metra, the South Shore Line, Amtrak, the Northern Indiana Commuter Transportation District, the Chicago Transportation Authority, bus service, and a central-area circulator transit system while bringing significant civic, economic, and fiscal benefits to the State.

(d) It is in the best interest of the State to authorize the public agency to enter into a public-private partnership with the private entity, whereby the private entity will develop, finance, construct, operate, and manage the Civic and Transit Infrastructure Project as necessary public infrastructure in the State, and for the State to utilize a portion of future State revenues to ultimately acquire the civic build as an asset of the State.

(e) The private entity will be accountable to the People of Illinois through a comprehensive system of oversight, auditing, and reporting, and shall meet, at a minimum, the State's utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act as established for similar infrastructure projects in the State. The private entity will establish and manage a comprehensive Targeted Business and Workforce Participation Program for the Civic and Transit

Infrastructure Project that establishes definitive goals and objectives associated with the professional and construction services, contracts entered into, and hours of the workforce employed in the development of the Civic and Transit Infrastructure Project. The Targeted Business and Workforce Participation Program will emphasize the expansion of business capacity and workforce opportunity that can be sustained among minority, women, disabled, and veteran businesses and individuals that are contracted or employed under the Targeted Business and Workforce Participation Program developed for the Civic and Transit Infrastructure Project.

(f) The utilization of a portion of the State's sales tax to repay the cost of its public-private partnership with the private entity for the development, financing, construction, operation, and management of the Civic and Transit Infrastructure Project is of benefit to the State for the reasons that the State would not otherwise derive the revenue from the Civic and Transit Infrastructure Project, or the private development on and adjacent to the Civic and Transit Infrastructure Project, without the public-private partnership, and the State or a political subdivision thereof will ultimately own the Civic and Transit Infrastructure Project.

(g) It is found and declared that the implementation of the Civic and Transit Infrastructure Project through a public-private partnership as provided under this Act has the

ability to reduce unemployment in the State, create new jobs, expand the business and workforce capacity among minority, woman, disabled and veteran businesses and individuals, improve mobility and opportunity for the People of the State of Illinois, and, by the provision of new public infrastructure and private development, greatly enhance the overall tax base and strengthen the economy of the State.

(h) In order to provide for flexibility in meeting the financial, design, engineering, and construction needs of the State, and its agencies and departments, and in order to provide continuing and adequate financing for the Civic and Transit Infrastructure Project on favorable terms, the delegations of authority to the public agency, the State Comptroller, the State Treasurer and other officers of the State that are contained in this Act are necessary and desirable.

(Source: P.A. 101-10, eff. 6-5-19.)

Section 97. The Illinois Works Jobs Program Act is amended by changing Sections 20-10 and 20-20 as follows:

(30 ILCS 559/20-10)

Sec. 20-10. Definitions.

"Apprentice" means a participant in an apprenticeship program approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

"Apprenticeship program" means an apprenticeship and training program approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

"Bid credit" means a virtual dollar for a contractor or subcontractor to use toward future bids on contracts with the State for public works projects.

"Community-based organization" means a nonprofit organization, including an accredited public college or university, selected by the Department to participate in the Illinois Works Preapprenticeship Program. To qualify as a "community-based organization", the organization must demonstrate the following:

(1) the ability to effectively serve diverse and underrepresented populations, including by providing employment services to such populations;

(2) knowledge of the construction and building trades;

(3) the ability to recruit, prescreen, and provide preapprenticeship training to prepare workers for employment in the construction and building trades; and

(4) a plan to provide the following:

(A) preparatory classes;

(B) workplace readiness skills, such as resume preparation and interviewing techniques;

(C) strategies for overcoming barriers to entry and completion of an apprenticeship program; and

(D) any prerequisites for acceptance into an apprenticeship program.

"Contractor" means a person, corporation, partnership, limited liability company, or joint venture entering into a contract to construct a public work.

"Department" means the Department of Commerce and Economic Opportunity.

"Labor hours" means the total hours for workers who are receiving an hourly wage and who are directly employed for the public works project. "Labor hours" includes hours performed by workers employed by the contractor and subcontractors on the public works project. "Labor hours" does not include hours worked by the forepersons, superintendents, owners, and workers who are not subject to prevailing wage requirements.

"Minorities" means minority persons as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Public works" means all projects, contracted or funded by the State or any agency of the State, in whole or in part, from appropriated capital funds, that constitute public works under the Prevailing Wage Act.

"Subcontractor" means a person, corporation, partnership, limited liability company, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor.

"Underrepresented populations" means populations

identified by the Department that historically have had barriers to entry or advancement in the workforce. "Underrepresented populations" includes, but is not limited to, minorities, women, and veterans.

(Source: P.A. 101-31, eff. 6-28-19; 101-601, eff. 12-10-19.)

(30 ILCS 559/20-20)

Sec. 20-20. Illinois Works Apprenticeship Initiative.

(a) The Illinois Works Apprenticeship Initiative is established and shall be administered by the Department.

(1) Subject to the exceptions set forth in subsection (b) of this Section, apprentices shall be utilized on all public works projects estimated to cost $500,000 or more in accordance with this subsection (a).

(2) For public works projects estimated to cost $500,000 or more, the goal of the Illinois Works Apprenticeship Initiative is that apprentices will perform either 10% of the total labor hours actually worked in each prevailing wage classification or 10% of the estimated labor hours in each prevailing wage classification, whichever is less.

(b) Before or during the term of a contract subject to this Section, the Department may reduce or waive the goals set forth in paragraph (2) of subsection (a). Prior to the Department granting a request for a reduction or waiver, the Department shall determine, in its discretion, whether to hold

a public hearing on the request. In determining whether to hold a public hearing, the Department may consider factors, including the scale of the project and whether the contractor or subcontractor seeking the reduction or waiver has previously requested reductions or waivers on other projects. The Department may also consult with the Business Enterprise Council under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the Chief Procurement Officer of the agency administering the public works contract. The Department may grant a reduction or waiver upon a determination that:

(1) the contractor or subcontractor has demonstrated that insufficient apprentices are available;

(2) the reasonable and necessary requirements of the contract do not allow the goal to be met;

(3) there is a disproportionately high ratio of material costs to labor hours that makes meeting the goal infeasible; or

(4) apprentice labor hour goals conflict with existing requirements, including federal requirements, in connection with the public work.

(c) Contractors and subcontractors must submit a certification to the Department and the agency that is administering the contract, or the grant agreement funding the contract, demonstrating that the contractor or subcontractor has either:

(1) met the apprentice labor hour goals set forth in paragraph (2) of subsection (a); or

(2) received a reduction or waiver pursuant to subsection (b).

It shall be deemed to be a material breach of the contract, or the grant agreement funding the contract, and entitle the State to declare a default, terminate the contract or grant agreement funding it, and exercise those remedies provided for in the contract, at law, or in equity if the contractor or subcontractor fails to submit the certification required in this subsection or submits false or misleading information.

(d) No later than one year after the effective date of this Act, and by April 1 of every calendar year thereafter, the Department of Labor shall submit a report to the Illinois Works Review Panel regarding the use of apprentices under the Illinois Works Apprenticeship Initiative for public works projects. To the extent it is available, the report shall include the following information:

(1) the total number of labor hours on each project and the percentage of labor hours actually worked by apprentices on each public works project;

(2) the number of apprentices used in each public works project, broken down by trade; and

(3) the number and percentage of minorities, women, and veterans utilized as apprentices on each public works project.

(e) The Department shall adopt any rules deemed necessary to implement the Illinois Works Apprenticeship Initiative. In order to provide for the expeditious and timely implementation of this Act, the Department may adopt emergency rules. The adoption of emergency rules authorized by this subsection is deemed to be necessary for the public interest, safety, and welfare.

(f) The Illinois Works Apprenticeship Initiative shall not interfere with any contracts or grants in existence on the effective date of this Act.

(g) Notwithstanding any provisions to the contrary in this Act, any State agency that administers a construction program for which federal law or regulations establish standards and procedures for the utilization of apprentices may implement the Illinois Works Apprenticeship Initiative using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the program. In such cases, these goals shall not exceed those established pursuant to the relevant federal statutes or regulations.

(Source: P.A. 101-31, eff. 6-28-19; 101-601, eff. 12-10-19.)

Section 100. The Project Labor Agreements Act is amended by changing Sections 25 and 37 as follows:

(30 ILCS 571/25)

Sec. 25. Contents of agreement. Pursuant to this Act, any project labor agreement shall:

(a) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work.

(b) Contain guarantees against strikes, lockouts, or similar actions.

(c) Ensure a reliable source of skilled and experienced labor.

(d) For minorities and women as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, set forth goals for apprenticeship hours to be performed by minorities and women and set forth goals for total hours to be performed by underrepresented minorities and women.

(e) Permit the selection of the lowest qualified responsible bidder, without regard to union or non-union status at other construction sites.

(f) Bind all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents.

(g) Include such other terms as the parties deem appropriate.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 571/37)

Sec. 37. Quarterly report; annual report. A State department, agency, authority, board, or instrumentality that has a project labor agreement in connection with a public works project shall prepare a quarterly report that includes workforce participation under the agreement by minorities and women as defined under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. These reports shall be submitted to the Illinois Department of Labor. The Illinois Department of Labor shall submit to the General Assembly and the Governor an annual report that details the number of minorities and women employed under all public labor agreements within the State.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 101. The Commission on Equity and Inclusion Act is amended by changing Section 40-10 as follows:

(30 ILCS 574/40-10)

Sec. 40-10. Powers and duties. In addition to the other powers and duties which may be prescribed in this Act or elsewhere, the Commission shall have the following powers and duties:

(1) The Commission shall have a role in all State and university procurement by facilitating and streamlining communications between the Business Enterprise Council for

Minorities, Women, Veterans, and Persons with Disabilities, the purchasing entities, the Chief Procurement Officers, and others.

(2) The Commission may create a scoring evaluation for State agency directors, public university presidents and chancellors, and public community college presidents. The scoring shall be based on the following 3 principles: (i) increasing capacity; (ii) growing revenue; and (iii) enhancing credentials. These principles should be the foundation of the agency compliance plan required under Section 6 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(3) The Commission shall exercise the authority and duties provided to it under Section 5-7 of the Illinois Procurement Code.

(4) The Commission, working with State agencies, shall provide support for diversity in State hiring.

(5) The Commission shall oversee the implementation of diversity training of the State workforce.

(6) Each January, and as otherwise frequently as may be deemed necessary and appropriate by the Commission, the Commission shall propose and submit to the Governor and the General Assembly legislative changes to increase inclusion and diversity in State government.

(7) The Commission shall have oversight over the following entities:

(A) the Illinois African-American Family Commission;

(B) the Illinois Latino Family Commission;

(C) the Asian American Family Commission;

(D) the Illinois Muslim American Advisory Council;

(E) the Illinois African-American Fair Contracting Commission created under Executive Order 2018-07; and

(F) the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities.

(8) The Commission shall adopt any rules necessary for the implementation and administration of the requirements of this Act.

(9) The Commission shall exercise the authority and duties provided to it under Section 45-57 of the Illinois Procurement Code.

(Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-671, eff. 11-30-21.)

Section 105. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, 8f, 8g, and 8h as follows:

(30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

(Section scheduled to be repealed on June 30, 2024)

Sec. 0.01. Short title. This Act may be cited as the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. Any reference in any law, appropriation, rule, form, or other document to the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, shall be construed to be references to this Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 575/1) (from Ch. 127, par. 132.601)

(Section scheduled to be repealed on June 30, 2024)

Sec. 1. Purpose. The State of Illinois declares that it is the public policy of the State to promote and encourage the continuing economic development of minority-owned, ~~and~~ women-owned , veteran-owned, persons with disability-owned and operated businesses and that minority-owned, ~~and~~ women-owned, veteran-owned, and persons with disability-owned and operated businesses participate in the State's procurement process as both prime and subcontractors. ~~The State of Illinois has observed that the goals established in this Act have served to increase the participation of minority and women businesses in contracts awarded by the State. The State hereby declares that the adoption of this amendatory Act of 1989 shall serve the State's continuing interest in promoting open access in the awarding of State contracts to disadvantaged small business enterprises victimized by discriminatory practices.~~

~~Furthermore, after reviewing evidence of the high level of attainment of the 10% minimum goals established under this Act, and, after considering evidence that minority and women businesses, as established in 1982, constituted and continue to constitute more than 10% of the businesses operating in this State, the State declares that the continuation of such 10% minimum goals under this amendatory Act of 1989 is a narrowly tailored means of promoting open access and thus the further growth and development of minority and women businesses.~~

~~The State of Illinois further declares that it is the public policy of this State to promote and encourage the continuous economic development of businesses owned by persons with disabilities and a 2% contracting goal is a narrowly tailored means of promoting open access and thus the further growth and development of those businesses.~~

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 575/2)

(Section scheduled to be repealed on June 30, 2024)

Sec. 2. Definitions.

(A) For the purpose of this Act, the following terms shall have the following definitions:

(1) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

(a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

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

(c) Black or African American (a person having origins in any of the black racial groups of Africa).

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

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

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

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

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

severe physical or mental disability that:

(a) results from:

amputation,

arthritis,

autism,

blindness,

burn injury,

cancer,

cerebral palsy,

Crohn's disease,

cystic fibrosis,

deafness,

head injury,

heart disease,

hemiplegia,

hemophilia,

respiratory or pulmonary dysfunction,

an intellectual disability,

mental illness,

multiple sclerosis,

muscular dystrophy,

musculoskeletal disorders,

neurological disorders, including stroke and epilepsy,

paraplegia,

quadriplegia and other spinal cord conditions,

sickle cell anemia,

ulcerative colitis,

specific learning disabilities, or

end stage renal failure disease; and

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

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

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

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

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

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

(4.1-5) "Veteran-owned business" means a business which is at least 51% owned by one or more veterans, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more veterans; and the management

and daily business operations of which are controlled by one or more of the veterans who own it.

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

(4.3) "Commission" means, unless the context clearly indicates otherwise, the Commission on Equity and Inclusion created under the Commission on Equity and Inclusion Act.

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

"State construction contracts" means all State contracts entered into by a State agency or public institution of higher education for the repair, remodeling, renovation or construction of a building or structure, or for the construction or maintenance of a highway defined in Article 2 of the Illinois Highway Code.

(6) "State agencies" shall mean all departments, officers, boards, commissions, institutions and bodies politic and corporate of the State, but does not include the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, municipalities or other local governmental units, or other State constitutional officers.

(7) "Public institutions of higher education" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the public community colleges of the State, and any other public universities, colleges, and community colleges now or hereafter established or authorized by the General Assembly.

(8) "Certification" means a determination made by the Council or by one delegated authority from the Council to

make certifications, or by a State agency with statutory authority to make such a certification, that a business entity is a business owned by a minority, woman, veteran, or person with a disability for whatever purpose. If a business qualifies for more than one certification, it shall be certified for all designations for which it qualifies. ~~A business owned and controlled by women shall be certified as a "woman owned business". A business owned and controlled by women who are also minorities shall be certified as both a "women owned business" and a "minority-owned business".~~

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

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

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

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

(12) "Business Enterprise Program" means the Business Enterprise Program of the Commission on Equity and Inclusion.

(13) "Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38

U.S.C. Section 101. Service in the Merchant Marine that constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

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

(B) When a business is owned at least 51% by any combination of minority persons, women, veterans, or persons with disabilities, even though none of the 3 classes alone holds at least a 51% interest, the ownership requirement for purposes of this Act is considered to be met. The certification category for the business is that of the class holding the largest ownership interest in the business. If 2 or more classes have equal ownership interests, the certification category shall be determined by the business.

(Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection (b), not less than 30% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, <u>veterans,</u> and persons with disabilities~~; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, women, and persons with disabilities pursuant to this Section, contracts representing at least 16% shall be awarded to businesses owned by minorities, contracts representing at least 10% shall be awarded to women-owned businesses, and contracts representing at least 4% shall be awarded to businesses owned by persons with disabilities~~.

(a-5) In addition to the aspirational goals in awarding State contracts set under subsection (a), the Commission shall by rule further establish targeted efforts to encourage the participation of businesses owned by minorities, women, and persons with disabilities on State contracts. Such efforts shall include, but not be limited to, further concerted outreach efforts to businesses owned by minorities, women, and persons with disabilities.

The above percentage relates to the total dollar amount of State contracts during each State fiscal year, calculated by

examining independently each type of contract for each agency or public institutions of higher education which lets such contracts. Only that percentage of arrangements which represents the participation of businesses owned by minorities, women, veterans, and persons with disabilities on such contracts shall be included. State contracts subject to the requirements of this Act shall include the requirement that only expenditures to businesses owned by minorities, women, veterans, and persons with disabilities that perform a commercially useful function may be counted toward the goals set forth by this Act. Contracts shall include a definition of "commercially useful function" that is consistent with 49 CFR 26.55(c).

(b) Not less than 20% of the total dollar amount of State construction contracts is established as an aspirational goal to be awarded to businesses owned by minorities, women, veterans, and persons with disabilities~~; provided that, contracts representing at least 11% of the total dollar amount of State construction contracts shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total dollar amount of State construction contracts shall be awarded to women-owned businesses; and contracts representing at least 2% of the total dollar amount of State construction contracts shall be awarded to businesses owned by persons with disabilities~~.

(c) (Blank).

(c-5) All goals established under this Section shall be contingent upon the results of the most recent disparity study conducted by the State.

(d) Within one year after April 28, 2009 (the effective date of Public Act 96-8), the Department of Central Management Services shall conduct a social scientific study that measures the impact of discrimination on minority and women business development in Illinois. Within 18 months after April 28, 2009 (the effective date of Public Act 96-8), the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly.

By December 1, 2020, the Department of Central Management Services shall conduct a new social scientific study that measures the impact of discrimination on minority and women business development in Illinois. By June 1, 2022, the Department shall issue a report of its findings and any recommendations on whether to adjust the goals for minority and women participation established in this Act. Copies of this report and the social scientific study shall be filed with the Governor and the General Assembly. By December 1, 2022, the Commission on Equity and Inclusion Business Enterprise Program shall develop a model for social scientific disparity study sourcing for local governmental units to adapt

and implement to address regional disparities in public procurement.

(e) All State contract solicitations that include Business Enterprise Program participation goals shall require bidders or offerors to include utilization plans. Utilization plans are due at the time of bid or offer submission. Failure to complete and include a utilization plan, including documentation demonstrating good faith efforts when requesting a waiver, shall render the bid or offer non-responsive.

Except as permitted under this Act or as otherwise mandated by federal law or regulation, in response those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful but include a utilization plan that fails to demonstrate good faith efforts to meet the goals set forth in the solicitation of that deficiency and may allow the bidder or offeror a period not to exceed 10 calendar days from the date of notification to cure that deficiency in the bid or proposal. The deficiency in the bid or proposal may only be cured by contracting with additional subcontractors who are certified by the Business Enterprise Program at the time of bid submission. Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency or to ensure diversity participation on the contract shall not affect the bid price, shall not be used in the request for an exemption in this Act, and in no case shall an identified subcontractor with a certification

made pursuant to this Act be terminated from the contract without the written consent of the State agency or public institution of higher education entering into the contract. Submission of a blank utilization plan renders a bid or offer non-responsive and is not curable. The Commission on Equity and Inclusion shall be notified of all bids or offers that fail to include a utilization plan or that include a utilization plan with deficiencies.

(f) (Blank).

(g) (Blank).

(h) State agencies and public institutions of higher education shall notify the Commission on Equity and Inclusion of all non-responsive bids or proposals for State contracts.

(Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21; 102-558, eff. 8-20-21.)

(30 ILCS 575/4f)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4f. Award of State contracts.

(1) It is hereby declared to be the public policy of the State of Illinois to promote and encourage each State agency and public institution of higher education to use businesses owned by minorities, women, <u>veterans,</u> and persons with disabilities in the area of goods and services, including, but

not limited to, insurance services, investment management services, information technology services, accounting services, architectural and engineering services, and legal services. Furthermore, each State agency and public institution of higher education shall utilize such firms to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(a) When a State agency or public institution of higher education, other than a community college, awards a contract for insurance services, for each State agency or public institution of higher education, it shall be the aspirational goal to use insurance brokers owned by minorities, women, veterans, and persons with disabilities as defined by this Act, for not less than 20% of the total annual premiums or fees; provided that, contracts representing at least 11% of the total annual premiums or fees shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total annual premiums or fees shall be awarded to women-owned businesses; and contracts representing at least 2% of the total annual premiums or fees shall be awarded to businesses owned by persons with disabilities.

(b) When a State agency or public institution of higher education, other than a community college, awards a

contract for investment services, for each State agency or public institution of higher education, it shall be the aspirational goal to use emerging investment managers owned by minorities, women, veterans, and persons with disabilities as defined by this Act, for not less than 20% of the total funds under management; provided that, contracts representing at least 11% of the total funds under management shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total funds under management shall be awarded to women-owned businesses; and contracts representing at least 2% of the total funds under management shall be awarded to businesses owned by persons with disabilities. Furthermore, it is the aspirational goal that not less than 20% of the direct asset managers of the State funds be minorities, women, veterans, and persons with disabilities.

(c) When a State agency or public institution of higher education, other than a community college, awards contracts for information technology services, accounting services, architectural and engineering services, and legal services, for each State agency and public institution of higher education, it shall be the aspirational goal to use such firms owned by minorities, women, and persons with disabilities as defined by this Act and lawyers who are minorities, women, veterans, and

persons with disabilities as defined by this Act, for not less than 20% of the total dollar amount of State contracts; provided that, contracts representing at least 11% of the total dollar amount of State contracts shall be awarded to businesses owned by minorities or minority lawyers; contracts representing at least 7% of the total dollar amount of State contracts shall be awarded to women-owned businesses or women who are lawyers; and contracts representing at least 2% of the total dollar amount of State contracts shall be awarded to businesses owned by persons with disabilities or persons with disabilities who are lawyers.

(d) When a community college awards a contract for insurance services, investment services, information technology services, accounting services, architectural and engineering services, and legal services, it shall be the aspirational goal of each community college to use businesses owned by minorities, women, <u>veterans,</u> and persons with disabilities as defined in this Act for not less than 20% of the total amount spent on contracts for these services collectively; provided that, contracts representing at least 11% of the total amount spent on contracts for these services shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total amount spent on contracts for these services shall be awarded to women-owned businesses; and

contracts representing at least 2% of the total amount spent on contracts for these services shall be awarded to businesses owned by persons with disabilities. When a community college awards contracts for investment services, contracts awarded to investment managers who are not emerging investment managers as defined in this Act shall not be considered businesses owned by minorities, women, veterans, or persons with disabilities for the purposes of this Section.

(2) As used in this Section:

"Accounting services" means the measurement, processing and communication of financial information about economic entities including, but is not limited to, financial accounting, management accounting, auditing, cost containment and auditing services, taxation and accounting information systems.

"Architectural and engineering services" means professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions, and individuals in their employ, may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation

of operating and maintenance manuals, and other related services.

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

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

"Insurance broker" means an insurance brokerage firm, claims administrator, or both, that procures, places all lines of insurance, or administers claims with annual premiums or fees of at least $5,000,000 but not more than $10,000,000.

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

(3) Each State agency and public institution of higher education shall adopt policies that identify its plan and implementation procedures for increasing the use of service firms owned by minorities, women, and persons with disabilities. All plan and implementation procedures for increasing the use of service firms owned by minorities, women, <u>veterans,</u> and persons with disabilities must be

submitted to and approved by the Commission on Equity and Inclusion on an annual basis.

(4) Except as provided in subsection (5), the Council shall file no later than March 1 of each year an annual report to the Governor, the Bureau on Apprenticeship Programs and Clean Energy Jobs, and the General Assembly. The report filed with the General Assembly shall be filed as required in Section 3.1 of the General Assembly Organization Act. This report shall: (i) identify the service firms used by each State agency and public institution of higher education, (ii) identify the actions it has undertaken to increase the use of service firms owned by minorities, women, veterans, and persons with disabilities, including encouraging non-minority-owned firms to use other service firms owned by minorities, women, veterans, and persons with disabilities as subcontractors when the opportunities arise, (iii) state any recommendations made by the Council to each State agency and public institution of higher education to increase participation by the use of service firms owned by minorities, women, and persons with disabilities, and (iv) include the following:

(A) For insurance services: the names of the insurance brokers or claims consultants used, the total of risk managed by each State agency and public institution of higher education by insurance brokers, the total commissions, fees paid, or both, the lines or insurance

policies placed, and the amount of premiums placed; and the percentage of the risk managed by insurance brokers, the percentage of total commission, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed with each by the insurance brokers owned by minorities, women, veterans, and persons with disabilities by each State agency and public institution of higher education.

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

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

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

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

(5) For community college districts, the Business Enterprise Council shall only report the following information for each community college district: (i) the name of the community colleges in the district, (ii) the name and contact information of a person at each community college appointed to be the single point of contact for vendors owned by minorities, women, veterans, or persons with disabilities, (iii) the policy of the community college district concerning certified vendors, (iv) the certifications recognized by the community college district for determining whether a business is owned or controlled by a minority, woman, veteran, or person with a disability, (v) outreach efforts conducted by the community college district to increase the use of certified vendors, (vi) the total expenditures by the community college district in the prior fiscal year in the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the amount paid to certified vendors in those divisions of work, and (vii) the total number of contracts entered into for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the total number of contracts awarded

to certified vendors providing these services to the community college district. The Business Enterprise Council shall not make any utilization reports under this Act for community college districts for Fiscal Year 2015 and Fiscal Year 2016, but shall make the report required by this subsection for Fiscal Year 2017 and for each fiscal year thereafter. The Business Enterprise Council shall report the information in items (i), (ii), (iii), and (iv) of this subsection beginning in September of 2016. The Business Enterprise Council may collect the data needed to make its report from the Illinois Community College Board.

(6) The status of the utilization of services shall be discussed at each of the regularly scheduled Business Enterprise Council meetings. Time shall be allotted for the Council to receive, review, and discuss the progress of the use of service firms owned by minorities, women, veterans, and persons with disabilities by each State agency and public institution of higher education; and any evidence regarding past or present racial, ethnic, or gender-based discrimination which directly impacts a State agency or public institution of higher education contracting with such firms. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings for the divisions of work specified in

paragraphs (a), (b), and (c) of subsection (1) of this Section.

(Source: P.A. 101-170, eff. 1-1-20; 101-657, Article 5, Section 5-10, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of P.A. 101-657, Article 5, Section 5-10); 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff. 9-15-21.)

(30 ILCS 575/5) (from Ch. 127, par. 132.605)

(Section scheduled to be repealed on June 30, 2024)

Sec. 5. Business Enterprise Council.

(1) To help implement, monitor, and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Chairperson of the Commission on Equity and Inclusion, the Secretary of Human Services and the Directors of the Department of Human Rights, the Department of Commerce and Economic Opportunity, the Department of Central Management Services, the Department of Transportation and the Capital Development Board, or their duly appointed representatives, with the Comptroller, or his or her designee, serving as an advisory member of the Council. Ten individuals representing businesses that are minority-owned, women-owned, , veteran-owned, or owned by persons with disabilities, 2 individuals representing the business community, and a

representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2-year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

The Chairperson of the Commission shall serve as the Council chairperson and shall select, subject to approval of the Council, a Secretary responsible for the operation of the program who shall serve as the Division Manager of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Division of the Commission on Equity and Inclusion.

The Director of each State agency and the chief executive officer of each public institution of higher education shall appoint a liaison to the Council. The liaison shall be responsible for submitting to the Council any reports and documents necessary under this Act.

(2) The Council's authority and responsibility shall be to:

(a) Devise a certification procedure to assure that

businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, women, veterans, or persons with disabilities and a registration procedure to recognize, without additional evidence of Business Enterprise Program eligibility, the certification of businesses owned by minorities, women, or persons with disabilities certified by the City of Chicago, Cook County, or other jurisdictional programs with requirements and procedures equaling or exceeding those in this Act.

(b) Maintain a list of all businesses legitimately classified as businesses owned by minorities, women, or persons with disabilities to provide to State agencies and public institutions of higher education.

(c) Review rules and regulations for the implementation of the program for businesses owned by minorities, women, veterans, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and public institution of higher education pursuant to this Act.

(e) Make annual reports as provided in Section 8f to the Governor and the General Assembly on the status of the program.

(f) Serve as a central clearinghouse for information on State contracts, including the maintenance of a list of all pending State contracts upon which businesses owned by

minorities, women, veterans, and persons with disabilities may bid. At the Council's discretion, maintenance of the list may include 24-hour electronic access to the list along with the bid and application information.

(g) Establish a toll-free telephone number to facilitate information requests concerning the certification process and pending contracts.

(h) Adopt a procedure to grant automatic certification to businesses holding a certification from at least one of the following entities: (i) the Illinois Unified Certification Program; (ii) the Women's Business Development Center in Chicago; (iii) the Chicago Minority Supplier Development Council; or (iv) any other similar entity offering such certification to businesses.

(i) Develop and maintain a repository for non-certified vendors that: (i) have applied for certification and have been denied; (ii) have started, but not completed, the certification process; (iii) have achieved certification, but did not seek renewal; or (iv) are known businesses owned by minorities, women, or persons with disabilities.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, woman, veteran, or person with a disability bidding for a State contract shall be higher than the lowest rate charged by that surety company for a similar bond in the same classification of work that would be

written for a business not owned by a minority, woman, veteran, or person with a disability.

(4) Any Council member who has direct financial or personal interest in any measure pending before the Council shall disclose this fact to the Council and refrain from participating in the determination upon such measure.

(5) The Secretary shall have the following duties and responsibilities:

(a) To be responsible for the day-to-day operation of the Council.

(b) To serve as a coordinator for all of the State's programs for businesses owned by minorities, women, veterans, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, women, veterans, and persons with disabilities.

(c) To establish an enforcement procedure whereby the Council may recommend to the appropriate State legal officer that the State exercise its legal remedies which shall include (1) termination of the contract involved, (2) prohibition of participation by the respondent in public contracts for a period not to exceed 3 years, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof. Such procedures shall require prior approval by Council. All funds collected as penalties under this subsection

shall be used exclusively for maintenance and further development of the Business Enterprise Program and encouragement of participation in State procurement by minorities, women, and persons with disabilities.

(d) To devise appropriate policies, regulations, and procedures for including participation by businesses owned by minorities, women, veterans, and persons with disabilities as prime contractors, including, but not limited to: (i) encouraging the inclusions of qualified businesses owned by minorities, women, veterans, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, and (iii) investigating and making recommendations concerning the use of the sheltered market process.

(e) To devise procedures for the waiver of the participation goals in appropriate circumstances.

(f) To accept donations and, with the approval of the Council or the Chairperson of the Commission on Equity and Inclusion, grants related to the purposes of this Act; to conduct seminars related to the purpose of this Act and to charge reasonable registration fees; and to sell directories, vendor lists, and other such information to interested parties, except that forms necessary to become eligible for the program shall be provided free of charge to a business or individual applying for the Business

Enterprise Program.

(Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff. 1-1-23.)

(30 ILCS 575/6) (from Ch. 127, par. 132.606)

(Section scheduled to be repealed on June 30, 2024)

Sec. 6. Agency compliance plans. Each State agency and public institutions of higher education under the jurisdiction of this Act shall file with the Council an annual compliance plan which shall outline the goals of the State agency or public institutions of higher education for contracting with businesses owned by minorities, women, veterans, and persons with disabilities for the then current fiscal year, the manner in which the agency intends to reach these goals and a timetable for reaching these goals. The Council shall review and approve the plan of each State agency and public institutions of higher education and may reject any plan that does not comply with this Act or any rules or regulations promulgated pursuant to this Act.

(a) The compliance plan shall also include, but not be limited to, (1) a policy statement, signed by the State agency or public institution of higher education head, expressing a commitment to encourage the use of businesses owned by minorities, women, veterans, and persons with disabilities, (2) the designation of the liaison officer provided for in

Section 5 of this Act, (3) procedures to distribute to potential contractors and vendors the list of all businesses legitimately classified as businesses owned by minorities, women, veterans, and persons with disabilities and so certified under this Act, (4) procedures to set separate contract goals on specific prime contracts and purchase orders with subcontracting possibilities based upon the type of work or services and subcontractor availability, (5) procedures to assure that contractors and vendors make good faith efforts to meet contract goals, (6) procedures for contract goal exemption, modification and waiver, and (7) the delineation of separate contract goals for businesses owned by minorities, women, veterans, and persons with disabilities.

(b) Approval of the compliance plans shall include such delegation of responsibilities to the requesting State agency or public institution of higher education as the Council deems necessary and appropriate to fulfill the purpose of this Act. Such responsibilities may include, but need not be limited to those outlined in subsections (1), (2) and (3) of Section 7, paragraph (a) of Section 8, and Section 8a of this Act.

(c) Each State agency and public institution of higher education under the jurisdiction of this Act shall file with the Council an annual report of its utilization of businesses owned by minorities, women, veterans, and persons with disabilities during the preceding fiscal year including lapse period spending and a mid-fiscal year report of its

utilization to date for the then current fiscal year. The reports shall include a self-evaluation of the efforts of the State agency or public institution of higher education to meet its goals under the Act, as well as a plan to increase the diversity of the vendors engaged in contracts with the State agency or public institution of higher education, with a particular focus on the most underrepresented in contract awards.

(d) Notwithstanding any provisions to the contrary in this Act, any State agency or public institution of higher education which administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of businesses owned by minorities, women, veterans, and persons with disabilities ~~minority-owned and women-owned businesses and disadvantaged businesses~~, shall implement a disadvantaged business enterprise program to include businesses owned by minorities, women, veterans, and persons with disabilities ~~minority owned and women owned businesses and disadvantaged businesses~~, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the program. In such cases, these goals shall not exceed those established pursuant to the relevant federal statutes or regulations. Notwithstanding the provisions of Section 8b, the Illinois Department of Transportation is authorized to establish sheltered markets

for the State-funded portions of the program consistent with federal law and regulations. Additionally, a compliance plan which is filed by such State agency or public institution of higher education pursuant to this Act, which incorporates equivalent terms and conditions of its federally-approved compliance plan, shall be deemed approved under this Act. (Source: P.A. 100-391, eff. 8-25-17; 101-657, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of P.A. 101-657).)

(30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

(Section scheduled to be repealed on June 30, 2024)

Sec. 6a. Notice of contracts to Council. Except in case of emergency as defined in the Illinois Procurement Code, or as authorized by rule promulgated by the Department of Central Management Services, each agency and public institution of higher education under the jurisdiction of this Act shall notify the Secretary of the Council of proposed contracts for professional and artistic services and provide the information in the form and detail as required by rule promulgated by the Department of Central Management Services. Notification may be made through direct written communication to the Secretary to be received at least 14 days before execution of the contract (or the solicitation response date, if applicable). The agency or public institution of higher education must consider any vendor referred by the Secretary before execution of the

contract. The provisions of this Section shall not apply to any State agency or public institution of higher education that has awarded contracts for professional and artistic services to businesses owned by minorities, women, veterans, and persons with disabilities totaling in the aggregate $40,000,000 or more during the preceding fiscal year.
(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

(30 ILCS 575/7) (from Ch. 127, par. 132.607)

(Section scheduled to be repealed on June 30, 2024)

Sec. 7. Exemptions; waivers; publication of data.

(1) Individual contract exemptions. The Council, at the written request of the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of $250,000 or more complying with Section 45 of the State Finance Act, may permit an individual contract or contract package, (related contracts being bid or awarded simultaneously for the same project or improvements) be made wholly or partially exempt from State contracting goals for businesses owned by minorities, women, veterans, and persons with disabilities prior to the advertisement for bids or solicitation of proposals whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, women, veterans, and persons with disabilities to

ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the individual contract or contract package in question. Any such exemptions shall be given by the Council to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

(a) Written request for contract exemption. A written request for an individual contract exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, veterans, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, veterans, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of eligible businesses owned by minorities, women, veterans, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning an individual contract exemption must consider,

at a minimum, the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, veterans, and persons with disabilities;

(ii) the total number of exemptions granted to the affected agency, public institution of higher education, or recipient of a grant or loan of State funds of $250,000 or more complying with Section 45 of the State Finance Act that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, veterans, and persons with disabilities in the current and prior fiscal years.

(2) Class exemptions.

(a) Creation. The Council, at the written request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, women, veterans, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is

an insufficient number of qualified businesses owned by minorities, women, veterans, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class. Any such exemption shall be given by the Council to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

(a-1) Written request for class exemption. A written request for a class exemption must include, but is not limited to, the following:

(i) a list of eligible businesses owned by minorities, women, veterans, and persons with disabilities;

(ii) a clear demonstration that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure adequate competition;

(iii) the difference in cost between the contract proposals being offered by eligible businesses owned by minorities, women, veterans, and persons with disabilities and the agency or public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) the number of class exemptions the affected agency or public institution of higher education requested in the current and prior fiscal years.

(a-2) Determination. The Council's determination concerning class exemptions must consider, at a minimum,

the following:

(i) the justification for the requested exemption, including whether diligent efforts were undertaken to identify and solicit eligible businesses owned by minorities, women, veterans, and persons with disabilities;

(ii) the total number of class exemptions granted to the requesting agency or public institution of higher education that have been granted by the Council in the current and prior fiscal years; and

(iii) the percentage of contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, veterans, and persons with disabilities the current and prior fiscal years.

(b) Limitation. Any such class exemption shall not be permitted for a period of more than one year at a time.

(3) Waivers. Where a particular contract requires a contractor to meet a goal established pursuant to this Act, the contractor shall have the right to request a waiver from such requirements prior to the contract award. The Council shall grant the waiver when the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, women, veterans, and persons with disabilities. Any such waiver shall also be transmitted in writing to the Bureau on

Apprenticeship Programs and Clean Energy Jobs.

(a) Request for waiver. A contractor's request for a waiver under this subsection (3) must include, but is not limited to, the following, if available:

(i) a list of eligible businesses owned by minorities, women, veterans, and persons with disabilities that pertain to the scope of work of the contract. Eligible businesses are only eligible if the business is certified for the products or work advertised in the solicitation;

(ii) (blank);

(iia) a clear demonstration that the contractor selected portions of the work to be performed by eligible businesses owned by minorities, women, and persons with disabilities, solicited through all reasonable and available means eligible businesses, and negotiated in good faith with interested eligible businesses;

(iib) documentation demonstrating that businesses owned by minorities, women, and persons with disabilities are not rejected as being unqualified without sound reasons based on a thorough investigation of their capabilities;

(iii) documentation demonstrating that the contract proposals being offered by businesses owned by minorities, women, veterans, and persons with

disabilities are excessive or unreasonable; and

(iv) a list of businesses owned by minorities, women, veterans, and persons with disabilities that the contractor has used in the current and prior fiscal years.

(b) Determination. The Council's determination concerning waivers must include following:

(i) the justification for the requested waiver, including whether the requesting contractor made a good faith effort to identify and solicit eligible businesses owned by minorities, women, veterans, and persons with disabilities;

(ii) the total number of waivers the contractor has been granted by the Council in the current and prior fiscal years;

(iii) (blank); and

(iv) the contractor's use of businesses owned by minorities, women, veterans, and persons with disabilities in the current and prior fiscal years.

(3.5) (Blank).

(4) Conflict with other laws. In the event that any State contract, which otherwise would be subject to the provisions of this Act, is or becomes subject to federal laws or regulations which conflict with the provisions of this Act or actions of the State taken pursuant hereto, the provisions of the federal laws or regulations shall apply and the contract

shall be interpreted and enforced accordingly.

(5) Each chief procurement officer, as defined in the Illinois Procurement Code, shall maintain on his or her official Internet website a database of the following: (i) waivers granted under this Section with respect to contracts under his or her jurisdiction; (ii) a State agency or public institution of higher education's written request for an exemption of an individual contract or an entire class of contracts; and (iii) the Council's written determination granting or denying a request for an exemption of an individual contract or an entire class of contracts. The database, which shall be updated periodically as necessary, shall be searchable by contractor name and by contracting State agency.

(6) Each chief procurement officer, as defined by the Illinois Procurement Code, shall maintain on its website a list of all firms that have been prohibited from bidding, offering, or entering into a contract with the State of Illinois as a result of violations of this Act.

Each public notice required by law of the award of a State contract shall include for each bid or offer submitted for that contract the following: (i) the bidder's or offeror's name, (ii) the bid amount, (iii) the name or names of the certified firms identified in the bidder's or offeror's submitted utilization plan, and (iv) the bid's amount and percentage of the contract awarded to businesses owned by

minorities, women, veterans, and persons with disabilities identified in the utilization plan.

(Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff. 9-15-21.)

(30 ILCS 575/8) (from Ch. 127, par. 132.608)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8. Enforcement.

(1) The Commission on Equity and Inclusion shall make such findings, recommendations and proposals to the Governor as are necessary and appropriate to enforce this Act. If, as a result of its monitoring activities, the Commission determines that its goals and policies are not being met by any State agency or public institution of higher education, the Commission may recommend any or all of the following actions:

(a) Establish enforcement procedures whereby the Commission may recommend to the appropriate State agency, public institutions of higher education, or law enforcement officer that legal or administrative remedies be initiated for violations of contract provisions or rules issued hereunder or by a contracting State agency or public institutions of higher education. State agencies and public institutions of higher education shall be authorized to adopt remedies for such violations which shall include (1) termination of the contract involved,

(2) prohibition of participation of the respondents in public contracts for a period not to exceed one year, (3) imposition of a penalty not to exceed any profit acquired as a result of violation, or (4) any combination thereof.

(b) If the Commission concludes that a compliance plan submitted under Section 6 is unlikely to produce the participation goals for businesses owned by minorities, women, veterans, and persons with disabilities within the then current fiscal year, the Commission may recommend that the State agency or public institution of higher education revise its plan to provide additional opportunities for participation by businesses owned by minorities, women, veterans, and persons with disabilities. Such recommended revisions may include, but shall not be limited to, the following:

(i) assurances of stronger and better focused solicitation efforts to obtain more businesses owned by minorities, women, veterans, and persons with disabilities as potential sources of supply;

(ii) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of businesses owned by minorities, women, veterans, and persons with disabilities;

(iii) elimination of extended experience or capitalization requirements, when programmatically

feasible, to permit participation of businesses owned by minorities, women, veterans, and persons with disabilities;

(iv) identification of specific proposed contracts as particularly attractive or appropriate for participation by businesses owned by minorities, women, veterans, and persons with disabilities, such identification to result from and be coupled with the efforts of subparagraphs (i) through (iii);

(v) implementation of those regulations established for the use of the sheltered market process.

(2) State agencies and public institutions of higher education shall monitor a vendor's compliance with its utilization plan and the terms of its contract. Without limitation, a vendor's failure to comply with its contractual commitments as contained in the utilization plan; failure to cooperate in providing information regarding its compliance with its utilization plan; or the provision of false or misleading information or statements concerning compliance, certification status, or eligibility of the Business Enterprise Program-certified vendor, good faith efforts, or any other material fact or representation shall constitute a material breach of the contract and entitle the State agency or public institution of higher education to declare a default, terminate the contract, or exercise those remedies

provided for in the contract, at law, or in equity.

(3) Prior to the expiration or termination of a contract, State agencies and public institutions of higher education shall evaluate the contractor's fulfillment of the contract goals for participation by businesses owned by minorities, women, and persons with disabilities. The agency or public institution of higher education shall prepare a report of the vendor's compliance with the contract goals and file it with the Secretary. If the Secretary determines that the vendor did not fulfill the contract goals, the vendor shall be in breach of the contract and may be subject to remedies or sanctions, unless the vendor can show that it made good faith efforts to meet the contract goals. Such remedies or sanctions for failing to make good faith efforts may include (i) disqualification of the contractor from doing business with the State for a period of no more than one year or (ii) cancellation, without any penalty to the State, of any contract entered into by the vendor. The Business Enterprise Program shall develop procedures for determining whether a vendor has made good faith efforts to meet the contract goals upon the expiration or termination of a contract.

(Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)

(30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8a. Advance and progress payments. Any contract

awarded to a business owned by a minority, woman, veteran, or person with a disability pursuant to this Act may contain a provision for advance or progress payments, or both, except that a State construction contract awarded to a businesses owned by minorities, women, veterans, and persons with disabilities ~~minority owned or women owned business~~ pursuant to this Act may contain a provision for progress payments but may not contain a provision for advance payments.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8b. Scheduled council meetings; sheltered market. The Council shall conduct regular meetings to carry out its responsibilities under this Act. At each of the regularly scheduled meetings, time shall be allocated for the Council to receive, review and discuss any evidence regarding past or present racial, ethnic or gender based discrimination which directly impacts State contracting with businesses owned by minorities, women, veterans, and persons with disabilities. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings.

"Sheltered market" shall mean a procurement procedure

whereby certain contracts are selected and specifically set aside for businesses owned by minorities, women, veterans, and persons with disabilities on a competitive bid or negotiated basis.

As part of the annual report which the Council must file pursuant to paragraph (e) of subsection (2) of Section 5, the Council shall report on any findings made pursuant to this Section.

(Source: P.A. 100-391, eff. 8-25-17.)

(30 ILCS 575/8f)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8f. Annual report. The Council shall file no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Act over the 3 most recent fiscal years. The annual report shall include, but need not be limited to the following:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each State agency and public institution of higher education;

(2) a summary of the number of contracts awarded and the average contract amount by each State agency and public institution of higher education;

(3) an analysis of the level of overall goal achievement concerning purchases from minority-owned

businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of businesses owned by minorities, women, veterans, and persons with disabilities that are certified under the program as well as the number of those businesses that received State procurement contracts; and

(5) a summary of the number of contracts awarded to businesses with annual gross sales of less than $1,000,000; of $1,000,000 or more, but less than $5,000,000; of $5,000,000 or more, but less than $10,000,000; and of $10,000,000 or more.

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

(30 ILCS 575/8g)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8g. Business Enterprise Program Council reports.

(a) The Department of Central Management Services shall provide a report to the Council identifying all State agency non-construction solicitations that exceed $20,000,000 and that have less than a 20% established goal prior to publication.

(b) The Department of Central Management Services shall provide a report to the Council identifying all State agency non-construction awards that exceed $20,000,000. The report

shall contain the following: (i) the name of the awardee; (ii) the total bid amount; (iii) the established Business Enterprise Program goal; (iv) the dollar amount and percentage of participation by businesses owned by minorities, women, veterans, and persons with disabilities; and (v) the names of the certified firms identified in the utilization plan.
(Source: P.A. 100-391, eff. 8-25-17; 100-863, eff. 8-14-18.)

(30 ILCS 575/8h)

(Section scheduled to be repealed on June 30, 2024)

Sec. 8h. Encouragement for telecom and communications entities to submit supplier diversity reports.

