

1 AN ACT concerning State government.

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

4 Section 5. The State Comptroller Act is amended by changing
5 Section 23.9 as follows:

6 (15 ILCS 405/23.9)

7 Sec. 23.9. Minority Contractor Opportunity Initiative. The
8 State Comptroller Minority Contractor Opportunity Initiative
9 is created to provide greater opportunities for minority-owned
10 businesses, women-owned ~~female-owned~~ businesses, businesses
11 owned by persons with disabilities, and small businesses with
12 20 or fewer employees in this State to participate in the State
13 procurement process. The initiative shall be administered by
14 the Comptroller. Under this initiative, the Comptroller is
15 responsible for the following: (i) outreach to minority-owned
16 businesses, women-owned ~~female-owned~~ businesses, businesses
17 owned by persons with disabilities, and small businesses
18 capable of providing services to the State; (ii) education of
19 minority-owned businesses, women-owned ~~female-owned~~
20 businesses, businesses owned by persons with disabilities, and
21 small businesses concerning State contracting and procurement;
22 (iii) notification of minority-owned businesses, women-owned
23 ~~female-owned~~ businesses, businesses owned by persons with

1 disabilities, and small businesses of State contracting
2 opportunities; and (iv) maintenance of an online database of
3 State contracts that identifies the contracts awarded to
4 minority-owned businesses, women-owned ~~female-owned~~
5 businesses, businesses owned by persons with disabilities, and
6 small businesses that includes the total amount paid by State
7 agencies to contractors and the percentage paid to
8 minority-owned businesses, women-owned ~~female-owned~~
9 businesses, businesses owned by persons with disabilities, and
10 small businesses.

11 The Comptroller shall work with the Business Enterprise
12 Council created under Section 5 of the Business Enterprise for
13 Minorities, Women ~~Females~~, and Persons with Disabilities Act to
14 fulfill the Comptroller's responsibilities under this Section.
15 The Comptroller may rely on the Business Enterprise Council's
16 identification of minority-owned businesses, women-owned
17 ~~female-owned~~ businesses, and businesses owned by persons with
18 disabilities.

19 The Comptroller shall annually prepare and submit a report
20 to the Governor and the General Assembly concerning the
21 progress of this initiative including the following
22 information for the preceding calendar year: (i) a statement of
23 the total amounts paid by each executive branch agency to
24 contractors since the previous report; (ii) the percentage of
25 the amounts that were paid to minority-owned businesses,
26 women-owned ~~female-owned~~ businesses, businesses owned by

1 persons with disabilities, and small businesses; (iii) the
2 successes achieved and the challenges faced by the Comptroller
3 in operating outreach programs for minorities, women, persons
4 with disabilities, and small businesses; (iv) the challenges
5 each executive branch agency may face in hiring qualified
6 minority, woman ~~female~~, and small business employees and
7 employees with disabilities and contracting with qualified
8 minority-owned businesses, women-owned ~~female-owned~~
9 businesses, businesses owned by persons with disabilities, and
10 small businesses; and (iv) any other information, findings,
11 conclusions, and recommendations for legislative or agency
12 action, as the Comptroller deems appropriate.

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

24 (Source: P.A. 98-797, eff. 7-31-14; 99-143, eff. 7-27-15.)

25 (20 ILCS 605/605-525 rep.)

1 Section 10. The Department of Commerce and Economic
2 Opportunity Law of the Civil Administrative Code of Illinois is
3 amended by repealing Section 605-525.

4 Section 15. The Illinois Lottery Law is amended by changing
5 Section 9.1 as follows:

6 (20 ILCS 1605/9.1)

7 Sec. 9.1. Private manager and management agreement.

8 (a) As used in this Section:

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

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

14 (1) Statements of qualifications.

15 (2) Proposals to enter into a management agreement,
16 including the identity of any prospective vendor or vendors
17 that the offeror intends to initially engage to assist the
18 offeror in performing its obligations under the management
19 agreement.

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

1 agreement.

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

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

10 (c) Pursuant to the terms of this subsection, the
11 Department shall endeavor to expeditiously terminate the
12 existing contracts in support of the Lottery in effect on the
13 effective date of this amendatory Act of the 96th General
14 Assembly in connection with the selection of the private
15 manager. As part of its obligation to terminate these contracts
16 and select the private manager, the Department shall establish
17 a mutually agreeable timetable to transfer the functions of
18 existing contractors to the private manager so that existing
19 Lottery operations are not materially diminished or impaired
20 during the transition. To that end, the Department shall do the
21 following:

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

26 (2) upon the expiration of any initial term or renewal

1 term of the current Lottery contracts, the Department shall
2 not renew such contract for a term extending beyond the
3 mutually agreed timetable for transfer of functions; or

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

10 If the contracts to support the current operation of the
11 Lottery in effect on the effective date of this amendatory Act
12 of the 96th General Assembly are not subject to termination as
13 provided for in this subsection (c), then the Department may
14 include a provision in the contract with the private manager
15 specifying a mutually agreeable methodology for incorporation.

16 (c-5) The Department shall include provisions in the
17 management agreement whereby the private manager shall, for a
18 fee, and pursuant to a contract negotiated with the Department
19 (the "Employee Use Contract"), utilize the services of current
20 Department employees to assist in the administration and
21 operation of the Lottery. The Department shall be the employer
22 of all such bargaining unit employees assigned to perform such
23 work for the private manager, and such employees shall be State
24 employees, as defined by the Personnel Code. Department
25 employees shall operate under the same employment policies,
26 rules, regulations, and procedures, as other employees of the

1 Department. In addition, neither historical representation
2 rights under the Illinois Public Labor Relations Act, nor
3 existing collective bargaining agreements, shall be disturbed
4 by the management agreement with the private manager for the
5 management of the Lottery.

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

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

10 (2) A provision specifying that the Department:

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

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

15 (B) has ready access at any time to information
16 regarding Lottery operations;

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

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

23 (3) A provision imposing an affirmative duty on the
24 private manager to provide the Department with material
25 information and with any information the private manager
26 reasonably believes the Department would want to know to

1 enable the Department to conduct the Lottery.

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

10 (5) A provision providing for compensation of the
11 private manager that may consist of, among other things, a
12 fee for services and a performance based bonus as
13 consideration for managing the Lottery, including terms
14 that may provide the private manager with an increase in
15 compensation if Lottery revenues grow by a specified
16 percentage in a given year.

17 (6) (Blank).

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

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

23 (8-5) A provision encouraging that at least 20% of the
24 cost of contracts entered into for goods and services by
25 the private manager in connection with its management of
26 the Lottery, other than contracts with sales agents or

1 technical advisors, be awarded to businesses that are a
2 minority-owned ~~minority-owned~~ business, a women-owned
3 ~~female-owned~~ business, or a business owned by a person with
4 disability, as those terms are defined in the Business
5 Enterprise for Minorities, Women ~~Females~~, and Persons with
6 Disabilities Act.

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

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

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

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

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

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

23 (F) A system for determining (i) the type of
24 Lottery games, (ii) the method of selecting winning
25 tickets, (iii) the manner of payment of prizes to
26 holders of winning tickets, (iv) the frequency of

1 drawings of winning tickets, (v) the method to be used
2 in selling tickets, (vi) a system for verifying the
3 validity of tickets claimed to be winning tickets,
4 (vii) the basis upon which retailer commissions are
5 established by the manager, and (viii) minimum
6 payouts.

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

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

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

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

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

1 Department.

2 (15) Cash reserves requirements.

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

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

9 (18) Procedures for amendment of the agreement.

10 (19) A provision requiring the private manager to
11 engage in an open and competitive bidding process for any
12 procurement having a cost in excess of \$50,000 that is not
13 a part of the private manager's final offer. The process
14 shall favor the selection of a vendor deemed to have
15 submitted a proposal that provides the Lottery with the
16 best overall value. The process shall not be subject to the
17 provisions of the Illinois Procurement Code, unless
18 specifically required by the management agreement.

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

25 (21) Right of use of copyrights, trademarks, and
26 service marks held by the Department in the name of the

1 State. The agreement must provide that any use of them by
2 the manager shall only be for the purpose of fulfilling its
3 obligations under the management agreement during the term
4 of the agreement.

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

9 (e) Notwithstanding any other law to the contrary, the
10 Department shall select a private manager through a competitive
11 request for qualifications process consistent with Section
12 20-35 of the Illinois Procurement Code, which shall take into
13 account:

14 (1) the offeror's ability to market the Lottery to
15 those residents who are new, infrequent, or lapsed players
16 of the Lottery, especially those who are most likely to
17 make regular purchases on the Internet;

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

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

25 (4) the offeror's poor or inadequate past performance
26 in servicing, equipping, operating or managing a lottery on

1 behalf of Illinois, another State or foreign government and
2 attracting persons who are not currently regular players of
3 a lottery.

4 (f) The Department may retain the services of an advisor or
5 advisors with significant experience in financial services or
6 the management, operation, and procurement of goods, services,
7 and equipment for a government-run lottery to assist in the
8 preparation of the terms of the request for qualifications and
9 selection of the private manager. Any prospective advisor
10 seeking to provide services under this subsection (f) shall
11 disclose any material business or financial relationship
12 during the past 3 years with any potential offeror, or with a
13 contractor or subcontractor presently providing goods,
14 services, or equipment to the Department to support the
15 Lottery. The Department shall evaluate the material business or
16 financial relationship of each prospective advisor. The
17 Department shall not select any prospective advisor with a
18 substantial business or financial relationship that the
19 Department deems to impair the objectivity of the services to
20 be provided by the prospective advisor. During the course of
21 the advisor's engagement by the Department, and for a period of
22 one year thereafter, the advisor shall not enter into any
23 business or financial relationship with any offeror or any
24 vendor identified to assist an offeror in performing its
25 obligations under the management agreement. Any advisor
26 retained by the Department shall be disqualified from being an

1 offeror. The Department shall not include terms in the request
2 for qualifications that provide a material advantage whether
3 directly or indirectly to any potential offeror, or any
4 contractor or subcontractor presently providing goods,
5 services, or equipment to the Department to support the
6 Lottery, including terms contained in previous responses to
7 requests for proposals or qualifications submitted to
8 Illinois, another State or foreign government when those terms
9 are uniquely associated with a particular potential offeror,
10 contractor, or subcontractor. The request for proposals
11 offered by the Department on December 22, 2008 as
12 "LOT08GAMESYS" and reference number "22016176" is declared
13 void.

14 (g) The Department shall select at least 2 offerors as
15 finalists to potentially serve as the private manager no later
16 than August 9, 2010. Upon making preliminary selections, the
17 Department shall schedule a public hearing on the finalists'
18 proposals and provide public notice of the hearing at least 7
19 calendar days before the hearing. The notice must include all
20 of the following:

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

22 (2) The subject matter of the hearing.

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

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

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

2 (h) At the public hearing, the Department shall (i) provide
3 sufficient time for each finalist to present and explain its
4 proposal to the Department and the Governor or the Governor's
5 designee, including an opportunity to respond to questions
6 posed by the Department, Governor, or designee and (ii) allow
7 the public and non-selected offerors to comment on the
8 presentations. The Governor or a designee shall attend the
9 public hearing. After the public hearing, the Department shall
10 have 14 calendar days to recommend to the Governor whether a
11 management agreement should be entered into with a particular
12 finalist. After reviewing the Department's recommendation, the
13 Governor may accept or reject the Department's recommendation,
14 and shall select a final offeror as the private manager by
15 publication of a notice in the Illinois Procurement Bulletin on
16 or before September 15, 2010. The Governor shall include in the
17 notice a detailed explanation and the reasons why the final
18 offeror is superior to other offerors and will provide
19 management services in a manner that best achieves the
20 objectives of this Section. The Governor shall also sign the
21 management agreement with the private manager.

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

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

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

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

15 (m) Neither this Section nor any management agreement
16 entered into under this Section prohibits the General Assembly
17 from authorizing forms of gambling that are not in direct
18 competition with the Lottery.

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

1 (o) The powers conferred by this Section are in addition
2 and supplemental to the powers conferred by any other law. If
3 any other law or rule is inconsistent with this Section,
4 including, but not limited to, provisions of the Illinois
5 Procurement Code, then this Section controls as to any
6 management agreement entered into under this Section. This
7 Section and any rules adopted under this Section contain full
8 and complete authority for a management agreement between the
9 Department and a private manager. No law, procedure,
10 proceeding, publication, notice, consent, approval, order, or
11 act by the Department or any other officer, Department, agency,
12 or instrumentality of the State or any political subdivision is
13 required for the Department to enter into a management
14 agreement under this Section. This Section contains full and
15 complete authority for the Department to approve any contracts
16 entered into by a private manager with a vendor providing
17 goods, services, or both goods and services to the private
18 manager under the terms of the management agreement, including
19 subcontractors of such vendors.

