

AN ACT concerning State government.

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

Article 1

Section 1-5. The Illinois Administrative Procedure Act is amended by changing Section 5-45 as follows:

(5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

Sec. 5-45. Emergency rulemaking.

(a) "Emergency" means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare.

(b) If any agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required by Section 5-40 and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing upon filing a notice of emergency rulemaking with the Secretary of State under Section 5-70. The notice shall include the text of the emergency rule and shall be published in the Illinois Register. Consent orders or other court orders adopting settlements negotiated by an agency may be adopted under this Section. Subject to applicable constitutional or statutory provisions, an emergency rule

becomes effective immediately upon filing under Section 5-65 or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons for the finding shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

(c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded. No emergency rule may be adopted more than once in any 24-month period, except that this limitation on the number of emergency rules that may be adopted in a 24-month period does not apply to (i) emergency rules that make additions to and deletions from the Drug Manual under Section 5-5.16 of the Illinois Public Aid Code or the generic drug formulary under Section 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii) emergency rules adopted by the Pollution Control Board before July 1, 1997 to implement portions of the Livestock Management Facilities Act, (iii) emergency rules adopted by the Illinois Department of Public Health under subsections (a) through (i) of Section 2 of the Department of Public Health Act when necessary to protect the public's health, (iv) emergency rules adopted pursuant to subsection (n) of this Section, (v) emergency rules adopted pursuant to subsection (o) of this Section, or (vi) emergency rules adopted pursuant to subsection (c-5) of this Section. Two or more emergency rules having

substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section.

(c-5) To facilitate the maintenance of the program of group health benefits provided to annuitants, survivors, and retired employees under the State Employees Group Insurance Act of 1971, rules to alter the contributions to be paid by the State, annuitants, survivors, retired employees, or any combination of those entities, for that program of group health benefits, shall be adopted as emergency rules. The adoption of those rules shall be considered an emergency and necessary for the public interest, safety, and welfare.

(d) In order to provide for the expeditious and timely implementation of the State's fiscal year 1999 budget, emergency rules to implement any provision of Public Act 90-587 or 90-588 or any other budget initiative for fiscal year 1999 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (d). The adoption of emergency rules authorized by this subsection (d) shall be deemed to be necessary for the public interest, safety, and welfare.

(e) In order to provide for the expeditious and timely implementation of the State's fiscal year 2000 budget, emergency rules to implement any provision of Public Act 91-24

or any other budget initiative for fiscal year 2000 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (e). The adoption of emergency rules authorized by this subsection (e) shall be deemed to be necessary for the public interest, safety, and welfare.

(f) In order to provide for the expeditious and timely implementation of the State's fiscal year 2001 budget, emergency rules to implement any provision of Public Act 91-712 or any other budget initiative for fiscal year 2001 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (f). The adoption of emergency rules authorized by this subsection (f) shall be deemed to be necessary for the public interest, safety, and welfare.

(g) In order to provide for the expeditious and timely implementation of the State's fiscal year 2002 budget, emergency rules to implement any provision of Public Act 92-10 or any other budget initiative for fiscal year 2002 may be adopted in accordance with this Section by the agency charged

with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (g). The adoption of emergency rules authorized by this subsection (g) shall be deemed to be necessary for the public interest, safety, and welfare.

(h) In order to provide for the expeditious and timely implementation of the State's fiscal year 2003 budget, emergency rules to implement any provision of Public Act 92-597 or any other budget initiative for fiscal year 2003 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (h). The adoption of emergency rules authorized by this subsection (h) shall be deemed to be necessary for the public interest, safety, and welfare.

(i) In order to provide for the expeditious and timely implementation of the State's fiscal year 2004 budget, emergency rules to implement any provision of Public Act 93-20 or any other budget initiative for fiscal year 2004 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and

the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (i). The adoption of emergency rules authorized by this subsection (i) shall be deemed to be necessary for the public interest, safety, and welfare.

(j) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2005 budget as provided under the Fiscal Year 2005 Budget Implementation (Human Services) Act, emergency rules to implement any provision of the Fiscal Year 2005 Budget Implementation (Human Services) Act may be adopted in accordance with this Section by the agency charged with administering that provision, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (j). The Department of Public Aid may also adopt rules under this subsection (j) necessary to administer the Illinois Public Aid Code and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (j) shall be deemed to be necessary for the public interest, safety, and welfare.

(k) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2006 budget, emergency rules to implement any provision of Public Act 94-48 or any other budget initiative for fiscal year 2006 may be adopted in accordance with this Section by the

agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (k). The Department of Healthcare and Family Services may also adopt rules under this subsection (k) necessary to administer the Illinois Public Aid Code, the Senior Citizens and Persons with Disabilities Property Tax Relief Act, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act (now the Illinois Prescription Drug Discount Program Act), and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (k) shall be deemed to be necessary for the public interest, safety, and welfare.