(1) The following entities that do business in Illinois or serve Illinois customers shall be subject to this Section:

(i) all local exchange telecommunications carriers with at least 35,000 subscriber access lines;

(ii) cable and video providers, as defined in Section 21-20l of the Public Utilities Act;

(iii) interconnected VoIP providers, as defined in Section 13-235 of the Public Utilities Act;

(iv) wireless service providers;

(v) broadband internet access services providers; and

(vi) any other entity that provides messaging, voice, or video services via the Internet or a social media platform.

(2) Each entity subject to this Section may submit to the

Illinois Commerce Commission and the Business Enterprise Council an annual report by April 15, 2018, and every April 15 thereafter, which provides, for the previous calendar year, information and data on diversity goals, and progress toward achieving those goals, by certified businesses owned by minorities, women, veterans, and persons with disabilities~~, and service disabled veterans, provided that if the entity does not track such information and data for businesses owned by service disabled veterans, the entity may provide information and data for businesses owned by veterans~~.

The diversity report shall include the following:

(i) Overall annual spending on all such certified businesses.

(ii) A narrative description of the entity's supplier diversity goals and plans for meeting those goals.

(iii) The entity's best estimate of its annual spending in professional services and spending with certified businesses owned by minorities, women, veterans, and persons with disabilities~~, and service disabled veterans (or veterans, if the reporting entity does not track spending with service-disabled veterans)~~, including, but not limited to, the following professional services categories: accounting; architecture and engineering; consulting; information technology; insurance; financial, legal, and marketing services; and other professional services. The diversity report shall also include the

entity's overall annual spending in the listed professional service categories. For the diversity reports due on April 15, 2018 and April 15, 2019, the information on annual spending with certified businesses for professional services required by this Section may be provided for all professional services on an aggregated basis.

(iv) Beginning with the diversity report due on April 15, 2020, the total number and percentage of women, veterans, and minorities that provided services for each construction project in the State.

An entity subject to this Section which is part of an affiliated group of entities may provide information for the affiliated group as a whole.

(3) Any entity that is subject to this Section that does not submit a report shall be reported by the Business Enterprise Council to each chief procurement officer. Upon receiving a report from the Business Enterprise Council, the chief procurement officer may prohibit any entities that do not submit a report from bidding on State contracts for a period of one year beginning the first day of the following fiscal year and post on its respective bulletin the names of all entities that fail to comply with the provisions of this Section.

(4) A vendor may appeal any of the actions taken pursuant to this Section in the same manner as a vendor denied

certification, by following the appeal procedures in the administrative rules created pursuant to this Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 110. The Illinois Income Tax Act is amended by changing Section 220 as follows:

(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include (i) a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the qualified new business venture receiving the investment or (ii) a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Investment" means money (or its equivalent) given to a qualified new business venture, at a risk of loss, in consideration for an equity interest of the qualified new business venture. The Department may adopt rules to permit

certain forms of contingent equity investments to be considered eligible for a tax credit under this Section.

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the applicant, is any one of the following:

(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the

aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the outstanding stock of the qualified new business venture that is the recipient of the applicant's investment.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the qualified new business venture that is the recipient of the applicant's investment.

(5) A person to or from whom there is attribution of ownership of stock in the qualified new business venture that is the recipient of the applicant's investment in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2026, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b)

of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The minimum amount an applicant must invest in any single qualified new business venture in order to be eligible for a credit under this Section is $10,000. The maximum amount of an applicant's total investment made in any single qualified new business venture that may be used as the basis

for a credit under this Section is $2,000,000.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that: (i) each qualified new business venture that receives an angel investment under this Section has maintained a minimum employment threshold, as defined by rule, in the State (and continues to maintain a minimum employment threshold in the State for a period of no less than 3 years from the issue date of the last tax credit certificate issued by the Department with respect to such business pursuant to this Section); and (ii) the claimant's investment has been made and remains, except in the event of a qualifying liquidity event, in the qualified new business venture for no less than 3 years.

If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, other than as a result of a permitted sale of the investment to person who is not a related member, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that the claimant received related to the subject investment.

If the Department determines that a qualified new business venture failed to maintain a minimum employment threshold in

the State through the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to the subject business pursuant to this Section, the claimant or claimants shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the aggregate amount of the disqualified credits that claimant or claimants received related to investments in that business.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration under this Section shall be required to submit a full and complete application to the Department. A submitted application shall be effective only for the taxable year in which it is submitted, and a business desiring registration under this Section shall be required to submit a separate application in and for each taxable year for which the business desires registration. Further, if at any time prior to the acceptance of an application for registration under this Section by the Department one or more events occurs which makes the information provided in that application materially false or incomplete (in whole or in part), the business shall promptly notify the Department of the same. Any failure of a business to promptly provide the foregoing information to the Department may, at the discretion of the Department, result in a revocation of a previously approved application for that business, or disqualification of

the business from future registration under this Section, or both. The Department may register the business only if all of the following conditions are satisfied:

(1) it has its principal place of business in this State;

(2) at least 51% of the employees employed by the business are employed in this State;

(3) the business has the potential for increasing jobs in this State, increasing capital investment in this State, or both, as determined by the Department, and either of the following apply:

(A) it is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is

principally reliant on applying proprietary technology;

(4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:

(A) it has fewer than 100 employees;

(B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and

(C) it has received not more than $10,000,000 in aggregate investments;

(5.1) it agrees to maintain a minimum employment threshold in the State of Illinois prior to the date which is 3 years from the issue date of the last tax credit certificate issued by the Department with respect to that business pursuant to this Section;

(6) (blank); and

(7) it has received not more than $4,000,000 in investments that qualified for tax credits under this

Section.

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited at $10,000,000 per calendar year, of which $500,000 shall be reserved for investments made in qualified new business ventures which are minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by a person with a disability (as those terms are used and defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act), and an additional $500,000 shall be reserved for investments made in qualified new business ventures with their principal place of business in counties with a population of not more than 250,000. The foregoing annual allowable amounts shall be allocated by the Department, on a per calendar quarter basis and prior to the commencement of each calendar year, in such proportion as determined by the Department, provided that: (i) the amount initially allocated by the Department for any one calendar quarter shall not exceed 35% of the total allowable amount; (ii) any portion of the allocated allowable amount remaining unused as of the end of any of the first 3 calendar quarters of a given calendar year shall be rolled into, and added to, the total allocated amount for the next available calendar quarter; and (iii) the

reservation of tax credits for investments in minority-owned businesses, women-owned businesses, veteran-owned businesses, businesses owned by a person with a disability, and in businesses in counties with a population of not more than 250,000 is limited to the first 3 calendar quarters of a given calendar year, after which they may be claimed by investors in any qualified new business venture.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

(1) This report must include, for each tax credit certificate awarded:

(A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

(B) the name and address (including the county) of the qualified new business venture that received the investment giving rise to the credit, the North American Industry Classification System (NAICS) code applicable to that qualified new business venture, and the number of employees of the qualified new business venture; and

(C) the date of approval by the Department of each claimant's tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and the total number of claimants, including the amount of each tax credit certificate awarded to a claimant under this Section in the prior calendar year;

(B) the total number of applications from businesses seeking registration under this Section, the total number of new qualified business ventures registered by the Department, and the aggregate amount of investment upon which tax credit certificates were issued in the prior calendar year; and

(C) the total amount of tax credit certificates sought by applicants, the amount of each tax credit certificate issued to a claimant, the aggregate amount of all tax credit certificates issued in the prior calendar year and the aggregate amount of tax credit certificates issued as authorized under this Section for all calendar years.

(i) For each business seeking registration under this Section after December 31, 2016, the Department shall require the business to include in its application the North American Industry Classification System (NAICS) code applicable to the business and the number of employees of the business at the time of application. Each business registered by the Department as a qualified new business venture that receives an investment giving rise to the issuance of a tax credit

certificate pursuant to this Section shall, for each of the 3 years following the issue date of the last tax credit certificate issued by the Department with respect to such business pursuant to this Section, report to the Department the following:

(1) the number of employees and the location at which those employees are employed, both as of the end of each year;

(2) the amount of additional new capital investment raised as of the end of each year, if any; and

(3) the terms of any liquidity event occurring during such year; for the purposes of this Section, a "liquidity event" means any event that would be considered an exit for an illiquid investment, including any event that allows the equity holders of the business (or any material portion thereof) to cash out some or all of their respective equity interests.

(Source: P.A. 101-81, eff. 7-12-19; 102-16, eff. 6-17-21.)

Section 115. The Film Production Services Tax Credit Act of 2008 is amended by changing Sections 30, 45, and 46 as follows:

(35 ILCS 16/30)

Sec. 30. Review of application for accredited production certificate.

(a) In determining whether to issue an accredited production certificate, the Department must determine that a preponderance of the following conditions exist:

(1) The applicant's production intends to make the expenditure in the State required for certification.

(2) The applicant's production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.

(3) The applicant has filed a diversity plan with the Department outlining specific goals (i) for hiring minority persons and women, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and (ii) for using vendors receiving certification under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; the Department has approved the plan as meeting the requirements established by the Department; and the Department has verified that the applicant has met or made good-faith efforts in achieving those goals. The Department must adopt any rules that are necessary to ensure compliance with the provisions of this item (3) and that are necessary to require that the applicant's plan reflects the diversity of this State.

(4) The applicant's production application indicates whether the applicant intends to participate in training,

education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of the Illinois population.

(5) That, if not for the credit, the applicant's production would not occur in Illinois, which may be demonstrated by any means including, but not limited to, evidence that the applicant has multi-state or international location options and could reasonably and efficiently locate outside of the State, or demonstration that at least one other state or nation is being considered for the production, or evidence that the receipt of the credit is a major factor in the applicant's decision and that without the credit the applicant likely would not create or retain jobs in Illinois, or demonstration that receiving the credit is essential to the applicant's decision to create or retain new jobs in the State.

(6) Awarding the credit will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall

control.

(Source: P.A. 100-391, eff. 8-25-17.)

(35 ILCS 16/45)

Sec. 45. Evaluation of tax credit program; reports to the General Assembly.

(a) The Department shall evaluate the tax credit program. The evaluation must include an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois and of the revenue impact of the program, and may include a review of the practices and experiences of other states or nations with similar programs. Upon completion of this evaluation, the Department shall determine the overall success of the program, and may make a recommendation to extend, modify, or not extend the program based on this evaluation.

(b) At the end of each fiscal quarter, the Department must submit to the General Assembly a report that includes, without limitation, the following information:

(1) the economic impact of the tax credit program, including the number of jobs created and retained, including whether the job positions are entry level, management, talent-related, vendor-related, or production-related;

(2) the amount of film production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited

production; and

(3) an overall picture of whether the human infrastructure of the motion picture industry in Illinois reflects the geographical, racial and ethnic, gender, and income-level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department must submit to the General Assembly a report that includes the following information:

(1) an identification of each vendor that provided goods or services that were included in an accredited production's Illinois production spending, provided that the accredited production's Illinois production spending attributable to that vendor exceeds, in the aggregate, $10,000 or 10% of the accredited production's Illinois production spending, whichever is less;

(2) the amount paid to each identified vendor by the accredited production;

(3) for each identified vendor, a statement as to whether the vendor is a minority-owned business or a women-owned business, as defined under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, based on the best efforts of an accredited production; and

(4) a description of any steps taken by the Department to encourage accredited productions to use vendors who are a minority-owned business or a women-owned business.

(Source: P.A. 100-391, eff. 8-25-17; 100-603, eff. 7-13-18; 101-81, eff. 7-12-19.)

(35 ILCS 16/46)

Sec. 46. Illinois Production Workforce Development Fund.

(a) The Illinois Production Workforce Development Fund is created as a special fund in the State Treasury. Beginning July 1, 2022, amounts paid to the Department of Commerce and Economic Opportunity pursuant to Section 213 of the Illinois Income Tax Act shall be deposited into the Fund. The Fund shall be used exclusively to provide grants to community-based organizations, labor organizations, private and public universities, community colleges, and other organizations and institutions that may be deemed appropriate by the Department to administer workforce training programs that support efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce in the film industry.

(b) Pursuant to Section 213 of the Illinois Income Tax Act, the Fund shall receive deposits in amounts not to exceed 0.25% of the amount of each credit certificate issued that is not calculated on out-of-state wages and transferred or claimed on an Illinois tax return in the quarter such credit was transferred or claimed. In addition, such amount shall also include 2.5% of the credit amount calculated on wages paid to nonresidents that is transferred or claimed on an Illinois tax return in the quarter such credit was transferred

or claimed.

(c) At the request of the Department, the State Comptroller and the State Treasurer may advance amounts to the Fund on an annual basis not to exceed $1,000,000 in any fiscal year. The fund from which the moneys are advanced shall be reimbursed in the same fiscal year for any such advance payments as described in this Section. The method of reimbursement shall be set forth in rules.

(d) Of the appropriated funds in a given fiscal year, 50% of the appropriated funds shall be reserved for organizations that meet one of the following criteria. The organization is: (1) a minority-owned business, as defined by the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; (2) located in an underserved area, as defined by the Economic Development for a Growing Economy Tax Credit Act; or (3) on an annual basis, training a cohort of program participants where at least 50% of the program participants are either a minority person, as defined by the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, or reside in an underserved area, as defined by the Economic Development for a Growing Economy Tax Credit Act.

(e) The Illinois Production Workforce Development Fund shall be administered by the Department. The Department may adopt rules necessary to administer the provisions of this Section.

(f) Notwithstanding any other law to the contrary, the Illinois Production Workforce Development Fund is not subject to sweeps, administrative charge-backs, or any other fiscal or budgetary maneuver that would in any way transfer any amounts from the Illinois Production Workforce Development Fund.

(g) By June 30 of each fiscal year, the Department must submit to the General Assembly a report that includes the following information: (1) an identification of the organizations and institutions that received funding to administer workforce training programs during the fiscal year; (2) the number of total persons trained and the number of persons trained per workforce training program in the fiscal year; and (3) in the aggregate, per organization, the number of persons identified as a minority person or that reside in an underserved area that received training in the fiscal year.

(Source: P.A. 102-700, eff. 4-19-22.)

Section 120. The Live Theater Production Tax Credit Act is amended by changing Sections 10-30 and 10-50 as follows:

(35 ILCS 17/10-30)

Sec. 10-30. Review of application for accredited theater production certificate.

(a) The Department shall issue an accredited theater production certificate to an applicant if it finds that by a preponderance the following conditions exist:

(1) the applicant intends to make the expenditure in the State required for certification of the accredited theater production;

(2) the applicant's accredited theater production is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and will strengthen the economy of Illinois;

(3) the following requirements related to the implementation of a diversity plan have been met: (i) the applicant has filed with the Department a diversity plan outlining specific goals for hiring Illinois labor expenditure eligible minority persons and women, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and for using vendors receiving certification under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; (ii) the Department has approved the plan as meeting the requirements established by the Department and verified that the applicant has met or made good faith efforts in achieving those goals; and (iii) the Department has adopted any rules that are necessary to ensure compliance with the provisions set forth in this paragraph and necessary to require that the applicant's plan reflects the diversity of the population of this State;

(4) the applicant's accredited theater production

application indicates whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with Illinois colleges and universities, labor organizations, and the holders of accredited theater production certificates and are designed to promote and encourage the training and hiring of Illinois residents who represent the diversity of Illinois;

(5) except for commercial Broadway touring shows qualifying in the State fiscal year ending June 30, 2023, if not for the tax credit award, the applicant's accredited theater production would not occur in Illinois, which may be demonstrated by any means, including, but not limited to, evidence that: (i) the applicant, presenter, owner, or licensee of the production rights has other state or international location options at which to present the production and could reasonably and efficiently locate outside of the State, (ii) at least one other state or nation could be considered for the production, (iii) the receipt of the tax award credit is a major factor in the decision of the applicant, presenter, production owner or licensee as to where the production will be presented and that without the tax credit award the applicant likely would not create or retain jobs in Illinois, or (iv) receipt of the tax credit award is essential to the applicant's decision to create or retain

new jobs in the State; and

(6) the tax credit award will result in an overall positive impact to the State, as determined by the Department using the best available data.

(b) If any of the provisions in this Section conflict with any existing collective bargaining agreements, the terms and conditions of those collective bargaining agreements shall control.

(c) The Department shall act expeditiously regarding approval of applications for accredited theater production certificates so as to accommodate the pre-production work, booking, commencement of ticket sales, determination of performance dates, load in, and other matters relating to the live theater productions for which approval is sought.

(Source: P.A. 102-1112, eff. 12-21-22.)

(35 ILCS 17/10-50)

Sec. 10-50. Live theater tax credit award program evaluation and reports.

(a) The Department's live theater tax credit award evaluation must include:

(i) an assessment of the effectiveness of the program in creating and retaining new jobs in Illinois;

(ii) an assessment of the revenue impact of the program;

(iii) in the discretion of the Department, a review of

the practices and experiences of other states or nations with similar programs; and

(iv) an assessment of the overall success of the program. The Department may make a recommendation to extend, modify, or not extend the program based on the evaluation.

(b) At the end of each fiscal quarter, the Department shall submit to the General Assembly a report that includes, without limitation:

(i) an assessment of the economic impact of the program, including the number of jobs created and retained, and whether the job positions are entry level, management, vendor, or production related;

(ii) the amount of accredited theater production spending brought to Illinois, including the amount of spending and type of Illinois vendors hired in connection with an accredited theater production; and

(iii) a determination of whether those receiving qualifying Illinois labor expenditure salaries or wages reflect the geographical, racial and ethnic, gender, and income level diversity of the State of Illinois.

(c) At the end of each fiscal year, the Department shall submit to the General Assembly a report that includes, without limitation:

(i) the identification of each vendor that provided goods or services that were included in an accredited

theater production's Illinois production spending;

(ii) a statement of the amount paid to each identified vendor by the accredited theater production and whether the vendor is a minority-owned or women-owned business as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and

(iii) a description of the steps taken by the Department to encourage accredited theater productions to use vendors who are minority-owned or women-owned businesses.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 121. The Manufacturing Illinois Chips for Real Opportunity (MICRO) Act is amended by changing Section 110-10 as follows:

(35 ILCS 45/110-10)

Sec. 110-10. Definitions. As used in this Act:

"Agreement" means the agreement between a taxpayer and the Department under the provisions of this Act.

"Applicant" means a taxpayer that: (i) operates a business in Illinois as a semiconductor manufacturer, a microchip manufacturer, or a manufacturer of semiconductor or microchip component parts; or (ii) is planning to locate a business within the State of Illinois as a semiconductor manufacturer,

a microchip manufacturer, or a manufacturer of semiconductor or microchip component parts. "Applicant" does not include a taxpayer who closes or substantially reduces by more than 50% operations at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a taxpayer from expanding its operations at another location in the State. This also does not prohibit a taxpayer from moving its operations from one location in the State to another location in the State for the purpose of expanding the operation, provided that the Department determines that expansion cannot reasonably be accommodated within the municipality or county in which the business is located, or, in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county.

"Capital improvements" means the purchase, renovation, rehabilitation, or construction of permanent tangible land, buildings, structures, equipment, and furnishings in an approved project sited in Illinois and expenditures for goods or services that are normally capitalized, including organizational costs and research and development costs incurred in Illinois. For land, buildings, structures, and

equipment that are leased, the lease must equal or exceed the term of the agreement, and the cost of the property shall be determined from the present value, using the corporate interest rate prevailing at the time of the application, of the lease payments.

"Credit" or "MICRO credit" means a credit agreed to between the Department and applicant under this Act.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Energy Transition Area" means a county with less than 100,000 people or a municipality that contains one or more of the following:

(1) a fossil fuel plant that was retired from service or has significant reduced service within 6 years before the time of the application or will be retired or have service significantly reduced within 6 years following the time of the application; or

(2) a coal mine that was closed or had operations significantly reduced within 6 years before the time of the application or is anticipated to be closed or have operations significantly reduced within 6 years following the time of the application.

"Full-time employee" means an individual who is employed for consideration for at least 35 hours each week or who

renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the applicant for consideration for at least 35 hours each week.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of new employees and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project that is the subject of an agreement.

"Institution of higher education" or "institution" means any accredited public or private university, college, community college, business, technical, or vocational school, or other accredited educational institution offering degrees and instruction beyond the secondary school level.

"MICRO construction jobs credit" means a credit agreed to between the Department and the applicant under this Act that is based on the incremental income tax attributable to construction wages paid in connection with construction of the project facilities.

"MICRO credit" means a credit agreed to between the Department and the applicant under this Act that is based on the incremental income tax attributable to new employees and, if applicable, retained employees, and on training costs for such employees at the applicant's project.

"Microchip" means a wafer of semiconducting material that is less than 15 millimeters long and less than 5 millimeters wide and is used to make an integrated circuit.

"Microchip manufacturer" means a new or existing manufacturer that is focused on reequipping, expanding, or establishing a manufacturing facility in Illinois that produces microchips or key components that directly support the functions of microchips.

"Minority person" means a minority person as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"New employee" means a newly-hired full-time employee employed to work at the project site and whose work is directly related to the project.

"Noncompliance date" means, in the case of a taxpayer that is not complying with the requirements of the agreement or the provisions of this Act, the day following the last date upon which the taxpayer was in compliance with the requirements of the agreement and the provisions of this Act, as determined by the Director.

"Pass-through entity" means an entity that is exempt from the tax under subsection (b) or (c) of Section 205 of the Illinois Income Tax Act.

"Placed in service" means the state or condition of readiness, availability for a specifically assigned function, and the facility is constructed and ready to conduct its

facility operations to manufacture goods.

"Professional employer organization" (PEO) means an employee leasing company, as defined in Section 206.1 of the Illinois Unemployment Insurance Act.

"Program" means the Manufacturing Illinois Chips for Real Opportunity (MICRO) program established in this Act.

"Project" means a for-profit economic development activity for the manufacture of semiconductors and microchips.

"Related member" means a person that, with respect to the taxpayer during any portion of the taxable year, is any one of the following:

(1) An individual stockholder, if the stockholder and the members of the stockholder's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock.

(2) A partnership, estate, trust and any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the taxpayer.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules

of Section 318 of the Internal Revenue Code, if the taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the taxpayer.

(5) A person to or from whom there is an attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a related member under this paragraph, 20% shall be substituted for 5% wherever 5% appears in Section 1563(e) of the Internal Revenue Code.

"Retained employee" means a full-time employee employed by the taxpayer prior to the term of the agreement who continues to be employed during the term of the agreement whose job duties are directly and substantially related to the project. For purposes of this definition, "directly and substantially related to the project" means at least two-thirds of the employee's job duties must be directly related to the project and the employee must devote at least two-thirds of his or her

time to the project. The term "retained employee" does not include any individual who has a direct or an indirect ownership interest of at least 5% in the profits, equity, capital, or value of the taxpayer or a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or indirect ownership of at least 5% in the profits, equity, capital, or value of the taxpayer.

"Semiconductor" means any class of crystalline solids intermediate in electrical conductivity between a conductor and an insulator.

"Semiconductor manufacturer" means a new or existing manufacturer that is focused on reequipping, expanding, or establishing a manufacturing facility in Illinois that produces semiconductors or key components that directly support the functions of semiconductors.

"Statewide baseline" means the total number of full-time employees of the applicant and any related member employed by such entities at the time of application for incentives under this Act.

"Taxpayer" means an individual, corporation, partnership, or other entity that has a legal obligation to pay Illinois income taxes and file an Illinois income tax return.

"Training costs" means costs incurred to upgrade the technological skills of full-time employees in Illinois and includes: curriculum development; training materials

(including scrap product costs); trainee domestic travel expenses; instructor costs (including wages, fringe benefits, tuition and domestic travel expenses); rent, purchase or lease of training equipment; and other usual and customary training costs. "Training costs" do not include costs associated with travel outside the United States (unless the taxpayer receives prior written approval for the travel by the Director based on a showing of substantial need or other proof the training is not reasonably available within the United States), wages and fringe benefits of employees during periods of training, or administrative cost related to full-time employees of the taxpayer.

"Underserved area" means any geographic areas as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act.

(Source: P.A. 102-700, eff. 4-19-22.)

Section 122. The Property Tax Code is amended by changing Section 18-50.2 as follows:

(35 ILCS 200/18-50.2)

Sec. 18-50.2. Vendor information reporting. Beginning in levy year 2022, each taxing district that has an aggregate property tax levy of more than $5,000,000 for the applicable levy year shall make a good faith effort to collect and electronically publish data from all vendors and

subcontractors doing business with the taxing district as to: (1) whether the vendor or subcontractor is a minority-owned, women-owned, or veteran-owned business, as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and (2) whether the vendor or subcontractor holds any certifications for those categories or if they are self-certifying; if the vendor self-certifies, then the taxing district shall publish whether the vendor qualifies as a small business under federal Small Business Administration standards. This Section is a denial and limitation of home rule powers and functions under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

The taxing district may use existing software to comply with this Section.

(Source: P.A. 102-265, eff. 8-6-21.)

Section 125. The Illinois Pension Code is amended by changing Sections 1-109.1, 1-113.21, and 1-113.22 as follows:

(40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

Sec. 1-109.1. Allocation and delegation of fiduciary duties.

(1) Subject to the provisions of Section 22A-113 of this Code and subsections (2) and (3) of this Section, the board of

trustees of a retirement system or pension fund established under this Code may:

(a) Appoint one or more investment managers as fiduciaries to manage (including the power to acquire and dispose of) any assets of the retirement system or pension fund; and

(b) Allocate duties among themselves and designate others as fiduciaries to carry out specific fiduciary activities other than the management of the assets of the retirement system or pension fund.

(2) The board of trustees of a pension fund established under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not transfer its investment authority, nor transfer the assets of the fund to any other person or entity for the purpose of consolidating or merging its assets and management with any other pension fund or public investment authority, unless the board resolution authorizing such transfer is submitted for approval to the contributors and pensioners of the fund at elections held not less than 30 days after the adoption of such resolution by the board, and such resolution is approved by a majority of the votes cast on the question in both the contributors election and the pensioners election. The election procedures and qualifications governing the election of trustees shall govern the submission of resolutions for approval under this paragraph, insofar as they may be made applicable.

(3) Pursuant to subsections (h) and (i) of Section 6 of Article VII of the Illinois Constitution, the investment authority of boards of trustees of retirement systems and pension funds established under this Code is declared to be a subject of exclusive State jurisdiction, and the concurrent exercise by a home rule unit of any power affecting such investment authority is hereby specifically denied and preempted.

(4) For the purposes of this Code, "emerging investment manager" means a qualified investment adviser that manages an investment portfolio of at least $10,000,000 but less than $10,000,000,000 and is a "minority-owned business", "women-owned business", "veteran-owned business", or "business owned by a person with a disability" as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

It is hereby declared to be the public policy of the State of Illinois to encourage the trustees of public employee retirement systems, pension funds, and investment boards to use emerging investment managers in managing their system's assets, encompassing all asset classes, and increase the racial, ethnic, and gender diversity of its fiduciaries, to the greatest extent feasible within the bounds of financial and fiduciary prudence, and to take affirmative steps to remove any barriers to the full participation in investment opportunities afforded by those retirement systems, pension

funds, and investment boards.

A ~~On or before January 1, 2010, a~~ retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for utilization of emerging investment managers. This policy shall include quantifiable goals for the management of assets in specific asset classes by emerging investment managers. The retirement system, pension fund, or investment board shall establish 4 ~~3~~ separate goals for: (i) emerging investment managers that are minority-owned businesses; (ii) emerging investment managers that are women-owned businesses; ~~and~~ (iii) emerging investment managers that are veteran-owned businesses; and (iv) emerging investment managers that are businesses owned by a person with a disability. The goals established shall be based on the percentage of total dollar amount of investment service contracts let to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this subsection.

If in any case an emerging investment manager meets the criteria established by a board for a specific search and meets the criteria established by a consultant for that

search, then that emerging investment manager shall receive an invitation by the board of trustees, or an investment committee of the board of trustees, to present his or her firm for final consideration of a contract. In the case where multiple emerging investment managers meet the criteria of this Section, the staff may choose the most qualified firm or firms to present to the board.

The use of an emerging investment manager does not constitute a transfer of investment authority for the purposes of subsection (2) of this Section.

(5) Each retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall establish a policy that sets forth goals for increasing the racial, ethnic, and gender diversity of its fiduciaries, including its consultants and senior staff. Each retirement system, pension fund, or investment board shall make its best efforts to ensure that the racial and ethnic makeup of its senior administrative staff represents the racial and ethnic makeup of its membership. Each system, fund, and investment board shall annually review the goals established under this subsection.

(6) A ~~On or before January 1, 2010, a~~ retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for

utilization of businesses owned by minorities, women, veterans, and persons with disabilities for all contracts and services. The goals established shall be based on the percentage of total dollar amount of all contracts let to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this subsection.

(7) A ~~On or before January 1, 2010, a~~ retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for increasing the utilization of minority broker-dealers. For the purposes of this Code, "minority broker-dealer" means a qualified broker-dealer who meets the definition of "minority-owned business", "women-owned business", "veteran-owned businesses", or "business owned by a person with a disability", as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this Section.

(8) Each retirement system, pension fund, and investment

board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall submit a report to the Governor and the General Assembly by January 1 of each year that includes the following: (i) the policy adopted under subsection (4) of this Section, including the names and addresses of the emerging investment managers used, percentage of the assets under the investment control of emerging investment managers for the 4 ~~3~~ separate goals, and the actions it has undertaken to increase the use of emerging investment managers, including encouraging other investment managers to use emerging investment managers as subcontractors when the opportunity arises; (ii) the policy adopted under subsection (5) of this Section; (iii) the policy adopted under subsection (6) of this Section; (iv) the policy adopted under subsection (7) of this Section, including specific actions undertaken to increase the use of minority broker-dealers; and (v) the policy adopted under subsection (9) of this Section.

(9) A ~~On or before February 1, 2015, a~~ retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for increasing the utilization of minority investment managers. For the purposes of this Code, "minority investment manager" means a qualified investment manager that manages an investment portfolio and meets the definition of "minority-owned business", "women-owned business",

"veteran-owned business", or "business owned by a person with a disability", as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

It is hereby declared to be the public policy of the State of Illinois to encourage the trustees of public employee retirement systems, pension funds, and investment boards to use minority investment managers in managing their systems' assets, encompassing all asset classes, and to increase the racial, ethnic, and gender diversity of their fiduciaries, to the greatest extent feasible within the bounds of financial and fiduciary prudence, and to take affirmative steps to remove any barriers to the full participation in investment opportunities afforded by those retirement systems, pension funds, and investment boards.

The retirement system, pension fund, or investment board shall establish 4 ~~3~~ separate goals for: (i) minority investment managers that are minority-owned businesses; (ii) minority investment managers that are women-owned businesses; ~~and~~ (iii) minority investment managers that are veteran-owned businesses; and (iv) minority investment managers that are businesses owned by a person with a disability. The retirement system, pension fund, or investment board shall annually review the goals established under this Section.

If in any case a minority investment manager meets the criteria established by a board for a specific search and

meets the criteria established by a consultant for that search, then that minority investment manager shall receive an invitation by the board of trustees, or an investment committee of the board of trustees, to present his or her firm for final consideration of a contract. In the case where multiple minority investment managers meet the criteria of this Section, the staff may choose the most qualified firm or firms to present to the board.

The use of a minority investment manager does not constitute a transfer of investment authority for the purposes of subsection (2) of this Section.

(10) It ~~Beginning January 1, 2016, it~~ shall be the aspirational goal for a retirement system, pension fund, or investment board subject to this Code to use emerging investment managers for not less than 20% of the total funds under management. Furthermore, it shall be the aspirational goal that not less than 20% of investment advisors be minorities, women, veterans, and persons with disabilities as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. It shall be the aspirational goal to utilize businesses owned by minorities, women, veterans, and persons with disabilities for not less than 20% of contracts awarded for "information technology services", "accounting services", "insurance brokers", "architectural and engineering services", and "legal services" as those terms are defined in the Act.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17; 100-902, eff. 8-17-18.)

(40 ILCS 5/1-113.21)

Sec. 1-113.21. Contracts for services.

(a) No ~~Beginning January 1, 2015, no~~ contract, oral or written, for investment services, consulting services, or commitment to a private market fund shall be awarded by a retirement system, pension fund, or investment board established under this Code unless the investment advisor, consultant, or private market fund first discloses:

(1) the number of its investment and senior staff and the percentage of its investment and senior staff who are (i) a minority person, (ii) a woman, and (iii) a person with a disability; and

(2) the number of contracts, oral or written, for investment services, consulting services, and professional and artistic services that the investment advisor, consultant, or private market fund has with (i) a minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business; and

(3) the number of contracts, oral or written, for investment services, consulting services, and professional and artistic services the investment advisor, consultant, or private market fund has with a business other than (i) a

minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business, if more than 50% of services performed pursuant to the contract are performed by (i) a minority person, (ii) a woman, ~~and~~ (iii) a person with a disability, and (iv) a veteran.

(b) The disclosures required by this Section shall be considered, within the bounds of financial and fiduciary prudence, prior to the awarding of a contract, oral or written, for investment services, consulting services, or commitment to a private market fund.

(c) For the purposes of this Section, the terms "minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned business", and "business owned by a person with a disability" have the same meaning as those terms have in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(d) For purposes of this Section, the term "private market fund" means any private equity fund, private equity fund of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicle that is not publicly traded.

(Source: P.A. 100-391, eff. 8-25-17.)

(40 ILCS 5/1-113.22)

Sec. 1-113.22. Required disclosures from consultants; minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability.

(a) No later than January 1, 2018 and each January 1 thereafter, each consultant retained by the board of a retirement system, board of a pension fund, or investment board shall disclose to that board of the retirement system, board of the pension fund, or investment board:

(1) the total number of searches for investment services made by the consultant in the prior calendar year;

(2) the total number of searches for investment services made by the consultant in the prior calendar year that included (i) a minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business;

(3) the total number of searches for investment services made by the consultant in the prior calendar year in which the consultant recommended for selection (i) a minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business;

(4) the total number of searches for investment services made by the consultant in the prior calendar year

that resulted in the selection of (i) a minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business; and

(5) the total dollar amount of investment made in the previous calendar year with (i) a minority-owned business, (ii) a women-owned business, ~~or~~ (iii) a business owned by a person with a disability, or (iv) a veteran-owned business that was selected after a search for investment services performed by the consultant.

(b) No ~~Beginning January 1, 2018, no~~ contract, oral or written, for consulting services shall be awarded by a board of a retirement system, a board of a pension fund, or an investment board without first requiring the consultant to make the disclosures required in subsection (a) of this Section.

(c) The disclosures required by subsection (b) of this Section shall be considered, within the bounds of financial and fiduciary prudence, prior to the awarding of a contract, oral or written, for consulting services.

(d) As used in this Section, the terms "minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned business", and "business owned by a person with a disability" have the same meaning as those terms have in the Business Enterprise for Minorities, Women, Veterans, and

Persons with Disabilities Act.

(Source: P.A. 100-542, eff. 11-8-17; 100-863, eff. 8-14-18.)

Section 130. The Counties Code is amended by changing Sections 5-1134, 5-45015, 5-45025, and 5-45045 as follows:

(55 ILCS 5/5-1134)

Sec. 5-1134. Project labor agreements.

(a) Any sports, arts, or entertainment facilities that receive revenue from a tax imposed under subsection (b) of Section 5-1030 of this Code shall be considered to be public works within the meaning of the Prevailing Wage Act. The county authorities responsible for the construction, renovation, modification, or alteration of the sports, arts, or entertainment facilities shall enter into project labor agreements with labor organizations as defined in the National Labor Relations Act to assure that no labor dispute interrupts or interferes with the construction, renovation, modification, or alteration of the projects.

(b) The project labor agreements must include the following:

(1) provisions establishing the minimum hourly wage for each class of labor organization employees;

(2) provisions establishing the benefits and other compensation for such class of labor organization; and

(3) provisions establishing that no strike or disputes

will be engaged in by the labor organization employees.

The county, taxing bodies, municipalities, and the labor organizations shall have the authority to include other terms and conditions as they deem necessary.

(c) The project labor agreement shall be filed with the Director of the Illinois Department of Labor in accordance with procedures established by the Department. At a minimum, the project labor agreement must provide the names, addresses, and occupations of the owner of the facilities and the individuals representing the labor organization employees participating in the project labor agreement. The agreement must also specify the terms and conditions required in subsection (b) of this Section.

(d) In any agreement for the construction or rehabilitation of a facility using revenue generated under subsection (b) of Section 5-1030 of this Code, in connection with the prequalification of general contractors for construction or rehabilitation of the facility, it shall be required that a commitment will be submitted detailing how the general contractor will expend 15% or more of the aggregate dollar value of the project as a whole with one or more minority-owned businesses, women-owned businesses, <u>veteran-owned businesses,</u> or businesses owned by a person with a disability, as these terms are defined in Section 2 of the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(55 ILCS 5/5-45015)

Sec. 5-45015. Solicitation of proposals.

(a) A county may enter into design-build contracts. In addition to the requirements set forth in its local ordinances, when the county elects to use the design-build delivery method, it must issue a notice of intent to receive proposals for the project at least 14 days before issuing the request for the proposal. The county must publish the advance notice in the manner prescribed by ordinance, which shall include posting the advance notice online on its website. The county may publish the notice in construction industry publications or post the notice on construction industry websites. A brief description of the proposed procurement must be included in the notice. The county must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the county.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The county shall include, at a minimum, its normal qualifications, licensing, registration, and other requirements; however, nothing precludes the use of additional prequalification criteria by the county.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation. Price may not be used as a factor in the evaluation of Phase I proposals.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The county may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for

proposal. If the cost of the project is estimated to exceed $12,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The county shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 102-954, eff. 1-1-23.)

(55 ILCS 5/5-45025)

Sec. 5-45025. Procedures for Selection.

(a) The county must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The county shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the county has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the county. The county must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The county shall include the following criteria in every

Phase I evaluation of design-build entities: (i) experience of personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (viii) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The county may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The county may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the county, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities

Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the county shall create a shortlist of the most highly qualified design-build entities. The county, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided that no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The county shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The county must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the county.

(c) The county shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the county. The county must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The county shall include the following criteria in every

Phase II technical evaluation of design-build entities: (i) compliance with objectives of the project; (ii) compliance of proposed services to the request for proposal requirements; (iii) quality of products or materials proposed; (iv) quality of design parameters; (v) design concepts; (vi) innovation in meeting the scope and performance criteria; and (vii) constructability of the proposed project. The county may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The county shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The county may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighting ~~weighing~~ factor shall not exceed 30%.

The county shall directly employ or retain a licensed design professional or a public art designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards. Upon completion of the technical submissions and cost submissions evaluation, the county may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 102-954, eff. 1-1-23; revised 12-16-22.)

(55 ILCS 5/5-45045)

Sec. 5-45045. Reports and evaluation. At the end of every

6-month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the county, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

(Source: P.A. 102-954, eff. 1-1-23.)

Section 135. The River Edge Redevelopment Zone Act is amended by changing Section 10-5.3 as follows:

(65 ILCS 115/10-5.3)

Sec. 10-5.3. Certification of River Edge Redevelopment Zones.

(a) Approval of designated River Edge Redevelopment Zones shall be made by the Department by certification of the designating ordinance. The Department shall promptly issue a certificate for each zone upon its approval. The certificate shall be signed by the Director of the Department, shall make specific reference to the designating ordinance, which shall be attached thereto, and shall be filed in the office of the Secretary of State. A certified copy of the River Edge Redevelopment Zone Certificate, or a duplicate original

thereof, shall be recorded in the office of the recorder of deeds of the county in which the River Edge Redevelopment Zone lies.

(b) A River Edge Redevelopment Zone shall be effective upon its certification. The Department shall transmit a copy of the certification to the Department of Revenue, and to the designating municipality. Upon certification of a River Edge Redevelopment Zone, the terms and provisions of the designating ordinance shall be in effect, and may not be amended or repealed except in accordance with Section 10-5.4.

(c) A River Edge Redevelopment Zone shall be in effect for the period stated in the certificate, which shall in no event exceed 30 calendar years. Zones shall terminate at midnight of December 31 of the final calendar year of the certified term, except as provided in Section 10-5.4.

(d) In calendar years 2006 and 2007, the Department may certify one pilot River Edge Redevelopment Zone in the City of East St. Louis, one pilot River Edge Redevelopment Zone in the City of Rockford, and one pilot River Edge Redevelopment Zone in the City of Aurora.

In calendar year 2009, the Department may certify one pilot River Edge Redevelopment Zone in the City of Elgin.

On or after the effective date of this amendatory Act of the 97th General Assembly, the Department may certify one additional pilot River Edge Redevelopment Zone in the City of Peoria.

Thereafter the Department may not certify any additional River Edge Redevelopment Zones, but may amend and rescind certifications of existing River Edge Redevelopment Zones in accordance with Section 10-5.4, except that no River Edge Redevelopment Zone may be extended on or after the effective date of this amendatory Act of the 97th General Assembly. Each River Edge Redevelopment Zone in existence on the effective date of this amendatory Act of the 97th General Assembly shall continue until its scheduled termination under this Act, unless the Zone is decertified sooner. At the time of its term expiration each River Edge Redevelopment Zone will become an open enterprise zone, available for the previously designated area or a different area to compete for designation as an enterprise zone. No preference for designation as a Zone will be given to the previously designated area.

(e) A municipality in which a River Edge Redevelopment Zone has been certified must submit to the Department, within 60 days after the certification, a plan for encouraging the participation by minority persons, women, persons with disabilities, and veterans in the zone. The Department may assist the municipality in developing and implementing the plan. The terms "minority person", "woman", "veteran", and "person with a disability" have the meanings set forth under Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. ~~"Veteran" means an Illinois resident who is a veteran as defined in subsection~~

~~(h) of Section 1491 of Title 10 of the United States Code.~~

(Source: P.A. 100-391, eff. 8-25-17.)

Section 140. The Metropolitan Pier and Exposition Authority Act is amended by changing Sections 10.2 and 23.1 as follows:

(70 ILCS 210/10.2)

Sec. 10.2. Bonding disclosure.

(a) Truth in borrowing disclosure. Within 60 business days after the issuance of any bonds under this Act, the Authority shall disclose the total principal and interest payments to be paid on the bonds over the full stated term of the bonds. The disclosure also shall include principal and interest payments to be made by each fiscal year over the full stated term of the bonds and total principal and interest payments to be made by each fiscal year on all other outstanding bonds issued under this Act over the full stated terms of those bonds. These disclosures shall be calculated assuming bonds are not redeemed or refunded prior to their stated maturities. Amounts included in these disclosures as payment of interest on variable rate bonds shall be computed at an interest rate equal to the rate at which the variable rate bonds are first set upon issuance, plus 2.5%, after taking into account any credits permitted in the related indenture or other instrument against the amount of such interest for each fiscal year.

(b) Bond sale expenses disclosure. Within 60 business days after the issuance of any bonds under this Act, the Authority shall disclose all costs of issuance on each sale of bonds under this Act. The disclosure shall include, as applicable, the respective percentages of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the bond issue and an identification of all costs of issuance paid to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities. The terms "minority-owned businesses", "women-owned businesses", "veteran-owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. In addition, the Authority shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 60 business days after the issuance of bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Authority may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(c) The disclosures required in this Section shall be published by posting the disclosures for no less than 30 days

on the website of the Authority and shall be available to the public upon request. The Authority shall also provide the disclosures to the Governor's Office of Management and Budget, the Commission on Government Forecasting and Accountability, and the General Assembly.

(Source: P.A. 100-391, eff. 8-25-17.)

(70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

Sec. 23.1. Affirmative action.

(a) The Authority shall, within 90 days after the effective date of this amendatory Act of 1984, establish and maintain an affirmative action program designed to promote equal employment opportunity and eliminate the effects of past discrimination. Such program shall include a plan, including timetables where appropriate, which shall specify goals and methods for increasing participation by women, veterans, ~~and~~ minorities, and persons with disabilities in employment, including employment related to the planning, organization, and staging of the games, by the Authority and by parties which contract with the Authority. The Authority shall submit a detailed plan with the General Assembly prior to September 1 of each year. Such program shall also establish procedures and sanctions, which the Authority shall enforce to ensure compliance with the plan established pursuant to this Section and with State and federal laws and regulations relating to the employment of women, veterans, ~~and~~ minorities, and persons

with disabilities. A determination by the Authority as to whether a party to a contract with the Authority has achieved the goals or employed the methods for increasing participation by women, veterans, ~~and~~ minorities, and persons with disabilities shall be determined in accordance with the terms of such contracts or the applicable provisions of rules and regulations of the Authority existing at the time such contract was executed, including any provisions for consideration of good faith efforts at compliance which the Authority may reasonably adopt.

(b) The Authority shall adopt and maintain minority-owned, veteran-owned, ~~and~~ women-owned business, and persons with disabilities-owned enterprise procurement programs under the affirmative action program described in subsection (a) for any and all work, including all contracting related to the planning, organization, and staging of the games, undertaken by the Authority. That work shall include, but is not limited to, the purchase of professional services, construction services, supplies, materials, and equipment. The programs shall establish goals of awarding not less than 30% ~~25%~~ of the annual dollar value of all contracts, purchase orders, or other agreements (collectively referred to as "contracts") to minority-owned businesses, woman-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities ~~and 5% of the annual dollar value of all contracts to women-owned businesses~~. Without limiting the

generality of the foregoing, the programs shall require in connection with the prequalification or consideration of vendors for professional service contracts, construction contracts, and contracts for supplies, materials, equipment, and services that each proposer or bidder submit as part of his or her proposal or bid a commitment detailing how he or she will expend 30% ~~25%~~ or more of the dollar value of his or her contracts with one or more minority-owned businesses, woman-owned businesses, veteran-owned businesses, or businesses owned by persons with disabilities ~~and 5% or more of the dollar value with one or more women-owned businesses~~. Bids or proposals that do not include such detailed commitments are not responsive and shall be rejected unless the Authority deems it appropriate to grant a waiver of these requirements. In addition the Authority may, in connection with the selection of providers of professional services, reserve the right to select a minority-owned business, ~~or~~ women-owned business, veteran-owned business, or business owned by a person with a disability ~~or businesses~~ to fulfill the commitment to minority, ~~and~~ woman, veteran, and person with a disability business participation. The commitment to minority, ~~and~~ woman, veteran, and person with a disability business participation may be met by the contractor or professional service provider's status as a minority-owned, ~~or~~ women-owned, or veteran-owned business or a business owned by a person with a disability, by joint venture or by

subcontracting a portion of the work with or purchasing materials for the work from one or more such businesses, or by any combination thereof. Each contract shall require the contractor or provider to submit a certified monthly report detailing the status of that contractor or provider's compliance with the Authority's minority-owned, ~~and~~ women-owned, veteran-owned, and persons with a disability-owned business enterprise procurement program. The Authority, after reviewing the monthly reports of the contractors and providers, shall compile a comprehensive report regarding compliance with this procurement program and file it quarterly with the General Assembly. If, in connection with a particular contract, the Authority determines that it is impracticable or excessively costly to obtain minority-owned, ~~or~~ women-owned, veteran-owned, and persons with a disability-owned businesses to perform sufficient work to fulfill the commitment required by this subsection, the Authority shall reduce or waive the commitment in the contract, as may be appropriate. The Authority shall establish rules and regulations setting forth the standards to be used in determining whether or not a reduction or waiver is appropriate. The terms "minority-owned business", ~~and~~ "women-owned business", "veteran-owned business", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities

Act.

