



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4363

by Rep. Sara Wojcicki Jimenez

#### SYNOPSIS AS INTRODUCED:

30 ILCS 575/8k new

Amends the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. Provides that any contractor awarded a contract under the Act shall be required to make periodic reports to the contracting State agency on all expenditures made to achieve compliance with the provisions of the Act. Provides for the required contents of the report. Provides remedies for a contractor's non-compliance with the commitment to businesses owned by minorities, women, or persons with disabilities under the Act. Provides additional terms by which a contracting State agency may terminate a contract under the Act. Allows a contracting State agency to have access to a contractor's books and records for compliance purposes.

LRB100 18039 RJF 33228 b

1 AN ACT concerning finance.

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

4 Section 5. The Business Enterprise for Minorities, Women,  
5 and Persons with Disabilities Act is amended by adding Section  
6 8k as follows:

7 (30 ILCS 575/8k new)

8 Sec. 8k. Contractor expenditure reports.

9 (a) Any contractor awarded a contract under this Act shall  
10 be required to make periodic reports to the contracting State  
11 agency on all expenditures made to achieve compliance with the  
12 provisions of this Act.

13 (b) The reports required under this Section shall include  
14 the following:

15 (1) the name and business address of each business  
16 owned by minorities, women, or persons with disabilities  
17 solicited by the contractor to work as a subcontractor on  
18 the contract, and the responses received by the contractor  
19 to those solicitations;

20 (2) the name and business address of each business  
21 owned by minorities, women, or persons with disabilities  
22 actually involved in the contract;

23 (3) a description of the work performed and any supply

1 or service provided by each business owned by minorities,  
2 women, or persons with disabilities; and

3 (4) the date and amount of each expenditure, and any  
4 other information as may assist the contracting State  
5 agency in determining the contractor's compliance with the  
6 provisions of this Act, and the status of any business  
7 owned by minorities, women, and persons with disabilities  
8 performing any portion of the contract.

9 (c) In addition to any other penalty or remedy authorized  
10 under the provisions of this Act, remedies for a contractor's  
11 non-compliance with the commitment to businesses owned by  
12 minorities, women, or persons with disabilities participation  
13 under this Act may include an agreement to pay damages to any  
14 business owned by minorities, women, or persons with  
15 disabilities which were underutilized. The unexcused reduction  
16 of contract participation by a business owned by minorities,  
17 women, or persons with disabilities in connection with a  
18 contract, including any modification thereof, shall entitle  
19 the affected business owned by minorities, women, or persons  
20 with disabilities to damages as provided in the provisions of  
21 an agreement between the contracting parties. Those provisions  
22 shall include an undertaking by the contractor to submit any  
23 dispute concerning damages to binding arbitration by an  
24 independent arbitrator, other than any department or agency of  
25 the State, with reasonable expenses, including attorney's  
26 fees, being recoverable by a prevailing business owned by

1 minorities, women, or persons with disabilities. The Council  
2 shall approve recommended rules and procedures governing  
3 arbitrations prior to submission by the Department of Central  
4 Management Services to the Joint Committee on Administrative  
5 Rules. Nothing in this subsection (c) shall be construed to  
6 limit the rights of and remedies available to the State.

7 (d) In addition to any provision authorizing the  
8 termination of a contract entered into under this Act, a  
9 contracting State agency may terminate a contract:

10 (1) upon the disqualification of the contractor as a  
11 business owned by minorities, women, and persons with  
12 disabilities, if the contractor's status as a business  
13 owned by minorities, women, and persons with disabilities  
14 was a factor in the award of the contract and that status  
15 was misrepresented by the contractor; or

16 (2) upon the disqualification of any subcontractor as a  
17 business owned by minorities, women, and persons with  
18 disabilities if the subcontractor's status as a business  
19 owned by minorities, women, and persons with disabilities  
20 was a factor in the award of the contract and the status of  
21 the subcontractor was misrepresented by the contractor. In  
22 the event that the contractor is determined not to have  
23 been involved in any misrepresentation of the status of the  
24 disqualified subcontractor, the contractor shall discharge  
25 the disqualified subcontractor and, if possible, identify  
26 and engage a qualified business owned by minorities, women,

1 or persons with disabilities as its replacement.

2 (e) A contracting State agency shall, upon notice of 5  
3 business days to the contractor, have access to the  
4 contractor's books and records, including, but not limited to,  
5 payroll records, tax returns and records, and books of account,  
6 for the purpose of allowing the contracting State agency to  
7 determine the contractor's compliance with its commitment to  
8 participation of businesses owned by minorities, women, or  
9 persons with disabilities, and the status of any business owned  
10 by minorities, women, or persons with disabilities performing  
11 any portion of the contract. The provisions of this subsection  
12 (e) shall be in addition to, and not a substitute for, any  
13 other provision allowing inspection of the contractor's  
14 records by any officer of the State for any purpose.