(1) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2007 budget, the Department of Healthcare and Family Services may adopt emergency rules during fiscal year 2007, including rules effective July 1, 2007, in accordance with this subsection to the extent necessary to administer the Department's responsibilities with respect to amendments to the State plans and Illinois waivers approved by the federal Centers for Medicare and Medicaid Services necessitated by the requirements of Title XIX and Title XXI of the federal Social Security Act. The adoption of emergency rules authorized by this subsection (1) shall be deemed to be necessary for the

public interest, safety, and welfare.

(m) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2008 budget, the Department of Healthcare and Family Services may adopt emergency rules during fiscal year 2008, including rules effective July 1, 2008, in accordance with this subsection to the extent necessary to administer the Department's responsibilities with respect to amendments to the State plans and Illinois waivers approved by the federal Centers for Medicare and Medicaid Services necessitated by the requirements of Title XIX and Title XXI of the federal Social Security Act. The adoption of emergency rules authorized by this subsection (m) shall be deemed to be necessary for the public interest, safety, and welfare.

(n) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2010 budget, emergency rules to implement any provision of Public Act 96-45 or any other budget initiative authorized by the 96th General Assembly for fiscal year 2010 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative. The adoption of emergency rules authorized by this subsection (n) shall be deemed to be necessary for the public interest, safety, and welfare. The rulemaking authority granted in this subsection (n) shall apply only to rules promulgated during Fiscal Year 2010.



(o) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2011 budget, emergency rules to implement any provision of Public Act 96-958 or any other budget initiative authorized by the 96th General Assembly for fiscal year 2011 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative. The adoption of emergency rules authorized by this subsection (o) is deemed to be necessary for the public interest, safety, and welfare. The rulemaking authority granted in this subsection (o) applies only to rules promulgated on or after July 1, 2010 (the effective date of Public Act 96-958) through June 30, 2011.

(p) In order to provide for the expeditious and timely implementation of the provisions of Public Act 97-689, emergency rules to implement any provision of Public Act 97-689 may be adopted in accordance with this subsection (p) by the agency charged with administering that provision or initiative. The 150-day limitation of the effective period of emergency rules does not apply to rules adopted under this subsection (p), and the effective period may continue through June 30, 2013. The 24-month limitation on the adoption of emergency rules does not apply to rules adopted under this subsection (p). The adoption of emergency rules authorized by this subsection (p) is deemed to be necessary for the public interest, safety, and welfare.

(q) In order to provide for the expeditious and timely

implementation of the provisions of Articles 7, 8, 9, 11, and 12 of Public Act 98-104, emergency rules to implement any provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104 may be adopted in accordance with this subsection (q) by the agency charged with administering that provision or initiative. The 24-month limitation on the adoption of emergency rules does not apply to rules adopted under this subsection (q). The adoption of emergency rules authorized by this subsection (q) is deemed to be necessary for the public interest, safety, and welfare.

(r) In order to provide for the expeditious and timely implementation of the provisions of Public Act 98-651, emergency rules to implement Public Act 98-651 may be adopted in accordance with this subsection (r) by the Department of Healthcare and Family Services. The 24-month limitation on the adoption of emergency rules does not apply to rules adopted under this subsection (r). The adoption of emergency rules authorized by this subsection (r) is deemed to be necessary for the public interest, safety, and welfare.

(s) In order to provide for the expeditious and timely implementation of the provisions of Sections 5-5b.1 and 5A-2 of the Illinois Public Aid Code, emergency rules to implement any provision of Section 5-5b.1 or Section 5A-2 of the Illinois Public Aid Code may be adopted in accordance with this subsection (s) by the Department of Healthcare and Family Services. The rulemaking authority granted in this subsection

(s) shall apply only to those rules adopted prior to July 1, 2015. Notwithstanding any other provision of this Section, any emergency rule adopted under this subsection (s) shall only apply to payments made for State fiscal year 2015. The adoption of emergency rules authorized by this subsection (s) is deemed to be necessary for the public interest, safety, and welfare.

(t) In order to provide for the expeditious and timely implementation of the provisions of Article II of Public Act 99-6, emergency rules to implement the changes made by Article II of Public Act 99-6 to the Emergency Telephone System Act may be adopted in accordance with this subsection (t) by the Department of State Police. The rulemaking authority granted in this subsection (t) shall apply only to those rules adopted prior to July 1, 2016. The 24-month limitation on the adoption of emergency rules does not apply to rules adopted under this subsection (t). The adoption of emergency rules authorized by this subsection (t) is deemed to be necessary for the public interest, safety, and welfare.