(c) The Authority shall adopt and maintain an affirmative action program in connection with the hiring of minorities, ~~and~~ women, veterans, and persons with a disability on the Expansion Project and on any and all construction projects, including all contracting related to the planning, organization, and staging of the games, undertaken by the Authority. The program shall be designed to promote equal employment opportunity and shall specify the goals and methods for increasing the participation of minorities, ~~and~~ women, veterans, and persons with a disability in a representative mix of job classifications required to perform the respective contracts awarded by the Authority.

(d) In connection with the Expansion Project, the Authority shall incorporate the following elements into its minority-owned, ~~and~~ women-owned, veteran-owned, and persons with a disability-owned business procurement programs to the extent feasible: (1) a major contractors program that permits minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability to bear significant responsibility and risk for a portion of the project; (2) a mentor/protege program that provides financial, technical, managerial, equipment, and personnel support to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability; (3) an

emerging firms program that includes minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability that would not otherwise qualify for the project due to inexperience or limited resources; (4) a small projects program that includes participation by smaller minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability on jobs where the total dollar value is $5,000,000 or less; and (5) a set-aside program that will identify contracts requiring the expenditure of funds less than $50,000 for bids to be submitted solely by minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability.

(e) The Authority is authorized to enter into agreements with contractors' associations, labor unions, and the contractors working on the Expansion Project to establish an Apprenticeship Preparedness Training Program to provide for an increase in the number of minority, ~~and~~ women, veteran, and persons with a disability journeymen and apprentices in the building trades and to enter into agreements with Community College District 508 to provide readiness training. The Authority is further authorized to enter into contracts with public and private educational institutions and persons in the hospitality industry to provide training for employment in the hospitality industry.

(f) McCormick Place Advisory Board. There is created a McCormick Place Advisory Board composed as follows: 2 members shall be appointed by the Mayor of Chicago; 2 members shall be appointed by the Governor; 2 members shall be State Senators appointed by the President of the Senate; 2 members shall be State Senators appointed by the Minority Leader of the Senate; 2 members shall be State Representatives appointed by the Speaker of the House of Representatives; and 2 members shall be State Representatives appointed by the Minority Leader of the House of Representatives. The terms of all previously appointed members of the Advisory Board expire on the effective date of this amendatory Act of the 92nd General Assembly. A State Senator or State Representative member may appoint a designee to serve on the McCormick Place Advisory Board in his or her absence.

"Minority person", "woman", "veteran", "person with a disability", "minority-owned business", "women-owned business", "veteran-owned business", and "business owned by a person with a disability" have the meanings provided in the Business Enterprise and Minorities, Women, Veterans, and Persons with Disabilities Act.

~~A "member of a minority group" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:~~

~~(1) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South~~

~~America, including Central America, and who maintains tribal affiliation or community attachment).~~

~~(2) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).~~

~~(3) Black or African American (a person having origins in any of the black racial groups of Africa).~~

~~(4) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).~~

~~(5) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).~~

Members of the McCormick Place Advisory Board shall serve 2-year terms and until their successors are appointed, except members who serve as a result of their elected position whose terms shall continue as long as they hold their designated elected positions. Vacancies shall be filled by appointment for the unexpired term in the same manner as original appointments are made. The McCormick Place Advisory Board shall elect its own chairperson.

Members of the McCormick Place Advisory Board shall serve without compensation but, at the Authority's discretion, shall be reimbursed for necessary expenses in connection with the

performance of their duties.

The McCormick Place Advisory Board shall meet quarterly, or as needed, shall produce any reports it deems necessary, and shall:

(1) Work with the Authority on ways to improve the area physically and economically;

(2) Work with the Authority regarding potential means for providing increased economic opportunities to minorities and women produced indirectly or directly from the construction and operation of the Expansion Project;

(3) Work with the Authority to minimize any potential impact on the area surrounding the McCormick Place Expansion Project, including any impact on minority-owned or women-owned businesses, resulting from the construction and operation of the Expansion Project;

(4) Work with the Authority to find candidates for building trades apprenticeships, for employment in the hospitality industry, and to identify job training programs;

(5) Work with the Authority to implement the provisions of subsections (a) through (e) of this Section in the construction of the Expansion Project, including the Authority's goal of awarding not less than 30% ~~25% and 5%~~ of the annual dollar value of contracts to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by persons

with a disability, the outreach program for minorities, ~~and~~ women, veterans, and persons with a disability, and the mentor/protege program for providing assistance to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability.

(g) The Authority shall comply with subsection (e) of Section 5-42 of the Olympic Games and Paralympic Games (2016) Law. For purposes of this Section, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(Source: P.A. 102-465, eff. 1-1-22.)

Section 141. The Forest Preserve District and Conservation District Design-Build Authorization Act is amended by changing Sections 15, 25, and 45 as follows:

(70 ILCS 860/15)

Sec. 15. Solicitation of proposals.

(a) A forest preserve district or conservation district may enter into design-build contracts. In addition to the requirements set forth in its local ordinances, when the forest preserve district or conservation district elects to use the design-build delivery method, it must issue a notice of intent to receive proposals for the project at least 14 days before issuing the request for the proposal. The forest

preserve district or conservation district must publish the advance notice in the manner prescribed by ordinance, which shall include posting the advance notice online on its website. The forest preserve district or conservation district may publish the notice in construction industry publications or post the notice on construction industry websites. A brief description of the proposed procurement must be included in the notice. The forest preserve district or conservation district must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the forest preserve district or conservation district.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The forest preserve district or conservation district shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements; however, nothing precludes the use of additional prequalification criteria

by the forest preserve district or conservation district.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation. Price may not be used as a factor in the evaluation of Phase I proposals.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The forest preserve district or conservation district may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $12,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The forest preserve district or

conservation district shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 102-460, eff. 6-1-22.)

(70 ILCS 860/25)

Sec. 25. Procedures for selection.

(a) The forest preserve district or conservation district must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The forest preserve district or conservation district shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the forest preserve district or conservation district has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the forest preserve district or conservation district. The forest preserve district or conservation district must maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The forest preserve district or conservation district shall include the following criteria in every Phase I evaluation of design-build entities: (i) experience of personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (viii) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The forest preserve district or conservation district may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The forest preserve district or conservation district may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the forest preserve district or conservation district, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the

design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the forest preserve district or conservation district shall create a shortlist of the most highly qualified design-build entities. The forest preserve district or conservation district, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, provided that no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals.

The forest preserve district or conservation district shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The forest preserve district or conservation district must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the forest preserve district or conservation district.

(c) The forest preserve district or conservation district shall include in the request for proposal the evaluating

factors to be used in the technical and cost submission components of Phase II. Each request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the forest preserve district or conservation district. The forest preserve district or conservation district must maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The forest preserve district or conservation district shall include the following criteria in every Phase II technical evaluation of design-build entities: (i) compliance with objectives of the project; (ii) compliance of proposed services to the request for proposal requirements; (iii) quality of products or materials proposed; (iv) quality of design parameters; (v) design concepts; (vi) innovation in meeting the scope and performance criteria; and (vii) constructability of the proposed project. The forest preserve district or conservation district may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The forest preserve district or conservation district shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The forest preserve or

conservation district may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighting ~~weighing~~ factor shall not exceed 30%.

The forest preserve or conservation district shall directly employ or retain a licensed design professional or a public art designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the forest preserve or conservation district may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 102-460, eff. 6-1-22; revised 2-28-22.)

(70 ILCS 860/45)

Sec. 45. Reports and evaluation. At the end of every 6 month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the forest preserve or conservation district, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

(Source: P.A. 102-460, eff. 6-1-22.)

Section 145. The Illinois Sports Facilities Authority Act is amended by changing Section 9 as follows:

(70 ILCS 3205/9) (from Ch. 85, par. 6009)

Sec. 9. Duties. In addition to the powers set forth elsewhere in this Act, subject to the terms of any agreements with the holders of the Authority's bonds or notes, the Authority shall:

(1) Comply with all zoning, building, and land use controls of the municipality within which is located any stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and reasonable provisions with respect to termination, default and legal remedies.

(3) With respect to a facility owned or to be owned by a governmental owner other than the Authority, enter into an assistance agreement with either a governmental owner of a facility or its tenant, or both, that requires the tenant, or if the tenant is not a party to the assistance agreement requires the governmental owner to enter into an agreement with the tenant that requires the tenant to use the facility for a period at least as long as the term of any bonds issued to finance the reconstruction, renovation, remodeling, extension or improvement of all or substantially all of the facility.

(4) Create and maintain a separate financial reserve for repair and replacement of capital assets of any facility owned by the Authority or for which the Authority provides financial assistance and deposit into this reserve not less than $1,000,000 per year for each such facility beginning at such time as the Authority and the tenant, or the Authority and a governmental owner of a facility, as applicable, shall agree.

(5) In connection with prequalification of general contractors for the construction of a new stadium facility or the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of an existing facility, the Authority shall require submission of a commitment detailing how the general contractor will expend 30% ~~25%~~ or more of the dollar value of the general

contract with one or more minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability ~~and 5% or more of the dollar value with one or more women-owned businesses~~. This commitment may be met by contractor's status as a minority-owned business, ~~businesses or~~ women-owned business ~~businesses~~, veteran-owned business, or business owned by a person with a disability, by a joint venture or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new stadium facility and any contract for the reconstruction, renovation, remodeling, adding to, extension or improvement of all or substantially all of an existing facility shall require the general contractor to meet the foregoing obligations and shall require monthly reporting to the Authority with respect to the status of the implementation of the contractor's affirmative action plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall establish and maintain an affirmative action program designed to promote equal employment opportunity which specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective

contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this paragraph. The terms "minority-owned business ~~businesses~~", "women-owned business ~~businesses~~", veteran-owned business, and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(6) Provide for the construction of any new facility pursuant to one or more contracts which require delivery of a completed facility at a fixed maximum price to be insured or guaranteed by a third party determined by the Authority to be financially capable of causing completion of such construction of the new facility.

In connection with any assistance agreement with a governmental owner that provides financial assistance for a facility to be used by a National Football League team, the assistance agreement shall provide that the Authority or its agent shall enter into the contract or contracts for the design and construction services or design/build services for such facility and thereafter transfer its rights and obligations under the contract or contracts to the governmental owner of the facility. In seeking parties to provide design and construction services or design/build services with respect to such facility, the Authority may use

such procurement procedures as it may determine, including, without limitation, the selection of design professionals and construction managers or design/builders as may be required by a team that is at risk, in whole or in part, for the cost of design and construction of the facility.

An assistance agreement may not provide, directly or indirectly, for the payment to the Chicago Park District of more than a total of $10,000,000 on account of the District's loss of property or revenue in connection with the renovation of a facility pursuant to the assistance agreement.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 150. The Downstate Illinois Sports Facilities Authority Act is amended by changing Section 40 as follows:

(70 ILCS 3210/40)

Sec. 40. Duties.

(a) In addition to the powers set forth elsewhere in this Act, subject to the terms of any agreements with the holders of the Authority's evidences of indebtedness, the Authority shall do the following:

(1) Comply with all zoning, building, and land use controls of the municipality within which is located any stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) Enter into a loan agreement with an owner of a

facility to finance the acquisition, construction, maintenance, or rehabilitation of the facility. The agreement shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies. The loan may be at below-market interest rates.

(3) Create and maintain a financial reserve for repair and replacement of capital assets.

(b) In a loan agreement for the construction of a new facility, in connection with prequalification of general contractors for construction of the facility, the Authority shall require that the owner of the facility require submission of a commitment detailing how the general contractor will expend 30% ~~25%~~ or more of the dollar value of the general contract with one or more minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by persons with a disability ~~and 5% or more of the dollar value with one or more women owned businesses~~. This commitment may be met by contractor's status as a minority-owned business, ~~businesses or~~ women-owned business, ~~businesses~~, veteran-owned business, or a business owned by a person with a disability by a joint venture, or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new facility shall require the general contractor to meet the foregoing obligations and

shall require monthly reporting to the Authority with respect to the status of the implementation of the contractor's affirmative action plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall require that the facility owner establish and maintain an affirmative action program designed to promote equal employment opportunity and that specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this subsection. The terms "minority-owned businesses"<u>,</u> ~~and~~ "women-owned businesses"<u>, "veteran-owned business", and "business owned by persons with a disability"</u> have the meanings provided in the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act.

(c) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and

reasonable provisions with respect to termination, default, and legal remedies.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 155. The Metropolitan Transit Authority Act is amended by changing Section 12c as follows:

(70 ILCS 3605/12c)

Sec. 12c. Retiree Benefits Bonds and Notes.

(a) In addition to all other bonds or notes that it is authorized to issue, the Authority is authorized to issue its bonds or notes for the purposes of providing funds for the Authority to make the deposits described in Section 12c(b)(1) and (2), for refunding any bonds authorized to be issued under this Section, as well as for the purposes of paying costs of issuance, obtaining bond insurance or other credit enhancement or liquidity facilities, paying costs of obtaining related swaps as authorized in the Bond Authorization Act ("Swaps"), providing a debt service reserve fund, paying Debt Service (as defined in paragraph (i) of this Section 12c), and paying all other costs related to any such bonds or notes.

(b)(1) After its receipt of a certified copy of a report of the Auditor General of the State of Illinois meeting the requirements of Section 3-2.3 of the Illinois State Auditing Act, the Authority may issue $1,348,550,000 aggregate original principal amount of bonds and notes. After payment of the

costs of issuance and necessary deposits to funds and accounts established with respect to debt service, the net proceeds of such bonds or notes shall be deposited only in the Retirement Plan for Chicago Transit Authority Employees and used only for the purposes required by Section 22-101 of the Illinois Pension Code. Provided that no less than $1,110,500,000 has been deposited in the Retirement Plan, remaining proceeds of bonds issued under this subparagraph (b)(1) may be used to pay costs of issuance and make necessary deposits to funds and accounts with respect to debt service for bonds and notes issued under this subparagraph or subparagraph (b)(2).

(2) After its receipt of a certified copy of a report of the Auditor General of the State of Illinois meeting the requirements of Section 3-2.3 of the Illinois State Auditing Act, the Authority may issue $639,680,000 aggregate original principal amount of bonds and notes. After payment of the costs of issuance and necessary deposits to funds and accounts established with respect to debt service, the net proceeds of such bonds or notes shall be deposited only in the Retiree Health Care Trust and used only for the purposes required by Section 22-101B of the Illinois Pension Code. Provided that no less than $528,800,000 has been deposited in the Retiree Health Care Trust, remaining proceeds of bonds issued under this subparagraph (b)(2) may be used to pay costs of issuance and make necessary deposits to funds and accounts with respect to debt service for bonds and notes issued under this

subparagraph or subparagraph (b)(1).

(3) In addition, refunding bonds are authorized to be issued for the purpose of refunding outstanding bonds or notes issued under this Section 12c.

(4) The bonds or notes issued under 12c(b)(1) shall be issued as soon as practicable after the Auditor General issues the report provided in Section 3-2.3(b) of the Illinois State Auditing Act. The bonds or notes issued under 12c(b)(2) shall be issued as soon as practicable after the Auditor General issues the report provided in Section 3-2.3(c) of the Illinois State Auditing Act.

(5) With respect to bonds and notes issued under subparagraph (b), scheduled aggregate annual payments of interest or deposits into funds and accounts established for the purpose of such payment shall commence within one year after the bonds and notes are issued. With respect to principal and interest, scheduled aggregate annual payments of principal and interest or deposits into funds and accounts established for the purpose of such payment shall be not less than 70% in 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled payments or deposits of principal and interest in 2012 and shall be substantially equal beginning in 2012 and each year thereafter. For purposes of this subparagraph (b), "substantially equal" means that debt service in any full year after calendar year 2011 is not more than 115% of debt service in any other full year after calendar year 2011 during the term

of the bonds or notes. For the purposes of this subsection (b), with respect to bonds and notes that bear interest at a variable rate, interest shall be assumed at a rate equal to the rate for United States Treasury Securities - State and Local Government Series for the same maturity, plus 75 basis points. If the Authority enters into a Swap with a counterparty requiring the Authority to pay a fixed interest rate on a notional amount, and the Authority has made a determination that such Swap was entered into for the purpose of providing substitute interest payments for variable interest rate bonds or notes of a particular maturity or maturities in a principal amount equal to the notional amount of the Swap, then during the term of the Swap for purposes of any calculation of interest payable on such bonds or notes, the interest rate on the bonds or notes of such maturity or maturities shall be determined as if such bonds or notes bore interest at the fixed interest rate payable by the Authority under such Swap.

(6) No bond or note issued under this Section 12c shall mature later than December 31, 2040.

(c) The Chicago Transit Board shall provide for the issuance of bonds or notes as authorized in this Section 12c by the adoption of an ordinance. The ordinance, together with the bonds or notes, shall constitute a contract among the Authority, the owners from time to time of the bonds or notes, any bond trustee with respect to the bonds or notes, any related credit enhancer and any provider of any related Swaps.

(d) The Authority is authorized to cause the proceeds of the bonds or notes, and any interest or investment earnings on the bonds or notes, and of any Swaps, to be invested until the proceeds and any interest or investment earnings have been deposited with the Retirement Plan or the Retiree Health Care Trust.

(e) Bonds or notes issued pursuant to this Section 12c may be general obligations of the Authority, to which shall be pledged the full faith and credit of the Authority, or may be obligations payable solely from particular sources of funds all as may be provided in the authorizing ordinance. The authorizing ordinance for the bonds and notes, whether or not general obligations of the Authority, may provide for the Debt Service (as defined in paragraph (i) of this Section 12c) to have a claim for payment from particular sources of funds, including, without limitation, amounts to be paid to the Authority or a bond trustee. The authorizing ordinance may provide for the means by which the bonds or notes (and any related Swaps) may be secured, which may include, a pledge of any revenues or funds of the Authority from whatever source which may by law be utilized for paying Debt Service. In addition to any other security, upon the written approval of the Regional Transportation Authority by the affirmative vote of 12 of its then Directors, the ordinance may provide a specific pledge or assignment of and lien on or security interest in amounts to be paid to the Authority by the Regional

Transportation Authority and direct payment thereof to the bond trustee for payment of Debt Service with respect to the bonds or notes, subject to the provisions of existing lease agreements of the Authority with any public building commission. The authorizing ordinance may also provide a specific pledge or assignment of and lien on or security interest in and direct payment to the trustee of all or a portion of the moneys otherwise payable to the Authority from the City of Chicago pursuant to an intergovernmental agreement with the Authority to provide financial assistance to the Authority. Any such pledge, assignment, lien or security interest for the benefit of owners of bonds or notes shall be valid and binding from the time the bonds or notes are issued, without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims of any kind against the Authority or any other person, irrespective of whether such other parties have notice of such pledge, assignment, lien or security interest, all as provided in the Local Government Debt Reform Act, as it may be amended from time to time. The bonds or notes of the Authority issued pursuant to this Section 12c shall have such priority of payment and as to their claim for payment from particular sources of funds, including their priority with respect to obligations of the Authority issued under other Sections of this Act, all as shall be provided in the ordinances authorizing the issuance of the

bonds or notes. The ordinance authorizing the issuance of any bonds or notes under this Section may provide for the creation of, deposits in, and regulation and disposition of sinking fund or reserve accounts relating to those bonds or notes and related agreements. The ordinance authorizing the issuance of any such bonds or notes authorized under this Section 12c may contain provisions for the creation of a separate fund to provide for the payment of principal of and interest on those bonds or notes and related agreements. The ordinance may also provide limitations on the issuance of additional bonds or notes of the Authority.

(f) Bonds or notes issued under this Section 12c shall not constitute an indebtedness of the Regional Transportation Authority, the State of Illinois, or of any other political subdivision of or municipality within the State, except the Authority.

(g) The ordinance of the Chicago Transit Board authorizing the issuance of bonds or notes pursuant to this Section 12c may provide for the appointment of a corporate trustee (which may be any trust company or bank having the powers of a trust company within Illinois) with respect to bonds or notes issued pursuant to this Section 12c. The ordinance shall prescribe the rights, duties, and powers of the trustee to be exercised for the benefit of the Authority and the protection of the owners of bonds or notes issued pursuant to this Section 12c. The ordinance may provide for the trustee to hold in trust,

invest and use amounts in funds and accounts created as provided by the ordinance with respect to the bonds or notes in accordance with this Section 12c. The Authority may apply, as it shall determine, any amounts received upon the sale of the bonds or notes to pay any Debt Service on the bonds or notes. The ordinance may provide for a trust indenture to set forth terms of, sources of payment for and security for the bonds and notes.

(h) The State of Illinois pledges to and agrees with the owners of the bonds or notes issued pursuant to Section 12c that the State of Illinois will not limit the powers vested in the Authority by this Act to pledge and assign its revenues and funds as security for the payment of the bonds or notes, or vested in the Regional Transportation Authority by the Regional Transportation Authority Act or this Act, so as to materially impair the payment obligations of the Authority under the terms of any contract made by the Authority with those owners or to materially impair the rights and remedies of those owners until those bonds or notes, together with interest and any redemption premium, and all costs and expenses in connection with any action or proceedings by or on behalf of such owners are fully met and discharged. The Authority is authorized to include these pledges and agreements of the State of Illinois in any contract with owners of bonds or notes issued pursuant to this Section 12c.

(i) For purposes of this Section, "Debt Service" with

respect to bonds or notes includes, without limitation, principal (at maturity or upon mandatory redemption), redemption premium, interest, periodic, upfront, and termination payments on Swaps, fees for bond insurance or other credit enhancement, liquidity facilities, the funding of bond or note reserves, bond trustee fees, and all other costs of providing for the security or payment of the bonds or notes.

(j) The Authority shall adopt a procurement program with respect to contracts relating to the following service providers in connection with the issuance of debt for the benefit of the Retirement Plan for Chicago Transit Authority Employees: underwriters, bond counsel, financial advisors, and accountants. The program shall include goals for the payment of not less than 30% of the total dollar value of the fees from these contracts to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability as defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. The Authority shall conduct outreach to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability. Outreach shall include, but is not limited to, advertisements in periodicals and newspapers, mailings, and other appropriate media. The Authority shall submit to the General Assembly a comprehensive report that shall include, at a minimum, the details of the procurement plan, outreach

efforts, and the results of the efforts to achieve goals for the payment of fees. The service providers selected by the Authority pursuant to such program shall not be subject to approval by the Regional Transportation Authority, and the Regional Transportation Authority's approval pursuant to subsection (e) of this Section 12c related to the issuance of debt shall not be based in any way on the service providers selected by the Authority pursuant to this Section.

(k) No person holding an elective office in this State, holding a seat in the General Assembly, serving as a director, trustee, officer, or employee of the Regional Transportation Authority or the Chicago Transit Authority, including the spouse or minor child of that person, may receive a legal, banking, consulting, or other fee related to the issuance of any bond issued by the Chicago Transit Authority pursuant to this Section.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 160. The School Code is amended by changing Section 10-20.44 as follows:

(105 ILCS 5/10-20.44)

Sec. 10-20.44. Report on contracts.

(a) This Section applies to all school districts, including a school district organized under Article 34 of this Code.

(b) A school board must list on the district's Internet website, if any, all contracts over $25,000 and any contract that the school board enters into with an exclusive bargaining representative.

(c) Each year, in conjunction with the submission of the Statement of Affairs to the State Board of Education prior to December 1, provided for in Section 10-17, each school district shall submit to the State Board of Education an annual report on all contracts over $25,000 awarded by the school district during the previous fiscal year. The report shall include at least the following:

(1) the total number of all contracts awarded by the school district;

(2) the total value of all contracts awarded;

(3) the number of contracts awarded to minority-owned businesses, women-owned businesses, <u>veteran-owned businesses,</u> and businesses owned by persons with disabilities, as defined in the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act, and locally owned businesses; and

(4) the total value of contracts awarded to minority-owned businesses, women-owned businesses, <u>veteran-owned businesses,</u> and businesses owned by persons with disabilities, as defined in the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act, and locally owned businesses.

The report shall be made available to the public, including publication on the school district's Internet website, if any.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 165. The Public University Energy Conservation Act is amended by changing Sections 3 and 5-10 as follows:

(110 ILCS 62/3)

Sec. 3. Applicable laws. Other State laws and related administrative requirements apply to this Act, including, but not limited to, the following laws and related administrative requirements: the Illinois Human Rights Act, the Prevailing Wage Act, the Public Construction Bond Act, the Public Works Preference Act (repealed on June 16, 2010 by Public Act 96-929), the Employment of Illinois Workers on Public Works Act, the Freedom of Information Act, the Open Meetings Act, the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act, the Public Contract Fraud Act, the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and the Public Works Employment Discrimination Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(110 ILCS 62/5-10)

Sec. 5-10. Energy conservation measure.

(a) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any building or facility, subject to all applicable building codes, owned or operated by a public university or any equipment, fixture, or furnishing to be added to or used in any such building or facility that is designed to reduce energy consumption or operating costs, and may include, without limitation, one or more of the following:

(1) Insulation of the building structure or systems within the building.

(2) Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.

(3) Automated or computerized energy control systems.

(4) Heating, ventilating, or air conditioning system modifications or replacements.

(5) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code for the lighting system after the proposed modifications are made.

(6) Energy recovery systems.

(7) Energy conservation measures that provide long-term operating cost reductions.

(b) From the effective date of this amendatory Act of the 96th General Assembly until January 1, 2015, "energy conservation measure" includes a renewable energy center pilot project at Eastern Illinois University, provided that:

(1) the University signs a partnership contract with a qualified energy conservation measure provider as provided in this Act;

(2) the University has responsibility for the qualified provider's actions with regard to applicable laws;

(3) the University obtains a performance bond in accordance with this Act;

(4) the University and the qualified provider follow all aspects of the Prevailing Wage Act as provided by this Act;

(5) the University and the qualified provider use an approved list of firms from the Capital Development Board (CDB), unless the University requires services that are not typically performed by the firms on CDB's list;

(6) the University provides monthly progress reports to the Procurement Policy Board, and the University allows a representative from CDB to monitor the project, provided that such involvement is at no cost to the University;

(7) the University requires the qualified provider to follow the provisions of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and the Public Works Employment Discrimination Act as provided in this Act;

(8) the University agrees to award new building construction work to a responsible bidder, as defined in Section 30-22 of the Illinois Procurement Code;

(9) the University includes in its contract with the qualified provider a requirement that the qualified provider name the sub-contractors that it will use, and the qualified provider may not change these without the University's written approval;

(10) the University follows, to the extent possible, the Design-Build Procurement Act for construction of the project, taking into consideration the current status of the project; for purposes of this Act, the definition of "State construction agency" in the Design-Build Procurement Act means Eastern Illinois University for the purpose of this project;

(11) the University follows, to the extent possible, the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act;

(12) the University requires all engineering, architecture, and design work related to the installation or modification of facilities be performed by design

professionals licensed by the State of Illinois and professional design firms registered in the State of Illinois; and

(13) the University produces annual reports and a final report describing the project upon completion and files the reports with the Procurement Policy Board, CDB, and the General Assembly.

The provisions of this subsection (b), other than this sentence, are inoperative after January 1, 2015.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 170. The Illinois State University Law is amended by changing Section 20-115 as follows:

(110 ILCS 675/20-115)

Sec. 20-115. Illinois Institute for Entrepreneurship Education.

(a) There is created, effective July 1, 1997, within the State at Illinois State University, the Illinois Institute for Entrepreneurship Education, hereinafter referred to as the Institute.

(b) The Institute created under this Section shall commence its operations on July 1, 1997 and shall have a board composed of 15 members representative of education, commerce and industry, government, or labor, appointed as follows: 2 members shall be appointees of the Governor, one of whom shall

be a minority or woman person as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; one member shall be an appointee of the President of the Senate; one member shall be an appointee of the Minority Leader of the Senate; one member shall be an appointee of the Speaker of the House of Representatives; one member shall be an appointee of the Minority Leader of the House of Representatives; 2 members shall be appointees of Illinois State University; one member shall be an appointee of the Board of Higher Education; one member shall be an appointee of the State Board of Education; one member shall be an appointee of the Department of Commerce and Economic Opportunity; one member shall be an appointee of the Illinois chapter of Economics America; and 3 members shall be appointed by majority vote of the other 12 appointed members to represent business owner-entrepreneurs. Each member shall have expertise and experience in the area of entrepreneurship education, including small business and entrepreneurship. The majority of voting members must be from the private sector. The members initially appointed to the board of the Institute created under this Section shall be appointed to take office on July 1, 1997 and shall by lot determine the length of their respective terms as follows: 5 members shall be selected by lot to serve terms of one year, 5 members shall be selected by lot to serve terms of 2 years, and 5 members shall be selected by lot to serve terms of 3 years.

Subsequent appointees shall each serve terms of 3 years. The board shall annually select a chairperson from among its members. Each board member shall serve without compensation but shall be reimbursed for expenses incurred in the performance of his or her duties.

(c) The purpose of the Institute shall be to foster the growth and development of entrepreneurship education in the State of Illinois. The Institute shall help remedy the deficiencies in the preparation of entrepreneurship education teachers, increase the quality and quantity of entrepreneurship education programs, improve instructional materials, and prepare personnel to serve as leaders and consultants in the field of entrepreneurship education and economic development. The Institute shall promote entrepreneurship as a career option, promote and support the development of innovative entrepreneurship education materials and delivery systems, promote business, industry, and education partnerships, promote collaboration and involvement in entrepreneurship education programs, encourage and support in-service and preservice teacher education programs within various educational systems, and develop and distribute relevant materials. The Institute shall provide a framework under which the public and private sectors may work together toward entrepreneurship education goals. These goals shall be achieved by bringing together programs that have an impact on entrepreneurship education to achieve coordination among

agencies and greater efficiency in the expenditure of funds.

(d) Beginning July 1, 1997, the Institute shall have the following powers subject to State and Illinois State University Board of Trustees regulations and guidelines:

(1) To employ and determine the compensation of an executive director and such staff as it deems necessary;

(2) To own property and expend and receive funds and generate funds;

(3) To enter into agreements with public and private entities in the furtherance of its purpose; and

(4) To request and receive the cooperation and assistance of all State departments and agencies in the furtherance of its purpose.

(e) The board of the Institute shall be a policy making body with the responsibility for planning and developing Institute programs. The Institute, through the Board of Trustees of Illinois State University, shall annually report to the Governor and General Assembly by January 31 as to its activities and operations, including its findings and recommendations.

(f) Beginning on July 1, 1997, the Institute created under this Section shall be deemed designated by law as the successor to the Illinois Institute for Entrepreneurship Education, previously created and existing under Section 2-11.5 of the Public Community College Act until its abolition on July 1, 1997 as provided in that Section. On July 1, 1997,

all financial and other records of the Institute so abolished and all of its property, whether real or personal, including but not limited to all inventory and equipment, shall be deemed transferred by operation of law to the Illinois Institute for Entrepreneurship Education created under this Section 20-115. The Illinois Institute for Entrepreneurship Education created under this Section 20-115 shall have, with respect to the predecessor Institute so abolished, all authority, powers, and duties of a successor agency under Section 10-15 of the Successor Agency Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 175. The Public Utilities Act is amended by changing Sections 8-103B and 9-220 as follows:

(220 ILCS 5/8-103B)

Sec. 8-103B. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the

public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenditures for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test. The low-income measures described in subsection (c) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" have the meanings set forth in the Illinois Power Agency Act. "Black, indigenous, and people of color" and "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(a-5) This Section applies to electric utilities serving more than 500,000 retail customers in the State for those multi-year plans commencing after December 31, 2017.

(b) For purposes of this Section, electric utilities subject to this Section that serve more than 3,000,000 retail customers in the State shall be deemed to have achieved a cumulative persisting annual savings of 6.6% from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, which percent is based on the deemed average weather normalized sales of electric power and energy during calendar years 2014,

2015, and 2016 of 88,000,000 MWhs. For the purposes of this subsection (b) and subsection (b-5), the 88,000,000 MWhs of deemed electric power and energy sales shall be reduced by the number of MWhs equal to the sum of the annual consumption of customers that have opted out of subsections (a) through (j) of this Section under paragraph (1) of subsection (l) of this Section, as averaged across the calendar years 2014, 2015, and 2016. After 2017, the deemed value of cumulative persisting annual savings from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, shall be reduced each year, as follows, and the applicable value shall be applied to and count toward the utility's achievement of the cumulative persisting annual savings goals set forth in subsection (b-5):

(1) 5.8% deemed cumulative persisting annual savings for the year ending December 31, 2018;

(2) 5.2% deemed cumulative persisting annual savings for the year ending December 31, 2019;

(3) 4.5% deemed cumulative persisting annual savings for the year ending December 31, 2020;

(4) 4.0% deemed cumulative persisting annual savings for the year ending December 31, 2021;

(5) 3.5% deemed cumulative persisting annual savings for the year ending December 31, 2022;

(6) 3.1% deemed cumulative persisting annual savings for the year ending December 31, 2023;

(7) 2.8% deemed cumulative persisting annual savings for the year ending December 31, 2024;

(8) 2.5% deemed cumulative persisting annual savings for the year ending December 31, 2025;

(9) 2.3% deemed cumulative persisting annual savings for the year ending December 31, 2026;

(10) 2.1% deemed cumulative persisting annual savings for the year ending December 31, 2027;

(11) 1.8% deemed cumulative persisting annual savings for the year ending December 31, 2028;

(12) 1.7% deemed cumulative persisting annual savings for the year ending December 31, 2029;

(13) 1.5% deemed cumulative persisting annual savings for the year ending December 31, 2030;

(14) 1.3% deemed cumulative persisting annual savings for the year ending December 31, 2031;

(15) 1.1% deemed cumulative persisting annual savings for the year ending December 31, 2032;

(16) 0.9% deemed cumulative persisting annual savings for the year ending December 31, 2033;

(17) 0.7% deemed cumulative persisting annual savings for the year ending December 31, 2034;

(18) 0.5% deemed cumulative persisting annual savings for the year ending December 31, 2035;

(19) 0.4% deemed cumulative persisting annual savings for the year ending December 31, 2036;

(20) 0.3% deemed cumulative persisting annual savings for the year ending December 31, 2037;

(21) 0.2% deemed cumulative persisting annual savings for the year ending December 31, 2038;

(22) 0.1% deemed cumulative persisting annual savings for the year ending December 31, 2039; and

(23) 0.0% deemed cumulative persisting annual savings for the year ending December 31, 2040 and all subsequent years.

For purposes of this Section, "cumulative persisting annual savings" means the total electric energy savings in a given year from measures installed in that year or in previous years, but no earlier than January 1, 2012, that are still operational and providing savings in that year because the measures have not yet reached the end of their useful lives.

(b-5) Beginning in 2018, electric utilities subject to this Section that serve more than 3,000,000 retail customers in the State shall achieve the following cumulative persisting annual savings goals, as modified by subsection (f) of this Section and as compared to the deemed baseline of 88,000,000 MWhs of electric power and energy sales set forth in subsection (b), as reduced by the number of MWhs equal to the sum of the annual consumption of customers that have opted out of subsections (a) through (j) of this Section under paragraph (1) of subsection (l) of this Section as averaged across the calendar years 2014, 2015, and 2016, through the

implementation of energy efficiency measures during the applicable year and in prior years, but no earlier than January 1, 2012:

(1) 7.8% cumulative persisting annual savings for the year ending December 31, 2018;

(2) 9.1% cumulative persisting annual savings for the year ending December 31, 2019;

(3) 10.4% cumulative persisting annual savings for the year ending December 31, 2020;

(4) 11.8% cumulative persisting annual savings for the year ending December 31, 2021;

(5) 13.1% cumulative persisting annual savings for the year ending December 31, 2022;

(6) 14.4% cumulative persisting annual savings for the year ending December 31, 2023;

(7) 15.7% cumulative persisting annual savings for the year ending December 31, 2024;

(8) 17% cumulative persisting annual savings for the year ending December 31, 2025;

(9) 17.9% cumulative persisting annual savings for the year ending December 31, 2026;

(10) 18.8% cumulative persisting annual savings for the year ending December 31, 2027;

(11) 19.7% cumulative persisting annual savings for the year ending December 31, 2028;

(12) 20.6% cumulative persisting annual savings for

the year ending December 31, 2029; and

(13) 21.5% cumulative persisting annual savings for the year ending December 31, 2030.

No later than December 31, 2021, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2031 through 2035. No later than December 31, 2024, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2036 through 2040. The Commission shall also establish additional cumulative persisting annual savings goals every 5 years thereafter to ensure that utilities always have goals that extend at least 11 years into the future. The cumulative persisting annual savings goals beyond the year 2030 shall increase by 0.9 percentage points per year, absent a Commission decision to initiate a proceeding to consider establishing goals that increase by more or less than that amount. Such a proceeding must be conducted in accordance with the procedures described in subsection (f) of this Section. If such a proceeding is initiated, the cumulative persisting annual savings goals established by the Commission through that proceeding shall reflect the Commission's best estimate of the maximum amount of additional savings that are forecast to be cost-effectively achievable unless such best estimates would result in goals that represent less than 0.5 percentage point annual increases in total cumulative persisting annual savings. The Commission may only establish goals that

represent less than 0.5 percentage point annual increases in cumulative persisting annual savings if it can demonstrate, based on clear and convincing evidence and through independent analysis, that 0.5 percentage point increases are not cost-effectively achievable. The Commission shall inform its decision based on an energy efficiency potential study that conforms to the requirements of this Section.

(b-10) For purposes of this Section, electric utilities subject to this Section that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall be deemed to have achieved a cumulative persisting annual savings of 6.6% from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017, which is based on the deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015, and 2016 of 36,900,000 MWhs. For the purposes of this subsection (b-10) and subsection (b-15), the 36,900,000 MWhs of deemed electric power and energy sales shall be reduced by the number of MWhs equal to the sum of the annual consumption of customers that have opted out of subsections (a) through (j) of this Section under paragraph (1) of subsection (l) of this Section, as averaged across the calendar years 2014, 2015, and 2016. After 2017, the deemed value of cumulative persisting annual savings from energy efficiency measures and programs implemented during the period beginning January 1, 2012 and ending December 31, 2017,

shall be reduced each year, as follows, and the applicable value shall be applied to and count toward the utility's achievement of the cumulative persisting annual savings goals set forth in subsection (b-15):

(1) 5.8% deemed cumulative persisting annual savings for the year ending December 31, 2018;

(2) 5.2% deemed cumulative persisting annual savings for the year ending December 31, 2019;

(3) 4.5% deemed cumulative persisting annual savings for the year ending December 31, 2020;

(4) 4.0% deemed cumulative persisting annual savings for the year ending December 31, 2021;

(5) 3.5% deemed cumulative persisting annual savings for the year ending December 31, 2022;

(6) 3.1% deemed cumulative persisting annual savings for the year ending December 31, 2023;

(7) 2.8% deemed cumulative persisting annual savings for the year ending December 31, 2024;

(8) 2.5% deemed cumulative persisting annual savings for the year ending December 31, 2025;

(9) 2.3% deemed cumulative persisting annual savings for the year ending December 31, 2026;

(10) 2.1% deemed cumulative persisting annual savings for the year ending December 31, 2027;

(11) 1.8% deemed cumulative persisting annual savings for the year ending December 31, 2028;

(12) 1.7% deemed cumulative persisting annual savings for the year ending December 31, 2029;

(13) 1.5% deemed cumulative persisting annual savings for the year ending December 31, 2030;

(14) 1.3% deemed cumulative persisting annual savings for the year ending December 31, 2031;

(15) 1.1% deemed cumulative persisting annual savings for the year ending December 31, 2032;

(16) 0.9% deemed cumulative persisting annual savings for the year ending December 31, 2033;

(17) 0.7% deemed cumulative persisting annual savings for the year ending December 31, 2034;

(18) 0.5% deemed cumulative persisting annual savings for the year ending December 31, 2035;

(19) 0.4% deemed cumulative persisting annual savings for the year ending December 31, 2036;

(20) 0.3% deemed cumulative persisting annual savings for the year ending December 31, 2037;

(21) 0.2% deemed cumulative persisting annual savings for the year ending December 31, 2038;

(22) 0.1% deemed cumulative persisting annual savings for the year ending December 31, 2039; and

(23) 0.0% deemed cumulative persisting annual savings for the year ending December 31, 2040 and all subsequent years.

(b-15) Beginning in 2018, electric utilities subject to

this Section that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall achieve the following cumulative persisting annual savings goals, as modified by subsection (b-20) and subsection (f) of this Section and as compared to the deemed baseline as reduced by the number of MWhs equal to the sum of the annual consumption of customers that have opted out of subsections (a) through (j) of this Section under paragraph (1) of subsection (l) of this Section as averaged across the calendar years 2014, 2015, and 2016, through the implementation of energy efficiency measures during the applicable year and in prior years, but no earlier than January 1, 2012:

(1) 7.4% cumulative persisting annual savings for the year ending December 31, 2018;

(2) 8.2% cumulative persisting annual savings for the year ending December 31, 2019;

(3) 9.0% cumulative persisting annual savings for the year ending December 31, 2020;

(4) 9.8% cumulative persisting annual savings for the year ending December 31, 2021;

(5) 10.6% cumulative persisting annual savings for the year ending December 31, 2022;

(6) 11.4% cumulative persisting annual savings for the year ending December 31, 2023;

(7) 12.2% cumulative persisting annual savings for the year ending December 31, 2024;

(8) 13% cumulative persisting annual savings for the year ending December 31, 2025;

(9) 13.6% cumulative persisting annual savings for the year ending December 31, 2026;

(10) 14.2% cumulative persisting annual savings for the year ending December 31, 2027;

(11) 14.8% cumulative persisting annual savings for the year ending December 31, 2028;

(12) 15.4% cumulative persisting annual savings for the year ending December 31, 2029; and

(13) 16% cumulative persisting annual savings for the year ending December 31, 2030.

No later than December 31, 2021, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2031 through 2035. No later than December 31, 2024, the Illinois Commerce Commission shall establish additional cumulative persisting annual savings goals for the years 2036 through 2040. The Commission shall also establish additional cumulative persisting annual savings goals every 5 years thereafter to ensure that utilities always have goals that extend at least 11 years into the future. The cumulative persisting annual savings goals beyond the year 2030 shall increase by 0.6 percentage points per year, absent a Commission decision to initiate a proceeding to consider establishing goals that increase by more or less than that amount. Such a proceeding must be conducted in accordance with

the procedures described in subsection (f) of this Section. If such a proceeding is initiated, the cumulative persisting annual savings goals established by the Commission through that proceeding shall reflect the Commission's best estimate of the maximum amount of additional savings that are forecast to be cost-effectively achievable unless such best estimates would result in goals that represent less than 0.4 percentage point annual increases in total cumulative persisting annual savings. The Commission may only establish goals that represent less than 0.4 percentage point annual increases in cumulative persisting annual savings if it can demonstrate, based on clear and convincing evidence and through independent analysis, that 0.4 percentage point increases are not cost-effectively achievable. The Commission shall inform its decision based on an energy efficiency potential study that conforms to the requirements of this Section.

(b-20) Each electric utility subject to this Section may include cost-effective voltage optimization measures in its plans submitted under subsections (f) and (g) of this Section, and the costs incurred by a utility to implement the measures under a Commission-approved plan shall be recovered under the provisions of Article IX or Section 16-108.5 of this Act. For purposes of this Section, the measure life of voltage optimization measures shall be 15 years. The measure life period is independent of the depreciation rate of the voltage optimization assets deployed. Utilities may claim savings from

voltage optimization on circuits for more than 15 years if they can demonstrate that they have made additional investments necessary to enable voltage optimization savings to continue beyond 15 years. Such demonstrations must be subject to the review of independent evaluation.

Within 270 days after June 1, 2017 (the effective date of Public Act 99-906), an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall file a plan with the Commission that identifies the cost-effective voltage optimization investment the electric utility plans to undertake through December 31, 2024. The Commission, after notice and hearing, shall approve or approve with modification the plan within 120 days after the plan's filing and, in the order approving or approving with modification the plan, the Commission shall adjust the applicable cumulative persisting annual savings goals set forth in subsection (b-15) to reflect any amount of cost-effective energy savings approved by the Commission that is greater than or less than the following cumulative persisting annual savings values attributable to voltage optimization for the applicable year:

(1) 0.0% of cumulative persisting annual savings for the year ending December 31, 2018;

(2) 0.17% of cumulative persisting annual savings for the year ending December 31, 2019;

(3) 0.17% of cumulative persisting annual savings for

the year ending December 31, 2020;

(4) 0.33% of cumulative persisting annual savings for the year ending December 31, 2021;

(5) 0.5% of cumulative persisting annual savings for the year ending December 31, 2022;

(6) 0.67% of cumulative persisting annual savings for the year ending December 31, 2023;

(7) 0.83% of cumulative persisting annual savings for the year ending December 31, 2024; and

(8) 1.0% of cumulative persisting annual savings for the year ending December 31, 2025 and all subsequent years.

(b-25) In the event an electric utility jointly offers an energy efficiency measure or program with a gas utility under plans approved under this Section and Section 8-104 of this Act, the electric utility may continue offering the program, including the gas energy efficiency measures, in the event the gas utility discontinues funding the program. In that event, the energy savings value associated with such other fuels shall be converted to electric energy savings on an equivalent Btu basis for the premises. However, the electric utility shall prioritize programs for low-income residential customers to the extent practicable. An electric utility may recover the costs of offering the gas energy efficiency measures under this subsection (b-25).

For those energy efficiency measures or programs that save

both electricity and other fuels but are not jointly offered with a gas utility under plans approved under this Section and Section 8-104 or not offered with an affiliated gas utility under paragraph (6) of subsection (f) of Section 8-104 of this Act, the electric utility may count savings of fuels other than electricity toward the achievement of its annual savings goal, and the energy savings value associated with such other fuels shall be converted to electric energy savings on an equivalent Btu basis at the premises.

In no event shall more than 10% of each year's applicable annual total savings requirement as defined in paragraph (7.5) of subsection (g) of this Section be met through savings of fuels other than electricity.

(b-27) Beginning in 2022, an electric utility may offer and promote measures that electrify space heating, water heating, cooling, drying, cooking, industrial processes, and other building and industrial end uses that would otherwise be served by combustion of fossil fuel at the premises, provided that the electrification measures reduce total energy consumption at the premises. The electric utility may count the reduction in energy consumption at the premises toward achievement of its annual savings goals. The reduction in energy consumption at the premises shall be calculated as the difference between: (A) the reduction in Btu consumption of fossil fuels as a result of electrification, converted to kilowatt-hour equivalents by dividing by 3,412 Btus ~~Btu's~~ per

kilowatt hour; and (B) the increase in kilowatt hours of electricity consumption resulting from the displacement of fossil fuel consumption as a result of electrification. An electric utility may recover the costs of offering and promoting electrification measures under this subsection (b-27).