20 Upon receipt of a written request from the Chief
21 Procurement Officer, the Department shall provide to the Chief
22 Procurement Officer a complete and un-redacted copy of the
23 management agreement or any contract that is subject to the
24 Department's approval authority under this subsection (o). The
25 Department shall provide a copy of the agreement or contract to
26 the Chief Procurement Officer in the time specified by the

1 Chief Procurement Officer in his or her written request, but no
2 later than 5 business days after the request is received by the
3 Department. The Chief Procurement Officer must retain any
4 portions of the management agreement or of any contract
5 designated by the Department as confidential, proprietary, or
6 trade secret information in complete confidence pursuant to
7 subsection (g) of Section 7 of the Freedom of Information Act.
8 The Department shall also provide the Chief Procurement Officer
9 with reasonable advance written notice of any contract that is
10 pending Department approval.

11 Notwithstanding any other provision of this Section to the
12 contrary, the Chief Procurement Officer shall adopt
13 administrative rules, including emergency rules, to establish
14 a procurement process to select a successor private manager if
15 a private management agreement has been terminated. The
16 selection process shall at a minimum take into account the
17 criteria set forth in items (1) through (4) of subsection (e)
18 of this Section and may include provisions consistent with
19 subsections (f), (g), (h), and (i) of this Section. The Chief
20 Procurement Officer shall also implement and administer the
21 adopted selection process upon the termination of a private
22 management agreement. The Department, after the Chief
23 Procurement Officer certifies that the procurement process has
24 been followed in accordance with the rules adopted under this
25 subsection (o), shall select a final offeror as the private
26 manager and sign the management agreement with the private

1 manager.

2 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, and
3 21.9, the Department shall distribute all proceeds of lottery
4 tickets and shares sold in the following priority and manner:

5 (1) The payment of prizes and retailer bonuses.

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

10 (3) On the last day of each month or as soon thereafter
11 as possible, the State Comptroller shall direct and the
12 State Treasurer shall transfer from the State Lottery Fund
13 to the Common School Fund an amount that is equal to the
14 proceeds transferred in the corresponding month of fiscal
15 year 2009, as adjusted for inflation, to the Common School
16 Fund.

17 (4) On or before the last day of each fiscal year,
18 deposit any remaining proceeds, subject to payments under
19 items (1), (2), and (3) into the Capital Projects Fund each
20 fiscal year.

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

23 (1) the Department shall submit written quarterly
24 reports to the Governor and the General Assembly on the
25 activities and actions of the private manager selected
26 under this Section;

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

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

15 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
16 99-933, eff. 1-27-17.)

17 Section 20. The Department of Transportation Law of the
18 Civil Administrative Code of Illinois is amended by changing
19 Sections 2705-585 and 2705-600 as follows:

20 (20 ILCS 2705/2705-585)

21 Sec. 2705-585. Diversity goals.

22 (a) To the extent permitted by any applicable federal law
23 or regulation, all State construction projects funded from
24 amounts (i) made available under the Governor's Fiscal Year

1 2009 supplemental budget or the American Recovery and
2 Reinvestment Act of 2009 and (ii) that are appropriated to the
3 Illinois Department of Transportation shall comply with the
4 Business Enterprise for Minorities, Women ~~Females~~, and Persons
5 with Disabilities Act.

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

16 (Source: P.A. 96-8, eff. 4-28-09.)

17 (20 ILCS 2705/2705-600)

18 (Section scheduled to be repealed on June 30, 2017)

19 Sec. 2705-600. Target market program. In order to remedy
20 particular incidents and patterns of egregious race or gender
21 discrimination, the chief procurement officer, in consultation
22 with the Department, shall have the power to implement a target
23 market program incorporating the following terms:

24 (0.5) Each fiscal year, the Department shall review any
25 and all evidence of discrimination related to

1 transportation construction projects. Evidence of
2 discrimination may include, but is not limited to: (i) the
3 determination of the Department's utilization of
4 minority-owned and women-owned ~~female-owned~~ firms in its
5 prime contracts and associated subcontracts; (ii) the
6 availability of minority-owned and women-owned
7 ~~female-owned~~ firms in the Department's geographic market
8 areas and specific construction industry markets; (iii)
9 any disparities between the utilization of minority-owned
10 and women-owned ~~female-owned~~ firms in the Department's
11 markets and the utilization of those firms on the
12 Department's prime contracts and subcontracts in those
13 markets; (iv) any disparities between the utilization of
14 minority-owned and women-owned ~~female-owned~~ firms in the
15 overall construction markets in which the Department
16 purchases and the utilization of those firms in the overall
17 construction economy in which the Department operates; (v)
18 evidence of discrimination in the rates at which
19 minority-owned and women-owned ~~female-owned~~ firms in the
20 Department's markets form businesses compared to similar
21 non-minority-owned and non-women-owned ~~non-female-owned~~
22 firms in the Department's markets and in the dollars earned
23 by such businesses; and (vi) quantitative and qualitative
24 anecdotal evidence of discrimination. If after reviewing
25 such evidence, the Department finds and the chief
26 procurement officer concurs in the findings that the

1 Department has a strong basis in evidence that it has a
2 compelling interest in remedying the identified
3 discrimination against a specific group, race, or gender,
4 and that the only remedy for such discrimination is a
5 narrowly tailored target market, the chief procurement
6 officer, in consultation with the Department, has the power
7 to establish and implement a target market program tailored
8 to address the specific findings of egregious
9 discrimination made by the Department, after a public
10 hearing at which minority, women ~~female~~, and general
11 contractor groups, community organizations, and other
12 interested parties shall have the opportunity to provide
13 comments.

14 (1) In January of each year, the Department and the
15 chief procurement officer shall report jointly to the
16 General Assembly the results of any evidentiary inquiries
17 or studies that establish the Department's compelling
18 interest in remedying egregious discrimination based upon
19 strong evidence of the need for a narrowly tailored target
20 market to remedy such discrimination and public hearings
21 held pursuant to this Section, and shall report the actions
22 to be taken to address the findings, including, if
23 warranted, the establishment and implementation of any
24 target market initiatives.

25 (2) The chief procurement officer shall work with the
26 officers and divisions of the Department to determine the

1 appropriate designation of contracts as target market
2 contracts. The chief procurement officer, in consultation
3 with the Department, shall determine appropriate contract
4 formation and bidding procedures for target market
5 contracts, including, but not limited to, the dividing of
6 procurements so designated into contract award units in
7 order to facilitate offers or bids from minority-owned
8 businesses and women-owned ~~female-owned~~ businesses and the
9 removal of bid bond requirements for minority-owned
10 businesses and women-owned ~~female-owned~~ businesses.
11 Minority-owned businesses and women-owned ~~female-owned~~
12 businesses shall remain eligible to seek the procurement
13 award of contracts that have not been designated as target
14 market contracts.

15 (3) The chief procurement officer may make
16 participation in the target market program dependent upon
17 submission to stricter compliance audits than are
18 generally applicable. No contract shall be eligible for
19 inclusion in the target market program unless the
20 Department determines that there are at least 3
21 minority-owned businesses or women-owned ~~female-owned~~
22 businesses interested in participating in that type of
23 contract. The Department, with the concurrence of the chief
24 procurement officer, may develop guidelines to regulate
25 the level of participation of individual minority-owned
26 businesses and women-owned ~~female-owned~~ businesses in the

1 target market program in order to prevent the domination of
2 the target market program by a small number of those
3 entities. The Department may require minority-owned
4 businesses and women-owned ~~female-owned~~ businesses to
5 participate in training programs offered by the Department
6 or other State agencies as a condition precedent to
7 participation in the target market program.

8 (4) Participation in the target market program shall be
9 limited to minority-owned businesses and women-owned
10 ~~female-owned~~ businesses and joint ventures consisting
11 exclusively of minority-owned businesses, women-owned
12 ~~female-owned~~ businesses, or both, that are certified as
13 disadvantaged businesses pursuant to the provisions of
14 Section 6(d) of the Business Enterprise for Minorities,
15 Women ~~Females~~, and Persons with Disabilities Act. A firm
16 awarded a target market contract may subcontract up to 50%
17 of the dollar value of the target market contract to
18 subcontractors who are not minority-owned businesses or
19 women-owned ~~female-owned~~ businesses.

20 (5) The Department may include in the target market
21 program contracts that are funded by the federal government
22 to the extent allowed by federal law and may vary the
23 standards of eligibility of the target market program to
24 the extent necessary to comply with the federal funding
25 requirements.

26 (6) If no satisfactory bid or response is received with

1 respect to a contract that has been designated as part of
2 the target market program, the chief procurement officer,
3 in consultation with the Department, may delete that
4 contract from the target market program. In addition, the
5 chief procurement officer, in consultation with the
6 Department, may thereupon designate and set aside for the
7 target market program additional contracts corresponding
8 in approximate value to the contract that was deleted from
9 the target market program, in keeping with the narrowly
10 tailored process used for selecting contracts suitable for
11 the program and to the extent feasible.

12 (7) The chief procurement officer, in consultation
13 with the Department, shall promulgate such rules as he or
14 she deems necessary to administer the target market
15 program.

16 If any part, sentence, or clause of this Section is for any
17 reason held invalid or to be unconstitutional, such decision
18 shall not affect the validity of the remaining portions of this
19 Section.

20 This Section is repealed on June 30, 2017.

21 (Source: P.A. 97-228, eff. 7-28-11; 98-670, eff. 6-27-14.)

22 Section 25. The Capital Development Board Act is amended by
23 changing Section 16 as follows:

24 (20 ILCS 3105/16) (from Ch. 127, par. 783b)

1 Sec. 16. (a) In addition to any other power granted in this
2 Act to adopt rules or regulations, the Board may adopt
3 regulations or rules relating to the issuance or renewal of the
4 prequalification of an architect, engineer or contractor or the
5 suspension or modification of the prequalification of any such
6 person or entity including, without limitation, an interim or
7 emergency suspension or modification without a hearing founded
8 on any one or more of the bases set forth in this Section.

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

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

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

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

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

10 (Source: P.A. 92-16, eff. 6-28-01.)

11 Section 30. The Illinois Health Information Exchange and
12 Technology Act is amended by changing Section 20 as follows:

13 (20 ILCS 3860/20)

14 (Section scheduled to be repealed on January 1, 2021)

15 Sec. 20. Powers and duties of the Illinois Health
16 Information Exchange Authority. The Authority has the
17 following powers, together with all powers incidental or
18 necessary to accomplish the purposes of this Act:

19 (1) The Authority shall create and administer the ILHIE
20 using information systems and processes that are secure,
21 are cost effective, and meet all other relevant privacy and
22 security requirements under State and federal law.

23 (2) The Authority shall establish and adopt standards
24 and requirements for the use of health information and the

1 requirements for participation in the ILHIE by persons or
2 entities including, but not limited to, health care
3 providers, payors, and local health information exchanges.

4 (3) The Authority shall establish minimum standards
5 for accessing the ILHIE to ensure that the appropriate
6 security and privacy protections apply to health
7 information, consistent with applicable federal and State
8 standards and laws. The Authority shall have the power to
9 suspend, limit, or terminate the right to participate in
10 the ILHIE for non-compliance or failure to act, with
11 respect to applicable standards and laws, in the best
12 interests of patients, users of the ILHIE, or the public.
13 The Authority may seek all remedies allowed by law to
14 address any violation of the terms of participation in the
15 ILHIE.

16 (4) The Authority shall identify barriers to the
17 adoption of electronic health records systems, including
18 researching the rates and patterns of dissemination and use
19 of electronic health record systems throughout the State.
20 The Authority shall make the results of the research
21 available on its website.

22 (5) The Authority shall prepare educational materials
23 and educate the general public on the benefits of
24 electronic health records, the ILHIE, and the safeguards
25 available to prevent unauthorized disclosure of health
26 information.

1 (6) The Authority may appoint or designate an
2 institutional review board in accordance with federal and
3 State law to review and approve requests for research in
4 order to ensure compliance with standards and patient
5 privacy and security protections as specified in paragraph
6 (3) of this Section.

7 (7) The Authority may enter into all contracts and
8 agreements necessary or incidental to the performance of
9 its powers under this Act. The Authority's expenditures of
10 private funds are exempt from the Illinois Procurement
11 Code, pursuant to Section 1-10 of that Act. Notwithstanding
12 this exception, the Authority shall comply with the
13 Business Enterprise for Minorities, Women ~~Females~~, and
14 Persons with Disabilities Act.

15 (8) The Authority may solicit and accept grants, loans,
16 contributions, or appropriations from any public or
17 private source and may expend those moneys, through
18 contracts, grants, loans, or agreements, on activities it
19 considers suitable to the performance of its duties under
20 this Act.

21 (9) The Authority may determine, charge, and collect
22 any fees, charges, costs, and expenses from any healthcare
23 provider or entity in connection with its duties under this
24 Act. Moneys collected under this paragraph (9) shall be
25 deposited into the Health Information Exchange Fund.

26 (10) The Authority may, under the direction of the

1 Executive Director, employ and discharge staff, including
2 administrative, technical, expert, professional, and legal
3 staff, as is necessary or convenient to carry out the
4 purposes of this Act. The Authority may establish and
5 administer standards of classification regarding
6 compensation, benefits, duties, performance, and tenure
7 for that staff and may enter into contracts of employment
8 with members of that staff for such periods and on such
9 terms as the Authority deems desirable. All employees of
10 the Authority are exempt from the Personnel Code as
11 provided by Section 4 of the Personnel Code.