(u) In order to provide for the expeditious and timely implementation of the provisions of the Burn Victims Relief Act, emergency rules to implement any provision of the Act may be adopted in accordance with this subsection (u) by the Department of Insurance. The rulemaking authority granted in this subsection (u) shall apply only to those rules adopted prior to December 31, 2015. The adoption of emergency rules authorized by this subsection (u) is deemed to be necessary for

the public interest, safety, and welfare.

(v) In order to provide for the expeditious and timely implementation of the provisions of Public Act 99-516, emergency rules to implement Public Act 99-516 may be adopted in accordance with this subsection (v) by the Department of Healthcare and Family Services. The 24-month limitation on the adoption of emergency rules does not apply to rules adopted under this subsection (v). The adoption of emergency rules authorized by this subsection (v) is deemed to be necessary for the public interest, safety, and welfare.

(w) In order to provide for the expeditious and timely implementation of the provisions of Public Act 99-796, emergency rules to implement the changes made by Public Act 99-796 may be adopted in accordance with this subsection (w) by the Adjutant General. The adoption of emergency rules authorized by this subsection (w) is deemed to be necessary for the public interest, safety, and welfare.

(x) In order to provide for the expeditious and timely implementation of the provisions of Public Act 99-906, emergency rules to implement subsection (i) of Section 16-115D, subsection (g) of Section 16-128A, and subsection (a) of Section 16-128B of the Public Utilities Act may be adopted in accordance with this subsection (x) by the Illinois Commerce Commission. The rulemaking authority granted in this subsection (x) shall apply only to those rules adopted within 180 days after June 1, 2017 (the effective date of Public Act

99-906). The adoption of emergency rules authorized by this subsection (x) is deemed to be necessary for the public interest, safety, and welfare.

(y) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-23, emergency rules to implement the changes made by Public Act 100-23 to Section 4.02 of the Illinois Act on the Aging, Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code, Section 55-30 of the Alcoholism and Other Drug Abuse and Dependency Act, and Sections 74 and 75 of the Mental Health and Developmental Disabilities Administrative Act may be adopted in accordance with this subsection (y) by the respective Department. The adoption of emergency rules authorized by this subsection (y) is deemed to be necessary for the public interest, safety, and welfare.

(z) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-554, emergency rules to implement the changes made by Public Act 100-554 to Section 4.7 of the Lobbyist Registration Act may be adopted in accordance with this subsection (z) by the Secretary of State. The adoption of emergency rules authorized by this subsection (z) is deemed to be necessary for the public interest, safety, and welfare.

(aa) In order to provide for the expeditious and timely initial implementation of the changes made to Articles 5, 5A, 12, and 14 of the Illinois Public Aid Code under the provisions

of Public Act 100-581, the Department of Healthcare and Family Services may adopt emergency rules in accordance with this subsection (aa). The 24-month limitation on the adoption of emergency rules does not apply to rules to initially implement the changes made to Articles 5, 5A, 12, and 14 of the Illinois Public Aid Code adopted under this subsection (aa). The adoption of emergency rules authorized by this subsection (aa) is deemed to be necessary for the public interest, safety, and welfare.

(bb) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-587, emergency rules to implement the changes made by Public Act 100-587 to Section 4.02 of the Illinois Act on the Aging, Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code, subsection (b) of Section 55-30 of the Alcoholism and Other Drug Abuse and Dependency Act, Section 5-104 of the Specialized Mental Health Rehabilitation Act of 2013, and Section 75 and subsection (b) of Section 74 of the Mental Health and Developmental Disabilities Administrative Act may be adopted in accordance with this subsection (bb) by the respective Department. The adoption of emergency rules authorized by this subsection (bb) is deemed to be necessary for the public interest, safety, and welfare.

(cc) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-587, emergency rules may be adopted in accordance with this

subsection (cc) to implement the changes made by Public Act 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois Pension Code by the Board created under Article 14 of the Code; Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by the Board created under Article 15 of the Code; and Sections 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board created under Article 16 of the Code. The adoption of emergency rules authorized by this subsection (cc) is deemed to be necessary for the public interest, safety, and welfare.

(dd) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-864, emergency rules to implement the changes made by Public Act 100-864 to Section 3.35 of the Newborn Metabolic Screening Act may be adopted in accordance with this subsection (dd) by the Secretary of State. The adoption of emergency rules authorized by this subsection (dd) is deemed to be necessary for the public interest, safety, and welfare.

(ee) In order to provide for the expeditious and timely implementation of the provisions of Public Act 100-1172, emergency rules implementing the Illinois Underground Natural Gas Storage Safety Act may be adopted in accordance with this subsection by the Department of Natural Resources. The adoption of emergency rules authorized by this subsection is deemed to be necessary for the public interest, safety, and welfare.