In no event shall electrification savings counted toward each year's applicable annual total savings requirement, as defined in paragraph (7.5) of subsection (g) of this Section, be greater than:

(1) 5% per year for each year from 2022 through 2025;

(2) 10% per year for each year from 2026 through 2029; and

(3) 15% per year for 2030 and all subsequent years.

In addition, a minimum of 25% of all electrification savings counted toward a utility's applicable annual total savings requirement must be from electrification of end uses in low-income housing. The limitations on electrification savings that may be counted toward a utility's annual savings goals are separate from and in addition to the subsection (b-25) limitations governing the counting of the other fuel savings resulting from efficiency measures and programs.

As part of the annual informational filing to the Commission that is required under paragraph (9) of subsection (g) of this Section, each utility shall identify the specific electrification measures offered under this subsection

~~subjection~~ (b-27); the quantity of each electrification measure that was installed by its customers; the average total cost, average utility cost, average reduction in fossil fuel consumption, and average increase in electricity consumption associated with each electrification measure; the portion of installations of each electrification measure that were in low-income single-family housing, low-income multifamily housing, non-low-income single-family housing, non-low-income multifamily housing, commercial buildings, and industrial facilities; and the quantity of savings associated with each measure category in each customer category that are being counted toward the utility's applicable annual total savings requirement. Prior to installing an electrification measure, the utility shall provide a customer with an estimate of the impact of the new measure on the customer's average monthly electric bill and total annual energy expenses.

(c) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency plans with the Commission and may, as part of that implementation, outsource various aspects of program development and implementation. A minimum of 10%, for electric utilities that serve more than 3,000,000 retail customers in the State, and a minimum of 7%, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, of the utility's entire portfolio funding level for a given year shall be used to procure

cost-effective energy efficiency measures from units of local government, municipal corporations, school districts, public housing, and community college districts, provided that a minimum percentage of available funds shall be used to procure energy efficiency from public housing, which percentage shall be equal to public housing's share of public building energy consumption.

The utilities shall also implement energy efficiency measures targeted at low-income households, which, for purposes of this Section, shall be defined as households at or below 80% of area median income, and expenditures to implement the measures shall be no less than $40,000,000 per year for electric utilities that serve more than 3,000,000 retail customers in the State and no less than $13,000,000 per year for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State. The ratio of spending on efficiency programs targeted at low-income multifamily buildings to spending on efficiency programs targeted at low-income single-family buildings shall be designed to achieve levels of savings from each building type that are approximately proportional to the magnitude of cost-effective lifetime savings potential in each building type. Investment in low-income whole-building weatherization programs shall constitute a minimum of 80% of a utility's total budget specifically dedicated to serving low-income customers.

The utilities shall work to bundle low-income energy efficiency offerings with other programs that serve low-income households to maximize the benefits going to these households. The utilities shall market and implement low-income energy efficiency programs in coordination with low-income assistance programs, the Illinois Solar for All Program, and weatherization whenever practicable. The program implementer shall walk the customer through the enrollment process for any programs for which the customer is eligible. The utilities shall also pilot targeting customers with high arrearages, high energy intensity (ratio of energy usage divided by home or unit square footage), or energy assistance programs with energy efficiency offerings, and then track reduction in arrearages as a result of the targeting. This targeting and bundling of low-income energy programs shall be offered to both low-income single-family and multifamily customers (owners and residents).

The utilities shall invest in health and safety measures appropriate and necessary for comprehensively weatherizing a home or multifamily building, and shall implement a health and safety fund of at least 15% of the total income-qualified weatherization budget that shall be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of buildings to facilitate their participation in the energy efficiency programs targeted at low-income single-family and multifamily

households. These funds may also be used for the purpose of making grants for technical assistance, construction, reconstruction, improvement, or repair of the following buildings to facilitate their participation in the energy efficiency programs created by this Section: (1) buildings that are owned or operated by registered 501(c)(3) public charities; and (2) day care centers, day care homes, or group day care homes, as defined under 89 Ill. Adm. Code Part 406, 407, or 408, respectively.

Each electric utility shall assess opportunities to implement cost-effective energy efficiency measures and programs through a public housing authority or authorities located in its service territory. If such opportunities are identified, the utility shall propose such measures and programs to address the opportunities. Expenditures to address such opportunities shall be credited toward the minimum procurement and expenditure requirements set forth in this subsection (c).

Implementation of energy efficiency measures and programs targeted at low-income households should be contracted, when it is practicable, to independent third parties that have demonstrated capabilities to serve such households, with a preference for not-for-profit entities and government agencies that have existing relationships with or experience serving low-income communities in the State.

Each electric utility shall develop and implement

reporting procedures that address and assist in determining the amount of energy savings that can be applied to the low-income procurement and expenditure requirements set forth in this subsection (c). Each electric utility shall also track the types and quantities or volumes of insulation and air sealing materials, and their associated energy saving benefits, installed in energy efficiency programs targeted at low-income single-family and multifamily households.

The electric utilities shall participate in a low-income energy efficiency accountability committee ("the committee"), which will directly inform the design, implementation, and evaluation of the low-income and public-housing energy efficiency programs. The committee shall be comprised of the electric utilities subject to the requirements of this Section, the gas utilities subject to the requirements of Section 8-104 of this Act, the utilities' low-income energy efficiency implementation contractors, nonprofit organizations, community action agencies, advocacy groups, State and local governmental agencies, public-housing organizations, and representatives of community-based organizations, especially those living in or working with environmental justice communities and BIPOC communities. The committee shall be composed of 2 geographically differentiated subcommittees: one for stakeholders in northern Illinois and one for stakeholders in central and southern Illinois. The subcommittees shall meet together at least twice per year.

There shall be one statewide leadership committee led by and composed of community-based organizations that are representative of BIPOC and environmental justice communities and that includes equitable representation from BIPOC communities. The leadership committee shall be composed of an equal number of representatives from the 2 subcommittees. The subcommittees shall address specific programs and issues, with the leadership committee convening targeted workgroups as needed. The leadership committee may elect to work with an independent facilitator to solicit and organize feedback, recommendations and meeting participation from a wide variety of community-based stakeholders. If a facilitator is used, they shall be fair and responsive to the needs of all stakeholders involved in the committee.

All committee meetings must be accessible, with rotating locations if meetings are held in-person, virtual participation options, and materials and agendas circulated in advance.

There shall also be opportunities for direct input by committee members outside of committee meetings, such as via individual meetings, surveys, emails and calls, to ensure robust participation by stakeholders with limited capacity and ability to attend committee meetings. Committee meetings shall emphasize opportunities to bundle and coordinate delivery of low-income energy efficiency with other programs that serve low-income communities, such as the Illinois Solar for All

Program and bill payment assistance programs. Meetings shall include educational opportunities for stakeholders to learn more about these additional offerings, and the committee shall assist in figuring out the best methods for coordinated delivery and implementation of offerings when serving low-income communities. The committee shall directly and equitably influence and inform utility low-income and public-housing energy efficiency programs and priorities. Participating utilities shall implement recommendations from the committee whenever possible.

Participating utilities shall track and report how input from the committee has led to new approaches and changes in their energy efficiency portfolios. This reporting shall occur at committee meetings and in quarterly energy efficiency reports to the Stakeholder Advisory Group and Illinois Commerce Commission, and other relevant reporting mechanisms. Participating utilities shall also report on relevant equity data and metrics requested by the committee, such as energy burden data, geographic, racial, and other relevant demographic data on where programs are being delivered and what populations programs are serving.

The Illinois Commerce Commission shall oversee and have relevant staff participate in the committee. The committee shall have a budget of 0.25% of each utility's entire efficiency portfolio funding for a given year. The budget shall be overseen by the Commission. The budget shall be used

to provide grants for community-based organizations serving on the leadership committee, stipends for community-based organizations participating in the committee, grants for community-based organizations to do energy efficiency outreach and education, and relevant meeting needs as determined by the leadership committee. The education and outreach shall include, but is not limited to, basic energy efficiency education, information about low-income energy efficiency programs, and information on the committee's purpose, structure, and activities.

(d) Notwithstanding any other provision of law to the contrary, a utility providing approved energy efficiency measures and, if applicable, demand-response measures in the State shall be permitted to recover all reasonable and prudently incurred costs of those measures from all retail customers, except as provided in subsection (l) of this Section, as follows, provided that nothing in this subsection (d) permits the double recovery of such costs from customers:

(1) The utility may recover its costs through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures. To enable the financing of the

incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) A utility may recover its costs through an energy efficiency formula rate approved by the Commission under a filing under subsections (f) and (g) of this Section, which shall specify the cost components that form the basis of the rate charged to customers with sufficient specificity to operate in a standardized manner and be updated annually with transparent information that reflects the utility's actual costs to be recovered during the applicable rate year, which is the period beginning with the first billing day of January and extending through the last billing day of the following December. The energy efficiency formula rate shall be implemented through a tariff filed with the Commission under subsections (f) and (g) of this Section that is consistent with the provisions of this paragraph (2) and that shall be applicable to all delivery services customers. The Commission shall conduct an investigation of the tariff in a manner consistent with the provisions of this paragraph

(2), subsections (f) and (g) of this Section, and the provisions of Article IX of this Act to the extent they do not conflict with this paragraph (2). The energy efficiency formula rate approved by the Commission shall remain in effect at the discretion of the utility and shall do the following:

(A) Provide for the recovery of the utility's actual costs incurred under this Section that are prudently incurred and reasonable in amount consistent with Commission practice and law. The sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment.

(B) Reflect the utility's actual year-end capital structure for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, a participating electric utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of

up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(C) Include a cost of equity, which shall be calculated as the sum of the following:

(i) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and

(ii) 580 basis points.

At such time as the Board of Governors of the Federal Reserve System ceases to include the monthly average yields of 30-year U.S. Treasury bonds in its weekly H.15 Statistical Release or successor publication, the monthly average yields of the U.S. Treasury bonds then having the longest duration published by the Board of Governors in its weekly H.15 Statistical Release or successor publication shall instead be used for purposes of this paragraph (2).

(D) Permit and set forth protocols, subject to a determination of prudence and reasonableness consistent with Commission practice and law, for the following:

(i) recovery of incentive compensation expense that is based on the achievement of operational metrics, including metrics related to budget

controls, outage duration and frequency, safety, customer service, efficiency and productivity, and environmental compliance; however, this protocol shall not apply if such expense related to costs incurred under this Section is recovered under Article IX or Section 16-108.5 of this Act; incentive compensation expense that is based on net income or an affiliate's earnings per share shall not be recoverable under the energy efficiency formula rate;

(ii) recovery of pension and other post-employment benefits expense, provided that such costs are supported by an actuarial study; however, this protocol shall not apply if such expense related to costs incurred under this Section is recovered under Article IX or Section 16-108.5 of this Act;

(iii) recovery of existing regulatory assets over the periods previously authorized by the Commission;

(iv) as described in subsection (e), amortization of costs incurred under this Section; and

(v) projected, weather normalized billing determinants for the applicable rate year.

(E) Provide for an annual reconciliation, as

described in paragraph (3) of this subsection (d), less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the energy efficiency revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its energy efficiency formula rate tariff under this paragraph (2), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date.

The utility shall file, together with its tariff, the projected costs to be incurred by the utility during the rate year under the utility's multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, the projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense, that shall populate the energy efficiency formula rate and set the initial rates under the formula.

The Commission shall review the proposed tariff in conjunction with its review of a proposed multi-year plan,

as specified in paragraph (5) of subsection (g) of this Section. The review shall be based on the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, the Commission applies in a hearing to review a filing for a general increase in rates under Article IX of this Act. The initial rates shall take effect beginning with the January monthly billing period following the Commission's approval.

The tariff's rate design and cost allocation across customer classes shall be consistent with the utility's automatic adjustment clause tariff in effect on June 1, 2017 (the effective date of Public Act 99-906); however, the Commission may revise the tariff's rate design and cost allocation in subsequent proceedings under paragraph (3) of this subsection (d).

If the energy efficiency formula rate is terminated, the then current rates shall remain in effect until such time as the energy efficiency costs are incorporated into new rates that are set under this subsection (d) or Article IX of this Act, subject to retroactive rate adjustment, with interest, to reconcile rates charged with actual costs.

(3) The provisions of this paragraph (3) shall only apply to an electric utility that has elected to file an energy efficiency formula rate under paragraph (2) of this

subsection (d). Subsequent to the Commission's issuance of an order approving the utility's energy efficiency formula rate structure and protocols, and initial rates under paragraph (2) of this subsection (d), the utility shall file, on or before June 1 of each year, with the Chief Clerk of the Commission its updated cost inputs to the energy efficiency formula rate for the applicable rate year and the corresponding new charges, as well as the information described in paragraph (9) of subsection (g) of this Section. Each such filing shall conform to the following requirements and include the following information:

(A) The inputs to the energy efficiency formula rate for the applicable rate year shall be based on the projected costs to be incurred by the utility during the rate year under the utility's multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense. The filing shall also include a reconciliation of the energy efficiency revenue requirement that was in effect for the prior rate year (as set by the cost inputs for the prior rate year) with the actual revenue requirement for the prior rate year

(determined using a year-end rate base) that uses amounts reflected in the applicable FERC Form 1 that reports the actual costs for the prior rate year. Any over-collection or under-collection indicated by such reconciliation shall be reflected as a credit against, or recovered as an additional charge to, respectively, with interest calculated at a rate equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, the charges for the applicable rate year. Such over-collection or under-collection shall be adjusted to remove any deferred taxes related to the reconciliation, for purposes of calculating interest at an annual rate of return equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return. Each reconciliation shall be certified by the participating utility in the same manner that FERC Form 1 is certified. The filing shall also include the charge or credit, if any, resulting from the calculation required by subparagraph (E) of paragraph (2) of this subsection (d).

Notwithstanding any other provision of law to the contrary, the intent of the reconciliation is to

ultimately reconcile both the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its energy efficiency formula rate tariff under paragraph (2) of this subsection (d), with what the revenue requirement determined using a year-end rate base for the applicable calendar year would have been had the actual cost information for the applicable calendar year been available at the filing date.

For purposes of this Section, "FERC Form 1" means the Annual Report of Major Electric Utilities, Licensees and Others that electric utilities are required to file with the Federal Energy Regulatory Commission under the Federal Power Act, Sections 3, 4(a), 304 and 209, modified as necessary to be consistent with 83 Ill. Adm. ~~Admin.~~ Code Part 415 as of May 1, 2011. Nothing in this Section is intended to allow costs that are not otherwise recoverable to be recoverable by virtue of inclusion in FERC Form 1.

(B) The new charges shall take effect beginning on the first billing day of the following January billing period and remain in effect through the last billing day of the next December billing period regardless of whether the Commission enters upon a hearing under this paragraph (3).

(C) The filing shall include relevant and

necessary data and documentation for the applicable rate year. Normalization adjustments shall not be required.

Within 45 days after the utility files its annual update of cost inputs to the energy efficiency formula rate, the Commission shall with reasonable notice, initiate a proceeding concerning whether the projected costs to be incurred by the utility and recovered during the applicable rate year, and that are reflected in the inputs to the energy efficiency formula rate, are consistent with the utility's approved multi-year plan under subsections (f) and (g) of this Section and whether the costs incurred by the utility during the prior rate year were prudent and reasonable. The Commission shall also have the authority to investigate the information and data described in paragraph (9) of subsection (g) of this Section, including the proposed adjustment to the utility's return on equity component of its weighted average cost of capital. During the course of the proceeding, each objection shall be stated with particularity and evidence provided in support thereof, after which the utility shall have the opportunity to rebut the evidence. Discovery shall be allowed consistent with the Commission's Rules of Practice, which Rules of Practice shall be enforced by the Commission or the assigned administrative law judge. The Commission shall

apply the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, during the proceeding as it would apply in a proceeding to review a filing for a general increase in rates under Article IX of this Act. The Commission shall not, however, have the authority in a proceeding under this paragraph (3) to consider or order any changes to the structure or protocols of the energy efficiency formula rate approved under paragraph (2) of this subsection (d). In a proceeding under this paragraph (3), the Commission shall enter its order no later than the earlier of 195 days after the utility's filing of its annual update of cost inputs to the energy efficiency formula rate or December 15. The utility's proposed return on equity calculation, as described in paragraphs (7) through (9) of subsection (g) of this Section, shall be deemed the final, approved calculation on December 15 of the year in which it is filed unless the Commission enters an order on or before December 15, after notice and hearing, that modifies such calculation consistent with this Section. The Commission's determinations of the prudence and reasonableness of the costs incurred, and determination of such return on equity calculation, for the applicable calendar year shall be final upon entry of the Commission's order and shall not be subject to reopening, reexamination, or collateral

attack in any other Commission proceeding, case, docket, order, rule, or regulation; however, nothing in this paragraph (3) shall prohibit a party from petitioning the Commission to rehear or appeal to the courts the order under the provisions of this Act.

(e) Beginning on June 1, 2017 (the effective date of Public Act 99-906), a utility subject to the requirements of this Section may elect to defer, as a regulatory asset, up to the full amount of its expenditures incurred under this Section for each annual period, including, but not limited to, any expenditures incurred above the funding level set by subsection (f) of this Section for a given year. The total expenditures deferred as a regulatory asset in a given year shall be amortized and recovered over a period that is equal to the weighted average of the energy efficiency measure lives implemented for that year that are reflected in the regulatory asset. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balances of all of the energy efficiency regulatory assets, less any deferred taxes related to those unamortized balances, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of the (i) the average for the applicable calendar year of the monthly

average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (ii) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return. Capital investment costs shall be depreciated and recovered over their useful lives consistent with generally accepted accounting principles. The weighted average cost of capital shall be applied to the capital investment cost balance, less any accumulated depreciation and accumulated deferred income taxes, as of December 31 for a given year.

When an electric utility creates a regulatory asset under the provisions of this Section, the costs are recovered over a period during which customers also receive a benefit which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this Section shall recover all of the associated costs as set forth in this Section. After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced.

(f) Beginning in 2017, each electric utility shall file an

energy efficiency plan with the Commission to meet the energy efficiency standards for the next applicable multi-year period beginning January 1 of the year following the filing, according to the schedule set forth in paragraphs (1) through (3) of this subsection (f). If a utility does not file such a plan on or before the applicable filing deadline for the plan, it shall face a penalty of $100,000 per day until the plan is filed.

(1) No later than 30 days after June 1, 2017 (the effective date of Public Act 99-906), each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2018 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (1) through (4) of subsection (b-5) of this Section or in paragraphs (1) through (4) of subsection (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if the utility's expenditures are limited pursuant to subsection (m) of this Section or, for a utility that serves less than 3,000,000 retail customers, if each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most

recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

(2) No later than March 1, 2021, each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2022 that is designed to achieve the cumulative persisting annual savings goals specified in paragraphs (5) through (8) of subsection (b-5) of this Section or in paragraphs (5) through (8) of subsection (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence demonstrates, through independent analysis, that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) each of the following conditions are met: (A) the plan's analysis and forecasts

of the utility's ability to acquire energy savings demonstrate by clear and convincing evidence and through independent analysis that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. If there is not clear and convincing evidence that achieving the savings goals specified in paragraph (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

(3) No later than March 1, 2025, each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2026 that is designed to achieve the cumulative

persisting annual savings goals specified in paragraphs (9) through (12) of subsection (b-5) of this Section or in paragraphs (9) through (12) of subsection (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence demonstrates, through independent analysis, that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate by clear and convincing evidence and through independent analysis that achievement of such goals is not cost effective; and (B) the amount of energy savings achieved by the utility as determined by the independent evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. If there is not clear and convincing evidence that achieving the savings goals specified in paragraphs (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the

applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

(4) No later than March 1, 2029, and every 4 years thereafter, each electric utility shall file a 4-year energy efficiency plan commencing on January 1, 2030, and every 4 years thereafter, respectively, that is designed to achieve the cumulative persisting annual savings goals established by the Illinois Commerce Commission pursuant to direction of subsections (b-5) and (b-15) of this Section, as applicable, through implementation of energy efficiency measures; however, the goals may be reduced if either (1) clear and convincing evidence and independent analysis demonstrates that the expenditure limits in subsection (m) of this Section preclude full achievement of the goals or (2) each of the following conditions are met: (A) the plan's analysis and forecasts of the utility's ability to acquire energy savings demonstrate by clear and convincing evidence and through independent analysis that achievement of such goals is not cost-effective; and (B) the amount of energy savings achieved by the utility as determined by the independent

evaluator for the most recent year for which savings have been evaluated preceding the plan filing was less than the average annual amount of savings required to achieve the goals for the applicable 4-year plan period. If there is not clear and convincing evidence that achieving the savings goals specified in paragraphs (b-5) or (b-15) of this Section is possible both cost-effectively and within the expenditure limits in subsection (m), such savings goals shall not be reduced. Except as provided in subsection (m) of this Section, annual increases in cumulative persisting annual savings goals during the applicable 4-year plan period shall not be reduced to amounts that are less than the maximum amount of cumulative persisting annual savings that is forecast to be cost-effectively achievable during the 4-year plan period. The Commission shall review any proposed goal reduction as part of its review and approval of the utility's proposed plan.

Each utility's plan shall set forth the utility's proposals to meet the energy efficiency standards identified in subsection (b-5) or (b-15), as applicable and as such standards may have been modified under this subsection (f), taking into account the unique circumstances of the utility's service territory. For those plans commencing on January 1, 2018, the Commission shall seek public comment on the utility's plan and shall issue an order approving or

disapproving each plan no later than 105 days after June 1, 2017 (the effective date of Public Act 99-906). For those plans commencing after December 31, 2021, the Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 6 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of $100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund.

(g) In submitting proposed plans and funding levels under subsection (f) of this Section to meet the savings goals identified in subsection (b-5) or (b-15) of this Section, as applicable, the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the applicable requirements that are identified in subsection (b-5) or (b-15) of this Section, as modified by subsection (f) of this Section.

(2) (Blank).

(2.5) Demonstrate consideration of program options for (A) advancing new building codes, appliance standards, and municipal regulations governing existing and new building efficiency improvements and (B) supporting efforts to improve compliance with new building codes, appliance standards and municipal regulations, as potentially cost-effective means of acquiring energy savings to count toward savings goals.

(3) Demonstrate that its overall portfolio of measures, not including low-income programs described in subsection (c) of this Section, is cost-effective using the total resource cost test or complies with paragraphs (1) through (3) of subsection (f) of this Section and represents a diverse cross-section of opportunities for customers of all rate classes, other than those customers described in subsection (l) of this Section, to participate in the programs. Individual measures need not be cost effective.

(3.5) Demonstrate that the utility's plan integrates the delivery of energy efficiency programs with natural gas efficiency programs, programs promoting distributed solar, programs promoting demand response and other efforts to address bill payment issues, including, but not limited to, LIHEAP and the Percentage of Income Payment Plan, to the extent such integration is practical and has the potential to enhance customer engagement, minimize

market confusion, or reduce administrative costs.

(4) Present a third-party energy efficiency implementation program subject to the following requirements:

(A) beginning with the year commencing January 1, 2019, electric utilities that serve more than 3,000,000 retail customers in the State shall fund third-party energy efficiency programs in an amount that is no less than $25,000,000 per year, and electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State shall fund third-party energy efficiency programs in an amount that is no less than $8,350,000 per year;

(B) during 2018, the utility shall conduct a solicitation process for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more of the years commencing January 1, 2019, January 1, 2020, and January 1, 2021; for those multi-year plans commencing on January 1, 2022 and January 1, 2026, the utility shall conduct a solicitation process during 2021 and 2025, respectively, for purposes of requesting proposals from third-party vendors for those third-party energy efficiency programs to be offered during one or more

years of the respective multi-year plan period; for each solicitation process, the utility shall identify the sector, technology, or geographical area for which it is seeking requests for proposals; the solicitation process must be either for programs that fill gaps in the utility's program portfolio and for programs that target low-income customers, business sectors, building types, geographies, or other specific parts of its customer base with initiatives that would be more effective at reaching these customer segments than the utilities' programs filed in its energy efficiency plans;

(C) the utility shall propose the bidder qualifications, performance measurement process, and contract structure, which must include a performance payment mechanism and general terms and conditions; the proposed qualifications, process, and structure shall be subject to Commission approval; and

(D) the utility shall retain an independent third party to score the proposals received through the solicitation process described in this paragraph (4), rank them according to their cost per lifetime kilowatt-hours saved, and assemble the portfolio of third-party programs.

The electric utility shall recover all costs associated with Commission-approved, third-party

administered programs regardless of the success of those programs.

(4.5) Implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive. This requirement continues until December 31, 2026.

(5) Include a proposed or revised cost-recovery tariff mechanism, as provided for under subsection (d) of this Section, to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(6) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures, as well as a full review of the multi-year plan results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(7) For electric utilities that serve more than 3,000,000 retail customers in the State:

(A) Through December 31, 2025, provide for an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than the applicable annual incremental goal, then the return on equity component shall be reduced by a maximum of 200 basis points in the event that the utility achieved no more than 75% of such goal. If the utility achieved more than 75% of the applicable annual incremental goal but less than 100% of such goal, then the return on equity component shall be reduced by 8 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than the applicable annual incremental goal, then the return on equity component shall be increased by a maximum of 200 basis points in the event that the utility achieved at least 125% of such goal. If the utility achieved more than 100% of the applicable annual incremental goal but less than 125% of such goal, then the return on equity component shall be

increased by 8 basis points for each percent by which the utility achieved above the goal. If the applicable annual incremental goal was reduced under paragraph ~~paragraphs~~ (1) or (2) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 125% of the applicable annual incremental goal shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual incremental goal shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% achievement.

(B) For the period January 1, 2026 through December 31, 2029 and in all subsequent 4-year

periods, provide for an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than the applicable annual incremental goal, then the return on equity component shall be reduced by a maximum of 200 basis points in the event that the utility achieved no more than 66% of such goal. If the utility achieved more than 66% of the applicable annual incremental goal but less than 100% of such goal, then the return on equity component shall be reduced by 6 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than the applicable annual incremental goal, then the return on equity component shall be increased by a maximum of 200 basis points in the event that the utility achieved at least 134% of such goal. If the utility achieved more than 100% of the applicable annual incremental goal but less than 134% of such goal, then the return on equity component shall be

increased by 6 basis points for each percent by which the utility achieved above the goal. If the applicable annual incremental goal was reduced under paragraph (3) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 134% of the applicable annual incremental goal shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 134% but more than 100% of the applicable annual incremental goal shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 134% achievement. The 6 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 134% achievement.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph (7), if

the applicable annual incremental goal for an electric utility is ever less than 0.6% of deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015, and 2016, an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section shall be made as follows:

(i) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is less than would have been achieved had the applicable annual incremental goal been achieved, then the return on equity component shall be reduced by a maximum of 200 basis points if the utility achieved no more than 75% of its applicable annual total savings requirement as defined in paragraph (7.5) of this subsection. If the utility achieved more than 75% of the applicable annual total savings requirement but less than 100% of such goal, then the return on equity component shall be reduced by 8 basis points for each percent by which the utility failed to achieve the goal.

(ii) If the independent evaluator determines that the utility achieved a cumulative persisting annual savings that is more than would have been

achieved had the applicable annual incremental goal been achieved, then the return on equity component shall be increased by a maximum of 200 basis points if the utility achieved at least 125% of its applicable annual total savings requirement. If the utility achieved more than 100% of the applicable annual total savings requirement but less than 125% of such goal, then the return on equity component shall be increased by 8 basis points for each percent by which the utility achieved above the applicable annual total savings requirement. If the applicable annual incremental goal was reduced under paragraph (1) or (2) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in this item (ii):

(aa) the calculation for determining achievement that is at least 125% of the applicable annual total savings requirement shall use the unreduced applicable annual incremental goal to set the value; and

(bb) the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual total savings requirement shall use the reduced applicable annual incremental goal to set the

value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% achievement.

(7.5) For purposes of this Section, the term "applicable annual incremental goal" means the difference between the cumulative persisting annual savings goal for the calendar year that is the subject of the independent evaluator's determination and the cumulative persisting annual savings goal for the immediately preceding calendar year, as such goals are defined in subsections (b-5) and (b-15) of this Section and as these goals may have been modified as provided for under subsection (b-20) and paragraphs (1) through (3) of subsection (f) of this Section. Under subsections (b), (b-5), (b-10), and (b-15) of this Section, a utility must first replace energy savings from measures that have expired before any progress towards achievement of its applicable annual incremental goal may be counted. Savings may expire because measures installed in previous years have reached the end of their lives, because measures installed in previous years are producing lower savings in the current year than in the previous year, or for other reasons

identified by independent evaluators. Notwithstanding anything else set forth in this Section, the difference between the actual annual incremental savings achieved in any given year, including the replacement of energy savings that have expired, and the applicable annual incremental goal shall not affect adjustments to the return on equity for subsequent calendar years under this subsection (g).

In this Section, "applicable annual total savings requirement" means the total amount of new annual savings that the utility must achieve in any given year to achieve the applicable annual incremental goal. This is equal to the applicable annual incremental goal plus the total new annual savings that are required to replace savings that expired in or at the end of the previous year.

(8) For electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State:

(A) Through December 31, 2025, the applicable annual incremental goal shall be compared to the annual incremental savings as determined by the independent evaluator.

(i) The return on equity component shall be reduced by 8 basis points for each percent by which the utility did not achieve 84.4% of the applicable annual incremental goal.

(ii) The return on equity component shall be increased by 8 basis points for each percent by which the utility exceeded 100% of the applicable annual incremental goal.

(iii) The return on equity component shall not be increased or decreased if the annual incremental savings as determined by the independent evaluator is greater than 84.4% of the applicable annual incremental goal and less than 100% of the applicable annual incremental goal.

(iv) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this subparagraph (A).

(B) For the period of January 1, 2026 through December 31, 2029 and in all subsequent 4-year periods, the applicable annual incremental goal shall be compared to the annual incremental savings as determined by the independent evaluator.

(i) The return on equity component shall be reduced by 6 basis points for each percent by which the utility did not achieve 100% of the applicable annual incremental goal.

(ii) The return on equity component shall be increased by 6 basis points for each percent by which the utility exceeded 100% of the applicable

annual incremental goal.

(iii) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this subparagraph (B).

(C) Notwithstanding provisions in subparagraphs (A) and (B) of paragraph (7) of this subsection, if the applicable annual incremental goal for an electric utility is ever less than 0.6% of deemed average weather normalized sales of electric power and energy during calendar years 2014, 2015 and 2016, an adjustment to the return on equity component of the utility's weighted average cost of capital calculated under subsection (d) of this Section shall be made as follows:

(i) The return on equity component shall be reduced by 8 basis points for each percent by which the utility did not achieve 100% of the applicable annual total savings requirement.

(ii) The return on equity component shall be increased by 8 basis points for each percent by which the utility exceeded 100% of the applicable annual total savings requirement.

(iii) The return on equity component shall not be increased or decreased by an amount greater than 200 basis points pursuant to this

subparagraph (C).

(D) If the applicable annual incremental goal was reduced under paragraph (1), (2), (3), or (4) of subsection (f) of this Section, then the following adjustments shall be made to the calculations described in subparagraphs (A), (B), and (C) of this paragraph (8):

(i) The calculation for determining achievement that is at least 125% or 134%, as applicable, of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the unreduced applicable annual incremental goal to set the value.

(ii) For the period through December 31, 2025, the calculation for determining achievement that is less than 125% but more than 100% of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 8 basis point value shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each

percentage point value between 100% and 125% achievement.

(iii) For the period of January 1, 2026 through December 31, 2029 and all subsequent 4-year periods, the calculation for determining achievement that is less than 125% or 134%, as applicable, but more than 100% of the applicable annual incremental goal or the applicable annual total savings requirement, as applicable, shall use the reduced applicable annual incremental goal to set the value for 100% achievement of the goal and shall use the unreduced goal to set the value for 125% achievement. The 6 basis-point value or 8 basis-point value, as applicable, shall also be modified, as necessary, so that the 200 basis points are evenly apportioned among each percentage point value between 100% and 125% or between 100% and 134% achievement, as applicable.

(9) The utility shall submit the energy savings data to the independent evaluator no later than 30 days after the close of the plan year. The independent evaluator shall determine the cumulative persisting annual savings for a given plan year, as well as an estimate of job impacts and other macroeconomic impacts of the efficiency programs for that year, no later than 120 days after the close of the plan year. The utility shall submit an

informational filing to the Commission no later than 160 days after the close of the plan year that attaches the independent evaluator's final report identifying the cumulative persisting annual savings for the year and calculates, under paragraph (7) or (8) of this subsection (g), as applicable, any resulting change to the utility's return on equity component of the weighted average cost of capital applicable to the next plan year beginning with the January monthly billing period and extending through the December monthly billing period. However, if the utility recovers the costs incurred under this Section under paragraphs (2) and (3) of subsection (d) of this Section, then the utility shall not be required to submit such informational filing, and shall instead submit the information that would otherwise be included in the informational filing as part of its filing under paragraph (3) of such subsection (d) that is due on or before June 1 of each year.

For those utilities that must submit the informational filing, the Commission may, on its own motion or by petition, initiate an investigation of such filing, provided, however, that the utility's proposed return on equity calculation shall be deemed the final, approved calculation on December 15 of the year in which it is filed unless the Commission enters an order on or before December 15, after notice and hearing, that modifies such

calculation consistent with this Section.

The adjustments to the return on equity component described in paragraphs (7) and (8) of this subsection (g) shall be applied as described in such paragraphs through a separate tariff mechanism, which shall be filed by the utility under subsections (f) and (g) of this Section.

(9.5) The utility must demonstrate how it will ensure that program implementation contractors and energy efficiency installation vendors will promote workforce equity and quality jobs.

(9.6) Utilities shall collect data necessary to ensure compliance with paragraph (9.5) no less than quarterly and shall communicate progress toward compliance with paragraph (9.5) to program implementation contractors and energy efficiency installation vendors no less than quarterly. Utilities shall work with relevant vendors, providing education, training, and other resources needed to ensure compliance and, where necessary, adjusting or terminating work with vendors that cannot assist with compliance.

(10) Utilities required to implement efficiency programs under subsections (b-5) and (b-10) shall report annually to the Illinois Commerce Commission and the General Assembly on how hiring, contracting, job training, and other practices related to its energy efficiency programs enhance the diversity of vendors working on such

programs. These reports must include data on vendor and employee diversity, including data on the implementation of paragraphs (9.5) and (9.6). If the utility is not meeting the requirements of paragraphs (9.5) and (9.6), the utility shall submit a plan to adjust their activities so that they meet the requirements of paragraphs (9.5) and (9.6) within the following year.

(h) No more than 4% of energy efficiency and demand-response program revenue may be allocated for research, development, or pilot deployment of new equipment or measures. Electric utilities shall work with interested stakeholders to formulate a plan for how these funds should be spent, incorporate statewide approaches for these allocations, and file a 4-year plan that demonstrates that collaboration. If a utility files a request for modified annual energy savings goals with the Commission, then a utility shall forgo spending portfolio dollars on research and development proposals.

(i) When practicable, electric utilities shall incorporate advanced metering infrastructure data into the planning, implementation, and evaluation of energy efficiency measures and programs, subject to the data privacy and confidentiality protections of applicable law.

(j) The independent evaluator shall follow the guidelines and use the savings set forth in Commission-approved energy efficiency policy manuals and technical reference manuals, as each may be updated from time to time. Until such time as

measure life values for energy efficiency measures implemented for low-income households under subsection (c) of this Section are incorporated into such Commission-approved manuals, the low-income measures shall have the same measure life values that are established for same measures implemented in households that are not low-income households.

(k) Notwithstanding any provision of law to the contrary, an electric utility subject to the requirements of this Section may file a tariff cancelling an automatic adjustment clause tariff in effect under this Section or Section 8-103, which shall take effect no later than one business day after the date such tariff is filed. Thereafter, the utility shall be authorized to defer and recover its expenditures incurred under this Section through a new tariff authorized under subsection (d) of this Section or in the utility's next rate case under Article IX or Section 16-108.5 of this Act, with interest at an annual rate equal to the utility's weighted average cost of capital as approved by the Commission in such case. If the utility elects to file a new tariff under subsection (d) of this Section, the utility may file the tariff within 10 days after June 1, 2017 (the effective date of Public Act 99-906), and the cost inputs to such tariff shall be based on the projected costs to be incurred by the utility during the calendar year in which the new tariff is filed and that were not recovered under the tariff that was cancelled as provided for in this subsection. Such costs shall include

those incurred or to be incurred by the utility under its multi-year plan approved under subsections (f) and (g) of this Section, including, but not limited to, projected capital investment costs and projected regulatory asset balances with correspondingly updated depreciation and amortization reserves and expense. The Commission shall, after notice and hearing, approve, or approve with modification, such tariff and cost inputs no later than 75 days after the utility filed the tariff, provided that such approval, or approval with modification, shall be consistent with the provisions of this Section to the extent they do not conflict with this subsection (k). The tariff approved by the Commission shall take effect no later than 5 days after the Commission enters its order approving the tariff.

No later than 60 days after the effective date of the tariff cancelling the utility's automatic adjustment clause tariff, the utility shall file a reconciliation that reconciles the moneys collected under its automatic adjustment clause tariff with the costs incurred during the period beginning June 1, 2016 and ending on the date that the electric utility's automatic adjustment clause tariff was cancelled. In the event the reconciliation reflects an under-collection, the utility shall recover the costs as specified in this subsection (k). If the reconciliation reflects an over-collection, the utility shall apply the amount of such over-collection as a one-time credit to retail customers'

bills.

(l) For the calendar years covered by a multi-year plan commencing after December 31, 2017, subsections (a) through (j) of this Section do not apply to eligible large private energy customers that have chosen to opt out of multi-year plans consistent with this subsection (1).

(1) For purposes of this subsection (l), "eligible large private energy customer" means any retail customers, except for federal, State, municipal, and other public customers, of an electric utility that serves more than 3,000,000 retail customers, except for federal, State, municipal and other public customers, in the State and whose total highest 30 minute demand was more than 10,000 kilowatts, or any retail customers of an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State and whose total highest 15 minute demand was more than 10,000 kilowatts. For purposes of this subsection (l), "retail customer" has the meaning set forth in Section 16-102 of this Act. However, for a business entity with multiple sites located in the State, where at least one of those sites qualifies as an eligible large private energy customer, then any of that business entity's sites, properly identified on a form for notice, shall be considered eligible large private energy customers for the purposes of this subsection (l). A determination of whether this subsection

is applicable to a customer shall be made for each multi-year plan beginning after December 31, 2017. The criteria for determining whether this subsection (l) is applicable to a retail customer shall be based on the 12 consecutive billing periods prior to the start of the first year of each such multi-year plan.

(2) Within 45 days after September 15, 2021 (the effective date of Public Act 102-662) ~~this amendatory Act of the 102nd General Assembly~~, the Commission shall prescribe the form for notice required for opting out of energy efficiency programs. The notice must be submitted to the retail electric utility 12 months before the next energy efficiency planning cycle. However, within 120 days after the Commission's initial issuance of the form for notice, eligible large private energy customers may submit a form for notice to an electric utility. The form for notice for opting out of energy efficiency programs shall include all of the following:

(A) a statement indicating that the customer has elected to opt out;

(B) the account numbers for the customer accounts to which the opt out shall apply;

(C) the mailing address associated with the customer accounts identified under subparagraph (B);

(D) an American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) level 2 or

higher audit report conducted by an independent third-party expert identifying cost-effective energy efficiency project opportunities that could be invested in over the next 10 years. A retail customer with specialized processes may utilize a self-audit process in lieu of the ASHRAE audit;

(E) a description of the customer's plans to reallocate the funds toward internal energy efficiency efforts identified in the subparagraph (D) report, including, but not limited to: (i) strategic energy management or other programs, including descriptions of targeted buildings, equipment and operations; (ii) eligible energy efficiency measures; and (iii) expected energy savings, itemized by technology. If the subparagraph (D) audit report identifies that the customer currently utilizes the best available energy efficient technology, equipment, programs, and operations, the customer may provide a statement that more efficient technology, equipment, programs, and operations are not reasonably available as a means of satisfying this subparagraph (E); and

(F) the effective date of the opt out, which will be the next January 1 following notice of the opt out.

(3) Upon receipt of a properly and timely noticed request for opt out submitted by an eligible large private energy customer, the retail electric utility shall grant

the request, file the request with the Commission and, beginning January 1 of the following year, the opted out customer shall no longer be assessed the costs of the plan and shall be prohibited from participating in that 4-year plan cycle to give the retail utility the certainty to design program plan proposals.

(4) Upon a customer's election to opt out under paragraphs (1) and (2) of this subsection (l) and commencing on the effective date of said opt out, the account properly identified in the customer's notice under paragraph (2) shall not be subject to any cost recovery and shall not be eligible to participate in, or directly benefit from, compliance with energy efficiency cumulative persisting savings requirements under subsections (a) through (j).

(5) A utility's cumulative persisting annual savings targets will exclude any opted out load.

(6) The request to opt out is only valid for the requested plan cycle. An eligible large private energy customer must also request to opt out for future energy plan cycles, otherwise the customer will be included in the future energy plan cycle.

(m) Notwithstanding the requirements of this Section, as part of a proceeding to approve a multi-year plan under subsections (f) and (g) of this Section if the multi-year plan has been designed to maximize savings, but does not meet the

cost cap limitations of this Section, the Commission shall reduce the amount of energy efficiency measures implemented for any single year, and whose costs are recovered under subsection (d) of this Section, by an amount necessary to limit the estimated average net increase due to the cost of the measures to no more than

(1) 3.5% for each of the 4 years beginning January 1, 2018,

(2) (blank),

(3) 4% for each of the 4 years beginning January 1, 2022,

(4) 4.25% for the 4 years beginning January 1, 2026, and

(5) 4.25% plus an increase sufficient to account for the rate of inflation between January 1, 2026 and January 1 of the first year of each subsequent 4-year plan cycle,

of the average amount paid per kilowatthour by residential eligible retail customers during calendar year 2015. An electric utility may plan to spend up to 10% more in any year during an applicable multi-year plan period to cost-effectively achieve additional savings so long as the average over the applicable multi-year plan period does not exceed the percentages defined in items (1) through (5). To determine the total amount that may be spent by an electric utility in any single year, the applicable percentage of the average amount paid per kilowatthour shall be multiplied by

the total amount of energy delivered by such electric utility in the calendar year 2015, adjusted to reflect the proportion of the utility's load attributable to customers that have opted out of subsections (a) through (j) of this Section under subsection (l) of this Section. For purposes of this subsection (m), the amount paid per kilowatthour includes, without limitation, estimated amounts paid for supply, transmission, distribution, surcharges, and add-on taxes. For purposes of this Section, "eligible retail customers" shall have the meaning set forth in Section 16-111.5 of this Act. Once the Commission has approved a plan under subsections (f) and (g) of this Section, no subsequent rate impact determinations shall be made.

(n) A utility shall take advantage of the efficiencies available through existing Illinois Home Weatherization Assistance Program infrastructure and services, such as enrollment, marketing, quality assurance and implementation, which can reduce the need for similar services at a lower cost than utility-only programs, subject to capacity constraints at community action agencies, for both single-family and multifamily weatherization services, to the extent Illinois Home Weatherization Assistance Program community action agencies provide multifamily services. A utility's plan shall demonstrate that in formulating annual weatherization budgets, it has sought input and coordination with community action agencies regarding agencies' capacity to expand and maximize

Illinois Home Weatherization Assistance Program delivery using the ratepayer dollars collected under this Section.

(Source: P.A. 101-81, eff. 7-12-19; 102-662, eff. 9-15-21; revised 2-28-22.)

(220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

Sec. 9-220. Rate changes based on changes in fuel costs.

(a) Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses. The Commission may also authorize the increase or decrease of rates and charges based upon expenditures or revenues resulting from the purchase or sale of emission allowances created under the federal Clean Air Act Amendments of 1990, through such fuel adjustment clauses, as a cost of fuel. For the purposes of this paragraph, cost of fuel used in the generation or production of electric power shall include the amount of any fees paid by the utility for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location; but shall not include transportation costs of coal (i) except to the

extent that for contracts entered into on and after the effective date of this amendatory Act of 1997, the cost of the coal, including transportation costs, constitutes the lowest cost for adequate and reliable fuel supply reasonably available to the public utility in comparison to the cost, including transportation costs, of other adequate and reliable sources of fuel supply reasonably available to the public utility, or (ii) except as otherwise provided in the next 3 sentences of this paragraph. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this paragraph "existing coal purchase contracts" means contracts for the purchase of coal in effect on the effective date of this amendatory Act of 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract. Nothing herein shall authorize an electric utility to recover through its fuel adjustment clause any amounts of transportation costs of coal that were included in the revenue requirement used to set base rates in its most recent general rate proceeding. Cost shall be based upon uniformly applied accounting principles. Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas, power, or coal

transportation purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual costs of fuel, power, gas, or coal transportation prudently purchased. In each such proceeding, the burden of proof shall be upon the utility to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. The Commission shall issue its final order in each such annual proceeding for an electric utility by December 31 of the year immediately following the year to which the proceeding pertains, provided, that the Commission shall issue its final order with respect to such annual proceeding for the years 1996 and earlier by December 31, 1998.

(b) A public utility providing electric service, other than a public utility described in subsections (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that eliminate the public utility's fuel adjustment clause and adjust the public utility's base rate tariffs by the amount necessary for the base fuel component of the base rates to recover the public utility's average fuel and power supply costs per kilowatt-hour for the 2 most recent years for which the Commission has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings

divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified, the proposed tariff sheets within 60 days after the date of the public utility's filing. The Commission may modify the public utility's proposed tariff sheets only to the extent the Commission finds necessary to achieve conformance to the requirements of this subsection (b). During the 5 years following the date of the Commission's order, but in any event no earlier than January 1, 2007, a public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement of a fuel adjustment clause.

(c) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service, other than a public utility described in subsection (e) or (f) of this Section, may at any time during the mandatory transition period file with the Commission proposed tariff sheets that establish the

rate per kilowatt-hour to be applied pursuant to the public utility's fuel adjustment clause at the average value for such rate during the preceding 24 months, provided that such average rate results in a credit to customers' bills, without making any revisions to the public utility's base rate tariffs. The proposed tariff sheets shall establish the fuel adjustment rate for a specific time period of at least 3 years but not more than 5 years, provided that the terms and conditions for any reinstatement earlier than 5 years shall be set forth in the proposed tariff sheets and subject to modification or approval by the Commission. The Commission shall review and shall by order approve the proposed tariff sheets if it finds that the requirements of this subsection are met. The Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for the period that the factor established pursuant to this subsection is in effect.