12 (11) The Authority shall consult and coordinate with
13 the Department of Public Health to further the Authority's
14 collection of health information from health care
15 providers for public health purposes. The collection of
16 public health information shall include identifiable
17 information for use by the Authority or other State
18 agencies to comply with State and federal laws. Any
19 identifiable information so collected shall be privileged
20 and confidential in accordance with Sections 8-2101,
21 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
22 Procedure.

23 (12) All identified or deidentified health information
24 in the form of health data or medical records contained in,
25 stored in, submitted to, transferred by, or released from
26 the Illinois Health Information Exchange, and identified

1 or deidentified health information in the form of health
2 data and medical records of the Illinois Health Information
3 Exchange in the possession of the Illinois Health
4 Information Exchange Authority due to its administration
5 of the Illinois Health Information Exchange, shall be
6 exempt from inspection and copying under the Freedom of
7 Information Act. The terms "identified" and "deidentified"
8 shall be given the same meaning as in the Health Insurance
9 Portability and Accountability Act of 1996, Public Law
10 104-191, or any subsequent amendments thereto, and any
11 regulations promulgated thereunder.

12 (13) To address gaps in the adoption of, workforce
13 preparation for, and exchange of electronic health records
14 that result in regional and socioeconomic disparities in
15 the delivery of care, the Authority may evaluate such gaps
16 and provide resources as available, giving priority to
17 healthcare providers serving a significant percentage of
18 Medicaid or uninsured patients and in medically
19 underserved or rural areas.

20 (Source: P.A. 99-642, eff. 7-28-16.)

21 Section 35. The Illinois Global Partnership Act is amended
22 by changing Section 20 as follows:

23 (20 ILCS 3948/20)

24 Sec. 20. Board of directors. IGP shall be governed by a

1 board of directors. The IGP board of directors shall consist of
2 14 members. Five of the members shall be voting members
3 appointed by the Governor with the advice and consent of the
4 Senate. The Speaker and Minority Leader of the House of
5 Representatives, the President and Minority Leader of the
6 Senate, the Lieutenant Governor, the Director of Agriculture,
7 the Director of Commerce and Economic Opportunity, the
8 Chairperson of the Illinois Arts Council, and the Director of
9 the Illinois Finance Authority, or the designee of each, shall
10 be non-voting ex officio members.

11 Of the members appointed by the Governor, one member must
12 have a background in agriculture, one member must have a
13 background in manufacturing, and one member must have a
14 background in international business relations.

15 Of the initial members appointed by the Governor, 3 members
16 shall serve 4-year terms and 2 members shall serve 2-year terms
17 as designated by the Governor. Thereafter, members appointed by
18 the Governor shall serve 4-year terms. A vacancy among members
19 appointed by the Governor shall be filled by appointment by the
20 Governor for the remainder of the vacated term.

21 Members of the board shall receive no compensation but
22 shall be reimbursed for expenses incurred in the performance of
23 their duties.

24 The Governor shall designate the chairman of the board
25 until a successor is designated. The board shall meet at the
26 call of the chair.

1 No less than 90 days after a majority of the members of the
2 board of directors of the IGP is appointed by the Governor, the
3 board shall develop a policy adopted by resolution of the board
4 stating the board's plan for the use of services provided by
5 businesses owned by minorities, women ~~females~~, and persons with
6 disabilities, as defined under the Business Enterprise for
7 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
8 The board shall provide a copy of this resolution to the
9 Governor and the General Assembly upon its adoption.

10 On December 31 of each year, the board shall report to the
11 General Assembly and the Governor regarding the use of services
12 provided by businesses owned by minorities, women ~~females~~, and
13 persons with disabilities, as defined under the Business
14 Enterprise for Minorities, Women ~~Females~~, and Persons with
15 Disabilities Act.

16 (Source: P.A. 94-388, eff. 7-29-05.)

17 Section 40. The State Finance Act is amended by changing
18 Sections 8.32 and 45 as follows:

19 (30 ILCS 105/8.32) (from Ch. 127, par. 144.32)

20 Sec. 8.32. All moneys received by the Minority and Women
21 ~~Female~~ Business Enterprise Council, or by the Department of
22 Central Management Services on behalf of the Council or the
23 Department's ~~Minority and Female~~ Business Enterprise for
24 Minorities, Women, and Persons with Disabilities Division,

1 from grants, donations, seminar registration fees, and the sale
2 of directories, lists and other such information, shall be
3 deposited into the Minority and Female Business Enterprise Fund
4 in the State treasury. Expenses of the Council or the
5 Department's ~~Minority and Female~~ Business Enterprise for
6 Minorities, Women, and Persons with Disabilities Division may
7 be paid from this Fund.

8 (Source: P.A. 86-1482.)

9 (30 ILCS 105/45)

10 Sec. 45. Award of capital funds. Each award by grant or
11 loan of State funds of \$250,000 or more for capital
12 construction costs or professional services is conditioned
13 upon the recipient's written certification that the recipient
14 shall comply with the business enterprise program practices for
15 minority-owned businesses, women-owned ~~female-owned~~
16 businesses, and businesses owned by persons with disabilities
17 of the Business Enterprise for Minorities, Women ~~Females~~, and
18 Persons with Disabilities Act (30 ILCS 575/) and the equal
19 employment practices of Section 2-105 of the Illinois Human
20 Rights Act (775 ILCS 5/2-105). This Section, however, does not
21 apply to any grant or loan (i) for which a grant or loan
22 agreement was executed before the effective date of this
23 amendatory Act of the 96th General Assembly, (ii) for which
24 prior-incurred costs are being reimbursed, or (iii) for a
25 federally funded program under which the requirement of this

1 Section would contravene federal law. Each recipient shall
2 submit the written certification and business enterprise
3 program plan for minority-owned businesses, women-owned
4 ~~female-owned~~ businesses, and businesses owned by persons with
5 disabilities before signing the relevant grant or loan
6 agreement. Each grant or loan agreement shall include a
7 provision that the grant or loan recipient agrees to comply
8 with the provisions of the Business Enterprise for Minorities,
9 Women ~~Females~~, and Persons with Disabilities Act (30 ILCS 575/)
10 and the equal employment practices of Section 2-105 of the
11 Illinois Human Rights Act (775 ILCS 5/2-105).

12 Each business enterprise program plan shall apply only to
13 the State-funded portion of the relevant capital project and
14 must be in compliance with all certification and other
15 requirements of the Business Enterprise for Minorities, Women
16 ~~Females~~, and Persons with Disabilities Act.

17 (Source: P.A. 96-1064, eff. 7-16-10.)

18 Section 45. The General Obligation Bond Act is amended by
19 changing Sections 8 and 15.5 as follows:

20 (30 ILCS 330/8) (from Ch. 127, par. 658)

21 Sec. 8. Bond sale expenses.

22 (a) An amount not to exceed 0.5 percent of the principal
23 amount of the proceeds of sale of each bond sale is authorized
24 to be used to pay the reasonable costs of issuance and sale,

1 including, without limitation, underwriter's discounts and
2 fees, but excluding bond insurance, of State of Illinois
3 general obligation bonds authorized and sold pursuant to this
4 Act, provided that no salaries of State employees or other
5 State office operating expenses shall be paid out of
6 non-appropriated proceeds, provided further that the percent
7 shall be 1.0% for each sale of "Build America Bonds" or
8 "Qualified School Construction Bonds" as defined in
9 subsections (d) and (e) of Section 9, respectively. The
10 Governor's Office of Management and Budget shall compile a
11 summary of all costs of issuance on each sale (including both
12 costs paid out of proceeds and those paid out of appropriated
13 funds) and post that summary on its web site within 20 business
14 days after the issuance of the Bonds. The summary shall
15 include, as applicable, the respective percentages of
16 participation and compensation of each underwriter that is a
17 member of the underwriting syndicate, legal counsel, financial
18 advisors, and other professionals for the bond issue and an
19 identification of all costs of issuance paid to minority-owned
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
21 businesses, and businesses owned by persons with disabilities.
22 The terms "minority-owned ~~minority-owned~~ businesses",
23 "women-owned ~~female-owned~~ businesses", and "business owned by a
24 person with a disability" have the meanings given to those
25 terms in the Business Enterprise for Minorities, Women ~~Females~~,
26 and Persons with Disabilities Act. That posting shall be

1 maintained on the web site for a period of at least 30 days. In
2 addition, the Governor's Office of Management and Budget shall
3 provide a written copy of each summary of costs to the Speaker
4 and Minority Leader of the House of Representatives, the
5 President and Minority Leader of the Senate, and the Commission
6 on Government Forecasting and Accountability within 20
7 business days after each issuance of the Bonds. In addition,
8 the Governor's Office of Management and Budget shall provide
9 copies of all contracts under which any costs of issuance are
10 paid or to be paid to the Commission on Government Forecasting
11 and Accountability within 20 business days after the issuance
12 of Bonds for which those costs are paid or to be paid. Instead
13 of filing a second or subsequent copy of the same contract, the
14 Governor's Office of Management and Budget may file a statement
15 that specified costs are paid under specified contracts filed
16 earlier with the Commission.

17 (b) The Director of the Governor's Office of Management and
18 Budget shall not, in connection with the issuance of Bonds,
19 contract with any underwriter, financial advisor, or attorney
20 unless that underwriter, financial advisor, or attorney
21 certifies that the underwriter, financial advisor, or attorney
22 has not and will not pay a contingent fee, whether directly or
23 indirectly, to a third party for having promoted the selection
24 of the underwriter, financial advisor, or attorney for that
25 contract. In the event that the Governor's Office of Management
26 and Budget determines that an underwriter, financial advisor,

1 or attorney has filed a false certification with respect to the
2 payment of contingent fees, the Governor's Office of Management
3 and Budget shall not contract with that underwriter, financial
4 advisor, or attorney, or with any firm employing any person who
5 signed false certifications, for a period of 2 calendar years,
6 beginning with the date the determination is made. The validity
7 of Bonds issued under such circumstances of violation pursuant
8 to this Section shall not be affected.

9 (Source: P.A. 96-828, eff. 12-2-09.)

10 (30 ILCS 330/15.5)

11 Sec. 15.5. Compliance with the Business Enterprise for
12 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
13 Notwithstanding any other provision of law, the Governor's
14 Office of Management and Budget shall comply with the Business
15 Enterprise for Minorities, Women ~~Females~~, and Persons with
16 Disabilities Act.

17 (Source: P.A. 93-839, eff. 7-30-04.)

18 Section 50. The Build Illinois Bond Act is amended by
19 changing Sections 5 and 8.3 as follows:

20 (30 ILCS 425/5) (from Ch. 127, par. 2805)

21 Sec. 5. Bond Sale Expenses.

22 (a) An amount not to exceed 0.5% of the principal amount of
23 the proceeds of the sale of each bond sale is authorized to be

1 used to pay reasonable costs of each issuance and sale of Bonds
2 authorized and sold pursuant to this Act, including, without
3 limitation, underwriter's discounts and fees, but excluding
4 bond insurance, advertising, printing, bond rating, travel of
5 outside vendors, security, delivery, legal and financial
6 advisory services, initial fees of trustees, registrars,
7 paying agents and other fiduciaries, initial costs of credit or
8 liquidity enhancement arrangements, initial fees of indexing
9 and remarketing agents, and initial costs of interest rate
10 swaps, guarantees or arrangements to limit interest rate risk,
11 as determined in the related Bond Sale Order, from the proceeds
12 of each Bond sale, provided that no salaries of State employees
13 or other State office operating expenses shall be paid out of
14 non-appropriated proceeds, and provided further that the
15 percent shall be 1.0% for each sale of "Build America Bonds" as
16 defined in subsection (c) of Section 6. The Governor's Office
17 of Management and Budget shall compile a summary of all costs
18 of issuance on each sale (including both costs paid out of
19 proceeds and those paid out of appropriated funds) and post
20 that summary on its web site within 20 business days after the
21 issuance of the bonds. That posting shall be maintained on the
22 web site for a period of at least 30 days. In addition, the
23 Governor's Office of Management and Budget shall provide a
24 written copy of each summary of costs to the Speaker and
25 Minority Leader of the House of Representatives, the President
26 and Minority Leader of the Senate, and the Commission on

1 Government Forecasting and Accountability within 20 business
2 days after each issuance of the bonds. This summary shall
3 include, as applicable, the respective percentage of
4 participation and compensation of each underwriter that is a
5 member of the underwriting syndicate, legal counsel, financial
6 advisors, and other professionals for the Bond issue, and an
7 identification of all costs of issuance paid to minority-owned
8 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
9 businesses, and businesses owned by persons with disabilities.
10 The terms "minority-owned ~~minority-owned~~ businesses",
11 "women-owned ~~female-owned~~ businesses", and "business owned by a
12 person with a disability" have the meanings given to those
13 terms in the Business Enterprise for Minorities, Women ~~Females~~,
14 and Persons with Disabilities Act. In addition, the Governor's
15 Office of Management and Budget shall provide copies of all
16 contracts under which any costs of issuance are paid or to be
17 paid to the Commission on Government Forecasting and
18 Accountability within 20 business days after the issuance of
19 Bonds for which those costs are paid or to be paid. Instead of
20 filing a second or subsequent copy of the same contract, the
21 Governor's Office of Management and Budget may file a statement
22 that specified costs are paid under specified contracts filed
23 earlier with the Commission.