(ff) In order to provide for the expeditious and timely initial implementation of the changes made to Articles 5A and

14 of the Illinois Public Aid Code under the provisions of Public Act 100-1181, the Department of Healthcare and Family Services may on a one-time-only basis adopt emergency rules in accordance with this subsection (ff). The 24-month limitation on the adoption of emergency rules does not apply to rules to initially implement the changes made to Articles 5A and 14 of the Illinois Public Aid Code adopted under this subsection (ff). The adoption of emergency rules authorized by this subsection (ff) is deemed to be necessary for the public interest, safety, and welfare.

(gg) In order to provide for the expeditious and timely implementation of the provisions of Public Act 101-1, emergency rules may be adopted by the Department of Labor in accordance with this subsection (gg) to implement the changes made by Public Act 101-1 to the Minimum Wage Law. The adoption of emergency rules authorized by this subsection (gg) is deemed to be necessary for the public interest, safety, and welfare.

(hh) In order to provide for the expeditious and timely implementation of the provisions of Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~, emergency rules may be adopted in accordance with this subsection (hh) to implement the changes made by Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~ to subsection (j) of Section 5-5.2 of the Illinois Public Aid Code. The adoption of emergency rules authorized by this subsection (hh) is deemed to be necessary for the public interest, safety, and welfare.



(ii) In order to provide for the expeditious and timely implementation of the provisions of Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~, emergency rules to implement the changes made by Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~ to Sections 5-5.4 and 5-5.4i of the Illinois Public Aid Code may be adopted in accordance with this subsection (ii) by the Department of Public Health. The adoption of emergency rules authorized by this subsection (ii) is deemed to be necessary for the public interest, safety, and welfare.

(jj) In order to provide for the expeditious and timely implementation of the provisions of Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~, emergency rules to implement the changes made by Public Act 101-10 ~~this amendatory Act of the 101st General Assembly~~ to Section 74 of the Mental Health and Developmental Disabilities Administrative Act may be adopted in accordance with this subsection (jj) by the Department of Human Services. The adoption of emergency rules authorized by this subsection (jj) is deemed to be necessary for the public interest, safety, and welfare.

(kk) ~~(gg)~~ In order to provide for the expeditious and timely implementation of the Cannabis Regulation and Tax Act and Public Act 101-27 ~~this amendatory Act of the 101st General Assembly~~, the Department of Revenue, the Department of Public Health, the Department of Agriculture, the Department of State

Police, and the Department of Financial and Professional Regulation may adopt emergency rules in accordance with this subsection (kk) ~~(gg)~~. The rulemaking authority granted in this subsection (kk) ~~(gg)~~ shall apply only to rules adopted before December 31, 2021. Notwithstanding the provisions of subsection (c), emergency rules adopted under this subsection (kk) ~~(gg)~~ shall be effective for 180 days. The adoption of emergency rules authorized by this subsection (kk) ~~(gg)~~ is deemed to be necessary for the public interest, safety, and welfare.

(ll) ~~(hh)~~ In order to provide for the expeditious and timely implementation of the provisions of the Leveling the Playing Field for Illinois Retail Act, emergency rules may be adopted in accordance with this subsection (ll) ~~(hh)~~ to implement the changes made by the Leveling the Playing Field for Illinois Retail Act. The adoption of emergency rules authorized by this subsection (ll) ~~(hh)~~ is deemed to be necessary for the public interest, safety, and welfare.

(mm) ~~(ii)~~ In order to provide for the expeditious and timely implementation of the provisions of Section 25-70 of the Sports Wagering Act, emergency rules to implement Section 25-70 of the Sports Wagering Act may be adopted in accordance with this subsection (mm) ~~(ii)~~ by the Department of the Lottery as provided in the Sports Wagering Act. The adoption of emergency rules authorized by this subsection (mm) ~~(ii)~~ is deemed to be necessary for the public interest, safety, and welfare.

(nn) ~~(jj)~~ In order to provide for the expeditious and timely implementation of the Sports Wagering Act, emergency rules to implement the Sports Wagering Act may be adopted in accordance with this subsection (nn) ~~(jj)~~ by the Illinois Gaming Board. The adoption of emergency rules authorized by this subsection (nn) ~~(jj)~~ is deemed to be necessary for the public interest, safety, and welfare.

(oo) ~~(kk)~~ In order to provide for the expeditious and timely implementation of the provisions of subsection (c) of Section 20 of the Video Gaming Act, emergency rules to implement the provisions of subsection (c) of Section 20 of the Video Gaming Act may be adopted in accordance with this subsection (oo) ~~(kk)~~ by the Illinois Gaming Board. The adoption of emergency rules authorized by this subsection (oo) ~~(kk)~~ is deemed to be necessary for the public interest, safety, and welfare.