(d) A public utility providing electric service, or a public utility providing gas service may file with the Commission proposed tariff sheets that eliminate the public utility's fuel or purchased gas adjustment clause and adjust the public utility's base rate tariffs to provide for recovery of power supply costs or gas supply costs that would have been recovered through such clause; provided, that the provisions of this subsection (d) shall not be available to a public utility described in subsections (e) or (f) of this Section to

eliminate its fuel adjustment clause. Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, the Commission shall review and shall by order approve, or approve as modified in the Commission's order, the proposed tariff sheets within 240 days after the date of the public utility's filing. The Commission's order shall approve rates and charges that the Commission, based on information in the public utility's filing or on the record if a hearing is held by the Commission, finds will recover the reasonable, prudent and necessary jurisdictional power supply costs or gas supply costs incurred or to be incurred by the public utility during a 12 month period found by the Commission to be appropriate for these purposes, provided, that such period shall be either (i) a 12 month historical period occurring during the 15 months ending on the date of the public utility's filing, or (ii) a 12 month future period ending no later than 15 months following the date of the public utility's filing. The public utility shall include with its tariff filing information showing both (1) its actual jurisdictional power supply costs or gas supply costs for a 12 month historical period conforming to (i) above and (2) its projected jurisdictional power supply costs or gas supply costs for a future 12 month period conforming to (ii) above. If the Commission's order requires modifications in the

tariff sheets filed by the public utility, the public utility shall have 7 days following the date of the order to notify the Commission whether the public utility will implement the modified tariffs or elect to continue its fuel or purchased gas adjustment clause in force as though no order had been entered. The Commission's order shall provide for any reconciliation of power supply costs or gas supply costs, as the case may be, and associated revenues through the date that the public utility's fuel or purchased gas adjustment clause is eliminated. During the 5 years following the date of the Commission's order, a public utility whose fuel or purchased gas adjustment clause has been eliminated pursuant to this subsection shall not file proposed tariff sheets seeking, or otherwise petition the Commission for, reinstatement or adoption of a fuel or purchased gas adjustment clause. Nothing in this subsection (d) shall be construed as limiting the Commission's authority to eliminate a public utility's fuel adjustment clause or purchased gas adjustment clause in accordance with any other applicable provisions of this Act.

(e) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of this Section, or in any rules promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission

proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause without adjusting its base rates, and such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months; provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(f) Notwithstanding any contrary or inconsistent provisions in Section 9-201 of this Act, in subsection (a) of

this Section, or in any rules or regulations promulgated by the Commission pursuant to subsection (g) of this Section, a public utility providing electric service to more than 500,000 customers but fewer than 1,000,000 customers in this State may, within the first 6 months after the effective date of this amendatory Act of 1997, file with the Commission proposed tariff sheets that eliminate, effective January 1, 1997, the public utility's fuel adjustment clause and adjust its base rates by the amount necessary for the base fuel component of the base rates to recover 91% of the public utility's average fuel and power supply costs for the 2 most recent years for which the Commission, as of January 1, 1997, has issued final orders in annual proceedings pursuant to subsection (a), where the average fuel and power supply costs per kilowatt-hour shall be calculated as the sum of the public utility's prudent and allowable fuel and power supply costs as found by the Commission in the 2 proceedings divided by the public utility's actual jurisdictional kilowatt-hour sales for those 2 years, provided, that such tariff sheets shall be effective upon filing. To the extent the application of the fuel adjustment clause had resulted in net charges to customers after January 1, 1997, the utility shall also file a tariff sheet that provides for a refund stated on a per kilowatt-hour basis of such charges over a period not to exceed 6 months. Provided however, that such refund shall not include the proportional amounts of taxes paid under the Use Tax Act,

Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act on fuel used in generation. The Commission shall issue an order within 45 days after the date of the public utility's filing approving or approving as modified such tariff sheet. If the fuel adjustment clause is eliminated pursuant to this subsection, the Commission shall not conduct the annual hearings specified in the last 3 sentences of subsection (a) of this Section for the utility for any period after December 31, 1996 and prior to any reinstatement of such clause. A public utility whose fuel adjustment clause has been eliminated pursuant to this subsection shall not file a proposed tariff sheet seeking, or otherwise petition the Commission for, reinstatement of the fuel adjustment clause prior to January 1, 2007.

(g) The Commission shall have authority to promulgate rules and regulations to carry out the provisions of this Section.

(h) Any Illinois gas utility may enter into a contract on or before September 30, 2011 for up to 10 years of supply with any company for the purchase of substitute natural gas (SNG) produced from coal through the gasification process if the company has commenced construction of a clean coal SNG facility by July 1, 2012 and commencement of construction shall mean that material physical site work has occurred, such as site clearing and excavation, water runoff prevention, water retention reservoir preparation, or foundation

development. The contract shall contain the following provisions: (i) at least 90% of feedstock to be used in the gasification process shall be coal with a high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content; (ii) at the time the contract term commences, the price per million Btu may not exceed $7.95 in 2008 dollars, adjusted annually based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics (or a suitable Consumer Price Index calculation if this Consumer Price Index is not available) for the previous calendar year; provided that the price per million Btu shall not exceed $9.95 at any time during the contract; (iii) the utility's supply contract for the purchase of SNG does not exceed 15% of the annual system supply requirements of the utility as of 2008; and (iv) the contract costs pursuant to subsection (h-10) of this Section shall not include any lobbying expenses, charitable contributions, advertising, organizational memberships, carbon dioxide pipeline or sequestration expenses, or marketing expenses.

Any gas utility that is providing service to more than 150,000 customers on August 2, 2011 (the effective date of Public Act 97-239) shall either elect to enter into a contract on or before September 30, 2011 for 10 years of SNG supply with the owner of a clean coal SNG facility or to file biennial rate

proceedings before the Commission in the years 2012, 2014, and 2016, with such filings made after August 2, 2011 and no later than September 30 of the years 2012, 2014, and 2016 consistent with all requirements of 83 Ill. Adm. Code 255 and 285 as though the gas utility were filing for an increase in its rates, without regard to whether such filing would produce an increase, a decrease, or no change in the gas utility's rates, and the Commission shall review the gas utility's filing and shall issue its order in accordance with the provisions of Section 9-201 of this Act.

Within 7 days after August 2, 2011, the owner of the clean coal SNG facility shall submit to the Illinois Power Agency and each gas utility that is providing service to more than 150,000 customers on August 2, 2011 a copy of a draft contract. Within 30 days after the receipt of the draft contract, each such gas utility shall provide the Illinois Power Agency and the owner of the clean coal SNG facility with its comments and recommended revisions to the draft contract. Within 7 days after the receipt of the gas utility's comments and recommended revisions, the owner of the facility shall submit its responsive comments and a further revised draft of the contract to the Illinois Power Agency. The Illinois Power Agency shall review the draft contract and comments.

During its review of the draft contract, the Illinois Power Agency shall:

(1) review and confirm in writing that the terms

stated in this subsection (h) are incorporated in the SNG contract;

(2) review the SNG pricing formula included in the contract and approve that formula if the Illinois Power Agency determines that the formula, at the time the contract term commences: (A) starts with a price of $6.50 per MMBtu adjusted by the adjusted final capitalized plant cost; (B) takes into account budgeted miscellaneous net revenue after cost allowance, including sale of SNG produced by the clean coal SNG facility above the nameplate capacity of the facility and other by-products produced by the facility, as approved by the Illinois Power Agency; (C) does not include carbon dioxide transportation or sequestration expenses; and (D) includes all provisions required under this subsection (h); if the Illinois Power Agency does not approve of the SNG pricing formula, then the Illinois Power Agency shall modify the formula to ensure that it meets the requirements of this subsection (h);

(3) review and approve the amount of budgeted miscellaneous net revenue after cost allowance, including sale of SNG produced by the clean coal SNG facility above the nameplate capacity of the facility and other by-products produced by the facility, to be included in the pricing formula; the Illinois Power Agency shall approve the amount of budgeted miscellaneous net revenue

to be included in the pricing formula if it determines the budgeted amount to be reasonable and accurate;

(4) review and confirm in writing that using the EIA Annual Energy Outlook-2011 Henry Hub Spot Price, the contract terms set out in subsection (h), the reconciliation account terms as set out in subsection (h-15), and an estimated inflation rate of 2.5% for each corresponding year, that there will be no cumulative estimated increase for residential customers; and

(5) allocate the nameplate capacity of the clean coal SNG by total therms sold to ultimate customers by each gas utility in 2008; provided, however, no utility shall be required to purchase more than 42% of the projected annual output of the facility; additionally, the Illinois Power Agency shall further adjust the allocation only as required to take into account (A) adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any gas utility or (B) the physical capacity of the gas utility to accept SNG.

If the parties to the contract do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the contract, then the Illinois Power Agency shall approve the contract. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the

draft contract as necessary to confirm that the contract contains only terms that are reasonable and equitable. The Illinois Power Agency may, in its discretion, retain an independent, qualified, and experienced expert to assist in its obligations under this subsection (h). The Illinois Power Agency shall adopt and make public policies detailing the processes for retaining a mediator and an expert under this subsection (h). Any mediator or expert retained under this subsection (h) shall be retained no later than 60 days after August 2, 2011.

The Illinois Power Agency shall complete all of its responsibilities under this subsection (h) within 60 days after August 2, 2011. The clean coal SNG facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h) and shall pay the mediator's and expert's reasonable fees, if any. A gas utility and its customers shall have no obligation to reimburse the clean coal SNG facility or the Illinois Power Agency of any such costs.

Within 30 days after commercial production of SNG has begun, the Commission shall initiate a review to determine whether the final capitalized plant cost of the clean coal SNG facility reflects actual incurred costs and whether the incurred costs were reasonable. In determining the actual incurred costs included in the final capitalized plant cost and the reasonableness of those costs, the Commission may in

its discretion retain independent, qualified, and experienced experts to assist in its determination. The expert shall not own or control any direct or indirect interest in the clean coal SNG facility and shall have no contractual relationship with the clean coal SNG facility. If an expert is retained by the Commission, then the clean coal SNG facility shall pay the expert's reasonable fees. The fees shall not be passed on to a utility or its customers. The Commission shall adopt and make public a policy detailing the process for retaining experts under this subsection (h).

Within 30 days after completion of its review, the Commission shall initiate a formal proceeding on the final capitalized plant cost of the clean coal SNG facility at which comments and testimony may be submitted by any interested parties and the public. If the Commission finds that the final capitalized plant cost includes costs that were not actually incurred or costs that were unreasonably incurred, then the Commission shall disallow the amount of non-incurred or unreasonable costs from the SNG price under contracts entered into under this subsection (h). If the Commission disallows any costs, then the Commission shall adjust the SNG price using the price formula in the contract approved by the Illinois Power Agency under this subsection (h) to reflect the disallowed costs and shall enter an order specifying the revised price. In addition, the Commission's order shall direct the clean coal SNG facility to issue refunds of such

sums as shall represent the difference between actual gross revenues and the gross revenue that would have been obtained based upon the same volume, from the price revised by the Commission. Any refund shall include interest calculated at a rate determined by the Commission and shall be returned according to procedures prescribed by the Commission.

Nothing in this subsection (h) shall preclude any party affected by a decision of the Commission under this subsection (h) from seeking judicial review of the Commission's decision.

(h-1) Any Illinois gas utility may enter into a sourcing agreement for up to 30 years of supply with the clean coal SNG brownfield facility if the clean coal SNG brownfield facility has commenced construction. Any gas utility that is providing service to more than 150,000 customers on July 13, 2011 (the effective date of Public Act 97-096) shall either elect to file biennial rate proceedings before the Commission in the years 2012, 2014, and 2016 or enter into a sourcing agreement or sourcing agreements with a clean coal SNG brownfield facility with an initial term of 30 years for either (i) a percentage of 43,500,000,000 cubic feet per year, such that the utilities entering into sourcing agreements with the clean coal SNG brownfield facility purchase 100%, allocated by total therms sold to ultimate customers by each gas utility in 2008 or (ii) such lesser amount as may be available from the clean coal SNG brownfield facility; provided that no utility shall be required to purchase more than 42% of the projected annual

output of the clean coal SNG brownfield facility, with the remainder of such utility's obligation to be divided proportionately between the other utilities, and provided that the Illinois Power Agency shall further adjust the allocation only as required to take into account adverse consolidation, derivative, or lease impacts to the balance sheet or income statement of any gas utility.

A gas utility electing to file biennial rate proceedings before the Commission must file a notice of its election with the Commission within 60 days after July 13, 2011 or its right to make the election is irrevocably waived. A gas utility electing to file biennial rate proceedings shall make such filings no later than August 1 of the years 2012, 2014, and 2016, consistent with all requirements of 83 Ill. Adm. Code 255 and 285 as though the gas utility were filing for an increase in its rates, without regard to whether such filing would produce an increase, a decrease, or no change in the gas utility's rates, and notwithstanding any other provisions of this Act, the Commission shall fully review the gas utility's filing and shall issue its order in accordance with the provisions of Section 9-201 of this Act, regardless of whether the Commission has approved a formula rate for the gas utility.

Within 15 days after July 13, 2011, the owner of the clean coal SNG brownfield facility shall submit to the Illinois Power Agency and each gas utility that is providing service to

more than 150,000 customers on July 13, 2011 a copy of a draft sourcing agreement. Within 45 days after receipt of the draft sourcing agreement, each such gas utility shall provide the Illinois Power Agency and the owner of a clean coal SNG brownfield facility with its comments and recommended revisions to the draft sourcing agreement. Within 15 days after the receipt of the gas utility's comments and recommended revisions, the owner of the clean coal SNG brownfield facility shall submit its responsive comments and a further revised draft of the sourcing agreement to the Illinois Power Agency. The Illinois Power Agency shall review the draft sourcing agreement and comments.

If the parties to the sourcing agreement do not agree on the terms therein, then the Illinois Power Agency shall retain an independent mediator to mediate the dispute between the parties. If the parties are in agreement on the terms of the sourcing agreement, the Illinois Power Agency shall approve the final draft sourcing agreement. If after mediation the parties have failed to come to agreement, then the Illinois Power Agency shall revise the draft sourcing agreement as necessary to confirm that the final draft sourcing agreement contains only terms that are reasonable and equitable. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this subsection (h-1). Any mediator retained to assist with mediating disputes between the parties regarding the sourcing

agreement shall be retained no later than 60 days after July 13, 2011.

Upon approval of a final draft agreement, the Illinois Power Agency shall submit the final draft agreement to the Capital Development Board and the Commission no later than 90 days after July 13, 2011. The gas utility and the clean coal SNG brownfield facility shall pay a reasonable fee as required by the Illinois Power Agency for its services under this subsection (h-1) and shall pay the mediator's reasonable fees, if any. The Illinois Power Agency shall adopt and make public a policy detailing the process for retaining a mediator under this Section.

The sourcing agreement between a gas utility and the clean coal SNG brownfield facility shall contain the following provisions:

(1) Any and all coal used in the gasification process must be coal that has high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content.

(2) Coal and petroleum coke are feedstocks for the gasification process, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver net consumer savings, in which case the facility shall use coal for at least 35% of the total feedstock over the term of any sourcing agreement and with the feedstocks

to be procured in accordance with requirements of Section 1-78 of the Illinois Power Agency Act.

(3) The sourcing agreement has an initial term that once entered into terminates no more than 30 years after the commencement of the commercial production of SNG at the clean coal SNG brownfield facility.

(4) The clean coal SNG brownfield facility guarantees a minimum of $100,000,000 in consumer savings to customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement, to be provided in accordance with subsection (h-2) of this Section.

(5) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to this subsection (h-1), with cash principal in the amount of $150,000,000. This cash principal shall only be recoverable through the consumer protection reserve account and not as a cost to be recovered in the delivered

SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield facility, the utilities, and the Commission in an interest-bearing account in accordance with subsection (h-2) of this Section.

"Consumer protection reserve account principal maximum amount" shall mean the maximum amount of principal to be maintained in the consumer protection reserve account. During the first 2 years of operation of the facility, there shall be no consumer protection reserve account maximum amount. After the first 2 years of operation of the facility, the consumer protection reserve account maximum amount shall be $150,000,000. After 5 years of operation, and every 5 years thereafter, the trustee shall calculate the 5-year average balance of the consumer protection reserve account. If the trustee determines that during the prior 5 years the consumer protection reserve account has had an average account balance of less than $75,000,000, then the consumer protection reserve account principal maximum amount shall be increased by $5,000,000. If the trustee determines that during the prior 5 years the consumer protection reserve account has had an average account balance of more than $75,000,000, then the consumer protection reserve account principal maximum

amount shall be decreased by $5,000,000.

(6) The clean coal SNG brownfield facility shall identify and sell economically viable by-products produced by the facility.

(7) Fifty percent of all additional net revenue, defined as miscellaneous net revenue from products produced by the facility and delivered during the month after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account pursuant to subsection (h-2) of this Section.

(8) The delivered SNG price per million btu to be paid monthly by the utility to the clean coal SNG brownfield facility, which shall be based only upon the following: (A) a capital recovery charge, operations and maintenance costs, and sequestration costs, only to the extent approved by the Commission pursuant to paragraphs (1), (2), and (3) of subsection (h-3) of this Section; (B) the actual delivered and processed fuel costs pursuant to paragraph (4) of subsection (h-3) of this Section; (C) actual costs of SNG transportation pursuant to paragraph (6) of subsection (h-3) of this Section; (D) certain taxes

and fees imposed by the federal government, the State, or any unit of local government as provided in paragraph (6) of subsection (h-3) of this Section; and (E) the credit, if any, from the consumer protection reserve account pursuant to subsection (h-2) of this Section. The delivered SNG price per million Btu shall proportionately reflect these elements over the term of the sourcing agreement.

(9) A formula to translate the recoverable costs and charges under subsection (h-3) of this Section into the delivered SNG price per million btu.

(10) Title to the SNG shall pass at a mutually agreeable point in Illinois, and may provide that, rather than the utility taking title to the SNG, a mutually agreed upon third-party gas marketer pursuant to a contract approved by the Illinois Power Agency or its designee may take title to the SNG pursuant to an agreement between the utility, the owner of the clean coal SNG brownfield facility, and the third-party gas marketer.

(11) A utility may exit the sourcing agreement without penalty if the clean coal SNG brownfield facility does not commence construction by July 1, 2015.

(12) A utility is responsible to pay only the Commission determined unit price cost of SNG that is purchased by the utility. Nothing in the sourcing agreement will obligate a utility to invest capital in a

clean coal SNG brownfield facility.

(13) The quality of SNG must, at a minimum, be equivalent to the quality required for interstate pipeline gas before a utility is required to accept and pay for SNG gas.

(14) Nothing in the sourcing agreement will require a utility to construct any facilities to accept delivery of SNG. Provided, however, if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline, then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Any costs incurred by the utility to receive, deliver, manage, or otherwise accommodate purchases under the SNG sourcing agreement will be fully recoverable through a utility's purchased gas adjustment clause rider mechanism in conjunction with a SNG brownfield facility rider mechanism. The SNG brownfield facility rider mechanism (A) shall be applicable to all customers who receive transportation service from the utility, (B) shall be designed to have an equal percent impact on the transportation services rates of each class of the utility's customers, and (C) shall accurately reflect the net consumer savings, if any, and above-market costs, if any, associated with the utility receiving, delivering, managing, or otherwise accommodating purchases under the

SNG sourcing agreement.

(15) Remedies for the clean coal SNG brownfield facility's failure to deliver a designated amount for a designated period.

(16) The clean coal SNG brownfield facility shall make a good faith effort to ensure that an amount equal to not less than 15% of the value of its prime construction contract for the facility shall be established as a goal to be awarded to minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person with a disability; provided that at least 75% of the amount of such total goal shall be for minority-owned businesses. "Minority-owned business", "women-owned business", "veteran-owned businesses", and "business owned by a person with a disability" shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(17) Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall file with the Commission a certificate from an independent engineer that the clean coal SNG brownfield facility has (A) obtained all applicable State and federal environmental permits required for construction; (B) obtained approval from the Commission of a carbon capture and sequestration plan; and

(C) obtained all necessary permits required for construction for the transportation and sequestration of carbon dioxide as set forth in the Commission-approved carbon capture and sequestration plan.

(h-2) Consumer protection reserve account. The clean coal SNG brownfield facility shall guarantee a minimum of $100,000,000 in consumer savings to customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility, calculated in real 2010 dollars at the conclusion of the term of the sourcing agreement by comparing the delivered SNG price to the Chicago City-gate price on a weighted daily basis for each day over the entire term of the sourcing agreement. Prior to the clean coal SNG brownfield facility issuing a notice to proceed to construction, the clean coal SNG brownfield facility shall establish a consumer protection reserve account for the benefit of the retail customers of the utilities that have entered into sourcing agreements with the clean coal SNG brownfield facility pursuant to subsection (h-1), with cash principal in the amount of $150,000,000. Such cash principal shall only be recovered through the consumer protection reserve account and not as a cost to be recovered in the delivered SNG price pursuant to subsection (h-3) of this Section. The consumer protection reserve account shall be maintained and administered by an independent trustee that is mutually agreed upon by the clean coal SNG brownfield

facility, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG brownfield facility monthly shall calculate (A) the difference between the monthly delivered SNG price and the Chicago City-gate price, by comparing the delivered SNG price, which shall include the cost of transportation to the delivery point, if any, to the Chicago City-gate price on a weighted daily basis for each day of the prior month based upon a mutually agreed upon published index and (B) the overage amount, if any, by calculating the annualized incremental additional cost, if any, of the delivered SNG in excess of 2.015% of the average annual inflation-adjusted amounts paid by all gas distribution customers in connection with natural gas service during the 5 years ending May 31, 2010.

(2) During the first 2 years of operation of the facility:

(A) to the extent there is an overage amount, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the overage amount; and

(B) to the extent the monthly delivered SNG price is less than or equal to the Chicago City-gate price, the utility shall credit the difference between the monthly delivered SNG price and the monthly Chicago City-gate price, if any, to the consumer protection

reserve account. Such credit issued pursuant to this paragraph (B) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(3) After 2 years of operation of the facility, and monthly, on an on-going basis, thereafter:

(A) to the extent that the monthly delivered SNG price is less than or equal to the Chicago City-gate price, calculated using the weighted average of the daily Chicago City-gate price on a daily basis over the entire month, the utility shall credit the difference, if any, to the consumer protection reserve account. Such credit issued pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to a Commission prudence review;

(B) any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum amount shall be distributed as follows: (i) if retail customers have not realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term of the sourcing agreement to date, then 50% of any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum shall be distributed

to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers, and (ii) if retail customers have realized net consumer savings, then 100% of any amounts in the consumer protection reserve account in excess of the consumer protection reserve account principal maximum shall be distributed to the clean coal SNG brownfield facility; provided, however, that under no circumstances shall the total cumulative amount distributed to the clean coal SNG brownfield facility under this subparagraph (B) exceed $150,000,000;

(C) to the extent there is an overage amount, after distributing the amounts pursuant to subparagraph (B) of this paragraph (3), if any, the consumer protection reserve account shall be used to provide a credit to reduce the SNG price by an amount equal to the overage amount;

(D) if retail customers have realized net consumer savings, calculated by comparing the delivered SNG price to the weighted average of the daily Chicago City-gate price on a daily basis over the entire term of the sourcing agreement to date, then after distributing the amounts pursuant to subparagraphs (B) and (C) of this paragraph (3), 50% of any additional amounts in the consumer protection reserve account in

excess of the consumer protection reserve account principal maximum shall be distributed to the clean coal SNG brownfield facility, with the remaining 50% of any such additional amounts being credited to retail customers; provided, however, that if retail customers have not realized such net consumer savings, no such distribution shall be made to the clean coal SNG brownfield facility, and 100% of such additional amounts shall be credited to the retail customers to the extent the consumer protection reserve account exceeds the consumer protection reserve account principal maximum amount.

(4) Fifty percent of all additional net revenue, defined as miscellaneous net revenue after cost allowance for costs associated with additional net revenue that are not otherwise recoverable pursuant to subsection (h-3) of this Section, including net revenue from sales of substitute natural gas derived from the facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the consumer protection reserve account.

(5) At the conclusion of the term of the sourcing agreement, to the extent retail customers have not saved the minimum of $100,000,000 in consumer savings as guaranteed in this subsection (h-2), amounts in the consumer protection reserve account shall be credited to

retail customers to the extent the retail customers have saved the minimum of $100,000,000; 50% of any additional amounts in the consumer protection reserve account shall be distributed to the company, and the remaining 50% shall be distributed to retail customers.

(6) If, at the conclusion of the term of the sourcing agreement, the customers have not saved the minimum $100,000,000 in savings as guaranteed in this subsection (h-2) and the consumer protection reserve account has been depleted, then the clean coal SNG brownfield facility shall be liable for any remaining amount owed to the retail customers to the extent that the customers are provided with the $100,000,000 in savings as guaranteed in this subsection (h-2). The retail customers shall have first priority in recovering that debt above any creditors, except the original senior secured lender to the extent that the original senior secured lender has any senior secured debt outstanding, including any clean coal SNG brownfield facility parent companies or affiliates.

(7) The clean coal SNG brownfield facility, the utilities, and the trustee shall work together to take commercially reasonable steps to minimize the tax impact of these transactions, while preserving the consumer benefits.

(8) The clean coal SNG brownfield facility shall each month, starting in the facility's first year of commercial

operation, file with the Commission, in such form as the Commission shall require, a report as to the consumer protection reserve account. The monthly report must contain the following information:

(A) the extent the monthly delivered SNG price is greater than, less than, or equal to the Chicago City-gate price;

(B) the amount credited or debited to the consumer protection reserve account during the month;

(C) the amounts credited to consumers and distributed to the clean coal SNG brownfield facility during the month;

(D) the total amount of the consumer protection reserve account at the beginning and end of the month;

(E) the total amount of consumer savings to date;

(F) a confidential summary of the inputs used to calculate the additional net revenue; and

(G) any other additional information the Commission shall require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG brownfield facility to amend the report within 30 days, and, before or after the termination of the 30-day period, the Commission may examine the trustee of the consumer protection reserve account or the officers, agents,

employees, books, records, or accounts of the clean coal SNG brownfield facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall be under oath.

All reports made to the Commission by the clean coal SNG brownfield facility and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file a report required under this paragraph (8) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days from the time it is lawfully required to do so, or within such further time not to exceed 90 days as may in its discretion be allowed by the Commission, shall pay a penalty of $500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholds or fails to provide material information to which the Commission is

entitled under this paragraph (8) and which information is either required to be filed by statute, rule, regulation, order, or decision of the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be guilty of a Class A misdemeanor.

(h-3) Recoverable costs and revenue by the clean coal SNG brownfield facility.

(1) A capital recovery charge approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under a sourcing agreement. The capital recovery charge shall be comprised of capital costs and a reasonable rate of return. "Capital costs" means costs to be incurred in connection with the construction and development of a facility, as defined in Section 1-10 of the Illinois Power Agency Act, and such other costs as the Capital Development Board deems appropriate to be recovered in the capital recovery charge.

(A) Capital costs. The Capital Development Board shall calculate a range of capital costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. In making this determination, the Capital Development Board shall review the facility cost report, if any, of the clean coal SNG brownfield

facility, adjusting the results based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics, the final draft of the sourcing agreement, and the rate of return approved by the Commission. In addition, the Capital Development Board may consult as much as it deems necessary with the clean coal SNG brownfield facility and conduct whatever research and investigation it deems necessary.

The Capital Development Board shall retain an engineering expert to assist in determining both the range of capital costs and the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. Provided, however, that such expert shall: (i) not have been involved in the clean coal SNG brownfield facility's facility cost report, if any, (ii) not own or control any direct or indirect interest in the initial clean coal facility, and (iii) have no contractual relationship with the clean coal SNG brownfield facility. In order to qualify as an independent expert, a person or company must have:

(i) direct previous experience conducting

front-end engineering and design studies for large-scale energy facilities and administering large-scale energy operations and maintenance contracts, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(ii) an advanced degree in economics, mathematics, engineering, or a related area of study;

(iii) ten years of experience in the energy sector, including construction and risk management experience;

(iv) expertise in assisting companies with obtaining financing for large-scale energy projects, which may be particularized to the specific type of financing associated with the clean coal SNG brownfield facility;

(v) expertise in operations and maintenance which may be particularized to the specific type of operations and maintenance associated with the clean coal SNG brownfield facility;

(vi) expertise in credit and contract protocols;

(vii) adequate resources to perform and fulfill the required functions and responsibilities; and

(viii) the absence of a conflict of interest and inappropriate bias for or against an affected gas utility or the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of capital costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after July 13, 2011 (the effective date of Public Act 97-096). The clean coal SNG brownfield facility shall submit to the Commission its estimate of the capital costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of capital costs submitted by the Capital Development Board.

In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. In the event that the estimate submitted by

the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of capital costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of capital costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the capital costs for the clean coal SNG brownfield facility.

The Capital Development Board shall monitor the construction of the clean coal SNG brownfield facility for the full duration of construction to assess potential cost overruns. The Capital Development Board, in its discretion, may retain an expert to facilitate such monitoring. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers. If an expert is retained by the Capital Development Board for monitoring of construction, then the clean coal SNG brownfield facility must pay for the expert's

reasonable fees and such costs shall not be passed through to a utility or its customers.

(B) Rate of Return. No later than 30 days after the date on which the Illinois Power Agency submits a final draft sourcing agreement, the Commission shall hold a public hearing to determine the rate of return to be recovered under the sourcing agreement. Rate of return shall be comprised of the clean coal SNG brownfield facility's actual cost of debt, including mortgage-style amortization, and a reasonable return on equity. The Commission shall post notice of the hearing on its website no later than 10 days prior to the date of the hearing. The Commission shall provide the public and all interested parties, including the gas utilities, the Attorney General, and the Illinois Power Agency, an opportunity to be heard.

In determining the return on equity, the Commission shall select a commercially reasonable return on equity taking into account the return on equity being received by developers of similar facilities in or outside of Illinois, the need to balance an incentive for clean-coal technology with the need to protect ratepayers from high gas prices, the risks being borne by the clean coal SNG brownfield facility in the final draft sourcing agreement, and any other information that the Commission may deem

relevant. The Commission may establish a return on equity that varies with the amount of savings, if any, to customers during the term of the sourcing agreement, comparing the delivered SNG price to a daily weighted average price of natural gas, based upon an index. The Illinois Power Agency shall recommend a return on equity to the Commission using the same criteria. Within 60 days after receiving the final draft sourcing agreement from the Illinois Power Agency, the Commission shall approve the rate of return for the clean coal brownfield facility. Within 30 days after obtaining debt financing for the clean coal SNG brownfield facility, the clean coal SNG brownfield facility shall file a notice with the Commission identifying the actual cost of debt.

(2) Operations and maintenance costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement. The operations and maintenance costs mean costs that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the clean coal SNG brownfield facility's physical plant.

The Capital Development Board shall calculate a range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement, incorporating an

inflation index or combination of inflation indices to most accurately reflect the actual costs of operating the clean coal SNG brownfield facility. In making this determination, the Capital Development Board shall review the facility cost report, if any, of the clean coal SNG brownfield facility, adjusting the results for inflation based on the change in the Annual Consumer Price Index for All Urban Consumers for the Midwest Region as published in April by the United States Department of Labor, Bureau of Labor Statistics, the final draft of the sourcing agreement, and the rate of return approved by the Commission. In addition, the Capital Development Board may consult as much as it deems necessary with the clean coal SNG brownfield facility and conduct whatever research and investigation it deems necessary. As set forth in subparagraph (A) of paragraph (1) of this subsection (h-3), the Capital Development Board shall retain an independent engineering expert to assist in determining both the range of operations and maintenance costs that it believes would be reasonable for the clean coal SNG brownfield facility to recover under the sourcing agreement. The clean coal SNG brownfield facility and the Illinois Power Agency shall cooperate with the Capital Development Board in any investigation it deems necessary. The Capital Development Board shall make its final determination of the range of operations and maintenance

costs confidentially and shall submit that range to the Commission in a confidential filing within 120 days after July 13, 2011.

The clean coal SNG brownfield facility shall submit to the Commission its estimate of the operations and maintenance costs to be recovered under the sourcing agreement. Only after the clean coal SNG brownfield facility has submitted this estimate shall the Commission publicly announce the range of operations and maintenance costs submitted by the Capital Development Board. In the event that the estimate submitted by the clean coal SNG brownfield facility is within or below the range submitted by the Capital Development Board, the clean coal SNG brownfield facility's estimate shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. In the event that the estimate submitted by the clean coal SNG brownfield facility is above the range submitted by the Capital Development Board, the amount of operations and maintenance costs at the lowest end of the range submitted by the Capital Development Board shall be approved by the Commission as the amount of operations and maintenance costs to be recovered under the sourcing agreement. Within 15 days after the Capital Development Board has submitted its range and the clean coal SNG brownfield facility has submitted its estimate, the Commission shall approve the

operations and maintenance costs for the clean coal SNG brownfield facility.

The clean coal SNG brownfield facility shall pay for the independent engineering expert's reasonable fees and such costs shall not be passed through to a utility or its customers. The clean coal SNG brownfield facility shall pay a reasonable fee as required by the Capital Development Board for the Capital Development Board's services under this subsection (h-3) to be deposited into the Capital Development Board Revolving Fund, and such fee shall not be passed through to a utility or its customers.

(3) Sequestration costs approved by the Commission shall be recoverable by the clean coal SNG brownfield facility. "Sequestration costs" means costs to be incurred by the clean coal SNG brownfield facility in accordance with its Commission-approved carbon capture and sequestration plan to:

(A) capture carbon dioxide;

(B) build, operate, and maintain a sequestration site in which carbon dioxide may be injected;

(C) build, operate, and maintain a carbon dioxide pipeline; and

(D) transport the carbon dioxide to the sequestration site or a pipeline.

The Commission shall assess the prudency of the sequestration costs for the clean coal SNG brownfield

facility before construction commences at the sequestration site or pipeline. Any revenues the clean coal SNG brownfield facility receives as a result of the capture, transportation, or sequestration of carbon dioxide shall be first credited against all sequestration costs, with the positive balance, if any, treated as additional net revenue.

The Commission may, in its discretion, retain an expert to assist in its review of sequestration costs. The clean coal SNG brownfield facility shall pay for the expert's reasonable fees if an expert is retained by the Commission, and such costs shall not be passed through to a utility or its customers. Once made, the Commission's determination of the amount of recoverable sequestration costs shall not be increased unless the clean coal SNG brownfield facility can show by clear and convincing evidence that (i) the costs were not reasonably foreseeable; (ii) the costs were due to circumstances beyond the clean coal SNG brownfield facility's control; and (iii) the clean coal SNG brownfield facility took all reasonable steps to mitigate the costs. If the Commission determines that sequestration costs may be increased, the Commission shall provide for notice and a public hearing for approval of the increased sequestration costs.

(4) Actual delivered and processed fuel costs shall be set by the Illinois Power Agency through a SNG feedstock

procurement, pursuant to Sections 1-20, 1-77, and 1-78 of the Illinois Power Agency Act, to be performed at least every 5 years and purchased by the clean coal SNG brownfield facility pursuant to feedstock procurement contracts developed by the Illinois Power Agency, with coal comprising at least 50% of the total feedstock over the term of the sourcing agreement and petroleum coke comprising the remainder of the SNG feedstock. If the Commission fails to approve a feedstock procurement plan or fails to approve the results of a feedstock procurement event, then the fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement. If a supplier defaults under the terms of a procurement contract, then the Illinois Power Agency shall immediately initiate a feedstock procurement process to obtain a replacement supply, and, prior to the conclusion of that process, fuel shall be purchased by the company month-by-month on the spot market and those actual delivered and processed fuel costs shall be recoverable under the sourcing agreement.

(5) Taxes and fees imposed by the federal government, the State, or any unit of local government applicable to the clean coal SNG brownfield facility, excluding income tax, shall be recoverable by the clean coal SNG brownfield facility under the sourcing agreement to the extent such

taxes and fees were not applicable to the facility on July 13, 2011.

(6) The actual transportation costs, in accordance with the applicable utility's tariffs, and third-party marketer costs incurred by the company, if any, associated with transporting the SNG from the clean coal SNG brownfield facility to the Chicago City-gate to sell such SNG into the natural gas markets shall be recoverable under the sourcing agreement.

(7) Unless otherwise provided, within 30 days after a decision of the Commission on recoverable costs under this Section, any interested party to the Commission's decision may apply for a rehearing with respect to the decision. The Commission shall receive and consider the application for rehearing and shall grant or deny the application in whole or in part within 20 days after the date of the receipt of the application by the Commission. If no rehearing is applied for within the required 30 days or an application for rehearing is denied, then the Commission decision shall be final. If an application for rehearing is granted, then the Commission shall hold a rehearing within 30 days after granting the application. The decision of the Commission upon rehearing shall be final.

Any person affected by a decision of the Commission under this subsection (h-3) may have the decision reviewed only under and in accordance with the Administrative

Review Law. Unless otherwise provided, the provisions of the Administrative Review Law, all amendments and modifications to that Law, and the rules adopted pursuant to that Law shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Commission under this subsection (h-3). The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(8) The Capital Development Board shall adopt and make public a policy detailing the process for retaining experts under this Section. Any experts retained to assist with calculating the range of capital costs or operations and maintenance costs shall be retained no later than 45 days after July 13, 2011.

(h-4) No later than 90 days after the Illinois Power Agency submits the final draft sourcing agreement pursuant to subsection (h-1), the Commission shall approve a sourcing agreement containing (i) the capital costs, rate of return, and operations and maintenance costs established pursuant to subsection (h-3) and (ii) all other terms and conditions, rights, provisions, exceptions, and limitations contained in the final draft sourcing agreement; provided, however, the Commission shall correct typographical and scrivener's errors and modify the contract only as necessary to provide that the gas utility does not have the right to terminate the sourcing agreement due to any future events that may occur other than

the clean coal SNG brownfield facility's failure to timely meet milestones, uncured default, extended force majeure, or abandonment. Once the sourcing agreement is approved, then the gas utility subject to that sourcing agreement shall have 45 days after the date of the Commission's approval to enter into the sourcing agreement.

(h-5) Sequestration enforcement.

(A) All contracts entered into under subsection (h) of this Section and all sourcing agreements under subsection (h-1) of this Section, regardless of duration, shall require the owner of any facility supplying SNG under the contract or sourcing agreement to provide certified documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon dioxide emissions from the facility that have been captured and sequestered and reporting any quantities of carbon dioxide released from the site or sites at which carbon dioxide emissions were sequestered in prior years, based on continuous monitoring of those sites.

(B) If, in any year, the owner of the clean coal SNG facility fails to demonstrate that the SNG facility captured and sequestered at least 90% of the total carbon dioxide emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into

the atmosphere, then the owner of the clean coal SNG facility must pay a penalty of $20 per ton of excess carbon dioxide emissions not to exceed $40,000,000, in any given year which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. On or before the 5-year anniversary of the execution of the contract and every 5 years thereafter, an expert hired by the owner of the facility with the approval of the Attorney General shall conduct an analysis to determine the cost of sequestration of at least 90% of the total carbon dioxide emissions the plant would otherwise emit. If the analysis shows that the actual annual cost is greater than the penalty, then the penalty shall be increased to equal the actual cost. Provided, however, to the extent that the owner of the facility described in subsection (h) of this Section can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil

disturbance; riots; nationalization; sabotage; blockage; or embargo, the owner of the facility described in subsection (h) of this Section shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission.

If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of the clean coal SNG facility captured and sequestered more than 90% of the total carbon dioxide emissions that the facility would otherwise emit, then the owner of the facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

If the clean coal SNG facility fails to meet the requirements specified in this subsection (h-5), then the Attorney General, on behalf of the People of the State of Illinois, shall bring an action to enforce the obligations related to the facility set forth in this subsection

(h-5), including any penalty payments owed, but not including the physical obligation to capture and sequester at least 90% of the total carbon dioxide emissions that the facility would otherwise emit. Such action may be filed in any circuit court in Illinois. By entering into a contract pursuant to subsection (h) of this Section, the clean coal SNG facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action under this subsection (h-5).

Compliance with the sequestration requirements and any penalty requirements specified in this subsection (h-5) for the clean coal SNG facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If any expert is retained by the Commission, then the clean coal SNG facility shall pay for the expert's reasonable fees, and such costs shall not be passed through to the utility or its customers.

In addition, carbon dioxide emission credits received by the clean coal SNG facility in connection with sequestration of carbon dioxide from the facility must be sold in a timely fashion with any revenue, less applicable fees and expenses and any expenses required to be paid by facility for carbon dioxide transportation or sequestration, deposited into the reconciliation account within 30 days after receipt of such funds by the owner of

the clean coal SNG facility.

The clean coal SNG facility is prohibited from transporting or sequestering carbon dioxide unless the owner of the carbon dioxide pipeline that transfers the carbon dioxide from the facility and the owner of the sequestration site where the carbon dioxide captured by the facility is stored has acquired all applicable permits under applicable State and federal laws, statutes, rules, or regulations prior to the transfer or sequestration of carbon dioxide. The responsibility for compliance with the sequestration requirements specified in this subsection (h-5) for the clean coal SNG facility shall reside solely with the clean coal SNG facility, regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(C) If, in any year, the owner of a clean coal SNG brownfield facility fails to demonstrate that the clean coal SNG brownfield facility captured and sequestered at least 85% of the total carbon dioxide emissions that the facility would otherwise emit, then the owner of the clean coal SNG brownfield facility must pay a penalty of $20 per ton of excess carbon emissions up to $20,000,000, which shall be deposited into the Energy Efficiency Trust Fund and distributed pursuant to subsection (b) of Section 6-6 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997. Provided, however, to

the extent that the owner of the clean coal SNG brownfield facility can demonstrate that the failure was as a result of acts of God (including fire, flood, earthquake, tornado, lightning, hurricane, or other natural disaster); any amendment, modification, or abrogation of any applicable law or regulation that would prevent performance; war; invasion; act of foreign enemies; hostilities (regardless of whether war is declared); civil war; rebellion; revolution; insurrection; military or usurped power or confiscation; terrorist activities; civil disturbances; riots; nationalization; sabotage; blockage; or embargo, the owner of the clean coal SNG brownfield facility shall not be subject to a penalty if and only if (i) it promptly provides notice of its failure to the Commission; (ii) as soon as practicable and consistent with any order or direction from the Commission, it submits to the Commission proposed modifications to its carbon capture and sequestration plan; and (iii) it carries out its proposed modifications in the manner and time directed by the Commission. If the Commission finds that the facility has not satisfied each of these requirements, then the facility shall be subject to the penalty. If the owner of a clean coal SNG brownfield facility demonstrates that the clean coal SNG brownfield facility captured and sequestered more than 85% of the total carbon emissions that the facility would otherwise

emit, the owner of the clean coal SNG brownfield facility may credit such additional amounts to reduce the amount of any future penalty to be paid. The penalty resulting from the failure to capture and sequester at least the minimum amount of carbon dioxide shall not be passed on to a utility or its customers.

In addition to any penalty for the clean coal SNG brownfield facility's failure to capture and sequester at least its minimum sequestration requirement, the Attorney General, on behalf of the People of the State of Illinois, shall bring an action for specific performance of this subsection (h-5). Such action may be filed in any circuit court in Illinois. By entering into a sourcing agreement pursuant to subsection (h-1) of this Section, the clean coal SNG brownfield facility agrees to waive any objections to venue or to the jurisdiction of the court with regard to the Attorney General's action for specific performance under this subsection (h-5).

Compliance with the sequestration requirements and penalty requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall be assessed annually by the Commission, which may in its discretion retain an expert to facilitate its assessment. If an expert is retained by the Commission, then the clean coal SNG brownfield facility shall pay for the expert's reasonable fees, and such costs shall not be passed

through to a utility or its customers. A SNG facility operating pursuant to this subsection (h-5) shall not forfeit its designation as a clean coal SNG facility or a clean coal SNG brownfield facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased or requisite penalties are paid.

Responsibility for compliance with the sequestration requirements specified in this subsection (h-5) for the clean coal SNG brownfield facility shall reside solely with the clean coal SNG brownfield facility regardless of whether the facility has contracted with another party to capture, transport, or sequester carbon dioxide.

(h-7) Sequestration permitting, oversight, and investigations.

(1) No clean coal facility or clean coal SNG brownfield facility may transport or sequester carbon dioxide unless the Commission approves the method of carbon dioxide transportation or sequestration. Such approval shall be required regardless of whether the facility has contracted with another to transport or sequester the carbon dioxide. Nothing in this subsection (h-7) shall release the owner or operator of a carbon dioxide sequestration site or carbon dioxide pipeline from any other permitting requirements under applicable State and federal laws, statutes, rules, or regulations.

(2) The Commission shall review carbon dioxide transportation and sequestration methods proposed by a clean coal facility or a clean coal SNG brownfield facility and shall approve those methods it deems reasonable and cost-effective. For purposes of this review, "cost-effective" means a commercially reasonable price for similar carbon dioxide transportation or sequestration techniques. In determining whether sequestration is reasonable and cost-effective, the Commission may consult with the Illinois State Geological Survey and retain third parties to assist in its determination, provided that such third parties shall not own or control any direct or indirect interest in the facility that is proposing the carbon dioxide transportation or the carbon dioxide sequestration method and shall have no contractual relationship with that facility. If a third party is retained by the Commission, then the facility proposing the carbon dioxide transportation or sequestration method shall pay for the expert's reasonable fees, and these costs shall not be passed through to a utility or its customers.

No later than 6 months prior to the date upon which the owner intends to commence construction of a clean coal facility or the clean coal SNG brownfield facility, the owner of the facility shall file with the Commission a carbon dioxide transportation or sequestration plan. The

Commission shall hold a public hearing within 30 days after receipt of the facility's carbon dioxide transportation or sequestration plan. The Commission shall post notice of the review on its website upon submission of a carbon dioxide transportation or sequestration method and shall accept written public comments. The Commission shall take the comments into account when making its decision.

The Commission may not approve a carbon dioxide sequestration method if the owner or operator of the sequestration site has not received (i) an Underground Injection Control permit from the United States Environmental Protection Agency, or from the Illinois Environmental Protection Agency pursuant to the Environmental Protection Act; (ii) an Underground Injection Control permit from the Illinois Department of Natural Resources pursuant to the Illinois Oil and Gas Act; or (iii) an Underground Injection Control permit from the United States Environmental Protection Agency or a permit similar to items (i) or (ii) from the state in which the sequestration site is located if the sequestration will take place outside of Illinois. The Commission shall approve or deny the carbon dioxide transportation or sequestration method within 90 days after the receipt of all required information.