24 (b) The Director of the Governor's Office of Management and
25 Budget shall not, in connection with the issuance of Bonds,
26 contract with any underwriter, financial advisor, or attorney

1 unless that underwriter, financial advisor, or attorney
2 certifies that the underwriter, financial advisor, or attorney
3 has not and will not pay a contingent fee, whether directly or
4 indirectly, to any third party for having promoted the
5 selection of the underwriter, financial advisor, or attorney
6 for that contract. In the event that the Governor's Office of
7 Management and Budget determines that an underwriter,
8 financial advisor, or attorney has filed a false certification
9 with respect to the payment of contingent fees, the Governor's
10 Office of Management and Budget shall not contract with that
11 underwriter, financial advisor, or attorney, or with any firm
12 employing any person who signed false certifications, for a
13 period of 2 calendar years, beginning with the date the
14 determination is made. The validity of Bonds issued under such
15 circumstances of violation pursuant to this Section shall not
16 be affected.

17 (Source: P.A. 96-828, eff. 12-2-09.)

18 (30 ILCS 425/8.3)

19 Sec. 8.3. Compliance with the Business Enterprise for
20 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
21 Notwithstanding any other provision of law, the Governor's
22 Office of Management and Budget shall comply with the Business
23 Enterprise for Minorities, Women ~~Females~~, and Persons with
24 Disabilities Act.

25 (Source: P.A. 93-839, eff. 7-30-04.)

1 Section 55. The Illinois Procurement Code is amended by
2 changing Sections 15-25, 30-30, 45-45, 45-57, and 45-65 as
3 follows:

4 (30 ILCS 500/15-25)

5 Sec. 15-25. Bulletin content.

6 (a) Invitations for bids. Notice of each and every contract
7 that is offered, including renegotiated contracts and change
8 orders, shall be published in the Bulletin. All businesses
9 listed on the Department of Transportation Disadvantaged
10 Business Enterprise Directory, the Department of Central
11 Management Services Business Enterprise Program, and the Chief
12 Procurement Office's Small Business Vendors Directory shall be
13 furnished written instructions and information on how to
14 register on each Procurement Bulletin maintained by the State.
15 Such information shall be provided to each business within 30
16 calendar days after the business' notice of certification. The
17 applicable chief procurement officer may provide by rule an
18 organized format for the publication of this information, but
19 in any case it must include at least the date first offered,
20 the date submission of offers is due, the location that offers
21 are to be submitted to, the purchasing State agency, the
22 responsible State purchasing officer, a brief purchase
23 description, the method of source selection, information of how
24 to obtain a comprehensive purchase description and any

1 disclosure and contract forms, and encouragement to potential
2 contractors to hire qualified veterans, as defined by Section
3 45-67 of this Code, and qualified Illinois minorities, women,
4 persons with disabilities, and residents discharged from any
5 Illinois adult correctional center.

6 (b) Contracts let. Notice of each and every contract that
7 is let, including renegotiated contracts and change orders,
8 shall be issued electronically to those bidders submitting
9 responses to the solicitations, inclusive of the unsuccessful
10 bidders, immediately upon contract let. Failure of any chief
11 procurement officer to give such notice shall result in tolling
12 the time for filing a bid protest up to 7 calendar days.

13 For purposes of this subsection (b), "contracts let" means
14 a construction agency's act of advertising an invitation for
15 bids for one or more construction projects.

16 (b-5) Contracts awarded. Notice of each and every contract
17 that is awarded, including renegotiated contracts and change
18 orders, shall be issued electronically to the successful
19 responsible bidder, offeror, or contractor and published in the
20 next available subsequent Bulletin. The applicable chief
21 procurement officer may provide by rule an organized format for
22 the publication of this information, but in any case it must
23 include at least all of the information specified in subsection
24 (a) as well as the name of the successful responsible bidder,
25 offeror, the contract price, the number of unsuccessful bidders
26 or offerors and any other disclosure specified in any Section

1 of this Code. This notice must be posted in the online
2 electronic Bulletin prior to execution of the contract.

3 For purposes of this subsection (b-5), "contract award"
4 means the determination that a particular bidder or offeror has
5 been selected from among other bidders or offerors to receive a
6 contract, subject to the successful completion of final
7 negotiations. "Contract award" is evidenced by the posting of a
8 Notice of Award or a Notice of Intent to Award to the
9 respective volume of the Illinois Procurement Bulletin.

10 (c) Emergency purchase disclosure. Any chief procurement
11 officer or State purchasing officer exercising emergency
12 purchase authority under this Code shall publish a written
13 description and reasons and the total cost, if known, or an
14 estimate if unknown and the name of the responsible chief
15 procurement officer and State purchasing officer, and the
16 business or person contracted with for all emergency purchases
17 in the next timely, practicable Bulletin. This notice must be
18 posted in the online electronic Bulletin no later than 5
19 calendar days after the contract is awarded. Notice of a
20 hearing to extend an emergency contract must be posted in the
21 online electronic Procurement Bulletin no later than 14
22 calendar days prior to the hearing.

23 (c-5) Business Enterprise Program report. Each purchasing
24 agency shall, with the assistance of the applicable chief
25 procurement officer, post in the online electronic Bulletin a
26 copy of its annual report of utilization of businesses owned by

1 minorities, women ~~females~~, and persons with disabilities as
2 submitted to the Business Enterprise Council for Minorities,
3 Women ~~Females~~, and Persons with Disabilities pursuant to
4 Section 6(c) of the Business Enterprise for Minorities, Women
5 ~~Females~~, and Persons with Disabilities Act within 10 calendar
6 days after its submission of its report to the Council.

7 (c-10) Renewals. Notice of each contract renewal shall be
8 posted in the online electronic Bulletin within 14 calendar
9 days of the determination to renew the contract and the next
10 available subsequent Bulletin. The notice shall include at
11 least all of the information required in subsection (b).

12 (c-15) Sole source procurements. Before entering into a
13 sole source contract, a chief procurement officer exercising
14 sole source procurement authority under this Code shall publish
15 a written description of intent to enter into a sole source
16 contract along with a description of the item to be procured
17 and the intended sole source contractor. This notice must be
18 posted in the online electronic Procurement Bulletin before a
19 sole source contract is awarded and at least 14 calendar days
20 before the hearing required by Section 20-25.

21 (d) Other required disclosure. The applicable chief
22 procurement officer shall provide by rule for the organized
23 publication of all other disclosure required in other Sections
24 of this Code in a timely manner.

25 (e) The changes to subsections (b), (c), (c-5), (c-10), and
26 (c-15) of this Section made by this amendatory Act of the 96th

1 General Assembly apply to reports submitted, offers made, and
2 notices on contracts executed on or after its effective date.

3 (f) Each chief procurement officer shall, in consultation
4 with the agencies under his or her jurisdiction, provide the
5 Procurement Policy Board with the information and resources
6 necessary, and in a manner, to effectuate the purpose of this
7 amendatory Act of the 96th General Assembly.

8 (Source: P.A. 97-895, eff. 8-3-12; 98-1038, eff. 8-25-14;
9 98-1076, eff. 1-1-15.)

10 (30 ILCS 500/30-30)

11 Sec. 30-30. Design-bid-build construction.

12 (a) The provisions of this subsection are operative through
13 December 31, 2019.

14 For building construction contracts in excess of \$250,000,
15 separate specifications may be prepared for all equipment,
16 labor, and materials in connection with the following 5
17 subdivisions of the work to be performed:

18 (1) plumbing;

19 (2) heating, piping, refrigeration, and automatic
20 temperature control systems, including the testing and
21 balancing of those systems;

22 (3) ventilating and distribution systems for
23 conditioned air, including the testing and balancing of
24 those systems;

25 (4) electric wiring; and

1 (5) general contract work.

2 The specifications may be so drawn as to permit separate
3 and independent bidding upon each of the 5 subdivisions of
4 work. All contracts awarded for any part thereof may award the
5 5 subdivisions of work separately to responsible and reliable
6 persons, firms, or corporations engaged in these classes of
7 work. The contracts, at the discretion of the construction
8 agency, may be assigned to the successful bidder on the general
9 contract work or to the successful bidder on the subdivision of
10 work designated by the construction agency before the bidding
11 as the prime subdivision of work, provided that all payments
12 will be made directly to the contractors for the 5 subdivisions
13 of work upon compliance with the conditions of the contract.

14 Beginning on the effective date of this amendatory Act of
15 the 99th General Assembly and through December 31, 2019, for
16 single prime projects: (i) the bid of the successful low bidder
17 shall identify the name of the subcontractor, if any, and the
18 bid proposal costs for each of the 5 subdivisions of work set
19 forth in this Section; (ii) the contract entered into with the
20 successful bidder shall provide that no identified
21 subcontractor may be terminated without the written consent of
22 the Capital Development Board; (iii) the contract shall comply
23 with the disadvantaged business practices of the Business
24 Enterprise for Minorities, Women ~~Females~~, and Persons with
25 Disabilities Act and the equal employment practices of Section
26 2-105 of the Illinois Human Rights Act; (iv) the Capital

1 Development Board shall submit a quarterly report to the
2 Procurement Policy Board with information on the general scope,
3 project budget, and established Business Enterprise Program
4 goals for any single prime procurement bid in the previous 3
5 months with a total construction cost valued at \$10,000,000 or
6 less; and (v) the Capital Development Board shall submit an
7 annual report to the General Assembly and Governor on the
8 bidding, award, and performance of all single prime projects.

9 For building construction projects with a total
10 construction cost valued at \$5,000,000 or less, the Capital
11 Development Board shall not use the single prime procurement
12 delivery method for more than 50% of the total number of
13 projects bid for each fiscal year. Any project with a total
14 construction cost valued greater than \$5,000,000 may be bid
15 using single prime at the discretion of the Executive Director
16 of the Capital Development Board.

17 Beginning on the effective date of this amendatory Act of
18 the 99th General Assembly and through December 31, 2017, the
19 Capital Development Board shall, on a weekly basis: review the
20 projects that have been designed, and approved to bid; and, for
21 every fifth determination to use the single prime procurement
22 delivery method for a project under \$10,000,000, submit to the
23 Procurement Policy Board a written notice of its intent to use
24 the single prime method on the project. The notice shall
25 include the reasons for using the single prime method and an
26 explanation of why the use of that method is in the best

1 interest of the State. The Capital Development Board shall post
2 the notice on its online procurement webpage and on the online
3 Procurement Bulletin at least 3 business days following
4 submission. The Procurement Policy Board shall review and
5 provide its decision on the use of the single prime method for
6 every fifth use of the single prime procurement delivery method
7 for a project under \$10,000,000 within 7 business days of
8 receipt of the notice from the Capital Development Board.
9 Approval by the Procurement Policy Board shall not be
10 unreasonably withheld and shall be provided unless the
11 Procurement Policy Board finds that the use of the single prime
12 method is not in the best interest of the State. Any decision
13 by the Procurement Policy Board to disapprove the use of the
14 single prime method shall be made in writing to the Capital
15 Development Board, posted on the online Procurement Bulletin,
16 and shall state the reasons why the single prime method was
17 disapproved and why it is not in the best interest of the
18 State.

19 (b) The provisions of this subsection are operative on and
20 after January 1, 2020. For building construction contracts in
21 excess of \$250,000, separate specifications shall be prepared
22 for all equipment, labor, and materials in connection with the
23 following 5 subdivisions of the work to be performed:

24 (1) plumbing;

25 (2) heating, piping, refrigeration, and automatic
26 temperature control systems, including the testing and

1 balancing of those systems;

2 (3) ventilating and distribution systems for
3 conditioned air, including the testing and balancing of
4 those systems;

5 (4) electric wiring; and

6 (5) general contract work.

7 The specifications must be so drawn as to permit separate
8 and independent bidding upon each of the 5 subdivisions of
9 work. All contracts awarded for any part thereof shall award
10 the 5 subdivisions of work separately to responsible and
11 reliable persons, firms, or corporations engaged in these
12 classes of work. The contracts, at the discretion of the
13 construction agency, may be assigned to the successful bidder
14 on the general contract work or to the successful bidder on the
15 subdivision of work designated by the construction agency
16 before the bidding as the prime subdivision of work, provided
17 that all payments will be made directly to the contractors for
18 the 5 subdivisions of work upon compliance with the conditions
19 of the contract.

20 (Source: P.A. 98-431, eff. 8-16-13; 98-1076, eff. 1-1-15;
21 99-257, eff. 8-4-15.)

22 (30 ILCS 500/45-45)

23 Sec. 45-45. Small businesses.

24 (a) Set-asides. Each chief procurement officer has
25 authority to designate as small business set-asides a fair

1 proportion of construction, supply, and service contracts for
2 award to small businesses in Illinois. Advertisements for bids
3 or offers for those contracts shall specify designation as
4 small business set-asides. In awarding the contracts, only bids
5 or offers from qualified small businesses shall be considered.