(pp) ~~(gg)~~ In order to provide for the expeditious and timely implementation of the provisions of Section 50 of the Sexual Assault Evidence Submission Act, emergency rules to implement Section 50 of the Sexual Assault Evidence Submission Act may be adopted in accordance with this subsection (pp) ~~(gg)~~ by the Department of State Police. The adoption of emergency rules authorized by this subsection (pp) ~~(gg)~~ is deemed to be necessary for the public interest, safety, and welfare.

(qq) In order to provide for the expeditious and timely implementation of the provisions of the Illinois Works Jobs

Program Act, emergency rules may be adopted in accordance with this subsection (qq) to implement the Illinois Works Jobs Program Act. The adoption of emergency rules authorized by this subsection (qq) is deemed to be necessary for the public interest, safety, and welfare.

(Source: P.A. 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff. 3-12-18; 100-587, Article 95, Section 95-5, eff. 6-4-18; 100-587, Article 110, Section 110-5, eff. 6-4-18; 100-864, eff. 8-14-18; 100-1172, eff. 1-4-19; 100-1181, eff. 3-8-19; 101-1, eff. 2-19-19; 101-10, Article 20, Section 20-5, eff. 6-5-19; 101-10, Article 35, Section 35-5, eff. 6-5-19; 101-27, eff. 6-25-19; 101-31, Article 15, Section 15-5, eff. 6-28-19; 101-31, Article 25, Section 25-900, eff. 6-28-19; 101-31, Article 35, Section 35-3, eff. 6-28-19; 101-377, eff. 8-16-19; revised 9-27-19.)

Section 1-15. The Illinois Works Jobs Program Act is amended by changing Sections 20-10, 20-15, 20-20, and 20-25 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 ~~contracts~~.

"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 ~~with the State or any State agency~~ 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, 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.)

(30 ILCS 559/20-15)

Sec. 20-15. Illinois Works Preapprenticeship Program; Illinois Works Bid Credit Program.

(a) The Illinois Works Preapprenticeship Program is established and shall be administered by the Department. The goal of the Illinois Works Preapprenticeship Program is to create a network of community-based organizations throughout the State that will recruit, prescreen, and provide preapprenticeship skills training, for which participants may attend free of charge and receive a stipend, to create a qualified, diverse pipeline of workers who are prepared for careers in the construction and building trades. Upon completion of the Illinois Works Preapprenticeship Program, the candidates will be skilled and work-ready.

(b) There is created the Illinois Works Fund, a special fund in the State treasury. The Illinois Works Fund shall be administered by the Department. The Illinois Works Fund shall be used to provide funding for community-based organizations throughout the State. In addition to any other transfers that may be provided for by law, on and after July 1, 2019 ~~and until~~

~~June 30, 2020,~~ at the direction of the Director of the Governor's Office of Management and Budget, the State Comptroller shall direct and the State Treasurer shall transfer amounts not exceeding a total of \$25,000,000 from the Rebuild Illinois Projects Fund to the Illinois Works Fund.

(c) Each community-based organization that receives funding from the Illinois Works Fund shall provide an annual report to the Illinois Works Review Panel by April 1 of each calendar year. The annual report shall include the following information:

(1) a description of the community-based organization's recruitment, screening, and training efforts;

(2) the number of individuals who apply to, participate in, and complete the community-based organization's program, broken down by race, gender, age, and veteran status; and

(3) the number of the individuals referenced in item (2) of this subsection who are initially accepted and placed into apprenticeship programs in the construction and building trades.

(d) The Department shall create and administer the Illinois Works Bid Credit Program that shall provide economic incentives, through bid credits, to encourage contractors and subcontractors to provide contracting and employment opportunities to historically underrepresented populations in



the construction industry.

The Illinois Works Bid Credit Program shall allow contractors and subcontractors to earn bid credits for use toward future bids for public works projects contracted by the State or an agency of the State in order to increase the chances that the contractor and the subcontractors will be selected.

Contractors or subcontractors may be eligible for bid credits for employing apprentices who have completed the Illinois Works Preapprenticeship Program on public works projects contracted by the State or any agency of the State. Contractors or subcontractors shall earn bid credits at a rate established by the Department and based on labor hours worked on State-contracted public works projects by apprentices who have completed the Illinois Works Preapprenticeship Program. The Department shall establish the rate by rule and shall publish it ~~published~~ on the Department's website. The rule may include maximum bid credits allowed per contractor, per subcontractor, per apprentice, per bid, or per year ~~, including any appropriate caps.~~

The Illinois Works Credit Bank is hereby created and shall be administered by the Department. The Illinois Works Credit Bank shall track the bid credits.

A contractor or subcontractor who has been awarded bid credits under any other State program for employing apprentices who have completed the Illinois Works Preapprenticeship

Program is not eligible to receive bid credits under the Illinois Works Bid Credit Program relating to the same contract.