(3) At least annually, the Illinois Environmental

Protection Agency shall inspect all carbon dioxide sequestration sites in Illinois. The Illinois Environmental Protection Agency may, as often as deemed necessary, monitor and conduct investigations of those sites. The owner or operator of the sequestration site must cooperate with the Illinois Environmental Protection Agency investigations of carbon dioxide sequestration sites.

If the Illinois Environmental Protection Agency determines at any time a site creates conditions that warrant the issuance of a seal order under Section 34 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall seal the site pursuant to the Environmental Protection Act. If the Illinois Environmental Protection Agency determines at any time a carbon dioxide sequestration site creates conditions that warrant the institution of a civil action for an injunction under Section 43 of the Environmental Protection Act, then the Illinois Environmental Protection Agency shall request the State's Attorney or the Attorney General institute such action. The Illinois Environmental Protection Agency shall provide notice of any such actions as soon as possible on its website. The SNG facility shall incur all reasonable costs associated with any such inspection or monitoring of the sequestration sites, and these costs shall not be recoverable from utilities or

their customers.

(4) (Blank).

(h-9) The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from any new or amendatory legislation or other action. The State of Illinois pledges that the State will not enact any law or take any action to:

(1) break, or repeal the authority for, sourcing agreements approved by the Commission and entered into between public utilities and the clean coal SNG brownfield facility;

(2) deny public utilities full cost recovery for their costs incurred under those sourcing agreements; or

(3) deny the clean coal SNG brownfield facility full cost and revenue recovery as provided under those sourcing agreements that are recoverable pursuant to subsection (h-3) of this Section.

These pledges are for the benefit of the parties to those sourcing agreements and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG brownfield facility. The clean coal SNG brownfield facility is authorized to include and refer to these pledges in any financing agreement into which it may enter in regard to those sourcing agreements.

The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any

other action, without impairment of the right of the clean coal SNG brownfield facility to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action, including, but not limited to, such legislation or other action that would (i) directly or indirectly raise the costs the clean coal SNG brownfield facility must incur; (ii) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG brownfield facility; (iii) prohibit sequestration in general or prohibit a specific sequestration method or project; or (iv) increase minimum sequestration requirements for the clean coal SNG brownfield facility to the extent technically feasible. The clean coal SNG brownfield facility shall have the right to recover prudently incurred increased costs or reduced revenue resulting from the new or amendatory legislation or other action as described in this subsection (h-9).

(h-10) Contract costs for SNG incurred by an Illinois gas utility are reasonable and prudent and recoverable through the purchased gas adjustment clause and are not subject to review or disallowance by the Commission. Contract costs are costs incurred by the utility under the terms of a contract that incorporates the terms stated in subsection (h) of this Section as confirmed in writing by the Illinois Power Agency as set forth in subsection (h) of this Section, which confirmation shall be deemed conclusive, or as a consequence

of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. The Illinois gas utility shall initiate a clean coal SNG facility rider mechanism that (A) shall be applicable to all customers who receive transportation service from the utility, (B) shall be designed to have an equal percentage impact on the transportation services rates of each class of the utility's total customers, and (C) shall accurately reflect the net customer savings, if any, and above market costs, if any, under the SNG contract. Any contract, the terms of which have been confirmed in writing by the Illinois Power Agency as set forth in subsection (h) of this Section and the performance of the parties under such contract cannot be grounds for challenging prudence or cost recovery by the utility through the purchased gas adjustment clause, and in such cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

The contracts entered into by Illinois gas utilities pursuant to subsection (h) of this Section shall provide that the utility retains the right to terminate the contract without further obligation or liability to any party if the contract has been impaired as a result of any legislative, administrative, judicial, or other governmental action that is taken that eliminates all or part of the prudence protection

of this subsection (h-10) or denies the recoverability of all or part of the contract costs through the purchased gas adjustment clause. Should any Illinois gas utility exercise its right under this subsection (h-10) to terminate the contract, all contract costs incurred prior to termination are and will be deemed reasonable, prudent, and recoverable as and when incurred and not subject to review or disallowance by the Commission. Any order, issued by the State requiring or authorizing the discontinuation of the merchant function, defined as the purchase and sale of natural gas by an Illinois gas utility for the ultimate consumer in its service territory shall include provisions necessary to prevent the impairment of the value of any contract hereunder over its full term.

(h-11) All costs incurred by an Illinois gas utility in procuring SNG from a clean coal SNG brownfield facility pursuant to subsection (h-1) or a third-party marketer pursuant to subsection (h-1) are reasonable and prudent and recoverable through the purchased gas adjustment clause in conjunction with a SNG brownfield facility rider mechanism and are not subject to review or disallowance by the Commission; provided that if a utility is required by law or otherwise elects to connect the clean coal SNG brownfield facility to an interstate pipeline, then the utility shall be entitled to recover pursuant to its tariffs all just and reasonable costs that are prudently incurred. Sourcing agreement costs are costs incurred by the utility under the terms of a sourcing

agreement that incorporates the terms stated in subsection (h-1) of this Section as approved by the Commission as set forth in subsection (h-4) of this Section, which approval shall be deemed conclusive, or as a consequence of or condition to its performance under the contract, including (i) amounts paid for SNG under the SNG contract and (ii) costs of transportation and storage services of SNG purchased from interstate pipelines under federally approved tariffs. Any sourcing agreement, the terms of which have been approved by the Commission as set forth in subsection (h-4) of this Section, and the performance of the parties under the sourcing agreement cannot be grounds for challenging prudence or cost recovery by the utility, and in these cases, the Commission is directed not to consider, and has no authority to consider, any attempted challenges.

(h-15) Reconciliation account. The clean coal SNG facility shall establish a reconciliation account for the benefit of the retail customers of the utilities that have entered into contracts with the clean coal SNG facility pursuant to subsection (h). The reconciliation account shall be maintained and administered by an independent trustee that is mutually agreed upon by the owners of the clean coal SNG facility, the utilities, and the Commission in an interest-bearing account in accordance with the following:

(1) The clean coal SNG facility shall conduct an analysis annually within 60 days after receiving the

necessary cost information, which shall be provided by the gas utility within 6 months after the end of the preceding calendar year, to determine (i) the average annual contract SNG cost, which shall be calculated as the total amount paid for SNG purchased from the clean coal SNG facility over the preceding 12 months, plus the cost to the utility of the required transportation and storage services of SNG, divided by the total number of MMBtus of SNG actually purchased from the clean coal SNG facility in the preceding 12 months under the utility contract; (ii) the average annual natural gas purchase cost, which shall be calculated as the total annual supply costs paid for baseload natural gas (excluding any SNG) purchased by such utility over the preceding 12 months plus the costs of transportation and storage services of such natural gas (excluding such costs for SNG), divided by the total number of MMbtus of baseload natural gas (excluding SNG) actually purchased by the utility during the year; (iii) the cost differential, which shall be the difference between the average annual contract SNG cost and the average annual natural gas purchase cost; and (iv) the revenue share target which shall be the cost differential multiplied by the total amount of SNG purchased over the preceding 12 months under such utility contract.

(A) To the extent the annual average contract SNG cost is less than the annual average natural gas

purchase cost, the utility shall credit an amount equal to the revenue share target to the reconciliation account. Such credit payment shall be made monthly starting within 30 days after the completed analysis in this subsection (h-15) and based on collections from all customers via a line item charge in all customer bills designed to have an equal percentage impact on the transportation services of each class of customers. Credit payments made pursuant to this subparagraph (A) shall be deemed prudent and reasonable and not subject to Commission prudence review.

(B) To the extent the annual average contract SNG cost is greater than the annual average natural gas purchase cost, the reconciliation account shall be used to provide a credit equal to the revenue share target to the utilities to be used to reduce the utility's natural gas costs through the purchased gas adjustment clause. Such payment shall be made within 30 days after the completed analysis pursuant to this subsection (h-15), but only to the extent that the reconciliation account has a positive balance.

(2) At the conclusion of the term of the SNG contracts pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), to the extent the facility owes any amount to retail customers,

amounts in the account shall be credited to retail customers to the extent the owed amount is repaid; 50% of any additional amount in the reconciliation account shall be distributed to the utilities to be used to reduce the utilities' natural gas costs through the purchase gas adjustment clause with the remaining amount distributed to the clean coal SNG facility. Such payment shall be made within 30 days after the last completed analysis pursuant to this subsection (h-15). If the facility has repaid all owed amounts, if any, to retail customers and has distributed 50% of any additional amount in the account to the utilities, then the owners of the clean coal SNG facility shall have no further obligation to the utility or the retail customers.

If, at the conclusion of the term of the contracts pursuant to subsection (h) and the completion of the final annual analysis pursuant to this subsection (h-15), the facility owes any amount to retail customers and the account has been depleted, then the clean coal SNG facility shall be liable for any remaining amount owed to the retail customers. The clean coal SNG facility shall market the daily production of SNG and distribute on a monthly basis 5% of the amounts collected with respect to such future sales to the utilities in proportion to each utility's SNG contract to be used to reduce the utility's natural gas costs through the purchase gas adjustment

clause; such payments to the utility shall continue until either 15 years after the conclusion of the contract or such time as the sum of such payments equals the remaining amount owed to the retail customers at the end of the contract, whichever is earlier. If the debt to the retail customers is not repaid within 15 years after the conclusion of the contract, then the owner of the clean coal SNG facility must sell the facility, and all proceeds from that sale must be used to repay any amount owed to the retail customers under this subsection (h-15).

The retail customers shall have first priority in recovering that debt above any creditors, except the secured lenders to the extent that the secured lenders have any secured debt outstanding, including any parent companies or affiliates of the clean coal SNG facility.

(3) 50% of all additional net revenue, defined as miscellaneous net revenue after cost allowance and above the budgeted estimate established for revenue pursuant to subsection (h), including sale of substitute natural gas derived from the clean coal SNG facility above the nameplate capacity of the facility and other by-products produced by the facility, shall be credited to the reconciliation account on an annual basis with such payment made within 30 days after the end of each calendar year during the term of the contract.

(4) The clean coal SNG facility shall each year,

starting in the facility's first year of commercial operation, file with the Commission, in such form as the Commission shall require, a report as to the reconciliation account. The annual report must contain the following information:

(A) the revenue share target amount;

(B) the amount credited or debited to the reconciliation account during the year;

(C) the amount credited to the utilities to be used to reduce the utilities natural gas costs though the purchase gas adjustment clause;

(D) the total amount of reconciliation account at the beginning and end of the year;

(E) the total amount of consumer savings to date; and

(F) any additional information the Commission may require.

When any report is erroneous or defective or appears to the Commission to be erroneous or defective, the Commission may notify the clean coal SNG facility to amend the report within 30 days; before or after the termination of the 30-day period, the Commission may examine the trustee of the reconciliation account or the officers, agents, employees, books, records, or accounts of the clean coal SNG facility and correct such items in the report as upon such examination the Commission may find defective or erroneous. All reports shall

be under oath.

All reports made to the Commission by the clean coal SNG facility and the contents of the reports shall be open to public inspection and shall be deemed a public record under the Freedom of Information Act. Such reports shall be preserved in the office of the Commission. The Commission shall publish an annual summary of the reports prior to February 1 of the following year. The annual summary shall be made available to the public on the Commission's website and shall be submitted to the General Assembly.

Any facility that fails to file the report required under this paragraph (4) to the Commission within the time specified or to make specific answer to any question propounded by the Commission within 30 days after the time it is lawfully required to do so, or within such further time not to exceed 90 days as may be allowed by the Commission in its discretion, shall pay a penalty of $500 to the Commission for each day it is in default.

Any person who willfully makes any false report to the Commission or to any member, officer, or employee thereof, any person who willfully in a report withholds or fails to provide material information to which the Commission is entitled under this paragraph (4) and which information is either required to be filed by statute, rule, regulation, order, or decision of the Commission or has been requested by the Commission, and any person who willfully aids or abets such person shall be

guilty of a Class A misdemeanor.

(h-20) The General Assembly authorizes the Illinois Finance Authority to issue bonds to the maximum extent permitted to finance coal gasification facilities described in this Section, which constitute both "industrial projects" under Article 801 of the Illinois Finance Authority Act and "clean coal and energy projects" under Sections 825-65 through 825-75 of the Illinois Finance Authority Act.

Administrative costs incurred by the Illinois Finance Authority in performance of this subsection (h-20) shall be subject to reimbursement by the clean coal SNG facility on terms as the Illinois Finance Authority and the clean coal SNG facility may agree. The utility and its customers shall have no obligation to reimburse the clean coal SNG facility or the Illinois Finance Authority for any such costs.

(h-25) The State of Illinois pledges that the State may not enact any law or take any action to (1) break or repeal the authority for SNG purchase contracts entered into between public gas utilities and the clean coal SNG facility pursuant to subsection (h) of this Section or (2) deny public gas utilities their full cost recovery for contract costs, as defined in subsection (h-10), that are incurred under such SNG purchase contracts. These pledges are for the benefit of the parties to such SNG purchase contracts and the issuers and holders of bonds or other obligations issued or incurred to finance or refinance the clean coal SNG facility. The

beneficiaries are authorized to include and refer to these pledges in any finance agreement into which they may enter in regard to such contracts.

(h-30) The State of Illinois retains and reserves all other rights to enact new or amendatory legislation or take any other action, including, but not limited to, such legislation or other action that would (1) directly or indirectly raise the costs that the clean coal SNG facility must incur; (2) directly or indirectly place additional restrictions, regulations, or requirements on the clean coal SNG facility; (3) prohibit sequestration in general or prohibit a specific sequestration method or project; or (4) increase minimum sequestration requirements.

(i) If a gas utility or an affiliate of a gas utility has an ownership interest in any entity that produces or sells synthetic natural gas, Article VII of this Act shall apply.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 180. The Illinois Horse Racing Act of 1975 is amended by changing Sections 12.1 and 12.2 as follows:

(230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

Sec. 12.1. (a) The General Assembly finds that the Illinois Racing Industry does not include a fair proportion of minority or female workers.

Therefore, the General Assembly urges that the job

training institutes, trade associations and employers involved in the Illinois Horse Racing Industry take affirmative action to encourage equal employment opportunity to all workers regardless of race, color, creed or sex.

Before an organization license, inter-track wagering license or inter-track wagering location license can be granted, the applicant for any such license shall execute and file with the Board a good faith affirmative action plan to recruit, train and upgrade minorities and females in all classifications with the applicant for license. One year after issuance of any such license, and each year thereafter, the licensee shall file a report with the Board evidencing and certifying compliance with the originally filed affirmative action plan.

(b) At least 10% of the total amount of all State contracts for the infrastructure improvement of any race track grounds in this State shall be let to minority-owned businesses, ~~or~~ women-owned businesses, veteran-owned businesses, or businesses owned by persons with a disability. "State contract", "minority-owned business" ~~and~~ "women-owned business", "veteran-owned business", and "business owned by a person with a disability" shall have the meanings ascribed to them under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(230 ILCS 5/12.2)

Sec. 12.2. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority-owned business", "woman", "women-owned business", "veteran", "veteran-owned business", "person with a disability", and "business owned by a person with a disability" have the meanings ascribed to them in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award of contracts by each organization licensee or inter-track wagering licensee to businesses owned by minorities, women, veterans, and persons with disabilities, expressed as percentages of an organization licensee's or inter-track wagering licensee's total dollar amount of contracts awarded during each calendar year. Each organization licensee or inter-track wagering licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) licensees are purchasing goods or services from vendors or suppliers or in markets where there are no or a limited number of minority-owned businesses, women-owned businesses, veteran-owned businesses, or businesses owned by persons with disabilities that would be sufficient to satisfy the goal; (2) there are no or a limited number of suppliers licensed by the

Board; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each organization licensee or inter-track wagering licensee shall file with the Board an annual report of its utilization of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the organization licensee or inter-track wagering licensee to meet its goals under this Section.

(d) The organization licensee or inter-track wagering licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the organization licensee or inter-track wagering licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities.

(e) If the Board determines that its goals and policies are not being met by any organization licensee or inter-track wagering licensee, then the Board may:

(1) adopt remedies for such violations; and

(2) recommend that the organization licensee or

inter-track wagering licensee provide additional opportunities for participation by minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities; such recommendations may include, but shall not be limited to:

(A) assurances of stronger and better focused solicitation efforts to obtain more minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities as potential sources of supply;

(B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority-owned businesses, women-owned businesses, veteran-owned businesses, and

businesses owned by persons with disabilities, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each organization licensee or inter-track wagering licensee;

(2) a summary of the number of contracts awarded and the average contract amount by each organization licensee or inter-track wagering licensee;

(3) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities;

(4) an analysis of the number of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities that are certified under the program as well

as the number of those businesses that received State procurement contracts; and

(5) (blank).

(Source: P.A. 99-78, eff. 7-20-15; 99-891, eff. 1-1-17; 100-391, eff. 8-25-17.)

Section 185. The Riverboat Gambling Act is amended by changing Sections 4, 7, 7.6, 7.14, and 11.2 as follows:

(230 ILCS 10/4) (from Ch. 120, par. 2404)

Sec. 4. Definitions. As used in this Act:

"Board" means the Illinois Gaming Board.

"Occupational license" means a license issued by the Board to a person or entity to perform an occupation which the Board has identified as requiring a license to engage in riverboat gambling, casino gambling, or gaming pursuant to an organization gaming license issued under this Act in Illinois.

"Gambling game" includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act.

"Riverboat" means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on

which lawful gambling is authorized and licensed as provided in this Act.

"Slot machine" means any mechanical, electrical, or other device, contrivance, or machine that is authorized by the Board as a wagering device under this Act which, upon insertion of a coin, currency, token, or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, or anything of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever. A slot machine:

(1) may utilize spinning reels or video displays or both;

(2) may or may not dispense coins, tickets, or tokens to winning patrons;

(3) may use an electronic credit system for receiving wagers and making payouts; and

(4) may simulate a table game.

"Slot machine" does not include table games authorized by the Board as a wagering device under this Act.

"Managers license" means a license issued by the Board to a person or entity to manage gambling operations conducted by the State pursuant to Section 7.3.

"Dock" means the location where a riverboat moors for the

purpose of embarking passengers for and disembarking passengers from the riverboat.

"Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens, or electronic cards by riverboat patrons.

"Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

"Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

"Gambling operation" means the conduct of gambling games authorized under this Act upon a riverboat or in a casino or authorized under this Act and the Illinois Horse Racing Act of 1975 at an organization gaming facility.

"License bid" means the lump sum amount of money that an applicant bids and agrees to pay the State in return for an owners license that is issued or re-issued on or after July 1, 2003.

"Table game" means a live gaming apparatus upon which gaming is conducted or that determines an outcome that is the object of a wager, including, but not limited to, baccarat, twenty-one, blackjack, poker, craps, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, pull tab, or other similar games that are authorized by the Board as a wagering device under this Act. "Table game" does not include slot machines or video

games of chance.

The terms "minority person", "woman", "veteran", and "person with a disability" shall have the same meaning as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Casino" means a facility at which lawful gambling is authorized as provided in this Act.

"Owners license" means a license to conduct riverboat or casino gambling operations, but does not include an organization gaming license.

"Licensed owner" means a person who holds an owners license.

"Organization gaming facility" means that portion of an organization licensee's racetrack facilities at which gaming authorized under Section 7.7 is conducted.

"Organization gaming license" means a license issued by the Illinois Gaming Board under Section 7.7 of this Act authorizing gaming pursuant to that Section at an organization gaming facility.

"Organization gaming licensee" means an entity that holds an organization gaming license.

"Organization licensee" means an entity authorized by the Illinois Racing Board to conduct pari-mutuel wagering in accordance with the Illinois Horse Racing Act of 1975. With respect only to gaming pursuant to an organization gaming

license, "organization licensee" includes the authorization for gaming created under subsection (a) of Section 56 of the Illinois Horse Racing Act of 1975.

(Source: P.A. 100-391, eff. 8-25-17; 101-31, eff. 6-28-19.)

(230 ILCS 10/7) (from Ch. 120, par. 2407)

Sec. 7. Owners licenses.

(a) The Board shall issue owners licenses to persons or entities that apply for such licenses upon payment to the Board of the non-refundable license fee as provided in subsection (e) or (e-5) and upon a determination by the Board that the applicant is eligible for an owners license pursuant to this Act and the rules of the Board. From December 15, 2008 (the effective date of Public Act 95-1008) until (i) 3 years after December 15, 2008 (the effective date of Public Act 95-1008), (ii) the date any organization licensee begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, (iii) the date that payments begin under subsection (c-5) of Section 13 of this Act, (iv) the wagering tax imposed under Section 13 of this Act is increased by law to reflect a tax rate that is at least as stringent or more stringent than the tax rate contained in subsection (a-3) of Section 13, or (v) when an owners licensee holding a license issued pursuant to Section 7.1 of this Act begins conducting gaming, whichever occurs first, as a condition of licensure and as an alternative

source of payment for those funds payable under subsection (c-5) of Section 13 of this Act, any owners licensee that holds or receives its owners license on or after May 26, 2006 (the effective date of Public Act 94-804), other than an owners licensee operating a riverboat with adjusted gross receipts in calendar year 2004 of less than $200,000,000, must pay into the Horse Racing Equity Trust Fund, in addition to any other payments required under this Act, an amount equal to 3% of the adjusted gross receipts received by the owners licensee. The payments required under this Section shall be made by the owners licensee to the State Treasurer no later than 3:00 o'clock p.m. of the day after the day when the adjusted gross receipts were received by the owners licensee. A person or entity is ineligible to receive an owners license if:

(1) the person has been convicted of a felony under the laws of this State, any other state, or the United States;

(2) the person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction;

(3) the person has submitted an application for a license under this Act which contains false information;

(4) the person is a member of the Board;

(5) a person defined in (1), (2), (3), or (4) is an officer, director, or managerial employee of the entity;

(6) the entity employs a person defined in (1), (2), (3), or (4) who participates in the management or operation of gambling operations authorized under this Act;

(7) (blank); or

(8) a license of the person or entity issued under this Act, or a license to own or operate gambling facilities in any other jurisdiction, has been revoked.

The Board is expressly prohibited from making changes to the requirement that licensees make payment into the Horse Racing Equity Trust Fund without the express authority of the Illinois General Assembly and making any other rule to implement or interpret Public Act 95-1008. For the purposes of this paragraph, "rules" is given the meaning given to that term in Section 1-70 of the Illinois Administrative Procedure Act.

(b) In determining whether to grant an owners license to an applicant, the Board shall consider:

(1) the character, reputation, experience, and financial integrity of the applicants and of any other or separate person that either:

(A) controls, directly or indirectly, such applicant; or

(B) is controlled, directly or indirectly, by such applicant or by a person which controls, directly or indirectly, such applicant;

(2) the facilities or proposed facilities for the conduct of gambling;

(3) the highest prospective total revenue to be derived by the State from the conduct of gambling;

(4) the extent to which the ownership of the applicant reflects the diversity of the State by including minority persons, women, veterans, and persons with a disability and the good faith affirmative action plan of each applicant to recruit, train and upgrade minority persons, women, veterans, and persons with a disability in all employment classifications; the Board shall further consider granting an owners license and giving preference to an applicant under this Section to applicants in which minority persons and women hold ownership interest of at least 16% and 4%, respectively;

(4.5) the extent to which the ownership of the applicant includes veterans of service in the armed forces of the United States, and the good faith affirmative action plan of each applicant to recruit, train, and upgrade veterans of service in the armed forces of the United States in all employment classifications;

(5) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;

(6) whether the applicant has adequate capitalization to provide and maintain, for the duration of a license, a riverboat or casino;

(7) the extent to which the applicant exceeds or meets other standards for the issuance of an owners license which the Board may adopt by rule;

(8) the amount of the applicant's license bid;

(9) the extent to which the applicant or the proposed host municipality plans to enter into revenue sharing agreements with communities other than the host municipality;

(10) the extent to which the ownership of an applicant includes the most qualified number of minority persons, women, and persons with a disability; and

(11) whether the applicant has entered into a fully executed construction project labor agreement with the applicable local building trades council.

(c) Each owners license shall specify the place where the casino shall operate or the riverboat shall operate and dock.

(d) Each applicant shall submit with his or her application, on forms provided by the Board, 2 sets of his or her fingerprints.

(e) In addition to any licenses authorized under subsection (e-5) of this Section, the Board may issue up to 10 licenses authorizing the holders of such licenses to own riverboats. In the application for an owners license, the applicant shall state the dock at which the riverboat is based and the water on which the riverboat will be located. The Board shall issue 5 licenses to become effective not earlier than

January 1, 1991. Three of such licenses shall authorize riverboat gambling on the Mississippi River, or, with approval by the municipality in which the riverboat was docked on August 7, 2003 and with Board approval, be authorized to relocate to a new location, in a municipality that (1) borders on the Mississippi River or is within 5 miles of the city limits of a municipality that borders on the Mississippi River and (2) on August 7, 2003, had a riverboat conducting riverboat gambling operations pursuant to a license issued under this Act; one of which shall authorize riverboat gambling from a home dock in the city of East St. Louis; and one of which shall authorize riverboat gambling from a home dock in the City of Alton. One other license shall authorize riverboat gambling on the Illinois River in the City of East Peoria or, with Board approval, shall authorize land-based gambling operations anywhere within the corporate limits of the City of Peoria. The Board shall issue one additional license to become effective not earlier than March 1, 1992, which shall authorize riverboat gambling on the Des Plaines River in Will County. The Board may issue 4 additional licenses to become effective not earlier than March 1, 1992. In determining the water upon which riverboats will operate, the Board shall consider the economic benefit which riverboat gambling confers on the State, and shall seek to assure that all regions of the State share in the economic benefits of riverboat gambling.

In granting all licenses, the Board may give favorable consideration to economically depressed areas of the State, to applicants presenting plans which provide for significant economic development over a large geographic area, and to applicants who currently operate non-gambling riverboats in Illinois. The Board shall review all applications for owners licenses, and shall inform each applicant of the Board's decision. The Board may grant an owners license to an applicant that has not submitted the highest license bid, but if it does not select the highest bidder, the Board shall issue a written decision explaining why another applicant was selected and identifying the factors set forth in this Section that favored the winning bidder. The fee for issuance or renewal of a license pursuant to this subsection (e) shall be $250,000.

(e-5) In addition to licenses authorized under subsection (e) of this Section:

(1) the Board may issue one owners license authorizing the conduct of casino gambling in the City of Chicago;

(2) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Danville;

(3) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Waukegan;

(4) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Rockford;

(5) the Board may issue one owners license authorizing

the conduct of riverboat gambling in a municipality that is wholly or partially located in one of the following townships of Cook County: Bloom, Bremen, Calumet, Rich, Thornton, or Worth Township; and

(6) the Board may issue one owners license authorizing the conduct of riverboat gambling in the unincorporated area of Williamson County adjacent to the Big Muddy River.

Except for the license authorized under paragraph (1), each application for a license pursuant to this subsection (e-5) shall be submitted to the Board no later than 120 days after June 28, 2019 (the effective date of Public Act 101-31). All applications for a license under this subsection (e-5) shall include the nonrefundable application fee and the nonrefundable background investigation fee as provided in subsection (d) of Section 6 of this Act. In the event that an applicant submits an application for a license pursuant to this subsection (e-5) prior to June 28, 2019 (the effective date of Public Act 101-31), such applicant shall submit the nonrefundable application fee and background investigation fee as provided in subsection (d) of Section 6 of this Act no later than 6 months after June 28, 2019 (the effective date of Public Act 101-31).

The Board shall consider issuing a license pursuant to paragraphs (1) through (6) of this subsection only after the corporate authority of the municipality or the county board of the county in which the riverboat or casino shall be located

has certified to the Board the following:

(i) that the applicant has negotiated with the corporate authority or county board in good faith;

(ii) that the applicant and the corporate authority or county board have mutually agreed on the permanent location of the riverboat or casino;

(iii) that the applicant and the corporate authority or county board have mutually agreed on the temporary location of the riverboat or casino;

(iv) that the applicant and the corporate authority or the county board have mutually agreed on the percentage of revenues that will be shared with the municipality or county, if any;

(v) that the applicant and the corporate authority or county board have mutually agreed on any zoning, licensing, public health, or other issues that are within the jurisdiction of the municipality or county;

(vi) that the corporate authority or county board has passed a resolution or ordinance in support of the riverboat or casino in the municipality or county;

(vii) the applicant for a license under paragraph (1) has made a public presentation concerning its casino proposal; and

(viii) the applicant for a license under paragraph (1) has prepared a summary of its casino proposal and such summary has been posted on a public website of the

municipality or the county.

At least 7 days before the corporate authority of a municipality or county board of the county submits a certification to the Board concerning items (i) through (viii) of this subsection, it shall hold a public hearing to discuss items (i) through (viii), as well as any other details concerning the proposed riverboat or casino in the municipality or county. The corporate authority or county board must subsequently memorialize the details concerning the proposed riverboat or casino in a resolution that must be adopted by a majority of the corporate authority or county board before any certification is sent to the Board. The Board shall not alter, amend, change, or otherwise interfere with any agreement between the applicant and the corporate authority of the municipality or county board of the county regarding the location of any temporary or permanent facility.

In addition, within 10 days after June 28, 2019 (the effective date of Public Act 101-31), the Board, with consent and at the expense of the City of Chicago, shall select and retain the services of a nationally recognized casino gaming feasibility consultant. Within 45 days after June 28, 2019 (the effective date of Public Act 101-31), the consultant shall prepare and deliver to the Board a study concerning the feasibility of, and the ability to finance, a casino in the City of Chicago. The feasibility study shall be delivered to the Mayor of the City of Chicago, the Governor, the President

of the Senate, and the Speaker of the House of Representatives. Ninety days after receipt of the feasibility study, the Board shall make a determination, based on the results of the feasibility study, whether to recommend to the General Assembly that the terms of the license under paragraph (1) of this subsection (e-5) should be modified. The Board may begin accepting applications for the owners license under paragraph (1) of this subsection (e-5) upon the determination to issue such an owners license.

In addition, prior to the Board issuing the owners license authorized under paragraph (4) of subsection (e-5), an impact study shall be completed to determine what location in the city will provide the greater impact to the region, including the creation of jobs and the generation of tax revenue.

(e-10) The licenses authorized under subsection (e-5) of this Section shall be issued within 12 months after the date the license application is submitted. If the Board does not issue the licenses within that time period, then the Board shall give a written explanation to the applicant as to why it has not reached a determination and when it reasonably expects to make a determination. The fee for the issuance or renewal of a license issued pursuant to this subsection (e-10) shall be $250,000. Additionally, a licensee located outside of Cook County shall pay a minimum initial fee of $17,500 per gaming position, and a licensee located in Cook County shall pay a minimum initial fee of $30,000 per gaming position. The

initial fees payable under this subsection (e-10) shall be deposited into the Rebuild Illinois Projects Fund. If at any point after June 1, 2020 there are no pending applications for a license under subsection (e-5) and not all licenses authorized under subsection (e-5) have been issued, then the Board shall reopen the license application process for those licenses authorized under subsection (e-5) that have not been issued. The Board shall follow the licensing process provided in subsection (e-5) with all time frames tied to the last date of a final order issued by the Board under subsection (e-5) rather than the effective date of the amendatory Act.

(e-15) Each licensee of a license authorized under subsection (e-5) of this Section shall make a reconciliation payment 3 years after the date the licensee begins operating in an amount equal to 75% of the adjusted gross receipts for the most lucrative 12-month period of operations, minus an amount equal to the initial payment per gaming position paid by the specific licensee. Each licensee shall pay a $15,000,000 reconciliation fee upon issuance of an owners license. If this calculation results in a negative amount, then the licensee is not entitled to any reimbursement of fees previously paid. This reconciliation payment may be made in installments over a period of no more than 6 years.

All payments by licensees under this subsection (e-15) shall be deposited into the Rebuild Illinois Projects Fund.

(e-20) In addition to any other revocation powers granted

to the Board under this Act, the Board may revoke the owners license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application if the Board determines that license revocation is in the best interests of the State.

(f) The first 10 owners licenses issued under this Act shall permit the holder to own up to 2 riverboats and equipment thereon for a period of 3 years after the effective date of the license. Holders of the first 10 owners licenses must pay the annual license fee for each of the 3 years during which they are authorized to own riverboats.

(g) Upon the termination, expiration, or revocation of each of the first 10 licenses, which shall be issued for a 3-year period, all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules. However, for licenses renewed on or after the effective date of this amendatory Act of the 102nd General Assembly, renewal shall be for a period of 4 years.

(h) An owners license, except for an owners license issued under subsection (e-5) of this Section, shall entitle the licensee to own up to 2 riverboats.

An owners licensee of a casino or riverboat that is located in the City of Chicago pursuant to paragraph (1) of subsection (e-5) of this Section shall limit the number of gaming positions to 4,000 for such owner. An owners licensee

authorized under subsection (e) or paragraph (2), (3), (4), or (5) of subsection (e-5) of this Section shall limit the number of gaming positions to 2,000 for any such owners license. An owners licensee authorized under paragraph (6) of subsection (e-5) of this Section shall limit the number of gaming positions to 1,200 for such owner. The initial fee for each gaming position obtained on or after June 28, 2019 (the effective date of Public Act 101-31) shall be a minimum of $17,500 for licensees not located in Cook County and a minimum of $30,000 for licensees located in Cook County, in addition to the reconciliation payment, as set forth in subsection (e-15) of this Section. The fees under this subsection (h) shall be deposited into the Rebuild Illinois Projects Fund. The fees under this subsection (h) that are paid by an owners licensee authorized under subsection (e) shall be paid by July 1, 2021.

Each owners licensee under subsection (e) of this Section shall reserve its gaming positions within 30 days after June 28, 2019 (the effective date of Public Act 101-31). The Board may grant an extension to this 30-day period, provided that the owners licensee submits a written request and explanation as to why it is unable to reserve its positions within the 30-day period.

Each owners licensee under subsection (e-5) of this Section shall reserve its gaming positions within 30 days after issuance of its owners license. The Board may grant an

extension to this 30-day period, provided that the owners licensee submits a written request and explanation as to why it is unable to reserve its positions within the 30-day period.

A licensee may operate both of its riverboats concurrently, provided that the total number of gaming positions on both riverboats does not exceed the limit established pursuant to this subsection. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least 400 persons.

(h-5) An owners licensee who conducted gambling operations prior to January 1, 2012 and obtains positions pursuant to Public Act 101-31 shall make a reconciliation payment 3 years after any additional gaming positions begin operating in an amount equal to 75% of the owners licensee's average gross receipts for the most lucrative 12-month period of operations minus an amount equal to the initial fee that the owners licensee paid per additional gaming position. For purposes of this subsection (h-5), "average gross receipts" means (i) the increase in adjusted gross receipts for the most lucrative 12-month period of operations over the adjusted gross receipts for 2019, multiplied by (ii) the percentage derived by dividing the number of additional gaming positions that an owners licensee had obtained by the total number of gaming

positions operated by the owners licensee. If this calculation results in a negative amount, then the owners licensee is not entitled to any reimbursement of fees previously paid. This reconciliation payment may be made in installments over a period of no more than 6 years. These reconciliation payments shall be deposited into the Rebuild Illinois Projects Fund.

(i) A licensed owner is authorized to apply to the Board for and, if approved therefor, to receive all licenses from the Board necessary for the operation of a riverboat or casino, including a liquor license, a license to prepare and serve food for human consumption, and other necessary licenses. All use, occupation, and excise taxes which apply to the sale of food and beverages in this State and all taxes imposed on the sale or use of tangible personal property apply to such sales aboard the riverboat or in the casino.

(j) The Board may issue or re-issue a license authorizing a riverboat to dock in a municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the municipality in which the riverboat will dock has by a majority vote approved the docking of riverboats in the municipality. The Board may issue or re-issue a license authorizing a riverboat to dock in areas of a county outside any municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the county has by a majority

vote approved of the docking of riverboats within such areas.

(k) An owners licensee may conduct land-based gambling operations upon approval by the Board and payment of a fee of $250,000, which shall be deposited into the State Gaming Fund.

(l) An owners licensee may conduct gaming at a temporary facility pending the construction of a permanent facility or the remodeling or relocation of an existing facility to accommodate gaming participants for up to 24 months after the temporary facility begins to conduct gaming. Upon request by an owners licensee and upon a showing of good cause by the owners licensee, the Board shall extend the period during which the licensee may conduct gaming at a temporary facility by up to 12 months. The Board shall make rules concerning the conduct of gaming from temporary facilities.

(Source: P.A. 101-31, eff. 6-28-19; 101-648, eff. 6-30-20; 102-13, eff. 6-10-21; 102-558, eff. 8-20-21.)

(230 ILCS 10/7.6)

Sec. 7.6. Business enterprise program.

(a) For the purposes of this Section, the terms "minority", "minority-owned business", "woman", "women-owned business", "person with a disability", <u>"veteran", "veteran-owned business",</u> and "business owned by a person with a disability" have the meanings ascribed to them in the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act.

(b) The Board shall, by rule, establish goals for the award of contracts by each owners licensee to businesses owned by minorities, women, veterans, and persons with disabilities, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year. Each owners licensee must make every effort to meet the goals established by the Board pursuant to this Section. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) any purchasing mandates would be dependent upon the availability of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices; (2) there are no or a limited number of licensed suppliers as defined by this Act for the goods or services provided to the licensee; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

(c) Each owners licensee shall file with the Board an annual report of its utilization of minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.

(c-5) The Board shall, by rule, establish goals for the award of contracts by each owners licensee to businesses owned by veterans of service in the armed forces of the United States, expressed as percentages of an owners licensee's total dollar amount of contracts awarded during each calendar year. When setting the goals for the award of contracts, the Board shall not include contracts where: (1) any purchasing mandates would be dependent upon the availability of veteran-owned businesses ready, willing, and able with capacity to provide quality goods and services to a gaming operation at reasonable prices; (2) there are no or a limited number of licensed suppliers as defined in this Act for the goods or services provided to the licensee; (3) the licensee or its parent company owns a company that provides the goods or services; or (4) the goods or services are provided to the licensee by a publicly traded company.

Each owners licensee shall file with the Board an annual report of its utilization of veteran-owned businesses during the preceding calendar year. The reports shall include a self-evaluation of the efforts of the owners licensee to meet its goals under this Section.

(d) The owners licensee shall have the right to request a waiver from the requirements of this Section. The Board shall grant the waiver where the owners licensee demonstrates that there has been made a good faith effort to comply with the goals for participation by minority-owned businesses,

women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses.

(e) If the Board determines that its goals and policies are not being met by any owners licensee, then the Board may:

(1) adopt remedies for such violations; and

(2) recommend that the owners licensee provide additional opportunities for participation by minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses; such recommendations may include, but shall not be limited to:

(A) assurances of stronger and better focused solicitation efforts to obtain more minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses as potential sources of supply;

(B) division of job or project requirements, when economically feasible, into tasks or quantities to permit participation of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses;

(C) elimination of extended experience or capitalization requirements, when programmatically feasible, to permit participation of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned

businesses;

(D) identification of specific proposed contracts as particularly attractive or appropriate for participation by minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses, such identification to result from and be coupled with the efforts of items (A) through (C); and

(E) implementation of regulations established for the use of the sheltered market process.

(f) The Board shall file, no later than March 1 of each year, an annual report that shall detail the level of achievement toward the goals specified in this Section over the 3 most recent fiscal years. The annual report shall include, but need not be limited to:

(1) a summary detailing expenditures subject to the goals, the actual goals specified, and the goals attained by each owners licensee; and

(2) an analysis of the level of overall goal achievement concerning purchases from minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and veteran-owned businesses.

(Source: P.A. 99-78, eff. 7-20-15; 100-391, eff. 8-25-17; 100-1152, eff. 12-14-18.)

(230 ILCS 10/7.14)

Sec. 7.14. Chicago Casino Advisory Committee. An Advisory Committee is established to monitor, review, and report on (1) the utilization of minority-owned business enterprises and women-owned business enterprises by the owners licensee, (2) employment of women, and (3) employment of minorities with regard to the development and construction of the casino as authorized under paragraph (1) of subsection (e-5) of Section 7 of the Illinois Gambling Act. The owners licensee under paragraph (1) of subsection (e-5) of Section 7 of the Illinois Gambling Act shall work with the Advisory Committee in accumulating necessary information for the Advisory Committee to submit reports, as necessary, to the General Assembly and to the City of Chicago.

The Advisory Committee shall consist of 9 members as provided in this Section. Five members shall be selected by the Governor and 4 members shall be selected by the Mayor of the City of Chicago. The Governor and the Mayor of the City of Chicago shall each appoint at least one current member of the General Assembly. The Advisory Committee shall meet periodically and shall report the information to the Mayor of the City of Chicago and to the General Assembly by December 31st of every year.

The Advisory Committee shall be dissolved on the date that casino gambling operations are first conducted at a permanent facility under the license authorized under paragraph (1) of subsection (e-5) Section 7 of the Illinois Gambling Act. For

the purposes of this Section, the terms "woman" and "minority person" have the meanings provided in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 101-31, eff. 6-28-19.)

(230 ILCS 10/11.2)

Sec. 11.2. Relocation of riverboat home dock.

(a) A licensee that was not conducting riverboat gambling on January 1, 1998 may apply to the Board for renewal and approval of relocation to a new home dock location authorized under Section 3(c) and the Board shall grant the application and approval upon receipt by the licensee of approval from the new municipality or county, as the case may be, in which the licensee wishes to relocate pursuant to Section 7(j).

(b) Any licensee that relocates its home dock pursuant to this Section shall attain a level of at least 20% minority person and woman ownership, at least 16% and 4% respectively, within a time period prescribed by the Board, but not to exceed 12 months from the date the licensee begins conducting gambling at the new home dock location. The 12-month period shall be extended by the amount of time necessary to conduct a background investigation pursuant to Section 6. For the purposes of this Section, the terms "woman" and "minority person" have the meanings provided in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and

Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 186. The Sports Wagering Act is amended by changing Sections 25-30, 25-35, 25-40, and 25-45 as follows:

(230 ILCS 45/25-30)

Sec. 25-30. Master sports wagering license issued to an organization licensee.

(a) An organization licensee may apply to the Board for a master sports wagering license. To the extent permitted by federal and State law, the Board shall actively seek to achieve racial, ethnic, and geographic diversity when issuing master sports wagering licenses to organization licensees and encourage minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities to apply for licensure. Additionally, the report published under subsection (m) of Section 25-45 shall impact the issuance of the master sports wagering license to the extent permitted by federal and State law.

For the purposes of this subsection (a), "minority-owned business", "women-owned business", and "business owned by persons with disabilities" have the meanings given to those terms in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) Except as otherwise provided in this subsection (b),

the initial license fee for a master sports wagering license for an organization licensee is 5% of its handle from the preceding calendar year or the lowest amount that is required to be paid as an initial license fee by an owners licensee under subsection (b) of Section 25-35, whichever is greater. No initial license fee shall exceed $10,000,000. An organization licensee licensed on the effective date of this Act shall pay the initial master sports wagering license fee by July 1, 2021. For an organization licensee licensed after the effective date of this Act, the master sports wagering license fee shall be $5,000,000, but the amount shall be adjusted 12 months after the organization licensee begins racing operations based on 5% of its handle from the first 12 months of racing operations. The master sports wagering license is valid for 4 years.

(c) The organization licensee may renew the master sports wagering license for a period of 4 years by paying a $1,000,000 renewal fee to the Board.

(d) An organization licensee issued a master sports wagering license may conduct sports wagering:

(1) at its facility at which inter-track wagering is conducted pursuant to an inter-track wagering license under the Illinois Horse Racing Act of 1975;

(2) at 3 inter-track wagering locations if the inter-track wagering location licensee from which it derives its license is an organization licensee that is

issued a master sports wagering license; and

(3) over the Internet or through a mobile application.

(e) The sports wagering offered over the Internet or through a mobile application shall only be offered under either the same brand as the organization licensee is operating under or a brand owned by a direct or indirect holding company that owns at least an 80% interest in that organization licensee on the effective date of this Act.

(f) Until issuance of the first license under Section 25-45 or March 5, 2022, whichever occurs first, an individual must create a sports wagering account in person at a facility under paragraph (1) or (2) of subsection (d) to participate in sports wagering offered over the Internet or through a mobile application.

(Source: P.A. 101-31, eff. 6-28-19; 101-648, eff. 6-30-20; 102-689, eff. 12-17-21.)

(230 ILCS 45/25-35)

Sec. 25-35. Master sports wagering license issued to an owners licensee.

(a) An owners licensee may apply to the Board for a master sports wagering license. To the extent permitted by federal and State law, the Board shall actively seek to achieve racial, ethnic, and geographic diversity when issuing master sports wagering licenses to owners licensees and encourage minority-owned businesses, women-owned businesses,

veteran-owned businesses, and businesses owned by persons with disabilities to apply for licensure. Additionally, the report published under subsection (m) of Section 25-45 shall impact the issuance of the master sports wagering license to the extent permitted by federal and State law.

For the purposes of this subsection (a), "minority-owned business", "women-owned business", and "business owned by persons with disabilities" have the meanings given to those terms in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) Except as otherwise provided in subsection (b-5), the initial license fee for a master sports wagering license for an owners licensee is 5% of its adjusted gross receipts from the preceding calendar year. No initial license fee shall exceed $10,000,000. An owners licensee licensed on the effective date of this Act shall pay the initial master sports wagering license fee by July 1, 2021. The master sports wagering license is valid for 4 years.

(b-5) For an owners licensee licensed after the effective date of this Act, the master sports wagering license fee shall be $5,000,000, but the amount shall be adjusted 12 months after the owners licensee begins gambling operations under the Illinois Gambling Act based on 5% of its adjusted gross receipts from the first 12 months of gambling operations. The master sports wagering license is valid for 4 years.

(c) The owners licensee may renew the master sports

wagering license for a period of 4 years by paying a $1,000,000 renewal fee to the Board.

(d) An owners licensee issued a master sports wagering license may conduct sports wagering:

(1) at its facility in this State that is authorized to conduct gambling operations under the Illinois Gambling Act; and

(2) over the Internet or through a mobile application.

(e) The sports wagering offered over the Internet or through a mobile application shall only be offered under either the same brand as the owners licensee is operating under or a brand owned by a direct or indirect holding company that owns at least an 80% interest in that owners licensee on the effective date of this Act.

(f) Until issuance of the first license under Section 25-45 or March 5, 2022, whichever occurs first, an individual must create a sports wagering account in person at a facility under paragraph (1) of subsection (d) to participate in sports wagering offered over the Internet or through a mobile application.

(Source: P.A. 101-31, eff. 6-28-19; 101-648, eff. 6-30-20; 102-689, eff. 12-17-21.)

(230 ILCS 45/25-40)

Sec. 25-40. Master sports wagering license issued to a sports facility.

(a) As used in this Section, "designee" means a master sports wagering licensee under Section 25-30, 25-35, or 25-45 or a management services provider licensee.