6 (b) Small business. "Small business" means a business that
7 is independently owned and operated and that is not dominant in
8 its field of operation. The chief procurement officer shall
9 establish a detailed definition by rule, using in addition to
10 the foregoing criteria other criteria, including the number of
11 employees and the dollar volume of business. When computing the
12 size status of a potential contractor, annual sales and
13 receipts of the potential contractor and all of its affiliates
14 shall be included. The maximum number of employees and the
15 maximum dollar volume that a small business may have under the
16 rules promulgated by the chief procurement officer may vary
17 from industry to industry to the extent necessary to reflect
18 differing characteristics of those industries, subject to the
19 following limitations:

20 (1) No wholesale business is a small business if its
21 annual sales for its most recently completed fiscal year
22 exceed \$13,000,000.

23 (2) No retail business or business selling services is
24 a small business if its annual sales and receipts exceed
25 \$8,000,000.

26 (3) No manufacturing business is a small business if it

1 employs more than 250 persons.

2 (4) No construction business is a small business if its
3 annual sales and receipts exceed \$14,000,000.

4 (c) Fair proportion. For the purpose of subsection (a), for
5 State agencies of the executive branch, a fair proportion of
6 construction contracts shall be no less than 25% nor more than
7 40% of the annual total contracts for construction.

8 (d) Withdrawal of designation. A small business set-aside
9 designation may be withdrawn by the purchasing agency when
10 deemed in the best interests of the State. Upon withdrawal, all
11 bids or offers shall be rejected, and the bidders or offerors
12 shall be notified of the reason for rejection. The contract
13 shall then be awarded in accordance with this Code without the
14 designation of small business set-aside.

15 (e) Small business specialist. The chief procurement
16 officer shall designate a State purchasing officer who will be
17 responsible for engaging an experienced contract negotiator to
18 serve as its small business specialist, whose duties shall
19 include:

20 (1) Compiling and maintaining a comprehensive list of
21 potential small contractors. In this duty, he or she shall
22 cooperate with the Federal Small Business Administration
23 in locating potential sources for various products and
24 services.

25 (2) Assisting small businesses in complying with the
26 procedures for bidding on State contracts.

1 (3) Examining requests from State agencies for the
2 purchase of property or services to help determine which
3 invitations to bid are to be designated small business
4 set-asides.

5 (4) Making recommendations to the chief procurement
6 officer for the simplification of specifications and terms
7 in order to increase the opportunities for small business
8 participation.

9 (5) Assisting in investigations by purchasing agencies
10 to determine the responsibility of bidders or offerors on
11 small business set-asides.

12 (f) Small business annual report. The State purchasing
13 officer designated under subsection (e) shall annually before
14 December 1 report in writing to the General Assembly concerning
15 the awarding of contracts to small businesses. The report shall
16 include the total value of awards made in the preceding fiscal
17 year under the designation of small business set-aside. The
18 report shall also include the total value of awards made to
19 businesses owned by minorities, women ~~females~~, and persons with
20 disabilities, as defined in the Business Enterprise for
21 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
22 in the preceding fiscal year under the designation of small
23 business set-aside.

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report as required by
26 Section 3.1 of the General Assembly Organization Act.

1 (Source: P.A. 98-1076, eff. 1-1-15.)

2 (30 ILCS 500/45-57)

3 Sec. 45-57. Veterans.

4 (a) Set-aside goal. It is the goal of the State to promote
5 and encourage the continued economic development of small
6 businesses owned and controlled by qualified veterans and that
7 qualified service-disabled veteran-owned small businesses
8 (referred to as SDVOSB) and veteran-owned small businesses
9 (referred to as VOSB) participate in the State's procurement
10 process as both prime contractors and subcontractors. Not less
11 than 3% of the total dollar amount of State contracts, as
12 defined by the Director of Central Management Services, shall
13 be established as a goal to be awarded to SDVOSB and VOSB. That
14 portion of a contract under which the contractor subcontracts
15 with a SDVOSB or VOSB may be counted toward the goal of this
16 subsection. The Department of Central Management Services
17 shall adopt rules to implement compliance with this subsection
18 by all State agencies.

19 (b) Fiscal year reports. By each September 1, each chief
20 procurement officer shall report to the Department of Central
21 Management Services on all of the following for the immediately
22 preceding fiscal year, and by each March 1 the Department of
23 Central Management Services shall compile and report that
24 information to the General Assembly:

25 (1) The total number of VOSB, and the number of SDVOSB,

1 who submitted bids for contracts under this Code.

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

5 (c) Yearly review and recommendations. Each year, each
6 chief procurement officer shall review the progress of all
7 State agencies under its jurisdiction in meeting the goal
8 described in subsection (a), with input from statewide
9 veterans' service organizations and from the business
10 community, including businesses owned by qualified veterans,
11 and shall make recommendations to be included in the Department
12 of Central Management Services' report to the General Assembly
13 regarding continuation, increases, or decreases of the
14 percentage goal. The recommendations shall be based upon the
15 number of businesses that are owned by qualified veterans and
16 on the continued need to encourage and promote businesses owned
17 by qualified veterans.

18 (d) Governor's recommendations. To assist the State in
19 reaching the goal described in subsection (a), the Governor
20 shall recommend to the General Assembly changes in programs to
21 assist businesses owned by qualified veterans.

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

23 "Armed forces of the United States" means the United States
24 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in
25 active duty as defined under 38 U.S.C. Section 101. Service in
26 the Merchant Marine that constitutes active duty under Section

1 401 of federal Public Act 95-202 shall also be considered
2 service in the armed forces for purposes of this Section.

3 "Certification" means a determination made by the Illinois
4 Department of Veterans' Affairs and the Department of Central
5 Management Services that a business entity is a qualified
6 service-disabled veteran-owned small business or a qualified
7 veteran-owned small business for whatever purpose. A SDVOSB or
8 VOSB owned and controlled by women ~~females~~, minorities, or
9 persons with disabilities, as those terms are defined in
10 Section 2 of the Business Enterprise for Minorities, Women
11 ~~Females~~, and Persons with Disabilities Act, may also select and
12 designate whether that business is to be certified as a
13 "women-owned ~~female-owned~~ business", "minority-owned
14 business", or "business owned by a person with a disability",
15 as defined in Section 2 of the Business Enterprise for
16 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

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

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

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

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

20 "Qualified veteran-owned small business" or "VOSB" means a
21 small business (i) that is at least 51% owned by one or more
22 qualified veterans living in Illinois or, in the case of a
23 corporation, at least 51% of the stock of which is owned by one
24 or more qualified veterans living in Illinois; (ii) that has
25 its home office in Illinois; and (iii) for which items (i) and
26 (ii) are factually verified annually by the Department of

1 Central Management Services.

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

5 "Small business" means a business that has annual gross
6 sales of less than \$75,000,000 as evidenced by the federal
7 income tax return of the business. A firm with gross sales in
8 excess of this cap may apply to the Department of Central
9 Management Services for certification for a particular
10 contract if the firm can demonstrate that the contract would
11 have significant impact on SDVOSB or VOSB as suppliers or
12 subcontractors or in employment of veterans or
13 service-disabled veterans.

14 "State agency" has the same meaning as in Section 2 of the
15 Business Enterprise for Minorities, Women ~~Females~~, and Persons
16 with Disabilities Act.

17 "Time of hostilities with a foreign country" means any
18 period of time in the past, present, or future during which a
19 declaration of war by the United States Congress has been or is
20 in effect or during which an emergency condition has been or is
21 in effect that is recognized by the issuance of a Presidential
22 proclamation or a Presidential executive order and in which the
23 armed forces expeditionary medal or other campaign service
24 medals are awarded according to Presidential executive order.

25 "Veteran" means a person who (i) has been a member of the
26 armed forces of the United States or, while a citizen of the

1 United States, was a member of the armed forces of allies of
2 the United States in time of hostilities with a foreign country
3 and (ii) has served under one or more of the following
4 conditions: (a) the veteran served a total of at least 6
5 months; (b) the veteran served for the duration of hostilities
6 regardless of the length of the engagement; (c) the veteran was
7 discharged on the basis of hardship; or (d) the veteran was
8 released from active duty because of a service connected
9 disability and was discharged under honorable conditions.

10 (f) Certification program. The Illinois Department of
11 Veterans' Affairs and the Department of Central Management
12 Services shall work together to devise a certification
13 procedure to assure that businesses taking advantage of this
14 Section are legitimately classified as qualified
15 service-disabled veteran-owned small businesses or qualified
16 veteran-owned small businesses.

17 (g) Penalties.

18 (1) Administrative penalties. The chief procurement
19 officers appointed pursuant to Section 10-20 shall suspend
20 any person who commits a violation of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 2012 relating to this Section from bidding on, or
23 participating as a contractor, subcontractor, or supplier
24 in, any State contract or project for a period of not less
25 than 3 years, and, if the person is certified as a
26 service-disabled veteran-owned small business or a

1 veteran-owned small business, then the Department shall
2 revoke the business's certification for a period of not
3 less than 3 years. An additional or subsequent violation
4 shall extend the periods of suspension and revocation for a
5 period of not less than 5 years. The suspension and
6 revocation shall apply to the principals of the business
7 and any subsequent business formed or financed by, or
8 affiliated with, those principals.

9 (2) Reports of violations. Each State agency shall
10 report any alleged violation of Section 17-10.3 or
11 subsection (d) of Section 33E-6 of the Criminal Code of
12 2012 relating to this Section to the chief procurement
13 officers appointed pursuant to Section 10-20. The chief
14 procurement officers appointed pursuant to Section 10-20
15 shall subsequently report all such alleged violations to
16 the Attorney General, who shall determine whether to bring
17 a civil action against any person for the violation.

18 (3) List of suspended persons. The chief procurement
19 officers appointed pursuant to Section 10-20 shall monitor
20 the status of all reported violations of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 1961 or the Criminal Code of 2012 relating to this Section
23 and shall maintain and make available to all State agencies
24 a central listing of all persons that committed violations
25 resulting in suspension.

26 (4) Use of suspended persons. During the period of a

1 person's suspension under paragraph (1) of this
2 subsection, a State agency shall not enter into any
3 contract with that person or with any contractor using the
4 services of that person as a subcontractor.

5 (5) Duty to check list. Each State agency shall check
6 the central listing provided by the chief procurement
7 officers appointed pursuant to Section 10-20 under
8 paragraph (3) of this subsection to verify that a person
9 being awarded a contract by that State agency, or to be
10 used as a subcontractor or supplier on a contract being
11 awarded by that State agency, is not under suspension
12 pursuant to paragraph (1) of this subsection.

13 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;
14 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

15 (30 ILCS 500/45-65)

16 Sec. 45-65. Additional preferences. This Code is subject to
17 applicable provisions of:

18 (1) the Public Purchases in Other States Act;

19 (2) the Illinois Mined Coal Act;

20 (3) the Steel Products Procurement Act;

21 (4) the Veterans Preference Act;

22 (5) the Business Enterprise for Minorities, Women
23 ~~Females~~, and Persons with Disabilities Act; and

24 (6) the Procurement of Domestic Products Act.

25 (Source: P.A. 93-954, eff. 1-1-05.)

1 Section 60. The Design-Build Procurement Act is amended by
2 changing Sections 5, 15, 30, and 46 as follows:

3 (30 ILCS 537/5)

4 (Section scheduled to be repealed on July 1, 2019)

5 Sec. 5. Legislative policy. It is the intent of the
6 General Assembly that the Capital Development Board be allowed
7 to use the design-build delivery method for public projects if
8 it is shown to be in the State's best interest for that
9 particular project. It shall be the policy of the Capital
10 Development Board in the procurement of design-build services
11 to publicly announce all requirements for design-build
12 services and to procure these services on the basis of
13 demonstrated competence and qualifications and with due regard
14 for the principles of competitive selection.

15 The Capital Development Board shall, prior to issuing
16 requests for proposals, promulgate and publish procedures for
17 the solicitation and award of contracts pursuant to this Act.

18 The Capital Development Board shall, for each public
19 project or projects permitted under this Act, make a written
20 determination, including a description as to the particular
21 advantages of the design-build procurement method, that it is
22 in the best interests of this State to enter into a
23 design-build contract for the project or projects. In making
24 that determination, the following factors shall be considered:

1 (1) The probability that the design-build procurement
2 method will be in the best interests of the State by
3 providing a material savings of time or cost over the
4 design-bid-build or other delivery system.

5 (2) The type and size of the project and its
6 suitability to the design-build procurement method.

7 (3) The ability of the State construction agency to
8 define and provide comprehensive scope and performance
9 criteria for the project.

10 No State construction agency may use a design-build
11 procurement method unless the agency determines in writing that
12 the project will comply with the disadvantaged business and
13 equal employment practices of the State as established in the
14 Business Enterprise for Minorities, Women ~~Females~~, and Persons
15 with Disabilities Act and Section 2-105 of the Illinois Human
16 Rights Act.

17 The Capital Development Board shall within 15 days after
18 the initial determination provide an advisory copy to the
19 Procurement Policy Board and maintain the full record of
20 determination for 5 years.

21 (Source: P.A. 94-716, eff. 12-13-05.)