The Department shall report to the Illinois Works Review Panel the following: (i) the number of bid credits awarded by the Department; (ii) the number of bid credits submitted by the contractor or subcontractor to the agency administering the public works contract; and (iii) the number of bid credits accepted by the agency for such contract. Any agency that awards bid credits pursuant to the Illinois Works Credit Bank Program shall report to the Department the number of bid credits it accepted for the public works contract.

Upon a finding that a contractor or subcontractor has reported falsified records to the Department in order to fraudulently obtain bid credits, the Department may ~~shall~~ ~~permanently~~ bar the contractor or subcontractor from participating in the Illinois Works Bid Credit Program and may suspend the contractor or subcontractor from bidding on or participating in any public works project. False or fraudulent claims for payment relating to false bid credits may be subject to damages and penalties under applicable law.

(e) The Department shall adopt any rules deemed necessary to implement this Section. 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.

(Source: P.A. 101-31, eff. 6-28-19.)

(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 ~~and shall~~ consult with the Business Enterprise Council under the Business Enterprise for Minorities, Women, 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 program 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.)

(30 ILCS 559/20-25)

Sec. 20-25. The Illinois Works Review Panel.

(a) The Illinois Works Review Panel is created and shall be comprised of 25 ~~11~~ members, each serving 3-year terms. The Speaker of the House of Representatives and the President of the Senate shall each appoint 5 ~~2~~ members. The Minority Leader of the House of Representatives and the Minority Leader of the

Senate shall each appoint 5 members ~~one member~~. The Director of Commerce and Economic Opportunity, or his or her designee, shall serve as a member. The Governor shall appoint the following individuals to serve as members: a representative from a contractor organization; a representative from a labor organization; and 2 members of the public with workforce development expertise, one of whom shall be a representative of a nonprofit organization that addresses workforce development.

(b) The members of the Illinois Works Review Panel shall make recommendations to the Department regarding identification and evaluation of community-based organizations.

(c) The Illinois Works Review Panel shall meet, at least quarterly, to review and evaluate (i) the Illinois Works Preapprenticeship Program and the Illinois Works Apprenticeship Initiative, (ii) ideas to diversify the trainee corps in the Illinois Works Preapprenticeship Program and the workforce in the construction industry in Illinois, (iii) ideas to increase diversity in active apprenticeship programs in Illinois, and (iv) ~~(iii)~~ workforce demographic data collected by the Illinois Department of Labor.

(d) All State contracts and grant agreements funding State contracts shall include a requirement that the contractor and subcontractor shall, upon reasonable notice, appear before and respond to requests for information from the Illinois Works Review Panel.

(e) By August 1, 2020, and every August 1 thereafter, the Illinois Works Review Panel shall report to the General Assembly on its evaluation of the Illinois Works Preapprenticeship Program and the Illinois Works Apprenticeship Initiative, including any recommended modifications.

(Source: P.A. 101-31, eff. 6-28-19.)

## Article 2

Section 2-5. The Department of Labor Law of the Civil Administrative Code of Illinois is amended by changing Section 1505-215 as follows:

(20 ILCS 1505/1505-215)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 1505-215. Bureau on Apprenticeship Programs; Advisory Board.

(a) There is created within the Department of Labor a Bureau on Apprenticeship Programs. This Bureau shall work to increase minority participation in active apprentice programs in Illinois that are approved by the United States Department of Labor. The Bureau shall identify barriers to minorities gaining access to construction careers and make recommendations to the Governor and the General Assembly for



policies to remove those barriers. The Department may hire staff to perform outreach in promoting diversity in active apprenticeship programs approved by the United States Department of Labor. The Bureau shall annually compile racial and gender workforce diversity information from contractors receiving State or other public funds and by labor unions with members working on projects receiving State or other public funds.

~~(b) There is created the Advisory Board for Diversity in Active Apprenticeship Programs Approved by the United States Department of Labor. This Advisory Board shall be composed of 12 legislators; 3 members appointed by the President of the Senate, 3 members appointed by the Speaker of the House of Representatives, 3 members appointed by the Minority Leader of the Senate, and 3 members appointed by the Minority Leader of the House of Representatives. The President of the Senate and the Speaker of the House of Representatives shall each appoint a co chairperson. Members of the Advisory Board shall receive no compensation for serving as members of the Advisory Board. The Advisory Board shall meet quarterly. The Advisory Board may request necessary additional information from the Department, other State agencies, or public institutions of higher education for the purposes of performing its duties under this Section. The Advisory Board may advise the Department of programs to increase diversity in active apprenticeship programs. The Department shall provide administrative support~~

~~and staffing for the Advisory Board.~~

(Source: P.A. 101-170, eff. 1-1-20.)

Section 2-10. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 2, 4, 5, and 7 as follows:

(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).  
~~Terms such as "Haitian" or "Negro" can be used in  
addition to "Black or African American".~~

(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).