(b) A sports facility or a designee contracted to operate sports wagering at or within a 5-block radius of the sports facility may apply to the Board for a master sports wagering license. To the extent permitted by federal and State law, the Board shall actively seek to achieve racial, ethnic, and geographic diversity when issuing master sports wagering licenses to sports facilities or their designees and encourage minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities to apply for licensure. Additionally, the report published under subsection (m) of Section 25-45 shall impact the issuance of the master sports wagering license to the extent permitted by federal and State law.

For the purposes of this subsection (b), "minority-owned business", "women-owned business", and "business owned by persons with disabilities" have the meanings given to those terms in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(c) The Board may issue up to 7 master sports wagering licenses to sports facilities or their designees that meet the requirements for licensure as determined by rule by the Board. If more than 7 qualified applicants apply for a master sports wagering license under this Section, the licenses shall be

granted in the order in which the applications were received. If a license is denied, revoked, or not renewed, the Board may begin a new application process and issue a license under this Section in the order in which the application was received.

(d) The initial license fee for a master sports wagering license for a sports facility is $10,000,000. The master sports wagering license is valid for 4 years.

(e) The sports facility or its designee may renew the master sports wagering license for a period of 4 years by paying a $1,000,000 renewal fee to the Board.

(f) A sports facility or its designee issued a master sports wagering license may conduct sports wagering at or within a 5-block radius of the sports facility.

(g) A sports facility or its designee issued a master sports wagering license may conduct sports wagering over the Internet within the sports facility or within a 5-block radius of the sports facility.

(h) The sports wagering offered by a sports facility or its designee over the Internet or through a mobile application shall be offered under the same brand as the sports facility is operating under, the brand the designee is operating under, or a combination thereof.

(i) Until issuance of the first license under Section 25-45 or March 5, 2022, whichever occurs first, an individual must register in person at a sports facility or the designee's facility to participate in sports wagering offered over the

Internet or through a mobile application.

(Source: P.A. 101-31, eff. 6-28-19; 102-689, eff. 12-17-21.)

(230 ILCS 45/25-45)

Sec. 25-45. Master sports wagering license issued to an online sports wagering operator.

(a) The Board shall issue 3 master sports wagering licenses to online sports wagering operators for a nonrefundable license fee of $20,000,000 pursuant to an open and competitive selection process. The master sports wagering license issued under this Section may be renewed every 4 years upon payment of a $1,000,000 renewal fee. To the extent permitted by federal and State law, the Board shall actively seek to achieve racial, ethnic, and geographic diversity when issuing master sports wagering licenses under this Section and encourage minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by persons with disabilities to apply for licensure.

For the purposes of this subsection (a), "minority-owned business", "women-owned business", and "business owned by persons with disabilities" have the meanings given to those terms in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(b) Applications for the initial competitive selection occurring after the effective date of this Act shall be received by the Board within 540 days after the first license

is issued under this Act to qualify. The Board shall announce the winning bidders for the initial competitive selection within 630 days after the first license is issued under this Act, and this time frame may be extended at the discretion of the Board.

(c) The Board shall provide public notice of its intent to solicit applications for master sports wagering licenses under this Section by posting the notice, application instructions, and materials on its website for at least 30 calendar days before the applications are due. Failure by an applicant to submit all required information may result in the application being disqualified. The Board may notify an applicant that its application is incomplete and provide an opportunity to cure by rule. Application instructions shall include a brief overview of the selection process and how applications are scored.

(d) To be eligible for a master sports wagering license under this Section, an applicant must: (1) be at least 21 years of age; (2) not have been convicted of a felony offense or a violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012 or a similar statute of any other jurisdiction; (3) not have been convicted of a crime involving dishonesty or moral turpitude; (4) have demonstrated a level of skill or knowledge that the Board determines to be necessary in order to operate sports wagering; and (5) have met standards for the holding of a license as adopted by rules

of the Board.

The Board may adopt rules to establish additional qualifications and requirements to preserve the integrity and security of sports wagering in this State and to promote and maintain a competitive sports wagering market. After the close of the application period, the Board shall determine whether the applications meet the mandatory minimum qualification criteria and conduct a comprehensive, fair, and impartial evaluation of all qualified applications.

(e) The Board shall open all qualified applications in a public forum and disclose the applicants' names. The Board shall summarize the terms of the proposals and make the summaries available to the public on its website.

(f) Not more than 90 days after the publication of the qualified applications, the Board shall identify the winning bidders. In granting the licenses, the Board may give favorable consideration to qualified applicants presenting plans that provide for economic development and community engagement. To the extent permitted by federal and State law, the Board may give favorable consideration to qualified applicants demonstrating commitment to diversity in the workplace.

(g) Upon selection of the winning bidders, the Board shall have a reasonable period of time to ensure compliance with all applicable statutory and regulatory criteria before issuing the licenses. If the Board determines a winning bidder does

not satisfy all applicable statutory and regulatory criteria, the Board shall select another bidder from the remaining qualified applicants.

(h) Nothing in this Section is intended to confer a property or other right, duty, privilege, or interest entitling an applicant to an administrative hearing upon denial of an application.

(i) Upon issuance of a master sports wagering license to a winning bidder, the information and plans provided in the application become a condition of the license. A master sports wagering licensee under this Section has a duty to disclose any material changes to the application. Failure to comply with the conditions or requirements in the application may subject the master sports wagering licensee under this Section to discipline, including, but not limited to, fines, suspension, and revocation of its license, pursuant to rules adopted by the Board.

(j) The Board shall disseminate information about the licensing process through media demonstrated to reach large numbers of business owners and entrepreneurs who are minorities, women, veterans, and persons with disabilities.

(k) The Department of Commerce and Economic Opportunity, in conjunction with the Board, shall conduct ongoing, thorough, and comprehensive outreach to businesses owned by minorities, women, veterans, and persons with disabilities about contracting and entrepreneurial opportunities in sports

wagering. This outreach shall include, but not be limited to:

(1) cooperating and collaborating with other State boards, commissions, and agencies; public and private universities and community colleges; and local governments to target outreach efforts; and

(2) working with organizations serving minorities, women, and persons with disabilities to establish and conduct training for employment in sports wagering.

(l) The Board shall partner with the Department of Labor, the Department of Financial and Professional Regulation, and the Department of Commerce and Economic Opportunity to identify employment opportunities within the sports wagering industry for job seekers and dislocated workers.

(m) By March 1, 2020, the Board shall prepare a request for proposals to conduct a study of the online sports wagering industry and market to determine whether there is a compelling interest in implementing remedial measures, including the application of the Business Enterprise Program under the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act or a similar program to assist minorities, women, and persons with disabilities in the sports wagering industry.

As a part of the study, the Board shall evaluate race and gender-neutral programs or other methods that may be used to address the needs of minority and women applicants and minority-owned and women-owned businesses seeking to

participate in the sports wagering industry. The Board shall submit to the General Assembly and publish on its website the results of this study by August 1, 2020.

If, as a result of the study conducted under this subsection (m), the Board finds that there is a compelling interest in implementing remedial measures, the Board may adopt rules, including emergency rules, to implement remedial measures, if necessary and to the extent permitted by State and federal law, based on the findings of the study conducted under this subsection (m).

(Source: P.A. 101-31, eff. 6-28-19.)

Section 187. The Illinois Public Aid Code is amended by changing Section 5-30.17 as follows:

(305 ILCS 5/5-30.17)

Sec. 5-30.17. Medicaid Managed Care Oversight Commission.

(a) The Medicaid Managed Care Oversight Commission is created within the Department of Healthcare and Family Services to evaluate the effectiveness of Illinois' managed care program.

(b) The Commission shall consist of the following members:

(1) One member of the Senate, appointed by the Senate President, who shall serve as co-chair.

(2) One member of the House of Representatives, appointed by the Speaker of the House of Representatives,

who shall serve as co-chair.

(3) One member of the House of Representatives, appointed by the Minority Leader of the House of Representatives.

(4) One member of the Senate, appointed by the Senate Minority Leader.

(5) One member representing the Department of Healthcare and Family Services, appointed by the Governor.

(6) One member representing the Department of Public Health, appointed by the Governor.

(7) One member representing the Department of Human Services, appointed by the Governor.

(8) One member representing the Department of Children and Family Services, appointed by the Governor.

(9) One member of a statewide association representing Medicaid managed care plans, appointed by the Governor.

(10) One member of a statewide association representing a majority of hospitals, appointed by the Governor.

(11) Two academic experts on Medicaid managed care programs, appointed by the Governor.

(12) One member of a statewide association representing primary care providers, appointed by the Governor.

(13) One member of a statewide association representing behavioral health providers, appointed by the

Governor.

(14) Members representing Federally Qualified Health Centers, a long-term care association, a dental association, pharmacies, pharmacists, a developmental disability association, a Medicaid consumer advocate, a Medicaid consumer, an association representing physicians, a behavioral health association, and an association representing pediatricians, appointed by the Governor.

(15) A member of a statewide association representing only safety-net hospitals, appointed by the Governor.

(c) The Director of Healthcare and Family Services and chief of staff, or their designees, shall serve as the Commission's executive administrators in providing administrative support, research support, and other administrative tasks requested by the Commission's co-chairs. Any expenses, including, but not limited to, travel and housing, shall be paid for by the Department's existing budget.

(d) The members of the Commission shall receive no compensation for their services as members of the Commission.

(e) The Commission shall meet quarterly beginning as soon as is practicable after the effective date of this amendatory Act of the 102nd General Assembly.

(f) The Commission shall:

(1) review data on health outcomes of Medicaid managed care members;

(2) review current care coordination and case management efforts and make recommendations on expanding care coordination to additional populations with a focus on the social determinants of health;

(3) review and assess the appropriateness of metrics used in the Pay-for-Performance programs;

(4) review the Department's prior authorization and utilization management requirements and recommend adaptations for the Medicaid population;

(5) review managed care performance in meeting diversity contracting goals and the use of funds dedicated to meeting such goals, including, but not limited to, contracting requirements set forth in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; recommend strategies to increase compliance with diversity contracting goals in collaboration with the Chief Procurement Officer for General Services and the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities; and recoup any misappropriated funds for diversity contracting;

(6) review data on the effectiveness of processing to medical providers;

(7) review member access to health care services in the Medicaid Program, including specialty care services;

(8) review value-based and other alternative payment

methodologies to make recommendations to enhance program efficiency and improve health outcomes;

(9) review the compliance of all managed care entities in State contracts and recommend reasonable financial penalties for any noncompliance;

(10) produce an annual report detailing the Commission's findings based upon its review of research conducted under this Section, including specific recommendations, if any, and any other information the Commission may deem proper in furtherance of its duties under this Section;

(11) review provider availability and make recommendations to increase providers where needed, including reviewing the regulatory environment and making recommendations for reforms;

(12) review capacity for culturally competent services, including translation services among providers; and

(13) review and recommend changes to the safety-net hospital definition to create different classifications of safety-net hospitals.

(f-5) The Department shall make available upon request the analytics of Medicaid managed care clearinghouse data regarding processing.

(g) Beginning January 1, 2022, and for each year thereafter, the Commission shall submit a report of its

findings and recommendations to the General Assembly. The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(Source: P.A. 102-4, eff. 4-27-21.)

Section 188. The Bias-Free Child Removal Pilot Program Act is amended by changing Section 15 as follows:

(325 ILCS 7/15)

(Section scheduled to be repealed on January 1, 2027)

Sec. 15. Definitions. As used in this Act:

"Bias-free" means to review a case file without the following identifying demographic information on the parent and child: gender, race, ethnicity, geographic location, and socioeconomic status, which prevents a reader from inserting bias, implicit or explicit, into critical decisions such as removing a child from the child's family.

"BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Child" means any person under 18 years of age.

"Child welfare court personnel" means lawyers, judges,

public defenders, and guardians ad litem.

"Department" means the Department of Children and Family Services.

"Evaluation design" means identifying an overall strategy for analyzing the effectiveness of a program to include outlining a distinct approach to formulating key outputs and outcomes, selecting an appropriate research method, and evaluating the outcomes of a program.

"Immediate and urgent necessity", in accordance with Section 5 of the Abused and Neglected Child reporting Act, means (i) that there is a reason to believe that the child cannot be cared for at home or in the custody of the person responsible for the child's welfare without endangering the child's health or safety and (ii) that there is no time to apply for a court order under the Juvenile Court Act of 1987 for temporary custody of the child.

"Lived experience" means a representation of the experiences of a person involved in the child welfare system, the knowledge and understanding that the person gains from these experiences, and the ability to understand the policies or guidelines of the Department.

"Program" or "pilot program" means the Bias-Free Child Removal Pilot Program.

"Review Team" means the Bias-Free Case Review Team.

(Source: P.A. 102-1087, eff. 6-10-22.)

Section 190. The Quincy Veterans' Home Rehabilitation and Rebuilding Act is amended by changing Sections 5, 15, 30, and 46 as follows:

(330 ILCS 21/5)

(Section scheduled to be repealed on July 17, 2023)

Sec. 5. Legislative policy. It is the intent of the General Assembly that the Capital Development Board or the Department of Veterans' Affairs be allowed to use the design-build delivery method for public projects to renovate, restore, rehabilitate, or rebuild the Quincy Veterans' Home, if it is shown to be in the State's best interests for that particular project. It shall be the policy of the Capital Development Board and the Department of Veterans' Affairs in the procurement of design-build services to publicly announce all requirements for design-build services for the Quincy Veterans' Home and to procure these services on the basis of demonstrated competence and qualifications and with due regard for the principles of competitive selection.

The Capital Development Board and the Department of Veterans' Affairs shall, prior to issuing requests for proposals, promulgate and publish procedures for the solicitation and award of contracts pursuant to this Act.

The Capital Development Board and the Department of Veterans' Affairs shall, for each public project or projects permitted under this Act, make a written determination,

including a description as to the particular advantages of the design-build procurement method, that it is in the best interests of this State to enter into a design-build contract for the project or projects. In making that determination, the following factors shall be considered:

(1) The probability that the design-build procurement method will be in the best interests of the State by providing a material savings of time or cost over the design-bid-build or other delivery system.

(2) The type and size of the project and its suitability to the design-build procurement method.

(3) The ability of the State construction agency to define and provide comprehensive scope and performance criteria for the project.

No State construction agency may use a design-build procurement method unless the agency determines in writing that the project will comply with the disadvantaged business and equal employment practices of the State as established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

The Capital Development Board or the Department of Veterans' Affairs shall, within 15 days after the initial determination, provide an advisory copy to the Procurement Policy Board and maintain the full record of determination for 5 years.

(Source: P.A. 100-610, eff. 7-17-18.)

(330 ILCS 21/15)

(Section scheduled to be repealed on July 17, 2023)

Sec. 15. Solicitation of proposals.

(a) When the State construction agency elects to use the design-build delivery method, it must issue a notice of intent to receive requests for proposals for the project at least 14 days before issuing the request for proposal. The State construction agency must publish the advance notice in the official procurement bulletin of the State or the professional services bulletin of the State construction agency, if any. The agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The State construction agency must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal shall be prepared for each project and must contain, without limitation, the following information:

(1) The name of the State construction agency.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The State construction agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the use of additional prequalification criteria by the State construction agency.

(5) Material requirements of the contract, including, but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The State construction agency may include any other relevant information that it chooses to supply. The design-build entity shall be entitled to rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21

calendar days after the date of the issuance of the request for proposal. In the event the cost of the project is estimated to exceed $10,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The State construction agency shall include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(Source: P.A. 100-610, eff. 7-17-18.)

(330 ILCS 21/30)

(Section scheduled to be repealed on July 17, 2023)

Sec. 30. Procedures for selection.

(a) The State construction agency must use a two-phase procedure for the selection of the successful design-build entity. Phase I of the procedure will evaluate and shortlist the design-build entities based on qualifications, and Phase II will evaluate the technical and cost proposals.

(b) The State construction agency shall include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the agency has set forth. Each request for proposal shall establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must

maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase I evaluation of design-build entities: (1) experience of personnel; (2) successful experience with similar project types; (3) financial capability; (4) timeliness of past performance; (5) experience with similarly sized projects; (6) successful reference checks of the firm; (7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act. The State construction agency may include any additional relevant criteria in Phase I that it deems necessary for a proper qualification review.

The State construction agency may not consider any design-build entity for evaluation or award if the entity has any pecuniary interest in the project or has other relationships or circumstances, including, but not limited to, long-term leasehold, mutual performance, or development contracts with the State construction agency, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or

performance of the design-build contract or that create the appearance of impropriety. No proposal shall be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualifications evaluation, the State construction agency shall create a shortlist of the most highly qualified design-build entities. The State construction agency, in its discretion, is not required to shortlist the maximum number of entities as identified for Phase II evaluation, so long as no less than 2 design-build entities nor more than 6 design-build entities are selected to submit Phase II proposals.

The State construction agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the Phase II technical and cost evaluations. The State construction agency must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the State agency.

(c) The State construction agency shall include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each

request for proposal shall establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the State construction agency. The State construction agency must maintain a record of the evaluation scoring to be disclosed in the event of a protest regarding the solicitation.

The State construction agency shall include the following criteria in every Phase II technical evaluation of design-build entities: (1) compliance with objectives of the project; (2) compliance of proposed services to the request for proposal requirements; (3) quality of products or materials proposed; (4) quality of design parameters; (5) design concepts; (6) innovation in meeting the scope and performance criteria; and (7) constructability of the proposed project. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The State construction agency shall include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The State construction agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighting factor shall be 25%.

The State construction agency shall directly employ or

retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

Upon completion of the technical submissions and cost submissions evaluation, the State construction agency may award the design-build contract to the highest overall ranked entity.

(Source: P.A. 100-610, eff. 7-17-18; 101-81, eff. 7-12-19.)

(330 ILCS 21/46)

(Section scheduled to be repealed on July 17, 2023)

Sec. 46. Reports and evaluation. At the end of every 6-month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity shall detail, in a written report submitted to the State agency, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act. If the entity's performance in implementing the plan falls short of the performance measures and outcomes set forth in the plans submitted by the entity during the proposal process, the entity shall, in a detailed written report, inform the General Assembly and the Governor whether and to what degree each

design-build contract authorized under this Act promoted the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(Source: P.A. 100-610, eff. 7-17-18.)

Section 191. The Cannabis Regulation and Tax Act is amended by changing Section 55-80 as follows:

(410 ILCS 705/55-80)

Sec. 55-80. Annual reports.

(a) The Department of Financial and Professional Regulation shall submit to the General Assembly and Governor a report, by September 30 of each year, that does not disclose any information identifying information about cultivation centers, craft growers, infuser organizations, transporting organizations, or dispensing organizations, but does contain, at a minimum, all of the following information for the previous fiscal year:

(1) The number of licenses issued to dispensing organizations by county, or, in counties with greater than 3,000,000 residents, by zip code;

(2) The total number of dispensing organization owners that are Social Equity Applicants or minority persons, women, or persons with disabilities as those terms are

defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(3) The total number of revenues received from dispensing organizations, segregated from revenues received from dispensing organizations under the Compassionate Use of Medical Cannabis Program Act by county, separated by source of revenue;

(4) The total amount of revenue received from dispensing organizations that share a premises or majority ownership with a craft grower;

(5) The total amount of revenue received from dispensing organizations that share a premises or majority ownership with an infuser; and

(6) An analysis of revenue generated from taxation, licensing, and other fees for the State, including recommendations to change the tax rate applied.

(b) The Department of Agriculture shall submit to the General Assembly and Governor a report, by September 30 of each year, that does not disclose any information identifying information about cultivation centers, craft growers, infuser organizations, transporting organizations, or dispensing organizations, but does contain, at a minimum, all of the following information for the previous fiscal year:

(1) The number of licenses issued to cultivation centers, craft growers, infusers, and transporters by license type, and, in counties with more than 3,000,000

residents, by zip code;

(2) The total number of cultivation centers, craft growers, infusers, and transporters by license type that are Social Equity Applicants or minority persons, women, or persons with disabilities as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(3) The total amount of revenue received from cultivation centers, craft growers, infusers, and transporters, separated by license types and source of revenue;

(4) The total amount of revenue received from craft growers and infusers that share a premises or majority ownership with a dispensing organization;

(5) The total amount of revenue received from craft growers that share a premises or majority ownership with an infuser, but do not share a premises or ownership with a dispensary;

(6) The total amount of revenue received from infusers that share a premises or majority ownership with a craft grower, but do not share a premises or ownership with a dispensary;

(7) The total amount of revenue received from craft growers that share a premises or majority ownership with a dispensing organization, but do not share a premises or ownership with an infuser;

(8) The total amount of revenue received from infusers that share a premises or majority ownership with a dispensing organization, but do not share a premises or ownership with a craft grower;

(9) The total amount of revenue received from transporters; and

(10) An analysis of revenue generated from taxation, licensing, and other fees for the State, including recommendations to change the tax rate applied.

(c) The Illinois State Police shall submit to the General Assembly and Governor a report, by September 30 of each year that contains, at a minimum, all of the following information for the previous fiscal year:

(1) The effect of regulation and taxation of cannabis on law enforcement resources;

(2) The impact of regulation and taxation of cannabis on highway and waterway safety and rates of impaired driving or operating, where impairment was determined based on failure of a field sobriety test;

(3) The available and emerging methods for detecting the metabolites for delta-9-tetrahydrocannabinol in bodily fluids, including, without limitation, blood and saliva;

(4) The effectiveness of current DUI laws and recommendations for improvements to policy to better ensure safe highways and fair laws.

(d) The Adult Use Cannabis Health Advisory Committee shall

submit to the General Assembly and Governor a report, by September 30 of each year, that does not disclose any identifying information about any individuals, but does contain, at a minimum:

(1) Self-reported youth cannabis use, as published in the most recent Illinois Youth Survey available;

(2) Self-reported adult cannabis use, as published in the most recent Behavioral Risk Factor Surveillance Survey available;

(3) Hospital room admissions and hospital utilization rates caused by cannabis consumption, including the presence or detection of other drugs;

(4) Overdoses of cannabis and poison control data, including the presence of other drugs that may have contributed;

(5) Incidents of impaired driving caused by the consumption of cannabis or cannabis products, including the presence of other drugs or alcohol that may have contributed to the impaired driving;

(6) Prevalence of infants born testing positive for cannabis or delta-9-tetrahydrocannabinol, including demographic and racial information on which infants are tested;

(7) Public perceptions of use and risk of harm;

(8) Revenue collected from cannabis taxation and how that revenue was used;

(9) Cannabis retail licenses granted and locations;

(10) Cannabis-related arrests; and

(11) The number of individuals completing required bud tender training.

(e) Each agency or committee submitting reports under this Section may consult with one another in the preparation of each report.

(Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19; 102-538, eff. 8-20-21.)

Section 195. The Environmental Protection Act is amended by changing Sections 14.7 and 17.12 as follows:

(415 ILCS 5/14.7)

Sec. 14.7. Preservation of community water supplies.

(a) The Agency shall adopt rules governing certain corrosion prevention projects carried out on community water supplies. Those rules shall not apply to buried pipelines including, but not limited to, pipes, mains, and joints. The rules shall exclude routine maintenance activities of community water supplies including, but not limited to, the use of protective coatings applied by the owner's utility personnel during the course of performing routine maintenance activities. Routine maintenance activities shall include, but not be limited to, the painting of fire hydrants; routine over-coat painting of interior and exterior building surfaces

such as floors, doors, windows, and ceilings; and routine touch-up and over-coat application of protective coatings typically found on water utility pumps, pipes, tanks, and other water treatment plant appurtenances and utility owned structures. Those rules shall include:

(1) standards for ensuring that community water supplies carry out corrosion prevention and mitigation methods according to corrosion prevention industry standards adopted by the Agency;

(2) requirements that community water supplies use:

(A) protective coatings personnel to carry out corrosion prevention and mitigation methods on exposed water treatment tanks, exposed non-concrete water treatment structures, exposed water treatment pipe galleys; exposed pumps; and generators; the Agency shall not limit to protective coatings personnel any other work relating to prevention and mitigation methods on any other water treatment appurtenances where protective coatings are utilized for corrosion control and prevention to prolong the life of the water utility asset; and

(B) inspectors to ensure that best practices and standards are adhered to on each corrosion prevention project; and

(3) standards to prevent environmental degradation that might occur as a result of carrying out corrosion

prevention and mitigation methods including, but not limited to, standards to prevent the improper handling and containment of hazardous materials, especially lead paint, removed from the exterior of a community water supply.

In adopting rules under this subsection (a), the Agency shall obtain input from corrosion industry experts specializing in the training of personnel to carry out corrosion prevention and mitigation methods.

(b) As used in this Section:

"Community water supply" has the meaning ascribed to that term in Section 3.145 of this Act.

"Corrosion" means a naturally occurring phenomenon commonly defined as the deterioration of a metal that results from a chemical or electrochemical reaction with its environment.

"Corrosion prevention and mitigation methods" means the preparation, application, installation, removal, or general maintenance as necessary of a protective coating system, including any or more of the following:

(A) surface preparation and coating application on the exterior or interior of a community water supply; or

(B) shop painting of structural steel fabricated for installation as part of a community water supply.

"Corrosion prevention project" means carrying out corrosion prevention and mitigation methods. "Corrosion

prevention project" does not include clean-up related to surface preparation.

"Protective coatings personnel" means personnel employed or retained by a contractor providing services covered by this Section to carry out corrosion prevention or mitigation methods or inspections.

(c) (Blank).

(d) Each contract procured pursuant to the Illinois Procurement Code for the provision of services covered by this Section (1) shall comply with applicable provisions of the Illinois Procurement Code and (2) shall include provisions for reporting participation by minority persons, women, and veterans, as defined by Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act~~; women, as defined by Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and veterans, as defined by Section 45-57 of the Illinois Procurement Code~~, in apprenticeship and training programs in which the contractor or his or her subcontractors participate. The requirements of this Section do not apply to an individual licensed under the Professional Engineering Practice Act of 1989 or the Structural Engineering Act of 1989.

(Source: P.A. 100-391, eff. 8-25-17; 101-226, eff. 6-1-20.)

(415 ILCS 5/17.12)

Sec. 17.12. Lead service line replacement and

notification.

(a) The purpose of this Act is to: (1) require the owners and operators of community water supplies to develop, implement, and maintain a comprehensive water service line material inventory and a comprehensive lead service line replacement plan, provide notice to occupants of potentially affected buildings before any construction or repair work on water mains or lead service lines, and request access to potentially affected buildings before replacing lead service lines; and (2) prohibit partial lead service line replacements, except as authorized within this Section.

(b) The General Assembly finds and declares that:

(1) There is no safe level of exposure to heavy metal lead, as found by the United States Environmental Protection Agency and the Centers for Disease Control and Prevention.

(2) Lead service lines can convey this harmful substance to the drinking water supply.

(3) According to the Illinois Environmental Protection Agency's 2018 Service Line Material Inventory, the State of Illinois is estimated to have over 680,000 lead-based service lines still in operation.

(4) The true number of lead service lines is not fully known because Illinois lacks an adequate inventory of lead service lines.

(5) For the general health, safety and welfare of its

residents, all lead service lines in Illinois should be disconnected from the drinking water supply, and the State's drinking water supply.

(c) In this Section:

"Advisory Board" means the Lead Service Line Replacement Advisory Board created under subsection (x).

"Community water supply" has the meaning ascribed to it in Section 3.145 of this Act.

"Department" means the Department of Public Health.

"Emergency repair" means any unscheduled water main, water service, or water valve repair or replacement that results from failure or accident.

"Fund" means the Lead Service Line Replacement Fund created under subsection (bb).

"Lead service line" means a service line made of lead or service line connected to a lead pigtail, lead gooseneck, or other lead fitting.

"Material inventory" means a water service line material inventory developed by a community water supply under this Act.

"Non-community water supply" has the meaning ascribed to it in Section 3.145 of the Environmental Protection Act.

"NSF/ANSI Standard" means a water treatment standard developed by NSF International.

"Partial lead service line replacement" means replacement of only a portion of a lead service line.

"Potentially affected building" means any building that is provided water service through a service line that is either a lead service line or a suspected lead service line.

"Public water supply" has the meaning ascribed to it in Section 3.365 of this Act.

"Service line" means the piping, tubing, and necessary appurtenances acting as a conduit from the water main or source of potable water supply to the building plumbing at the first shut-off valve or 18 inches inside the building, whichever is shorter.

"Suspected lead service line" means a service line that a community water supply finds more likely than not to be made of lead after completing the requirements under paragraphs (2) through (5) of subsection (h).

"Small system" means a community water supply that regularly serves water to 3,300 or fewer persons.

(d) An owner or operator of a community water supply shall:

(1) develop an initial material inventory by April 15, 2022 and electronically submit by April 15, 2023 an updated material inventory electronically to the Agency; and

(2) deliver a complete material inventory to the Agency no later than April 15, 2024, or such time as required by federal law, whichever is sooner. The complete inventory shall report the composition of all service

lines in the community water supply's distribution system.

(e) The Agency shall review and approve the final material inventory submitted to it under subsection (d).

(f) If a community water supply does not submit a complete inventory to the Agency by April 15, 2024 under paragraph (2) of subsection (d), the community water supply may apply for an extension to the Agency no less than 3 months prior to the due date. The Agency shall develop criteria for granting material inventory extensions. When considering requests for extension, the Agency shall, at a minimum, consider:

(1) the number of service connections in a water supply; and

(2) the number of service lines of an unknown material composition.

(g) A material inventory prepared for a community water supply under subsection (d) shall identify:

(1) the total number of service lines connected to the community water supply's distribution system;

(2) the materials of construction of each service line connected to the community water supply's distribution system;

(3) the number of suspected lead service lines that were newly identified in the material inventory for the community water supply after the community water supply last submitted a service line inventory to the Agency; and

(4) the number of suspected or known lead service

lines that were replaced after the community water supply last submitted a service line inventory to the Agency, and the material of the service line that replaced each lead service line.

When identifying the materials of construction under paragraph (2) of this subsection, the owner or operator of the community water supply shall to the best of the owner's or operator's ability identify the type of construction material used on the customer's side of the curb box, meter, or other line of demarcation and the community water supply's side of the curb box, meter, or other line of demarcation.

(h) In completing a material inventory under subsection (d), the owner or operator of a community water supply shall:

(1) prioritize inspections of high-risk areas identified by the community water supply and inspections of high-risk facilities, such as preschools, day care centers, day care homes, group day care homes, parks, playgrounds, hospitals, and clinics, and confirm service line materials in those areas and at those facilities;

(2) review historical documentation, such as construction logs or cards, as-built drawings, purchase orders, and subdivision plans, to determine service line material construction;

(3) when conducting distribution system maintenance, visually inspect service lines and document materials of construction;

(4) identify any time period when the service lines being connected to its distribution system were primarily lead service lines, if such a time period is known or suspected; and

(5) discuss service line repair and installation with its employees, contractors, plumbers, other workers who worked on service lines connected to its distribution system, or all of the above.

(i) The owner or operator of each community water supply shall maintain records of persons who refuse to grant access to the interior of a building for purposes of identifying the materials of construction of a service line. If a community water supply has been denied access on the property or to the interior of a building for that reason, then the community water supply shall attempt to identify the service line as a suspected lead service line, unless documentation is provided showing otherwise.

(j) If a community water supply identifies a lead service line connected to a building, the owner or operator of the community water supply shall attempt to notify the owner of the building and all occupants of the building of the existence of the lead service line within 15 days after identifying the lead service line, or as soon as is reasonably possible thereafter. Individual written notice shall be given according to the provisions of subsection (jj).

(k) An owner or operator of a community water supply has no

duty to include in the material inventory required under subsection (d) information about service lines that are physically disconnected from a water main in its distribution system.

(l) The owner or operator of each community water supply shall post on its website a copy of the most recently submitted material inventory or alternatively may request that the Agency post a copy of that material inventory on the Agency's website.

(m) Nothing in this Section shall be construed to require service lines to be unearthed for the sole purpose of inventorying.

(n) When an owner or operator of a community water supply awards a contract under this Section, the owner or operator shall make a good faith effort to use contractors and vendors owned by minority persons, women, <u>veterans,</u> and persons with a disability, as those terms are defined in Section 2 of the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act, for not less than 20% of the total contracts, provided that:

(1) contracts representing at least 11% of the total projects shall be awarded to minority-owned businesses, as defined in Section 2 of the Business Enterprise for Minorities, Women, <u>Veterans,</u> and Persons with Disabilities Act;

(2) contracts representing at least 7% of the total

projects shall be awarded to women-owned businesses, as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act; and

(3) contracts representing at least 2% of the total projects shall be awarded to businesses owned by persons with a disability.

Owners or operators of a community water supply are encouraged to divide projects, whenever economically feasible, into contracts of smaller size that ensure small business contractors or vendors shall have the ability to qualify in the applicable bidding process, when determining the ability to deliver on a given contract based on scope and size, as a responsible and responsive bidder.

When a contractor or vendor submits a bid or letter of intent in response to a request for proposal or other bid submission, the contractor or vendor shall include with its responsive documents a utilization plan that shall address how compliance with applicable good faith requirements set forth in this subsection shall be addressed.

Under this subsection, "good faith effort" means a community water supply has taken all necessary steps to comply with the goals of this subsection by complying with the following:

(1) Soliciting through reasonable and available means the interest of a business, as defined in Section 2 of the

Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act, that have the capability to perform the work of the contract. The community water supply must solicit this interest within sufficient time to allow certified businesses to respond.

(2) Providing interested certified businesses with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(3) Meeting in good faith with interested certified businesses that have submitted bids.

(4) Effectively using the services of the State, minority or women community organizations, minority or women contractor groups, local, State, and federal minority or women business assistance offices, and other organizations to provide assistance in the recruitment and placement of certified businesses.

(5) Making efforts to use appropriate forums for purposes of advertising subcontracting opportunities suitable for certified businesses.

The diversity goals defined in this subsection can be met through direct award to diverse contractors and through the use of diverse subcontractors and diverse vendors to contracts.

(o) An owner or operator of a community water supply shall

collect data necessary to ensure compliance with subsection (n) no less than semi-annually and shall include progress toward compliance of subsection (n) in the owner or operator's report required under subsection (t-5). The report must include data on vendor and employee diversity, including data on the owner's or operator's implementation of subsection (n).

(p) Every owner or operator of a community water supply that has known or suspected lead service lines shall:

(1) create a plan to:

(A) replace each lead service line connected to its distribution system; and

(B) replace each galvanized service line connected to its distribution system, if the galvanized service line is or was connected downstream to lead piping; and

(2) electronically submit, by April 15, 2024 its initial lead service line replacement plan to the Agency;

(3) electronically submit by April 15 of each year after 2024 until April 15, 2027 an updated lead service line replacement plan to the Agency for review; the updated replacement plan shall account for changes in the number of lead service lines or unknown service lines in the material inventory described in subsection (d);

(4) electronically submit by April 15, 2027 a complete and final replacement plan to the Agency for approval; the complete and final replacement plan shall account for all

known and suspected lead service lines documented in the final material inventory described under paragraph (3) of subsection (d); and

(5) post on its website a copy of the plan most recently submitted to the Agency or may request that the Agency post a copy of that plan on the Agency's website.

(q) Each plan required under paragraph (1) of subsection (p) shall include the following:

(1) the name and identification number of the community water supply;

(2) the total number of service lines connected to the distribution system of the community water supply;

(3) the total number of suspected lead service lines connected to the distribution system of the community water supply;

(4) the total number of known lead service lines connected to the distribution system of the community water supply;

(5) the total number of lead service lines connected to the distribution system of the community water supply that have been replaced each year beginning in 2020;

(6) a proposed lead service line replacement schedule that includes one-year, 5-year, 10-year, 15-year, 20-year, 25-year, and 30-year goals;

(7) an analysis of costs and financing options for replacing the lead service lines connected to the

community water supply's distribution system, which shall include, but shall not be limited to:

(A) a detailed accounting of costs associated with replacing lead service lines and galvanized lines that are or were connected downstream to lead piping;

(B) measures to address affordability and prevent service shut-offs for customers or ratepayers; and

(C) consideration of different scenarios for structuring payments between the utility and its customers over time; and

(8) a plan for prioritizing high-risk facilities, such as preschools, day care centers, day care homes, group day care homes, parks, playgrounds, hospitals, and clinics, as well as high-risk areas identified by the community water supply;

(9) a map of the areas where lead service lines are expected to be found and the sequence with which those areas will be inventoried and lead service lines replaced;

(10) measures for how the community water supply will inform the public of the plan and provide opportunity for public comment; and

(11) measures to encourage diversity in hiring in the workforce required to implement the plan as identified under subsection (n).

(r) The Agency shall review final plans submitted to it under subsection (p). The Agency shall approve a final plan if

the final plan includes all of the elements set forth under subsection (q) and the Agency determines that:

(1) the proposed lead service line replacement schedule set forth in the plan aligns with the timeline requirements set forth under subsection (v);

(2) the plan prioritizes the replacement of lead service lines that provide water service to high-risk facilities, such as preschools, day care centers, day care homes, group day care homes, parks, playgrounds, hospitals, and clinics, and high-risk areas identified by the community water supply;

(3) the plan includes analysis of cost and financing options; and

(4) the plan provides documentation of public review.

(s) An owner or operator of a community water supply has no duty to include in the plans required under subsection (p) information about service lines that are physically disconnected from a water main in its distribution system.

(t) If a community water supply does not deliver a complete plan to the Agency by April 15, 2027, the community water supply may apply to the Agency for an extension no less than 3 months prior to the due date. The Agency shall develop criteria for granting plan extensions. When considering requests for extension, the Agency shall, at a minimum, consider:

(1) the number of service connections in a water

supply; and

(2) the number of service lines of an unknown material composition.

(t-5) After the Agency has approved the final replacement plan described in subsection (p), the owner or operator of a community water supply shall submit a report detailing progress toward plan goals to the Agency for its review. The report shall be submitted annually for the first 10 years, and every 3 years thereafter until all lead service lines have been replaced. Reports under this subsection shall be published in the same manner described in subsection (l). The report shall include at least the following information as it pertains to the preceding reporting period:

(1) The number of lead service lines replaced and the average cost of lead service line replacement.

(2) Progress toward meeting hiring requirements as described in subsection (n) and subsection (o).

(3) The percent of customers electing a waiver offered, as described in subsections (ii) and (jj), among those customers receiving a request or notification to perform a lead service line replacement.

(4) The method or methods used by the community water supply to finance lead service line replacement.

(u) Notwithstanding any other provision of law, in order to provide for costs associated with lead service line remediation and replacement, the corporate authorities of a

municipality may, by ordinance or resolution by the corporate authorities, exercise authority provided in Section 27-5 et seq. of the Property Tax Code and Sections 8-3-1, 8-11-1, 8-11-5, 8-11-6, 9-1-1 et seq., 9-3-1 et seq., 9-4-1 et seq., 11-131-1, and 11-150-1 of the Illinois Municipal Code. Taxes levied for this purpose shall be in addition to taxes for general purposes authorized under Section 8-3-1 of the Illinois Municipal Code and shall be included in the taxing district's aggregate extension for the purposes of Division 5 of Article 18 of the Property Tax Code.

(v) Every owner or operator of a community water supply shall replace all known lead service lines, subject to the requirements of subsection (ff), according to the following replacement rates and timelines to be calculated from the date of submission of the final replacement plan to the Agency:

(1) A community water supply reporting 1,200 or fewer lead service lines in its final inventory and replacement plan shall replace all lead service lines, at an annual rate of no less than 7% of the amount described in the final inventory, with a timeline of up to 15 years for completion.

(2) A community water supply reporting more than 1,200 but fewer than 5,000 lead service lines in its final inventory and replacement plan shall replace all lead service lines, at an annual rate of no less than 6% of the amount described in the final inventory, with a timeline

of up to 17 years for completion.

(3) A community water supply reporting more than 4,999 but fewer than 10,000 lead service lines in its final inventory and replacement plan shall replace all lead service lines, at an annual rate of no less than 5% of the amount described in the final inventory, with a timeline of up to 20 years for completion.

(4) A community water supply reporting more than 9,999 but fewer than 99,999 lead service lines in its final inventory and replacement plan shall replace all lead service lines, at an annual rate of no less than 3% of the amount described in the final inventory, with a timeline of up to 34 years for completion.

(5) A community water supply reporting more than 99,999 lead service lines in its final inventory and replacement plan shall replace all lead service lines, at an annual rate of no less than 2% of the amount described in the final inventory, with a timeline of up to 50 years for completion.

(w) A community water supply may apply to the Agency for an extension to the replacement timelines described in paragraphs (1) through (5) of subsection (v). The Agency shall develop criteria for granting replacement timeline extensions. When considering requests for timeline extensions, the Agency shall, at a minimum, consider:

(1) the number of service connections in a water

supply; and

(2) unusual circumstances creating hardship for a community.

The Agency may grant one extension of additional time equal to not more than 20% of the original replacement timeline, except in situations of extreme hardship in which the Agency may consider a second additional extension equal to not more than 10% of the original replacement timeline.

Replacement rates and timelines shall be calculated from the date of submission of the final plan to the Agency.

(x) The Lead Service Line Replacement Advisory Board is created within the Agency. The Advisory Board shall convene within 120 days after January 1, 2022 (the effective date of Public Act 102-613).

The Advisory Board shall consist of at least 28 voting members, as follows:

(1) the Director of the Agency, or his or her designee, who shall serve as chairperson;

(2) the Director of Revenue, or his or her designee;

(3) the Director of Public Health, or his or her designee;

(4) fifteen members appointed by the Agency as follows:

(A) one member representing a statewide organization of municipalities as authorized by Section 1-8-1 of the Illinois Municipal Code;

(B) two members who are mayors representing municipalities located in any county south of the southernmost county represented by one of the 10 largest municipalities in Illinois by population, or their respective designees;

(C) two members who are representatives from public health advocacy groups;

(D) two members who are representatives from publicly-owned water utilities;

(E) one member who is a representative from a public utility as defined under Section 3-105 of the Public Utilities Act that provides water service in the State of Illinois;

(F) one member who is a research professional employed at an Illinois academic institution and specializing in water infrastructure research;

(G) two members who are representatives from nonprofit civic organizations;

(H) one member who is a representative from a statewide organization representing environmental organizations;

(I) two members who are representatives from organized labor; and

(J) one member representing an environmental justice organization; and

(5) ten members who are the mayors of the 10 largest

municipalities in Illinois by population, or their respective designees.

No less than 10 of the 28 voting members shall be persons of color, and no less than 3 shall represent communities defined or self-identified as environmental justice communities.

Advisory Board members shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties from funds appropriated for that purpose. The Agency shall provide administrative support to the Advisory Board.

The Advisory Board shall meet no less than once every 6 months.

(y) The Advisory Board shall have, at a minimum, the following duties:

(1) advising the Agency on best practices in lead service line replacement;

(2) reviewing the progress of community water supplies toward lead service line replacement goals;

(3) advising the Agency on other matters related to the administration of the provisions of this Section;

(4) advising the Agency on the integration of existing lead service line replacement plans with any statewide plan; and

(5) providing technical support and practical expertise in general.

(z) Within 18 months after January 1, 2022 (the effective date of Public Act 102-613), the Advisory Board shall deliver a report of its recommendations to the Governor and the General Assembly concerning opportunities for dedicated, long-term revenue options for funding lead service line replacement. In submitting recommendations, the Advisory Board shall consider, at a minimum, the following:

(1) the sufficiency of various revenue sources to adequately fund replacement of all lead service lines in Illinois;

(2) the financial burden, if any, on households falling below 150% of the federal poverty limit;

(3) revenue options that guarantee low-income households are protected from rate increases;

(4) an assessment of the ability of community water supplies to assess and collect revenue;

(5) variations in financial resources among individual households within a service area; and

(6) the protection of low-income households from rate increases.

(aa) Within 10 years after January 1, 2022 (the effective date of Public Act 102-613), the Advisory Board shall prepare and deliver a report to the Governor and General Assembly concerning the status of all lead service line replacement within the State.

(bb) The Lead Service Line Replacement Fund is created as

a special fund in the State treasury to be used by the Agency for the purposes provided under this Section. The Fund shall be used exclusively to finance and administer programs and activities specified under this Section and listed under this subsection.

The objective of the Fund is to finance activities associated with identifying and replacing lead service lines, build Agency capacity to oversee the provisions of this Section, and provide related assistance for the activities listed under this subsection.

The Agency shall be responsible for the administration of the Fund and shall allocate moneys on the basis of priorities established by the Agency through administrative rule. On July 1, 2022 and on July 1 of each year thereafter, the Agency shall determine the available amount of resources in the Fund that can be allocated to the activities identified under this Section and shall allocate the moneys accordingly.

Notwithstanding any other law to the contrary, the Lead Service Line Replacement Fund is not subject to sweeps, administrative charge-backs, or any other fiscal maneuver that would in any way transfer any amounts from the Lead Service Line Replacement Fund into any other fund of the State.

(cc) Within one year after January 1, 2022 (the effective date of Public Act 102-613), the Agency shall design rules for a program for the purpose of administering lead service line replacement funds. The rules must, at minimum, contain:

(1) the process by which community water supplies may apply for funding; and

(2) the criteria for determining unit of local government eligibility and prioritization for funding, including the prevalence of low-income households, as measured by median household income, the prevalence of lead service lines, and the prevalence of water samples that demonstrate elevated levels of lead.

(dd) Funding under subsection (cc) shall be available for costs directly attributable to the planning, design, or construction directly related to the replacement of lead service lines and restoration of property.

Funding shall not be used for the general operating expenses of a municipality or community water supply.

(ee) An owner or operator of any community water supply receiving grant funding under subsection (cc) shall bear the entire expense of full lead service line replacement for all lead service lines in the scope of the grant.

(ff) When replacing a lead service line, the owner or operator of the community water supply shall replace the service line in its entirety, including, but not limited to, any portion of the service line (i) running on private property and (ii) within the building's plumbing at the first shut-off valve. Partial lead service line replacements are expressly prohibited. Exceptions shall be made under the following circumstances:

(1) In the event of an emergency repair that affects a lead service line or a suspected lead service line, a community water supply must contact the building owner to begin the process of replacing the entire service line. If the building owner is not able to be contacted or the building owner or occupant refuses to grant access and permission to replace the entire service line at the time of the emergency repair, then the community water supply may perform a partial lead service line replacement. Where an emergency repair on a service line constructed of lead or galvanized steel pipe results in a partial service line replacement, the water supply responsible for commencing the repair shall perform the following:

(A) Notify the building's owner or operator and the resident or residents served by the lead service line in writing that a repair has been completed. The notification shall include, at a minimum:

(i) a warning that the work may result in sediment, possibly containing lead, in the buildings water supply system;

(ii) information concerning practices for preventing the consumption of any lead in drinking water, including a recommendation to flush water distribution pipe during and after the completion of the repair or replacement work and to clean faucet aerator screens; and

(iii) information regarding the dangers of lead to young children and pregnant women.