22 (30 ILCS 537/15)

23 (Section scheduled to be repealed on July 1, 2019)

24 Sec. 15. Solicitation of proposals.

25 (a) When the State construction agency elects to use the

1 design-build delivery method, it must issue a notice of intent
2 to receive requests for proposals for the project at least 14
3 days before issuing the request for the proposal. The State
4 construction agency must publish the advance notice in the
5 official procurement bulletin of the State or the professional
6 services bulletin of the State construction agency, if any. The
7 agency is encouraged to use publication of the notice in
8 related construction industry service publications. A brief
9 description of the proposed procurement must be included in the
10 notice. The State construction agency must provide a copy of
11 the request for proposal to any party requesting a copy.

12 (b) The request for proposal shall be prepared for each
13 project and must contain, without limitation, the following
14 information:

15 (1) The name of the State construction agency.

16 (2) A preliminary schedule for the completion of the
17 contract.

18 (3) The proposed budget for the project, the source of
19 funds, and the currently available funds at the time the
20 request for proposal is submitted.

21 (4) Prequalification criteria for design-build
22 entities wishing to submit proposals. The State
23 construction agency shall include, at a minimum, its normal
24 prequalification, licensing, registration, and other
25 requirements, but nothing contained herein precludes the
26 use of additional prequalification criteria by the State

1 construction agency.

2 (5) Material requirements of the contract, including
3 but not limited to, the proposed terms and conditions,
4 required performance and payment bonds, insurance, and the
5 entity's plan to comply with the utilization goals for
6 business enterprises established in the Business
7 Enterprise for Minorities, Women ~~Females~~, and Persons with
8 Disabilities Act, and with Section 2-105 of the Illinois
9 Human Rights Act.

10 (6) The performance criteria.

11 (7) The evaluation criteria for each phase of the
12 solicitation.

13 (8) The number of entities that will be considered for
14 the technical and cost evaluation phase.

15 (c) The State construction agency may include any other
16 relevant information that it chooses to supply. The
17 design-build entity shall be entitled to rely upon the accuracy
18 of this documentation in the development of its proposal.

19 (d) The date that proposals are due must be at least 21
20 calendar days after the date of the issuance of the request for
21 proposal. In the event the cost of the project is estimated to
22 exceed \$10 million, then the proposal due date must be at least
23 28 calendar days after the date of the issuance of the request
24 for proposal. The State construction agency shall include in
25 the request for proposal a minimum of 30 days to develop the
26 Phase II submissions after the selection of entities from the

1 Phase I evaluation is completed.

2 (Source: P.A. 94-716, eff. 12-13-05.)

3 (30 ILCS 537/30)

4 (Section scheduled to be repealed on July 1, 2019)

5 Sec. 30. Procedures for Selection.

6 (a) The State construction agency must use a two-phase
7 procedure for the selection of the successful design-build
8 entity. Phase I of the procedure will evaluate and shortlist
9 the design-build entities based on qualifications, and Phase II
10 will evaluate the technical and cost proposals.

11 (b) The State construction agency shall include in the
12 request for proposal the evaluating factors to be used in Phase
13 I. These factors are in addition to any prequalification
14 requirements of design-build entities that the agency has set
15 forth. Each request for proposal shall establish the relative
16 importance assigned to each evaluation factor and subfactor,
17 including any weighting of criteria to be employed by the State
18 construction agency. The State construction agency must
19 maintain a record of the evaluation scoring to be disclosed in
20 event of a protest regarding the solicitation.

21 The State construction agency shall include the following
22 criteria in every Phase I evaluation of design-build entities:
23 (1) experience of personnel; (2) successful experience with
24 similar project types; (3) financial capability; (4)
25 timeliness of past performance; (5) experience with similarly

1 sized projects; (6) successful reference checks of the firm;
2 (7) commitment to assign personnel for the duration of the
3 project and qualifications of the entity's consultants; and (8)
4 ability or past performance in meeting or exhausting good faith
5 efforts to meet the utilization goals for business enterprises
6 established in the Business Enterprise for Minorities, Women
7 ~~Females~~, and Persons with Disabilities Act and with Section
8 2-105 of the Illinois Human Rights Act. The State construction
9 agency may include any additional relevant criteria in Phase I
10 that it deems necessary for a proper qualification review.

11 The State construction agency may not consider any
12 design-build entity for evaluation or award if the entity has
13 any pecuniary interest in the project or has other
14 relationships or circumstances, including but not limited to,
15 long-term leasehold, mutual performance, or development
16 contracts with the State construction agency, that may give the
17 design-build entity a financial or tangible advantage over
18 other design-build entities in the preparation, evaluation, or
19 performance of the design-build contract or that create the
20 appearance of impropriety. No proposal shall be considered that
21 does not include an entity's plan to comply with the
22 requirements established in the Business Enterprise for
23 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
24 for both the design and construction areas of performance, and
25 with Section 2-105 of the Illinois Human Rights Act.

26 Upon completion of the qualifications evaluation, the

1 State construction agency shall create a shortlist of the most
2 highly qualified design-build entities. The State construction
3 agency, in its discretion, is not required to shortlist the
4 maximum number of entities as identified for Phase II
5 evaluation, provided however, no less than 2 design-build
6 entities nor more than 6 are selected to submit Phase II
7 proposals.

8 The State construction agency shall notify the entities
9 selected for the shortlist in writing. This notification shall
10 commence the period for the preparation of the Phase II
11 technical and cost evaluations. The State construction agency
12 must allow sufficient time for the shortlist entities to
13 prepare their Phase II submittals considering the scope and
14 detail requested by the State agency.

15 (c) The State construction agency shall include in the
16 request for proposal the evaluating factors to be used in the
17 technical and cost submission components of Phase II. Each
18 request for proposal shall establish, for both the technical
19 and cost submission components of Phase II, the relative
20 importance assigned to each evaluation factor and subfactor,
21 including any weighting of criteria to be employed by the State
22 construction agency. The State construction agency must
23 maintain a record of the evaluation scoring to be disclosed in
24 event of a protest regarding the solicitation.

25 The State construction agency shall include the following
26 criteria in every Phase II technical evaluation of design-build

1 entities: (1) compliance with objectives of the project; (2)
2 compliance of proposed services to the request for proposal
3 requirements; (3) quality of products or materials proposed;
4 (4) quality of design parameters; (5) design concepts; (6)
5 innovation in meeting the scope and performance criteria; and
6 (7) constructability of the proposed project. The State
7 construction agency may include any additional relevant
8 technical evaluation factors it deems necessary for proper
9 selection.

10 The State construction agency shall include the following
11 criteria in every Phase II cost evaluation: the total project
12 cost, the construction costs, and the time of completion. The
13 State construction agency may include any additional relevant
14 technical evaluation factors it deems necessary for proper
15 selection. The total project cost criteria weighing factor
16 shall be 25%.

17 The State construction agency shall directly employ or
18 retain a licensed design professional to evaluate the technical
19 and cost submissions to determine if the technical submissions
20 are in accordance with generally accepted industry standards.

21 Upon completion of the technical submissions and cost
22 submissions evaluation, the State construction agency may
23 award the design-build contract to the highest overall ranked
24 entity.

25 (Source: P.A. 96-21, eff. 6-30-09.)

1 (30 ILCS 537/46)

2 (Section scheduled to be repealed on July 1, 2019)

3 Sec. 46. Reports and evaluation. At the end of every 6
4 month period following the contract award, and again prior to
5 final contract payout and closure, a selected design-build
6 entity shall detail, in a written report submitted to the State
7 agency, its efforts and success in implementing the entity's
8 plan to comply with the utilization goals for business
9 enterprises established in the Business Enterprise for
10 Minorities, Women ~~Females~~, and Persons with Disabilities Act
11 and the provisions of Section 2-105 of the Illinois Human
12 Rights Act. If the entity's performance in implementing the
13 plan falls short of the performance measures and outcomes set
14 forth in the plans submitted by the entity during the proposal
15 process, the entity shall, in a detailed written report, inform
16 the General Assembly and the Governor whether and to what
17 degree each design-build contract authorized under this Act
18 promoted the utilization goals for business enterprises
19 established in the Business Enterprise for Minorities, Women
20 ~~Females~~, and Persons with Disabilities Act and the provisions
21 of Section 2-105 of the Illinois Human Rights Act.

22 (Source: P.A. 94-716, eff. 12-13-05.)

23 Section 65. The Project Labor Agreements Act is amended by
24 changing Sections 25 and 37 as follows:

1 (30 ILCS 571/25)

2 Sec. 25. Contents of agreement. Pursuant to this Act, any
3 project labor agreement shall:

4 (a) Set forth effective, immediate, and mutually
5 binding procedures for resolving jurisdictional labor
6 disputes and grievances arising before the completion of
7 work.

8 (b) Contain guarantees against strikes, lockouts, or
9 similar actions.

10 (c) Ensure a reliable source of skilled and experienced
11 labor.

12 (d) For minorities and women ~~females~~ as defined under
13 the Business Enterprise for Minorities, Women ~~Females~~, and
14 Persons with Disabilities Act, set forth goals for
15 apprenticeship hours to be performed by minorities and
16 women ~~females~~ and set forth goals for total hours to be
17 performed by underrepresented minorities and women
18 ~~females~~.

19 (e) Permit the selection of the lowest qualified
20 responsible bidder, without regard to union or non-union
21 status at other construction sites.

22 (f) Bind all contractors and subcontractors on the
23 public works project through the inclusion of appropriate
24 bid specifications in all relevant bid documents.

25 (g) Include such other terms as the parties deem
26 appropriate.

1 (Source: P.A. 97-199, eff. 7-27-11.)

2 (30 ILCS 571/37)

3 Sec. 37. Quarterly report; annual report. A State
4 department, agency, authority, board, or instrumentality that
5 has a project labor agreement in connection with a public works
6 project shall prepare a quarterly report that includes
7 workforce participation under the agreement by minorities and
8 women ~~females~~ as defined under the Business Enterprise for
9 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
10 These reports shall be submitted to the Illinois Department of
11 Labor. The Illinois Department of Labor shall submit to the
12 General Assembly and the Governor an annual report that details
13 the number of minorities and women ~~females~~ employed under all
14 public labor agreements within the State.

15 (Source: P.A. 97-199, eff. 7-27-11.)

16 Section 70. The Business Enterprise for Minorities,
17 Females, and Persons with Disabilities Act is amended by
18 changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, and
19 8f and by adding Sections 8g, 8h, and 8i as follows:

20 (30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

21 (Section scheduled to be repealed on June 30, 2020)

22 Sec. 0.01. Short title. This Act may be cited as the
23 Business Enterprise for Minorities, Women ~~Females~~, and Persons

1 with Disabilities Act.

2 (Source: P.A. 88-597, eff. 8-28-94.)

3 (30 ILCS 575/1) (from Ch. 127, par. 132.601)

4 (Section scheduled to be repealed on June 30, 2020)

5 Sec. 1. Purpose. The State of Illinois declares that it is
6 the public policy of the State to promote and encourage the
7 continuing economic development of minority-owned ~~minority~~ and
8 women-owned ~~female-owned~~ and operated businesses and that
9 minority-owned ~~minority~~ and women-owned ~~female-owned~~ and
10 operated businesses participate in the State's procurement
11 process as both prime and subcontractors. The State of Illinois
12 has observed that the goals established in this Act have served
13 to increase the participation of minority and women ~~female~~
14 businesses in contracts awarded by the State. The State hereby
15 declares that the adoption of this amendatory Act of 1989 shall
16 serve the State's continuing interest in promoting open access
17 in the awarding of State contracts to disadvantaged small
18 business enterprises victimized by discriminatory practices.
19 Furthermore, after reviewing evidence of the high level of
20 attainment of the 10% minimum goals established under this Act,
21 and, after considering evidence that minority and women ~~female~~
22 businesses, as established in 1982, constituted and continue to
23 constitute more than 10% of the businesses operating in this
24 State, the State declares that the continuation of such 10%
25 minimum goals under this amendatory Act of 1989 is a narrowly

1 tailored means of promoting open access and thus the further
2 growth and development of minority and women ~~female~~ businesses.

3 The State of Illinois further declares that it is the
4 public policy of this State to promote and encourage the
5 continuous economic development of businesses owned by persons
6 with disabilities and a 2% contracting goal is a narrowly
7 tailored means of promoting open access and thus the further
8 growth and development of those businesses.

9 (Source: P.A. 88-597, eff. 8-28-94.)

10 (30 ILCS 575/2)

11 (Section scheduled to be repealed on June 30, 2020)

12 Sec. 2. Definitions.

13 (A) For the purpose of this Act, the following terms shall
14 have the following definitions:

15 (1) "Minority person" shall mean a person who is a
16 citizen or lawful permanent resident of the United States
17 and who is any of the following:

18 (a) American Indian or Alaska Native (a person
19 having origins in any of the original peoples of North
20 and South America, including Central America, and who
21 maintains tribal affiliation or community attachment).

22 (b) Asian (a person having origins in any of the
23 original peoples of the Far East, Southeast Asia, or
24 the Indian subcontinent, including, but not limited
25 to, Cambodia, China, India, Japan, Korea, Malaysia,

1 Pakistan, the Philippine Islands, Thailand, and
2 Vietnam).

3 (c) Black or African American (a person having
4 origins in any of the black racial groups of Africa).
5 Terms such as "Haitian" or "Negro" can be used in
6 addition to "Black or African American".