(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".

(4.2) "Council" means the Business Enterprise Council for Minorities, Women, and Persons with Disabilities created under Section 5 of this 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, or person with a disability for whatever purpose. 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, or persons



with disabilities as suppliers or subcontractors or in employment of minorities, women, 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 Department of Central Management Services.

(B) When a business is owned at least 51% by any combination of minority persons, women, 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. 99-143, eff. 7-27-15; 99-462, eff. 8-25-15; 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

(30 ILCS 575/4) (from Ch. 127, par. 132.604)

(Text of Section before amendment by P.A. 101-170)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection ~~subsections~~ (b) ~~and (c)~~, not less than 20% 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, 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 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to women-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by 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, 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, 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) In the case of State construction contracts, the provisions of subsection (a) requiring a portion of State contracts to be awarded to businesses owned and controlled by persons with disabilities do not apply. The following aspirational goals are established for State construction contracts: not less than 20% of the total dollar amount of State construction contracts is established as a goal to be awarded to minority-owned and women-owned businesses.

(c) In the case of all work undertaken by the University of Illinois related to the planning, organization, and staging of the games, the University of Illinois shall establish a goal of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, and other agreements (collectively referred to as "the contracts") to minority-owned businesses or businesses owned by a person with a disability and 5% of the annual dollar value the contracts to women-owned businesses. For purposes of this subsection, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(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, 2022, the Department of Central Management Services 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) Except as permitted under this Act or as otherwise mandated by federal law or regulation, those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful and include a utilization plan but that fail to meet the goals set forth in subsection (b) of this Section, shall be notified of that deficiency and shall be afforded 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 owned by minorities or women, but 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.

(f) Non-construction solicitations that include Business Enterprise Program participation goals shall require bidders and 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 effort when requesting a waiver, shall render the bid or offer non-responsive.

(Source: P.A. 99-462, eff. 8-25-15; 99-514, eff. 6-30-16; 100-391, eff. 8-25-17.)

(Text of Section after amendment by P.A. 101-170)

(Section scheduled to be repealed on June 30, 2024)

Sec. 4. Award of State contracts.

(a) Except as provided in subsection ~~subsections~~ (b) and ~~(c)~~, not less than 20% 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, 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 11% shall be awarded to businesses owned by minorities, contracts representing at least 7% shall be awarded to women-owned businesses, and contracts representing at least 2% shall be awarded to businesses owned by 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, 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, 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, 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).

(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, the Advisory Board, and the General Assembly. By

December 1, 2022, the Department of Central Management Services 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) Except as permitted under this Act or as otherwise mandated by federal law or regulation, those who submit bids or proposals for State contracts subject to the provisions of this Act, whose bids or proposals are successful and include a utilization plan but that fail to meet the goals set forth in subsection (b) of this Section, shall be notified of that deficiency and shall be afforded 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 owned by minorities or women. Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency 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.

(f) Non-construction solicitations that include Business Enterprise Program participation goals shall require bidders



and 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 effort when requesting a waiver, shall render the bid or offer non-responsive.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20.)

(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, and Persons with Disabilities, hereinafter referred to as the Council, composed of 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 or women-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 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 Director of the Department of Central Management Services 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, and Persons with Disabilities Division of the Department of Central Management Services.

The Director of each State agency and the chief executive officer of each public institutions 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, 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, and persons with disabilities.

(d) Review compliance plans submitted by each State agency and public institutions 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, 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.

(3) No premium bond rate of a surety company for a bond required of a business owned by a minority, woman, 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, 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, and persons with disabilities and as the information and referral center for all State initiatives for businesses owned by minorities, women, 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, and persons with disabilities as prime contractors including, but not limited to, (i) encouraging the inclusions of qualified businesses owned by minorities, women, and persons with disabilities on solicitation lists, (ii) investigating the potential of blanket bonding programs for small construction jobs, (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 Director of Central Management Services, 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 program.

(Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17; 100-801, eff. 8-10-18.)

(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, 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, 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. ~~The Council may charge a reasonable fee for written request of individual contract exemptions.~~ Any such exemptions shall be given by the Council to the Bureau on Apprenticeship Programs.

(a) Written request for contract exemption. A written request for an individual contract exemption ~~exception~~ must include, but is not limited to, the following:

(i) a list of eligible ~~qualified~~ businesses owned by minorities, women, and persons with disabilities ~~that would qualify for the purpose of the contract;~~

(ii) a clear demonstration ~~each business's deficiency~~ that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure ~~would impair~~ adequate competition ~~or qualification;~~

(iii) the difference in cost between the contract proposals being offered by businesses owned by minorities, women, and persons with disabilities and the agency or ~~the~~ public institution of higher education's expectations of reasonable prices on bids or proposals within that class; and

(iv) a list of eligible ~~qualified~~ businesses owned by minorities, women, and persons with disabilities that the contractor has used in the current and prior ~~most recent~~ fiscal years ~~year~~.