(B) Provide filters for at least one fixture supplying potable water for consumption. The filter must be certified by an accredited third-party certification body to NSF/ANSI 53 and NSF/ANSI 42 for the reduction of lead and particulate. The filter must be provided until such time that the remaining portions of the service line have been replaced with a material approved by the Department or a waiver has been issued under subsection (ii).

(C) Replace the remaining portion of the lead service line within 30 days of the repair, or 120 days in the event of weather or other circumstances beyond reasonable control that prohibits construction. If a complete lead service line replacement cannot be made within the required period, the community water supply responsible for commencing the repair shall notify the Department in writing, at a minimum, of the following within 24 hours of the repair:

(i) an explanation of why it is not feasible to replace the remaining portion of the lead service line within the allotted time; and

(ii) a timeline for when the remaining portion of the lead service line will be replaced.

(D) If complete repair of a lead service line

cannot be completed due to denial by the property owner, the community water supply commencing the repair shall request the affected property owner to sign a waiver developed by the Department. If a property owner of a nonresidential building or residence operating as rental properties denies a complete lead service line replacement, the property owner shall be responsible for installing and maintaining point-of-use filters certified by an accredited third-party certification body to NSF/ANSI 53 and NSF/ANSI 42 for the reduction of lead and particulate at all fixtures intended to supply water for the purposes of drinking, food preparation, or making baby formula. The filters shall continue to be supplied by the property owner until such time that the property owner has affected the remaining portions of the lead service line to be replaced.

(E) Document any remaining lead service line, including a portion on the private side of the property, in the community water supply's distribution system materials inventory required under subsection (d).

For the purposes of this paragraph (1), written notice shall be provided in the method and according to the provisions of subsection (jj).

(2) Lead service lines that are physically

disconnected from the distribution system are exempt from this subsection.

(gg) Except as provided in subsection (hh), on and after January 1, 2022, when the owner or operator of a community water supply replaces a water main, the community water supply shall identify all lead service lines connected to the water main and shall replace the lead service lines by:

(1) identifying the material or materials of each lead service line connected to the water main, including, but not limited to, any portion of the service line (i) running on private property and (ii) within the building plumbing at the first shut-off valve or 18 inches inside the building, whichever is shorter;

(2) in conjunction with replacement of the water main, replacing any and all portions of each lead service line connected to the water main that are composed of lead; and

(3) if a property owner or customer refuses to grant access to the property, following prescribed notice provisions as outlined in subsection (ff).

If an owner of a potentially affected building intends to replace a portion of a lead service line or a galvanized service line and the galvanized service line is or was connected downstream to lead piping, then the owner of the potentially affected building shall provide the owner or operator of the community water supply with notice at least 45 days before commencing the work. In the case of an emergency

repair, the owner of the potentially affected building must provide filters for each kitchen area that are certified by an accredited third-party certification body to NSF/ANSI 53 and NSF/ANSI 42 for the reduction of lead and particulate. If the owner of the potentially affected building notifies the owner or operator of the community water supply that replacement of a portion of the lead service line after the emergency repair is completed, then the owner or operator of the community water supply shall replace the remainder of the lead service line within 30 days after completion of the emergency repair. A community water supply may take up to 120 days if necessary due to weather conditions. If a replacement takes longer than 30 days, filters provided by the owner of the potentially affected building must be replaced in accordance with the manufacturer's recommendations. Partial lead service line replacements by the owners of potentially affected buildings are otherwise prohibited.

(hh) For municipalities with a population in excess of 1,000,000 inhabitants, the requirements of subsection (gg) shall commence on January 1, 2023.

(ii) At least 45 days before conducting planned lead service line replacement, the owner or operator of a community water supply shall, by mail, attempt to contact the owner of the potentially affected building serviced by the lead service line to request access to the building and permission to replace the lead service line in accordance with the lead

service line replacement plan. If the owner of the potentially affected building does not respond to the request within 15 days after the request is sent, the owner or operator of the community water supply shall attempt to post the request on the entrance of the potentially affected building.

If the owner or operator of a community water supply is unable to obtain approval to access and replace a lead service line, the owner or operator of the community water supply shall request that the owner of the potentially affected building sign a waiver. The waiver shall be developed by the Department and should be made available in the owner's language. If the owner of the potentially affected building refuses to sign the waiver or fails to respond to the community water supply after the community water supply has complied with this subsection, then the community water supply shall notify the Department in writing within 15 working days.

(jj) When replacing a lead service line or repairing or replacing water mains with lead service lines or partial lead service lines attached to them, the owner or operator of a community water supply shall provide the owner of each potentially affected building that is serviced by the affected lead service lines or partial lead service lines, as well as the occupants of those buildings, with an individual written notice. The notice shall be delivered by mail or posted at the primary entranceway of the building. The notice may, in addition, be electronically mailed. Written notice shall

include, at a minimum, the following:

(1) a warning that the work may result in sediment, possibly containing lead from the service line, in the building's water;

(2) information concerning the best practices for preventing exposure to or risk of consumption of lead in drinking water, including a recommendation to flush water lines during and after the completion of the repair or replacement work and to clean faucet aerator screens; and

(3) information regarding the dangers of lead exposure to young children and pregnant women.

When the individual written notice described in the first paragraph of this subsection is required as a result of planned work other than the repair or replacement of a water meter, the owner or operator of the community water supply shall provide the notice not less than 14 days before work begins. When the individual written notice described in the first paragraph of this subsection is required as a result of emergency repairs other than the repair or replacement of a water meter, the owner or operator of the community water supply shall provide the notice at the time the work is initiated. When the individual written notice described in the first paragraph of this subsection is required as a result of the repair or replacement of a water meter, the owner or operator of the community water supply shall provide the notice at the time the work is initiated.

The notifications required under this subsection must contain the following statement in Spanish, Polish, Chinese, Tagalog, Arabic, Korean, German, Urdu, and Gujarati: "This notice contains important information about your water service and may affect your rights. We encourage you to have this notice translated in full into a language you understand and before you make any decisions that may be required under this notice."

An owner or operator of a community water supply that is required under this subsection to provide an individual written notice to the owner and occupant of a potentially affected building that is a multi-dwelling building may satisfy that requirement and the requirements of this subsection regarding notification to non-English speaking customers by posting the required notice on the primary entranceway of the building and at the location where the occupant's mail is delivered as reasonably as possible.

When this subsection would require the owner or operator of a community water supply to provide an individual written notice to the entire community served by the community water supply or would require the owner or operator of a community water supply to provide individual written notices as a result of emergency repairs or when the community water supply that is required to comply with this subsection is a small system, the owner or operator of the community water supply may provide the required notice through local media outlets,

social media, or other similar means in lieu of providing the individual written notices otherwise required under this subsection.

No notifications are required under this subsection for work performed on water mains that are used to transmit treated water between community water supplies and properties that have no service connections.

(kk) No community water supply that sells water to any wholesale or retail consecutive community water supply may pass on any costs associated with compliance with this Section to consecutive systems.

(ll) To the extent allowed by law, when a community water supply replaces or installs a lead service line in a public right-of-way or enters into an agreement with a private contractor for replacement or installation of a lead service line, the community water supply shall be held harmless for all damage to property when replacing or installing the lead service line. If dangers are encountered that prevent the replacement of the lead service line, the community water supply shall notify the Department within 15 working days of why the replacement of the lead service line could not be accomplished.

(mm) The Agency may propose to the Board, and the Board may adopt, any rules necessary to implement and administer this Section. The Department may adopt rules necessary to address lead service lines attached to non-community water supplies.

(nn) Notwithstanding any other provision in this Section, no requirement in this Section shall be construed as being less stringent than existing applicable federal requirements.

(oo) All lead service line replacements financed in whole or in part with funds obtained under this Section shall be considered public works for purposes of the Prevailing Wage Act.

(Source: P.A. 102-613, eff. 1-1-22; 102-813, eff. 5-13-22.)

Section 200. The Public Private Agreements for the Illiana Expressway Act is amended by changing Section 20 as follows:

(605 ILCS 130/20)

Sec. 20. Procurement; request for proposals process.

(a) Notwithstanding any provision of law to the contrary, the Department on behalf of the State shall select a contractor through a competitive request for proposals process governed by the Illinois Procurement Code and rules adopted under that Code and this Act.

(b) The competitive request for proposals process shall, at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for proposals process shall, at a minimum, take into account the following criteria:

(1) The offeror's plans for the Illiana Expressway project;

(2) The offeror's current and past business practices;

(3) The offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating highways or other public assets;

(4) The offeror's ability to meet and past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(5) The offeror's ability to comply with and past performance in complying with Section 2-105 of the Illinois Human Rights Act; and

(6) The offeror's plans to comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select at least 2 offerors as

finalists. The Department shall submit the offerors' statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days of the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the Illiana Expressway project until it has received and considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public private agreement and publish notice of the hearing or hearings at least 7 days before the hearing and in accordance with Section 4-219 of the Illinois Highway Code. The notice must include the following:

(1) the date, time, and place of the hearing and the address of the Department;

(2) the subject matter of the hearing;

(3) a description of the agreement that may be awarded; and

(4) the recommendation that has been made to select an

offeror as the contractor for the Illiana Expressway project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the Illiana Expressway project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of the Department, the Governor shall designate the offeror for the Illiana Expressway project.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 205. The Public-Private Agreements for the South Suburban Airport Act is amended by changing Section 2-30 as follows:

(620 ILCS 75/2-30)

Sec. 2-30. Request for proposals process to enter into public-private agreements.

(a) Notwithstanding any provisions of the Illinois Procurement Code, the Department, on behalf of the State, shall select a contractor through a competitive request for

proposals process governed by Section 2-30 of this Act. The Department will consult with the chief procurement officer for construction or construction-related activities designated pursuant to clause (2) of Section 1-15.15 of the Illinois Procurement Code on the competitive request for proposals process, and the Secretary will determine, in consultation with the chief procurement officer, which procedures to adopt and apply to the competitive request for proposals process in order to ensure an open, transparent, and efficient process that accomplishes the purposes of this Act.

(b) The competitive request for proposals process shall, at a minimum, solicit statements of qualification and proposals from offerors.

(c) The competitive request for proposals process shall, at a minimum, take into account the following criteria:

(1) the offeror's plans for the South Suburban Airport project;

(2) the offeror's current and past business practices;

(3) the offeror's poor or inadequate past performance in developing, financing, constructing, managing, or operating airports or other public assets;

(4) the offeror's ability to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(5) the offeror's ability to comply with Section 2-105

of the Illinois Human Rights Act; and

(6) the offeror's plans to comply with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Section 2-105 of the Illinois Human Rights Act.

(d) The Department shall retain the services of an advisor or advisors with significant experience in the development, financing, construction, management, or operation of public assets to assist in the preparation of the request for proposals.

(e) The Department shall not include terms in the request for proposals that provide an advantage, whether directly or indirectly, to any contractor presently providing goods, services, or equipment to the Department.

(f) The Department shall select one or more offerors as finalists. The Department shall submit the offeror's statements of qualification and proposals to the Commission on Government Forecasting and Accountability and the Procurement Policy Board, which shall, within 30 days after the submission, complete a review of the statements of qualification and proposals and, jointly or separately, report on, at a minimum, the satisfaction of the criteria contained in the request for proposals, the qualifications of the offerors, and the value of the proposals to the State. The Department shall not select an offeror as the contractor for the South Suburban Airport project until it has received and

considered the findings of the Commission on Government Forecasting and Accountability and the Procurement Policy Board as set forth in their respective reports.

(g) Before awarding a public-private agreement to an offeror, the Department shall schedule and hold a public hearing or hearings on the proposed public-private agreement and publish notice of the hearing or hearings at least 7 days before the hearing. The notice shall include the following:

(1) the date, time, and place of the hearing and the address of the Department;

(2) the subject matter of the hearing;

(3) a description of the agreement that may be awarded; and

(4) the recommendation that has been made to select an offeror as the contractor for the South Suburban Airport project.

At the hearing, the Department shall allow the public to be heard on the subject of the hearing.

(h) After the procedures required in this Section have been completed, the Department shall make a determination as to whether the offeror should be designated as the contractor for the South Suburban Airport project and shall submit the decision to the Governor and to the Governor's Office of Management and Budget. After review of the Department's determination, the Governor may accept or reject the determination. If the Governor accepts the determination of

the Department, the Governor shall designate the offeror for the South Suburban Airport project.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 206. The Illinois Vehicle Code is amended by changing Section 13C-80 as follows:

(625 ILCS 5/13C-80)

Sec. 13C-80. Inspection replacement plan; report to General Assembly. By October 1, 2022, the Agency shall submit a written report to the General Assembly containing its plan to replace the dismantled official inspection stations located in the City of Chicago. The removal of the official inspection stations adversely impacted Chicago's 2.8 million population.

The plan shall consist of either a pilot program or a permanent replacement program. The described plan shall provide information on the proposed locations of the new stations within the City of Chicago, information on programs implemented in other states, and a target date for full operation of all stations. The Agency shall issue a request for proposals related to its plan by January 1, 2023.

The described plan shall also contain a timeline of actions including the issuance of a request for proposals by January 1, 2023. The plan shall include procurement of services, technology, equipment, and other elements necessary to replace the former vehicle testing lanes and shall state

whether the replacement stations in the City of Chicago will utilize permanent self-service kiosks or other services. The plan shall also include the Agency's strategy of how best to inform people of the location and hours of operation of the new official inspection stations and conduct an informational campaign.

Any contracts awarded as a result of this plan shall adhere to all State procurement requirements. The State shall consider contracting with minority-owned businesses as defined in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(Source: P.A. 102-738, eff. 5-6-22.)

Section 210. The Public-Private Partnerships for Transportation Act is amended by changing Section 25 as follows:

(630 ILCS 5/25)

Sec. 25. Design-build procurement.

(a) This Section 25 shall apply only to transportation projects for which the Department or the Authority intends to execute a design-build agreement, in which case the Department or the Authority shall abide by the requirements and procedures of this Section 25 in addition to other applicable requirements and procedures set forth in this Act.

(b)(1) The transportation agency must issue a notice of

intent to receive proposals for the project at least 14 days before issuing the request for the qualifications. The transportation agency must publish the advance notice in a daily newspaper of general circulation in the county where the transportation agency is located. The transportation agency is encouraged to use publication of the notice in related construction industry service publications. A brief description of the proposed procurement must be included in the notice. The transportation agency must provide a copy of the request for qualifications to any party requesting a copy.

(2) The request for qualifications shall be prepared for each project and must contain, without limitation, the following information: (i) the name of the transportation agency; (ii) a preliminary schedule for the completion of the contract; (iii) the proposed budget for the project and the source of funds, to the extent not already reflected in the Department's Multi-Year Highway Improvement Program; (iv) the shortlisting process for entities or groups of entities such as unincorporated joint ventures wishing to submit proposals (the transportation agency shall include, at a minimum, its normal prequalification, licensing, registration, and other requirements, but nothing contained herein precludes the use of additional criteria by the transportation agency); (v) a summary of anticipated material requirements of the contract, including but not limited to, the proposed terms and conditions, required performance and payment bonds, insurance,

and the utilization goals established by the transportation agency for minority and women business enterprises and compliance with Section 2-105 of the Illinois Human Rights Act; and (vi) the anticipated number of entities that will be shortlisted for the request for proposals phase.

(3) The transportation agency may include any other relevant information in the request for qualifications that it chooses to supply. The private entity shall be entitled to rely upon the accuracy of this documentation in the development of its statement of qualifications and its proposal only to the extent expressly warranted by the transportation agency.

(4) The date that statements of qualifications are due must be at least 21 calendar days after the date of the issuance of the request for qualifications. In the event the cost of the project is estimated to exceed $12,000,000, then the statement of qualifications due date must be at least 28 calendar days after the date of the issuance of the request for qualifications. The transportation agency shall include in the request for proposals a minimum of 30 days to develop the proposals after the selection of entities from the evaluation of the statements of qualifications is completed.

(c)(1) The transportation agency shall develop, with the assistance of a licensed design professional, the request for qualifications and the request for proposals, which shall include scope and performance criteria. The scope and

performance criteria must be in sufficient detail and contain adequate information to reasonably apprise the private entities of the transportation agency's overall programmatic needs and goals, including criteria and preliminary design plans, general budget parameters, schedule, and delivery requirements.

(2) Each request for qualifications and request for proposals shall also include a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the transportation agency to be produced by the private entities.

(3) The scope and performance criteria shall be prepared by a design professional who is an employee of the transportation agency, or the transportation agency may contract with an independent design professional selected under the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act to provide these services.

(4) The design professional that prepares the scope and performance criteria is prohibited from participating in any private entity proposal for the project.

(d)(1) The transportation agency must use a two phase procedure for the selection of the successful design-build entity. The request for qualifications phase will evaluate and shortlist the private entities based on qualifications, and the request for proposals will evaluate the technical and cost

proposals.

(2) The transportation agency shall include in the request for qualifications the evaluating factors to be used in the request for qualifications phase. These factors are in addition to any prequalification requirements of private entities that the transportation agency has set forth. Each request for qualifications shall establish the relative importance assigned to each evaluation factor, including any weighting of criteria to be employed by the transportation agency. The transportation agency must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The transportation agency shall include the following criteria in every request for qualifications phase evaluation of private entities: (i) experience of personnel; (ii) successful experience with similar project types; (iii) financial capability; (iv) timeliness of past performance; (v) experience with similarly sized projects; (vi) successful reference checks of the firm; (vii) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and (viii) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and in complying with Section 2-105 of the Illinois Human Rights Act. No

proposal shall be considered that does not include an entity's plan to comply with the requirements regarding minority and women business enterprises and economically disadvantaged firms established by the transportation agency and with Section 2-105 of the Illinois Human Rights Act. The transportation agency may include any additional relevant criteria in the request for qualifications phase that it deems necessary for a proper qualification review.

Upon completion of the qualifications evaluation, the transportation agency shall create a shortlist of the most highly qualified private entities.

The transportation agency shall notify the entities selected for the shortlist in writing. This notification shall commence the period for the preparation of the request for proposals phase technical and cost evaluations. The transportation agency must allow sufficient time for the shortlist entities to prepare their proposals considering the scope and detail requested by the transportation agency.

(3) The transportation agency shall include in the request for proposals the evaluating factors to be used in the technical and cost submission components. Each request for proposals shall establish, for both the technical and cost submission components, the relative importance assigned to each evaluation factor, including any weighting of criteria to be employed by the transportation agency. The transportation agency must maintain a record of the evaluation scoring to be

disclosed in event of a protest regarding the solicitation.

The transportation agency shall include the following criteria in every request for proposals phase technical evaluation of private entities: (i) compliance with objectives of the project; (ii) compliance of proposed services to the request for proposal requirements; (iii) compliance with the request for proposal requirements of products or materials proposed; (iv) quality of design parameters; and (v) design concepts. The transportation agency may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The transportation agency shall include the following criteria in every request for proposals phase cost evaluation: the total project cost and the time of completion. The transportation agency may include any additional relevant technical evaluation factors it deems necessary for proper selection. The guaranteed maximum project cost criteria weighing factor shall not exceed 30%.

The transportation agency shall directly employ or retain a licensed design professional to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards.

(e) Statements of qualifications and proposals must be properly identified and sealed. Statements of qualifications and proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for

qualifications or the request for proposals. All private entities submitting statements of qualifications or proposals shall be disclosed after the deadline for submission, and all private entities who are selected for request for proposals phase evaluation shall also be disclosed at the time of that determination.

Design-build proposals shall include a bid bond in the form and security as designated in the request for proposals. Proposals shall also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals shall include a list of all design professionals and other entities to which any work identified in Section 30-30 of the Illinois Procurement Code as a subdivision of construction work may be subcontracted during the performance of the contract to the extent known at the time of proposal. If the information is not known at the time of proposal, then the design-build agreement shall require the identification prior to a previously unlisted subcontractor commencing work on the transportation project.

Statements of qualifications and proposals must meet all material requirements of the request for qualifications or request for proposals, or else they may be rejected as non-responsive. The transportation agency shall have the right to reject any and all statements of qualifications and proposals.

The private entity's proprietary intellectual property

contained in the drawings and specifications of any unsuccessful statement of qualifications or proposal shall remain the property of the private entity.

The transportation agency shall review the statements of qualifications and the proposals for compliance with the performance criteria and evaluation factors.

Statements of qualifications and proposals may be withdrawn prior to the due date and time for submissions for any cause. After evaluation begins by the transportation agency, clear and convincing evidence of error is required for withdrawal.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 211. The Innovations for Transportation Infrastructure Act is amended by changing Section 56 as follows:

(630 ILCS 10/56)

(Section scheduled to be repealed on July 1, 2032)

Sec. 56. Utilization requirements.

(a) Design-builder and Construction Manager/General Contractor projects shall comply with Section 2-105 of the Illinois Human Rights Act and all applicable laws and rules that establish standards and procedures for the utilization of minority, disadvantaged, and women-owned businesses, including, but not limited to, the Business Enterprise for

Minorities, Women, Veterans, and Persons with Disabilities Act. Any Transportation Agency that administers a construction program, for which federal law or regulations establish standards and procedures for the utilization of minority-owned and women-owned businesses and disadvantaged businesses shall implement a disadvantaged business enterprise program to include minority-owned and women-owned businesses and disadvantaged businesses, using the federal standards and procedures for the establishment of goals and utilization procedures for the State-funded, as well as the federally assisted, portions of the program. In cases of federal funding or federally assisted projects, these goals shall not exceed those established pursuant to the relevant and applicable federal statutes or regulations. Each design-build contract and Construction Manager/General Contractor contract shall include remedies for a contractor's failure to comply with commitments made in the proposal or utilization plan, including, without limitation, failure to cooperate in providing information regarding compliance or termination of any subcontractor identified in the utilization plan without the consent of the Transportation Agency. Such remedies may include termination of the contract, imposition of a penalty in an amount equivalent to any profit or cost savings accruing to the contractor as a result of the violation, withholding of payments, liquidated damages, disqualification from future bidding as non-responsible, or any other remedy available to

the Transportation Agency at law or in equity.

(b) For the purposes of this Section, aspirational goals compliant with the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act and Disadvantaged Business Enterprise Program shall be established separately for construction-related professional services and shall be consistent with the Transportation Agency's methodology for design-bid-build contracts. As used in this Section, "construction-related professional services" means those services within the scope of the practice of architecture, professional engineering, structural engineering, or land surveying, as defined in the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Illinois Professional Land Surveyor Act of 1989, or the Illinois Structural Engineering Practice Act of 1989.

(Source: P.A. 102-1094, eff. 6-15-22.)

Section 215. The Criminal Code of 2012 is amended by changing Sections 17-10.2, 17-10.3, 33E-2, and 33E-6 as follows:

(720 ILCS 5/17-10.2) (was 720 ILCS 5/17-29)

Sec. 17-10.2. Businesses owned by minorities, women ~~females~~, veterans, and persons with disabilities; fraudulent contracts with governmental units.

(a) In this Section:

"Minority person" means a person who is any of the following:

(1) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).

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

(3) Black or African American (a person having origins in any of the black racial groups of Africa).

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

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

"Woman" ~~"Female"~~ means a person who is of the female gender.

"Person with a disability" means a person who is a person qualifying as having a disability.

"Veteran" means a person who (i) has been a member of the armed forces of the United States or, while a citizen of the United States, was a member of the armed forces of

allies of the United States in time of hostilities with a foreign country and (ii) has served under one or more of the following conditions: (a) the veteran served a total of at least 6 months; (b) the veteran served for the duration of hostilities regardless of the length of the engagement; (c) the veteran was discharged on the basis of hardship; or (d) the veteran was released from active duty because of a service connected disability and was discharged under honorable conditions.

"Disability" means a severe physical or mental disability that: (1) results from: amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, an intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders, including stroke and epilepsy, paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disabilities, or end stage renal failure disease; and (2) substantially limits one or more of the person's major life activities.

"Minority-owned business" means a business which is at least 51% owned by one or more minority persons, or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the

management and daily business operations of which are controlled by one or more of the minority individuals who own it.

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

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

"Veteran-owned business" means a business which is at least 51% owned by one or more veterans, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more veterans; and the management and daily business operations of which are controlled by one or more of the veterans who own it.

~~"Minority owned business" means a business concern that is at least 51% owned by one or more minority persons,~~

~~or in the case of a corporation, at least 51% of the stock in which is owned by one or more minority persons; and the management and daily business operations of which are controlled by one or more of the minority individuals who own it.~~

~~"Female owned business" means a business concern that is at least 51% owned by one or more females, or, in the case of a corporation, at least 51% of the stock in which is owned by one or more females; and the management and daily business operations of which are controlled by one or more of the females who own it.~~

~~"Business owned by a person with a disability" means a business concern that is at least 51% owned by one or more persons with a disability and the management and daily business operations of which are controlled by one or more of the persons with disabilities who own it. A not for profit agency for persons with disabilities that is exempt from taxation under Section 501 of the Internal Revenue Code of 1986 is also considered a "business owned by a person with a disability".~~

"Governmental unit" means the State, a unit of local government, or school district.

"Armed forces of the United States" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or service in active duty as defined under 38 U.S.C. Section 101. Service in the Merchant Marine that

constitutes active duty under Section 401 of federal Public Act 95-202 shall also be considered service in the armed forces for purposes of this Section.

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

(b) In addition to any other penalties imposed by law or by an ordinance or resolution of a unit of local government or school district, any individual or entity that knowingly obtains, or knowingly assists another to obtain, a contract with a governmental unit, or a subcontract or written commitment for a subcontract under a contract with a governmental unit, by falsely representing that the individual or entity, or the individual or entity assisted, is a minority owned business, female owned business, or business owned by a person with a disability is guilty of a Class 2 felony, regardless of whether the preference for awarding the contract to a minority owned business, female owned business, or business owned by a person with a disability was established by statute or by local ordinance or resolution.

(c) In addition to any other penalties authorized by law, the court shall order that an individual or entity convicted of a violation of this Section must pay to the governmental unit that awarded the contract a penalty equal to one and one-half times the amount of the contract obtained because of the false representation.

(Source: P.A. 102-465, eff. 1-1-22.)

(720 ILCS 5/17-10.3)

Sec. 17-10.3. Deception relating to certification of disadvantaged business enterprises.

(a) Fraudulently obtaining or retaining certification. A person who, in the course of business, fraudulently obtains or retains certification as a minority-owned business, women-owned business, ~~service-disabled veteran-owned small business, or~~ veteran-owned ~~small~~ business, or a business owned by a person with a disability commits a Class 2 felony.

(b) Willfully making a false statement. A person who, in the course of business, willfully makes a false statement whether by affidavit, report or other representation, to an official or employee of a State agency or the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities for the purpose of influencing the certification or denial of certification of any business entity as a minority-owned business, women-owned business, ~~service disabled veteran owned small business, or~~

veteran-owned ~~small~~ business, or a business owned by a person with a disability commits a Class 2 felony.

(c) Willfully obstructing or impeding an official or employee of any agency in his or her investigation. Any person who, in the course of business, willfully obstructs or impedes an official or employee of any State agency or the Business Enterprise Council for Minorities, Women, Veterans, and Persons with Disabilities who is investigating the qualifications of a business entity which has requested certification as a minority-owned business, women-owned business, ~~service-disabled veteran-owned small business, or~~ veteran-owned ~~small~~ business, or a business owned by a person with a disability commits a Class 2 felony.

(d) Fraudulently obtaining public moneys reserved for disadvantaged business enterprises. Any person who, in the course of business, fraudulently obtains public moneys reserved for, or allocated or available to, minority-owned businesses, women-owned businesses, ~~service disabled veteran owned small businesses, or~~ veteran-owned ~~small~~ businesses, or businesses owned by persons with a disability commits a Class 2 felony.

(e) Definitions. As used in this Article, "minority-owned business", "women-owned business", "veteran-owned business", "business owned by a person with a disability", "State agency" with respect to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by

persons with a disability and "certification" with respect to minority-owned businesses, ~~and~~ women-owned businesses, veteran-owned businesses, and businesses owned by persons with a disability shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act. ~~As used in this Article, "service disabled veteran owned small business", "veteran owned small business", "State agency" with respect to service disabled veteran owned small businesses and veteran owned small businesses, and "certification" with respect to service-disabled veteran-owned small businesses and veteran-owned small businesses have the same meanings as in Section 45-57 of the Illinois Procurement Code.~~

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; 101-601, eff. 1-1-20.)

(720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

Sec. 33E-2. Definitions. In this Act:

(a) "Public contract" means any contract for goods, services or construction let to any person with or without bid by any unit of State or local government.

(b) "Unit of State or local government" means the State, any unit of state government or agency thereof, any county or municipal government or committee or agency thereof, or any other entity which is funded by or expends tax dollars or the proceeds of publicly guaranteed bonds.

(c) "Change order" means a change in a contract term other than as specifically provided for in the contract which authorizes or necessitates any increase or decrease in the cost of the contract or the time to completion.

(d) "Person" means any individual, firm, partnership, corporation, joint venture or other entity, but does not include a unit of State or local government.

(e) "Person employed by any unit of State or local government" means any employee of a unit of State or local government and any person defined in subsection (d) who is authorized by such unit of State or local government to act on its behalf in relation to any public contract.

(f) "Sheltered market" has the meaning ascribed to it in Section 8b of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act~~; except that, with respect to State contracts set aside for award to service disabled veteran owned small businesses and veteran owned small businesses pursuant to Section 45 57 of the Illinois Procurement Code, "sheltered market" means procurements pursuant to that Section~~.

(g) "Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime

contract or in connection with a subcontract relating to a prime contract.

(h) "Prime contractor" means any person who has entered into a public contract.

(i) "Prime contractor employee" means any officer, partner, employee, or agent of a prime contractor.

(i-5) "Stringing" means knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.

(j) "Subcontract" means a contract or contractual action entered into by a prime contractor or subcontractor for the purpose of obtaining goods or services of any kind under a prime contract.

(k) "Subcontractor" (1) means any person, other than the prime contractor, who offers to furnish or furnishes any goods or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract; and (2) includes any person who offers to furnish or furnishes goods or services to the prime contractor or a higher tier subcontractor.

(l) "Subcontractor employee" means any officer, partner, employee, or agent of a subcontractor.

(Source: P.A. 100-391, eff. 8-25-17.)

(720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

Sec. 33E-6. Interference with contract submission and

award by public official.

(a) Any person who is an official of or employed by any unit of State or local government who knowingly conveys, either directly or indirectly, outside of the publicly available official invitation to bid, pre-bid conference, solicitation for contracts procedure or such procedure used in any sheltered market procurement adopted pursuant to law or ordinance by that unit of government, to any person any information concerning the specifications for such contract or the identity of any particular potential subcontractors, when inclusion of such information concerning the specifications or contractors in the bid or offer would influence the likelihood of acceptance of such bid or offer, commits a Class 4 felony. It shall not constitute a violation of this subsection to convey information intended to clarify plans or specifications regarding a public contract where such disclosure of information is also made generally available to the public.

(b) Any person who is an official of or employed by any unit of State or local government who, either directly or indirectly, knowingly informs a bidder or offeror that the bid or offer will be accepted or executed only if specified individuals are included as subcontractors commits a Class 3 felony.

(c) It shall not constitute a violation of subsection (a) of this Section where any person who is an official of or employed by any unit of State or local government follows

procedures established ~~(i)~~ by federal, State or local minority, woman, veteran, or person with a disability ~~or female~~ owned business enterprise programs ~~or (ii) pursuant to Section 45-57 of the Illinois Procurement Code~~.

(d) Any bidder or offeror who is the recipient of communications from the unit of government which he reasonably believes to be proscribed by subsections (a) or (b), and fails to inform either the Attorney General or the State's Attorney for the county in which the unit of government is located, commits a Class A misdemeanor.

(e) Any public official who knowingly awards a contract based on criteria which were not publicly disseminated via the invitation to bid, when such invitation to bid is required by law or ordinance, the pre-bid conference, or any solicitation for contracts procedure or such procedure used in any sheltered market procurement procedure adopted pursuant to statute or ordinance, commits a Class 3 felony.

(f) It shall not constitute a violation of subsection (a) for any person who is an official of or employed by any unit of State or local government to provide to any person a copy of the transcript or other summary of any pre-bid conference where such transcript or summary is also made generally available to the public.

(Source: P.A. 97-260, eff. 8-5-11.)

Section 220. The Business Corporation Act of 1983 is

amended by changing Sections 14.05 and 14.13 as follows:

(805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

Sec. 14.05. Annual report of domestic or foreign corporation. Each domestic corporation organized under any general law or special act of this State authorizing the corporation to issue shares, other than homestead associations, building and loan associations, banks and insurance companies (which includes a syndicate or limited syndicate regulated under Article V 1/2 of the Illinois Insurance Code or member of a group of underwriters regulated under Article V of that Code), and each foreign corporation (except members of a group of underwriters regulated under Article V of the Illinois Insurance Code) authorized to transact business in this State, shall file, within the time prescribed by this Act, an annual report setting forth:

(a) The name of the corporation.

(b) The address, including street and number, or rural route number, of its registered office in this State, and the name of its registered agent at that address.

(c) The address, including street and number, or rural route number, of its principal office.

(d) The names and respective addresses, including street and number, or rural route number, of its directors and officers.

(e) A statement of the aggregate number of shares

which the corporation has authority to issue, itemized by classes and series, if any, within a class.

(f) A statement of the aggregate number of issued shares, itemized by classes, and series, if any, within a class.

(g) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as defined in this Act.

(h) Either a statement that (1) all the property of the corporation is located in this State and all of its business is transacted at or from places of business in this State, or the corporation elects to pay the annual franchise tax on the basis of its entire paid-in capital, or (2) a statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property located within this State, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation and the gross amount thereof transacted by the corporation at or from places of business in this State as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the anniversary month or in the case of a corporation which has established an extended filing month, as of the close of its fiscal year on or immediately preceding the last day of the third month prior to the extended filing month; however, in the case

of a domestic corporation that has not completed its first fiscal year, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of incorporation and the last day of the third month preceding the anniversary month. In the case of a foreign corporation that has not been authorized to transact business in this State for a period of 12 months and has not commenced transacting business prior to obtaining authority, the statement with respect to property owned shall be as of the last day of the third month preceding the anniversary month and the statement with respect to business transacted shall be furnished for the period between the date of its authorization to transact business in this State and the last day of the third month preceding the anniversary month. If the data referenced in item (2) of this subsection is not completed, the franchise tax provided for in this Act shall be computed on the basis of the entire paid-in capital.

(i) A statement, including the basis therefor, of status as a "minority-owned business" or as a "women-owned business" as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

(j) Additional information as may be necessary or appropriate in order to enable the Secretary of State to administer this Act and to verify the proper amount of fees and franchise taxes payable by the corporation.

(k) A statement of whether the corporation or foreign corporation has outstanding shares listed on a major United States stock exchange and is thereby subject to the reporting requirements of Section 8.12.

(l) For those corporations subject to Section 8.12, a statement providing the information required under Section 8.12.

(m) For those corporations required to file an Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, information that is substantially similar to the employment data reported under Section D of the corporation's EEO-1 in a format approved by the Secretary of State. For each corporation that submits data under this paragraph, the Secretary of State shall publish the data on the gender, race, and ethnicity of each corporation's employees on the Secretary of State's official website. The Secretary of State shall publish such information within 90 days of receipt of a properly filed annual report or as soon thereafter as practicable.

The annual report shall be made on forms prescribed and furnished by the Secretary of State, and the information

therein required by paragraphs (a) through (d), both inclusive, of this Section, shall be given as of the date of the execution of the annual report and the information therein required by paragraphs (e), (f), and (g) of this Section shall be given as of the last day of the third month preceding the anniversary month, except that the information required by paragraphs (e), (f), and (g) shall, in the case of a corporation which has established an extended filing month, be given in its final transition annual report and each subsequent annual report as of the close of its fiscal year on or immediately preceding the last day of the third month prior to its extended filing month. The information required by paragraph (m) shall be included in the corporation's annual report filed on and after January 1, 2023. It shall be executed by the corporation by its president, a vice-president, secretary, assistant secretary, treasurer or other officer duly authorized by the board of directors of the corporation to execute those reports, and verified by him or her, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by the receiver or trustee.

(Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18; 100-863, eff. 8-14-18; 101-589, eff. 8-27-19; 101-656, eff. 3-23-21.)

(805 ILCS 5/14.13)

Sec. 14.13. Report of interim changes of domestic or foreign corporations. Any corporation, domestic or foreign, may report interim changes in the name, address, or both of its officers and directors, its principal office, or its minority-owned business status by filing a report under this Section containing the following information:

(1) The name of the corporation.

(2) The address, including street and number, or rural route number, of its registered office in this State, and the name of its registered agent at that address.

(3) The address, including street and number, or rural route number, of its principal office.

(4) The names and respective addresses, including street and number, or rural route number, of its directors and officers.

A statement, including the basis therefor, of status as a minority-owned business or as a women-owned business as those terms are defined in the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

The interim report of changes shall be made on forms prescribed and furnished by the Secretary of State and shall be executed by the corporation by its president, a vice-president, secretary, assistant secretary, treasurer, or other officer duly authorized by the board of directors of the corporation to execute those reports, and verified by him or her, or, if the corporation is in the hands of a receiver or

trustee, it shall be executed on behalf of the corporation and verified by the receiver or trustee.

(Source: P.A. 102-282, eff. 1-1-22.)

Section 225. The Illinois Clean Energy Jobs and Justice Fund Act is amended by changing Section 20-10 as follows:

(805 ILCS 155/20-10)

(Section scheduled to be repealed on September 15, 2045)

Sec. 20-10. Definitions. As used in this Act:

"Black, indigenous, and people of color" or "BIPOC" means people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act.

"Board" means the Board of Directors of the Clean Energy Jobs and Justice Fund.

"Contractor of color" means a business entity that is at least 51% owned by one or more BIPOC persons, or in the case of a corporation, at least 51% of the corporation's stock is owned by one or more BIPOC persons, and the management and daily business operations of which are controlled by one or more of the BIPOC persons who own it. A contractor of color may also be a nonprofit entity with a board of directors composed of at least 51% BIPOC persons or a nonprofit entity certified by the State of Illinois to be minority-led.

"Environmental justice communities" means the definition of that term based on existing methodologies and findings used by the Illinois Power Agency and its Administrator of the Illinois Solar for All Program.

"Fund" means the Clean Energy Jobs and Justice Fund.

"Low-income" means households whose income does not exceed 80% of Area Median Income (AMI), adjusted for family size and revised every 5 years.

"Low-income community" means a census tract where at least half of households are low-income.

"Minority-owned business enterprise" or "MBE" means a business certified as such by an authorized unit of government or other authorized entity in Illinois.

"Municipality" means a city, village, or incorporated town.

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association and includes any trustee, receiver, assignee, or personal representative thereof.

(Source: P.A. 102-662, eff. 9-15-21.)

Section 230. The Equal Pay Act of 2003 is amended by changing Section 11 as follows:

(820 ILCS 112/11)

Sec. 11. Equal pay registration certificate requirements; application. For the purposes of this Section 11 only, "business" means any private employer who has 100 or more employees in the State of Illinois and is required to file an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission, but does not include the State of Illinois or any political subdivision, municipal corporation, or other governmental unit or agency.

(a) A business must obtain an equal pay registration certificate from the Department.

(b) Any business subject to the requirements of this Section that is authorized to transact business in this State on March 23, 2021 shall submit an application to obtain an equal pay registration certificate, between March 24, 2022 and March 23, 2024, and must recertify every 2 years thereafter. Any business subject to the requirements of this Section that is authorized to transact business in this State after March 23, 2021 must submit an application to obtain an equal pay registration certificate within 3 years of commencing business operations, but not before January 1, 2024, and must recertify every 2 years thereafter. The Department shall collect contact information from each business subject to this Section. The Department shall assign each business a date by which it must submit an application to obtain an equal pay registration certificate. The business shall recertify every 2 years at a date to be determined by the Department. When a business

receives a notice from the Department to recertify for its equal pay registration certificate, if the business has fewer than 100 employees, the business must certify in writing to the Department that it is exempt from this Section. Any new business that is subject to this Section and authorized to conduct business in this State, after the effective date of this amendatory Act of the 102nd General Assembly, shall submit its contact information to the Department by January 1 of the following year and shall be assigned a date by which it must submit an application to obtain an equal pay registration certificate. The Department's failure to assign a business a registration date does not exempt the business from compliance with this Section. The failure of the Department to notify a business of its recertification deadline may be a mitigating factor when making a determination of a violation of this Section.

(c) Application.

(1) A business shall apply for an equal pay registration certificate by paying a $150 filing fee and submitting wage records and an equal pay compliance statement to the Director as follows:

(A) Wage Records. Any business that is required to file an annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission must also submit to the Director a copy of the business's most recently filed Employer Information Report EEO-1. The

business shall also compile a list of all employees during the past calendar year, separated by gender and the race and ethnicity categories as reported in the business's most recently filed Employer Information Report EEO-1, and the county in which the employee works, the date the employee started working for the business, any other information the Department deems necessary to determine if pay equity exists among employees, and report the total wages as defined by Section 2 of the Illinois Wage Payment and Collection Act paid to each employee during the past calendar year, rounded to the nearest $100, to the Director.

(B) Equal Pay Compliance Statement. The business must submit a statement signed by a corporate officer, legal counsel, or authorized agent of the business certifying:

(i) that the business is in compliance with this Act and other relevant laws, including but not limited to: Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Illinois Human Rights Act, and the Equal Wage Act;

(ii) that the average compensation for its female and minority employees is not consistently below the average compensation, as determined by rule by the United States Department of Labor, for its male and non-minority employees within each of

the major job categories in the Employer Information Report EEO-1 for which an employee is expected to perform work, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, education or training, job location, use of a collective bargaining agreement, or other mitigating factors; as used in this subparagraph, "minority" has the meaning ascribed to that term in paragraph (1) of subsection (A) of Section 2 of the Business Enterprise for Minorities, Women, Veterans, and Persons with Disabilities Act;

(iii) that the business does not restrict employees of one sex to certain job classifications, and makes retention and promotion decisions without regard to sex;

(iv) that wage and benefit disparities are corrected when identified to ensure compliance with the Acts cited in item (i);

(v) how often wages and benefits are evaluated; and

(vi) the approach the business takes in determining what level of wages and benefits to pay its employees; acceptable approaches include, but are not limited to, a wage and salary survey.

(C) Filing fee. The business shall pay to the Department a filing fee of $150. Proceeds from the fees collected under this Section shall be deposited into the Equal Pay Registration Fund, a special fund created in the State treasury. Moneys in the Fund shall be appropriated to the Department for the purposes of this Section.

(2) Receipt of the equal pay compliance application and statement by the Director does not establish compliance with the Acts set forth in item (i) of subparagraph (B) of paragraph (1) of this subsection (c).

(3) A business that has employees in multiple locations or facilities in Illinois shall submit a single application to the Department regarding all of its operations in Illinois.

(d) Issuance or rejection of registration certificate. After January 1, 2022, the Director must issue an equal pay registration certificate, or a statement of why the application was rejected, within 45 calendar days of receipt of the application. Applicants shall have the opportunity to cure any deficiencies in its application that led to the rejection, and re-submit the revised application to the Department within 30 calendar days of receiving a rejection. Applicants shall have the ability to appeal rejected applications. An application may be rejected only if it does not comply with the requirements of subsection (c), or the

business is otherwise found to be in violation of this Act. The receipt of an application by the Department, or the issuance of a registration certificate by the Department, shall not establish compliance with the Equal Pay Act of 2003 as to all Sections except Section 11. The issuance of a registration certificate shall not be a defense against any Equal Pay Act violation found by the Department, nor a basis for mitigation of damages.

(e) Revocation of registration certificate. An equal pay registration certificate for a business may be suspended or revoked by the Director when the business fails to make a good faith effort to comply with the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c), fails to make a good faith effort to comply with this Section, or has multiple violations of this Section or the Acts identified in item (i) of subparagraph (B) of paragraph (1) of subsection (c). Prior to suspending or revoking a registration certificate, the Director must first have sought to conciliate with the business regarding wages and benefits due to employees.

Consistent with Section 25, prior to or in connection with the suspension or revocation of an equal pay registration certificate, the Director, or his or her authorized representative, may interview workers, administer oaths, take or cause to be taken the depositions of witnesses, and require by subpoena the attendance and testimony of witnesses, and the

production of personnel and compensation information relative to the matter under investigation, hearing or a department-initiated audit.

Neither the Department nor the Director shall be held liable for good faith errors in issuing, denying, suspending or revoking certificates.

(f) Administrative review. A business may obtain an administrative hearing in accordance with the Illinois Administrative Procedure Act before the suspension or revocation of its certificate or imposition of civil penalties as provided by subsection (i) is effective by filing a written request for hearing within 20 calendar days after service of notice by the Director.

(g) Technical assistance. The Director must provide technical assistance to any business that requests assistance regarding this Section.

(h) Access to data.

(1) Any individually identifiable information submitted to the Director within or related to an equal pay registration application or otherwise provided by an employer in its equal pay compliance statement under subsection (c) shall be considered confidential information and not subject to disclosure pursuant to the Illinois Freedom of Information Act. As used in this Section, "individually identifiable information" means data submitted pursuant to this Section that is associated

with a specific person or business. Aggregate data or reports that are reasonably calculated to prevent the association of any data with any individual business or person are not confidential information. Aggregate data shall include the job category and the average hourly wage by county for each gender, race, and ethnicity category on the registration certificate applications. The Department of Labor may compile aggregate data from registration certificate applications.

(2) The Director's decision to issue, not issue, revoke, or suspend an equal pay registration certificate is public information.

(3) Notwithstanding this subsection (h), a current employee of a covered business may request anonymized data regarding their job classification or title and the pay for that classification. No individually identifiable information may be provided to an employee making a request under this paragraph.

(4) Notwithstanding this subsection (h), the Department may share data and identifiable information with the Department of Human Rights, pursuant to its enforcement of Article 2 of the Illinois Human Rights Act, or the Office of the Attorney General, pursuant to its enforcement of Section 10-104 of the Illinois Human Rights Act.

(5) Any Department employee who willfully and

knowingly divulges, except in accordance with a proper judicial order or otherwise provided by law, confidential information received by the Department from any business pursuant to this Act shall be deemed to have violated the State Officials and Employees Ethics Act and be subject to the penalties established under subsections (e) and (f) of Section 50-5 of that Act after investigation and opportunity for hearing before the Executive Ethics Commission in accordance with Section 20-50 of that Act.

(i) Penalty. Falsification or misrepresentation of information on an application submitted to the Department shall constitute a violation of this Act and the Department may seek to suspend or revoke an equal pay registration certificate or impose civil penalties as provided under subsection (c) of Section 30.

(Source: P.A. 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-705, eff. 4-22-22.)

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

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30 ILCS 105/45
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30 ILCS 330/15.5
30 ILCS 425/5 from Ch. 127, par. 2805
30 ILCS 425/8.3
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