7 (d) Hispanic or Latino (a person of Cuban, Mexican,
8 Puerto Rican, South or Central American, or other
9 Spanish culture or origin, regardless of race).

10 (e) Native Hawaiian or Other Pacific Islander (a
11 person having origins in any of the original peoples of
12 Hawaii, Guam, Samoa, or other Pacific Islands).

13 (2) "Woman ~~Female~~" shall mean a person who is a citizen
14 or lawful permanent resident of the United States and who
15 is of the female gender.

16 (2.05) "Person with a disability" means a person who is
17 a citizen or lawful resident of the United States and is a
18 person qualifying as a person with a disability under
19 subdivision (2.1) of this subsection (A).

20 (2.1) "Person with a disability" means a person with a
21 severe physical or mental disability that:

22 (a) results from:

23 amputation,

24 arthritis,

25 autism,

26 blindness,

1 burn injury,
2 cancer,
3 cerebral palsy,
4 Crohn's disease,
5 cystic fibrosis,
6 deafness,
7 head injury,
8 heart disease,
9 hemiplegia,
10 hemophilia,
11 respiratory or pulmonary dysfunction,
12 an intellectual disability,
13 mental illness,
14 multiple sclerosis,
15 muscular dystrophy,
16 musculoskeletal disorders,
17 neurological disorders, including stroke and
18 epilepsy,
19 paraplegia,
20 quadriplegia and other spinal cord conditions,
21 sickle cell anemia,
22 ulcerative colitis,
23 specific learning disabilities, or
24 end stage renal failure disease; and
25 (b) substantially limits one or more of the
26 person's major life activities.

1 Another disability or combination of disabilities may
2 also be considered as a severe disability for the purposes
3 of item (a) of this subdivision (2.1) if it is determined
4 by an evaluation of rehabilitation potential to cause a
5 comparable degree of substantial functional limitation
6 similar to the specific list of disabilities listed in item
7 (a) of this subdivision (2.1).

8 (3) "Minority-owned ~~Minority-owned~~ business" means a
9 business which is at least 51% owned by one or more
10 minority persons, or in the case of a corporation, at least
11 51% of the stock in which is owned by one or more minority
12 persons; and the management and daily business operations
13 of which are controlled by one or more of the minority
14 individuals who own it.

15 (4) "Women-owned ~~Female-owned~~ business" means a
16 business which is at least 51% owned by one or more women
17 ~~females~~, or, in the case of a corporation, at least 51% of
18 the stock in which is owned by one or more women ~~females~~;
19 and the management and daily business operations of which
20 are controlled by one or more of the women ~~females~~ who own
21 it.

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

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

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

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

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

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

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

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

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

1 entity is a business owned by a minority, woman ~~female~~, or
2 person with a disability for whatever purpose. A business
3 owned and controlled by women ~~females~~ shall be certified as
4 a "woman-owned ~~female-owned~~ business". A business owned and
5 controlled by women ~~females~~ who are also minorities shall
6 be certified as both a "women-owned ~~female-owned~~ business"
7 and a "minority-owned ~~minority-owned~~ business".

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

25 (10) "Business" means a business that has annual gross
26 sales of less than \$75,000,000 as evidenced by the federal

1 income tax return of the business. A firm with gross sales
2 in excess of this cap may apply to the Council for
3 certification for a particular contract if the firm can
4 demonstrate that the contract would have significant
5 impact on businesses owned by minorities, women ~~females~~, or
6 persons with disabilities as suppliers or subcontractors
7 or in employment of minorities, women ~~females~~, or persons
8 with disabilities.

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

17 (12) "Business Enterprise Program" means the Business
18 Enterprise Program of the Department of Central Management
19 Services.

20 (B) When a business is owned at least 51% by any
21 combination of minority persons, women ~~females~~, or persons with
22 disabilities, even though none of the 3 classes alone holds at
23 least a 51% interest, the ownership requirement for purposes of
24 this Act is considered to be met. The certification category
25 for the business is that of the class holding the largest
26 ownership interest in the business. If 2 or more classes have

1 equal ownership interests, the certification category shall be
2 determined by the business.

3 (Source: P.A. 98-95, eff. 7-17-13; 99-143, eff. 7-27-15;
4 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

5 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

6 (Section scheduled to be repealed on June 30, 2020)

7 Sec. 4. Award of State contracts.

8 (a) Except as provided in subsections (b) and (c), not less
9 than 20% of the total dollar amount of State contracts, as
10 defined by the Secretary of the Council and approved by the
11 Council, shall be established as an aspirational goal to be
12 awarded to businesses owned by minorities, women ~~females~~, and
13 persons with disabilities; provided, however, that of the total
14 amount of all State contracts awarded to businesses owned by
15 minorities, women ~~females~~, and persons with disabilities
16 pursuant to this Section, contracts representing at least 11%
17 shall be awarded to businesses owned by minorities, contracts
18 representing at least 7% shall be awarded to women-owned
19 ~~female-owned~~ businesses, and contracts representing at least
20 2% shall be awarded to businesses owned by persons with
21 disabilities.

22 The above percentage relates to the total dollar amount of
23 State contracts during each State fiscal year, calculated by
24 examining independently each type of contract for each agency
25 or public institutions of higher education which lets such

1 contracts. Only that percentage of arrangements which
2 represents the participation of businesses owned by
3 minorities, women ~~females~~, and persons with disabilities on
4 such contracts shall be included.

5 (b) In the case of State construction contracts, the
6 provisions of subsection (a) requiring a portion of State
7 contracts to be awarded to businesses owned and controlled by
8 persons with disabilities do not apply. The following
9 aspirational goals are established for State construction
10 contracts: not less than 20% of the total dollar amount of
11 State construction contracts is established as a goal to be
12 awarded to minority-owned ~~minority~~ and women-owned ~~female~~
13 ~~owned businesses, and contracts representing 50% of the amount~~
14 ~~of all State construction contracts awarded to minority and~~
15 ~~female owned businesses shall be awarded to female owned~~
16 ~~businesses.~~

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

1 Games (2016) Law.

2 (d) Within one year after April 28, 2009 (the effective
3 date of Public Act 96-8), the Department of Central Management
4 Services shall conduct a social scientific study that measures
5 the impact of discrimination on minority and women ~~female~~
6 business development in Illinois. Within 18 months after April
7 28, 2009 (the effective date of Public Act 96-8), the
8 Department shall issue a report of its findings and any
9 recommendations on whether to adjust the goals for minority and
10 women ~~female~~ participation established in this Act. Copies of
11 this report and the social scientific study shall be filed with
12 the Governor and the General Assembly.

13 (e) Except as permitted under this Act or as otherwise
14 mandated by federal law or regulation, those who submit bids or
15 proposals for State ~~construction~~ contracts subject to the
16 provisions of this Act, whose bids or proposals are successful
17 and include a utilization plan but that fail to meet the goals
18 set forth in subsection (b) of this Section, shall be notified
19 of that deficiency and shall be afforded a period not to exceed
20 10 calendar days from the date of notification to cure that
21 deficiency in the bid or proposal. The deficiency in the bid or
22 proposal may only be cured by contracting with additional
23 subcontractors who are owned by minorities or women ~~females~~,
24 but in no case shall an identified subcontractor with a
25 certification made pursuant to this Act be terminated from the
26 contract without the written consent of the State agency or

1 public institution of higher education entering into the
2 contract.

3 (f) Non-construction solicitations that include Business
4 Enterprise Program participation goals shall include the
5 utilization plan in the solicitation. Utilization plans are due
6 at the time of bid or offer submission. Failure to complete and
7 include a utilization plan, including documentation
8 demonstrating good faith effort when requesting a waiver, shall
9 render the bid or offer non-responsive.

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

11 (30 ILCS 575/4f)

12 (Section scheduled to be repealed on June 30, 2020)

13 Sec. 4f. Award of State contracts.

14 (1) It is hereby declared to be the public policy of the
15 State of Illinois to promote and encourage each State agency
16 and public institution of higher education to use businesses
17 owned by minorities, women ~~females~~, and persons with
18 disabilities in the area of goods and services, including, but
19 not limited to, insurance services, investment management
20 services, information technology services, accounting
21 services, architectural and engineering services, and legal
22 services. Furthermore, each State agency and public
23 institution of higher education shall utilize such firms to the
24 greatest extent feasible within the bounds of financial and
25 fiduciary prudence, and take affirmative steps to remove any

1 barriers to the full participation of such firms in the
2 procurement and contracting opportunities afforded.

3 (a) When a State agency or public institution of higher
4 education, other than a community college, awards a
5 contract for insurance services, for each State agency or
6 public institution of higher education, it shall be the
7 aspirational goal to use insurance brokers owned by
8 minorities, women ~~females~~, and persons with disabilities
9 as defined by this Act, for not less than 20% of the total
10 annual premiums or fees.

11 (b) When a State agency or public institution of higher
12 education, other than a community college, awards a
13 contract for investment services, for each State agency or
14 public institution of higher education, it shall be the
15 aspirational goal to use emerging investment managers
16 owned by minorities, women ~~females~~, and persons with
17 disabilities as defined by this Act, for not less than 20%
18 of the total funds under management. Furthermore, it is the
19 aspirational goal that not less than 20% of the direct
20 asset managers of the State funds be minorities, women
21 ~~females~~, and persons with disabilities.

22 (c) When a State agency or public institution of higher
23 education, other than a community college, awards
24 contracts for information technology services, accounting
25 services, architectural and engineering services, and
26 legal services, for each State agency and public

1 institution of higher education, it shall be the
2 aspirational goal to use such firms owned by minorities,
3 women ~~females~~, and persons with disabilities as defined by
4 this Act and lawyers who are minorities, women ~~females~~, and
5 persons with disabilities as defined by this Act, for not
6 less than 20% of the total dollar amount of State
7 contracts.

8 (d) When a community college awards a contract for
9 insurance services, investment services, information
10 technology services, accounting services, architectural
11 and engineering services, and legal services, it shall be
12 the aspirational goal of each community college to use
13 businesses owned by minorities, women ~~females~~, and persons
14 with disabilities as defined in this Act for not less than
15 20% of the total amount spent on contracts for these
16 services collectively. When a community college awards
17 contracts for investment services, contracts awarded to
18 investment managers who are not emerging investment
19 managers as defined in this Act shall not be considered
20 businesses owned by minorities, women ~~females~~, or persons
21 with disabilities for the purposes of this Section.

22 (2) As used in this Section:

23 "Accounting services" means the measurement,
24 processing and communication of financial information
25 about economic entities including, but is not limited to,
26 financial accounting, management accounting, auditing,

1 cost containment and auditing services, taxation and
2 accounting information systems.

3 "Architectural and engineering services" means
4 professional services of an architectural or engineering
5 nature, or incidental services, that members of the
6 architectural and engineering professions, and individuals
7 in their employ, may logically or justifiably perform,
8 including studies, investigations, surveying and mapping,
9 tests, evaluations, consultations, comprehensive planning,
10 program management, conceptual designs, plans and
11 specifications, value engineering, construction phase
12 services, soils engineering, drawing reviews, preparation
13 of operating and maintenance manuals, and other related
14 services.

15 "Emerging investment manager" means an investment
16 manager or claims consultant having assets under
17 management below \$10 billion or otherwise adjudicating
18 claims.

19 "Information technology services" means, but is not
20 limited to, specialized technology-oriented solutions by
21 combining the processes and functions of software,
22 hardware, networks, telecommunications, web designers,
23 cloud developing resellers, and electronics.

24 "Insurance broker" means an insurance brokerage firm,
25 claims administrator, or both, that procures, places all
26 lines of insurance, or administers claims with annual

1 premiums or fees of at least \$5,000,000 but not more than
2 \$10,000,000.

3 "Legal services" means work performed by a lawyer
4 including, but not limited to, contracts in anticipation of
5 litigation, enforcement actions, or investigations.

6 (3) Each State agency and public institution of higher
7 education shall adopt policies that identify its plan and
8 implementation procedures for increasing the use of service
9 firms owned by minorities, women ~~females~~, and persons with
10 disabilities.

11 (4) Except as provided in subsection (5), the Council shall
12 file no later than March 1 of each year an annual report to the
13 Governor and the General Assembly. The report filed with the
14 General Assembly shall be filed as required in Section 3.1 of
15 the General Assembly Organization Act. This report shall: (i)
16 identify the service firms used by each State agency and public
17 institution of higher education, (ii) identify the actions it
18 has undertaken to increase the use of service firms owned by
19 minorities, women ~~females~~, and persons with disabilities,
20 including encouraging non-minority-owned ~~non-minority-owned~~
21 firms to use other service firms owned by minorities, women
22 ~~females~~, and persons with disabilities as subcontractors when
23 the opportunities arise, (iii) state any recommendations made
24 by the Council to each State agency and public institution of
25 higher education to increase participation by the use of
26 service firms owned by minorities, women ~~females~~, and persons

1 with disabilities, and (iv) include the following:

2 (A) For insurance services: the names of the insurance
3 brokers or claims consultants used, the total of risk
4 managed by each State agency and public institution of
5 higher education by insurance brokers, the total
6 commissions, fees paid, or both, the lines or insurance
7 policies placed, and the amount of premiums placed; and the
8 percentage of the risk managed by insurance brokers, the
9 percentage of total commission, fees paid, or both, the
10 lines or insurance policies placed, and the amount of
11 premiums placed with each by the insurance brokers owned by
12 minorities, women ~~females~~, and persons with disabilities
13 by each State agency and public institution of higher
14 education.