(b) Determination. The Council's determination concerning an individual contract exemption must consider, at a minimum, include 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, and persons with disabilities ~~each business's disqualification;~~

(ii) the total number of exemptions granted to ~~waivers 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 that have been granted by the Council in the current and prior ~~for that~~ fiscal years ~~year~~; and

(iii) the percentage of ~~affected agency or public institution of higher education's most current percentages in~~ contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior ~~for that~~ fiscal years ~~year~~.

(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, 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, 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.

(a-1) Written request for class exemption. A written request for a class exemption ~~exception~~ must include, but is not limited to, the following:

(i) a list of eligible ~~qualified~~ businesses owned by minorities, women, and persons with disabilities ~~that pertain to the class of contracts in the requested waiver;~~

(ii) a clear demonstration ~~each business's~~ ~~deficiency~~ that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure ~~would impair~~ adequate competition ~~or qualification;~~

(iii) the difference in cost between the contract proposals being offered by eligible businesses owned by minorities, women, and persons with disabilities

and the agency or ~~the~~ 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 ~~has~~ requested in the current and prior ~~for that~~ fiscal years ~~year~~.

(a-2) Determination. The Council's determination concerning class exemptions must consider, at a minimum, ~~include~~ 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, and persons with disabilities ~~each business's disqualification;~~

(ii) the total number of class exemptions granted to ~~waivers~~ of the requesting agency or public institution of higher education that have been granted by the Council in the current and prior ~~for that~~ fiscal years ~~year~~; and

(iii) the percentage of ~~agency or public institution of higher education's most current percentages in~~ contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities the current and prior ~~for that~~ fiscal

years ~~year~~.

(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. The Council shall grant the waiver where 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, and persons with disabilities. Any such waiver shall also be transmitted in writing to the Bureau on Apprenticeship Programs.

(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 ~~qualified~~ businesses owned by minorities, women, and persons with disabilities that pertain to the class of contracts in the requested waiver;

(ii) a clear demonstration ~~each business's deficiency~~ that the number of eligible businesses identified in subparagraph (i) above is insufficient to ensure ~~would impair adequate competition or qualification~~;

(iii) the difference in cost between the contract proposals being offered by businesses owned by

minorities, women, and persons with disabilities and the agency or the public institution of higher education's expectations of reasonable prices on bids or proposals within that class; ~~and-~~

(iv) a list of businesses owned by minorities, women, 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, and persons with disabilities ~~each business's disqualification;~~

(ii) the total number of waivers the contractor has been granted by the Council in the current and prior ~~for that~~ fiscal years ~~year;~~

(iii) the percentage of ~~affected agency or public institution of higher education's most current percentages in~~ contracts awarded by the agency or public institution of higher education to eligible businesses owned by minorities, women, and persons with disabilities in the current and prior ~~for that~~ fiscal years ~~year;~~ and

(iv) the contractor's use of a list of qualified

businesses owned by minorities, women, and persons with disabilities ~~that the contractor has used~~ in the current and prior ~~most recent~~ fiscal years year.

(3.5) (Blank). ~~Fees. The Council may charge a fee for a written request on individual contract exemptions. The Council shall not charge for a first request. For a second request, the Council shall charge no more than \$1,000. For a fifth request or higher from a contractor, the Council shall charge no more than \$5,000 per request. The Department shall collect the fees under this Section. Any fee collected under this Section shall be used by the Bureau on Apprenticeship Programs to increase minority participation in apprenticeship programs in the State.~~

(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, and persons with disabilities identified in the utilization plan.

(Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20; revised 9-20-19.)

Section 2-15. The Criminal Code of 2012 is amended by changing Section 17-10.3 as follows:

(720 ILCS 5/17-10.3)

(Text of Section before amendment by P.A. 101-170)

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 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, 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 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, 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 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 commits a Class 2 felony.

(e) Definitions. As used in this Article, "minority-owned business", "women-owned business", "State agency" with respect to minority-owned businesses and women-owned businesses, and "certification" with respect to minority-owned businesses and women-owned businesses shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, 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.)



(Text of Section after amendment by P.A. 101-170)

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 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, 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 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, 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 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 commits a Class 2 ± felony.

(e) Definitions. As used in this Article, "minority-owned business", "women-owned business", "State agency" with respect to minority-owned businesses and women-owned businesses, and "certification" with respect to minority-owned businesses and women-owned businesses shall have the meanings ascribed to them in Section 2 of the Business Enterprise for Minorities, Women, 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.)

Article 99

Section 99-95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99-99. Effective date. This Act takes effect upon becoming law, except that Article 2 takes effect January 1, 2020.