15 (B) For investment management services: the names of
16 the investment managers used, the total funds under
17 management of investment managers; the total commissions,
18 fees paid, or both; the total and percentage of funds under
19 management of emerging investment managers owned by
20 minorities, women ~~females~~, and persons with disabilities,
21 including the total and percentage of total commissions,
22 fees paid, or both by each State agency and public
23 institution of higher education.

24 (C) The names of service firms, the percentage and
25 total dollar amount paid for professional services by
26 category by each State agency and public institution of

1 higher education.

2 (D) The names of service firms, the percentage and
3 total dollar amount paid for services by category to firms
4 owned by minorities, women ~~females~~, and persons with
5 disabilities by each State agency and public institution of
6 higher education.

7 (E) The total number of contracts awarded for services
8 by category and the total number of contracts awarded to
9 firms owned by minorities, women ~~females~~, and persons with
10 disabilities by each State agency and public institution of
11 higher education.

12 (5) For community college districts, the Business
13 Enterprise Council shall only report the following information
14 for each community college district: (i) the name of the
15 community colleges in the district, (ii) the name and contact
16 information of a person at each community college appointed to
17 be the single point of contact for vendors owned by minorities,
18 women ~~females~~, or persons with disabilities, (iii) the policy
19 of the community college district concerning certified
20 vendors, (iv) the certifications recognized by the community
21 college district for determining whether a business is owned or
22 controlled by a minority, woman ~~female~~, or person with a
23 disability, (v) outreach efforts conducted by the community
24 college district to increase the use of certified vendors, (vi)
25 the total expenditures by the community college district in the
26 prior fiscal year in the divisions of work specified in

1 paragraphs (a), (b), and (c) of subsection (1) of this Section
2 and the amount paid to certified vendors in those divisions of
3 work, and (vii) the total number of contracts entered into for
4 the divisions of work specified in paragraphs (a), (b), and (c)
5 of subsection (1) of this Section and the total number of
6 contracts awarded to certified vendors providing these
7 services to the community college district. The Business
8 Enterprise Council shall not make any utilization reports under
9 this Act for community college districts for Fiscal Year 2015
10 and Fiscal Year 2016, but shall make the report required by
11 this subsection for Fiscal Year 2017 and for each fiscal year
12 thereafter. The Business Enterprise Council shall report the
13 information in items (i), (ii), (iii), and (iv) of this
14 subsection beginning in September of 2016. The Business
15 Enterprise Council may collect the data needed to make its
16 report from the Illinois Community College Board.

17 (6) The status of the utilization of services shall be
18 discussed at each of the regularly scheduled Business
19 Enterprise Council meetings. Time shall be allotted for the
20 Council to receive, review, and discuss the progress of the use
21 of service firms owned by minorities, women ~~females~~, and
22 persons with disabilities by each State agency and public
23 institution of higher education; and any evidence regarding
24 past or present racial, ethnic, or gender-based discrimination
25 which directly impacts a State agency or public institution of
26 higher education contracting with such firms. If after

1 reviewing such evidence the Council finds that there is or has
2 been such discrimination against a specific group, race or sex,
3 the Council shall establish sheltered markets or adjust
4 existing sheltered markets tailored to address the Council's
5 specific findings for the divisions of work specified in
6 paragraphs (a), (b), and (c) of subsection (1) of this Section.
7 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

8 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 5. Business Enterprise Council.

11 (1) To help implement, monitor and enforce the goals of
12 this Act, there is created the Business Enterprise Council for
13 Minorities, Women ~~Females~~, and Persons with Disabilities,
14 hereinafter referred to as the Council, composed of the
15 Secretary of Human Services and the Directors of the Department
16 of Human Rights, the Department of Commerce and Economic
17 Opportunity, the Department of Central Management Services,
18 the Department of Transportation and the Capital Development
19 Board, or their duly appointed representatives. Ten
20 individuals representing businesses that are minority-owned
21 ~~minority~~ or women-owned ~~female-owned~~ or owned by persons with
22 disabilities, 2 individuals representing the business
23 community, and a representative of public institutions of
24 higher education shall be appointed by the Governor. These
25 members shall serve 2 year terms and shall be eligible for

1 reappointment. Any vacancy occurring on the Council shall also
2 be filled by the Governor. Any member appointed to fill a
3 vacancy occurring prior to the expiration of the term for which
4 his predecessor was appointed shall be appointed for the
5 remainder of such term. Members of the Council shall serve
6 without compensation but shall be reimbursed for any ordinary
7 and necessary expenses incurred in the performance of their
8 duties.

9 The Director of the Department of Central Management
10 Services shall serve as the Council chairperson and shall
11 select, subject to approval of the council, a Secretary
12 responsible for the operation of the program who shall serve as
13 the Division Manager of the Business Enterprise for Minorities,
14 Women ~~Females~~, and Persons with Disabilities Division of the
15 Department of Central Management Services.

16 The Director of each State agency and the chief executive
17 officer of each public institutions of higher education shall
18 appoint a liaison to the Council. The liaison shall be
19 responsible for submitting to the Council any reports and
20 documents necessary under this Act.

21 (2) The Council's authority and responsibility shall be to:

22 (a) Devise a certification procedure to assure that
23 businesses taking advantage of this Act are legitimately
24 classified as businesses owned by minorities, women
25 ~~females~~, or persons with disabilities.

26 (b) Maintain a list of all businesses legitimately

1 classified as businesses owned by minorities, women
2 ~~females~~, or persons with disabilities to provide to State
3 agencies and public institutions of higher education.

4 (c) Review rules and regulations for the
5 implementation of the program for businesses owned by
6 minorities, women ~~females~~, and persons with disabilities.

7 (d) Review compliance plans submitted by each State
8 agency and public institutions of higher education
9 pursuant to this Act.

10 (e) Make annual reports as provided in Section 8f to
11 the Governor and the General Assembly on the status of the
12 program.

13 (f) Serve as a central clearinghouse for information on
14 State contracts, including the maintenance of a list of all
15 pending State contracts upon which businesses owned by
16 minorities, women ~~females~~, and persons with disabilities
17 may bid. At the Council's discretion, maintenance of the
18 list may include 24-hour electronic access to the list
19 along with the bid and application information.

20 (g) Establish a toll free telephone number to
21 facilitate information requests concerning the
22 certification process and pending contracts.

23 (3) No premium bond rate of a surety company for a bond
24 required of a business owned by a minority, woman ~~female~~, or
25 person with a disability bidding for a State contract shall be
26 higher than the lowest rate charged by that surety company for

1 a similar bond in the same classification of work that would be
2 written for a business not owned by a minority, woman ~~female~~,
3 or person with a disability.

4 (4) Any Council member who has direct financial or personal
5 interest in any measure pending before the Council shall
6 disclose this fact to the Council and refrain from
7 participating in the determination upon such measure.

8 (5) The Secretary shall have the following duties and
9 responsibilities:

10 (a) To be responsible for the day-to-day operation of
11 the Council.

12 (b) To serve as a coordinator for all of the State's
13 programs for businesses owned by minorities, women
14 ~~females~~, and persons with disabilities and as the
15 information and referral center for all State initiatives
16 for businesses owned by minorities, women ~~females~~, and
17 persons with disabilities.

18 (c) To establish an enforcement procedure whereby the
19 Council may recommend to the appropriate State legal
20 officer that the State exercise its legal remedies which
21 shall include (1) termination of the contract involved, (2)
22 prohibition of participation by the respondent in public
23 contracts for a period not to exceed 3 years ~~one year~~, (3)
24 imposition of a penalty not to exceed any profit acquired
25 as a result of violation, or (4) any combination thereof.
26 Such procedures shall require prior approval by Council.

1 (d) To devise appropriate policies, regulations and
2 procedures for including participation by businesses owned
3 by minorities, women ~~females~~, and persons with
4 disabilities as prime contractors including, but not
5 limited to, (i) encouraging the inclusions of qualified
6 businesses owned by minorities, women ~~females~~, and persons
7 with disabilities on solicitation lists, (ii)
8 investigating the potential of blanket bonding programs
9 for small construction jobs, (iii) investigating and
10 making recommendations concerning the use of the sheltered
11 market process.

12 (e) To devise procedures for the waiver of the
13 participation goals in appropriate circumstances.

14 (f) To accept donations and, with the approval of the
15 Council or the Director of Central Management Services,
16 grants related to the purposes of this Act; to conduct
17 seminars related to the purpose of this Act and to charge
18 reasonable registration fees; and to sell directories,
19 vendor lists and other such information to interested
20 parties, except that forms necessary to become eligible for
21 the program shall be provided free of charge to a business
22 or individual applying for the program.

23 (Source: P.A. 99-462, eff. 8-25-15.)

24 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

25 (Section scheduled to be repealed on June 30, 2020)

1 Sec. 6. Agency compliance plans. Each State agency and
2 public institutions of higher education under the jurisdiction
3 of this Act shall file with the Council an annual compliance
4 plan which shall outline the goals of the State agency or
5 public institutions of higher education for contracting with
6 businesses owned by minorities, women ~~females~~, and persons with
7 disabilities for the then current fiscal year, the manner in
8 which the agency intends to reach these goals and a timetable
9 for reaching these goals. The Council shall review and approve
10 the plan of each State agency and public institutions of higher
11 education and may reject any plan that does not comply with
12 this Act or any rules or regulations promulgated pursuant to
13 this Act.

14 (a) The compliance plan shall also include, but not be
15 limited to, (1) a policy statement, signed by the State agency
16 or public institution of higher education head, expressing a
17 commitment to encourage the use of businesses owned by
18 minorities, women ~~females~~, and persons with disabilities, (2)
19 the designation of the liaison officer provided for in Section
20 5 of this Act, (3) procedures to distribute to potential
21 contractors and vendors the list of all businesses legitimately
22 classified as businesses owned by minorities, women ~~females~~,
23 and persons with disabilities and so certified under this Act,
24 (4) procedures to set separate contract goals on specific prime
25 contracts and purchase orders with subcontracting
26 possibilities based upon the type of work or services and

1 subcontractor availability, (5) procedures to assure that
2 contractors and vendors make good faith efforts to meet
3 contract goals, (6) procedures for contract goal exemption,
4 modification and waiver, and (7) the delineation of separate
5 contract goals for businesses owned by minorities, women
6 ~~females~~, and persons with disabilities.

7 (b) Approval of the compliance plans shall include such
8 delegation of responsibilities to the requesting State agency
9 or public institution of higher education as the Council deems
10 necessary and appropriate to fulfill the purpose of this Act.
11 Such responsibilities may include, but need not be limited to
12 those outlined in subsections (1), (2) and (3) of Section 7, and
13 ~~and~~ paragraph (a) of Section 8, and Section 8a of this Act.

14 (c) Each State agency and public institution of higher
15 education under the jurisdiction of this Act shall file with
16 the Council an annual report of its utilization of businesses
17 owned by minorities, women ~~females~~, and persons with
18 disabilities during the preceding fiscal year including lapse
19 period spending and a mid-fiscal year report of its utilization
20 to date for the then current fiscal year. The reports shall
21 include a self-evaluation of the efforts of the State agency or
22 public institution of higher education to meet its goals under
23 the Act.

24 (d) Notwithstanding any provisions to the contrary in this
25 Act, any State agency or public institution of higher education
26 which administers a construction program, for which federal law

1 or regulations establish standards and procedures for the
2 utilization of minority-owned and women-owned businesses and
3 disadvantaged businesses ~~minority, disadvantaged, and~~
4 ~~female-owned business~~, shall implement a disadvantaged
5 business enterprise program to include minority-owned and
6 women-owned businesses and disadvantaged businesses ~~minority,~~
7 ~~disadvantaged and female-owned businesses~~, using the federal
8 standards and procedures for the establishment of goals and
9 utilization procedures for the State-funded, as well as the
10 federally assisted, portions of the program. In such cases,
11 these goals shall not exceed those established pursuant to the
12 relevant federal statutes or regulations. Notwithstanding the
13 provisions of Section 8b, the Illinois Department of
14 Transportation is authorized to establish sheltered markets
15 for the State-funded portions of the program consistent with
16 federal law and regulations. Additionally, a compliance plan
17 which is filed by such State agency or public institution of
18 higher education pursuant to this Act, which incorporates
19 equivalent terms and conditions of its federally-approved
20 compliance plan, shall be deemed approved under this Act.

21 (Source: P.A. 99-462, eff. 8-25-15.)

22 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

23 (Section scheduled to be repealed on June 30, 2020)

24 Sec. 6a. Notice of contracts to Council. Except in case of
25 emergency as defined in the Illinois Procurement Code, or as

1 authorized by rule promulgated by the Department of Central
2 Management Services, each agency and public institution of
3 higher education under the jurisdiction of this Act shall
4 notify the Secretary of the Council of proposed contracts for
5 professional and artistic services and provide the information
6 in the form and detail as required by rule promulgated by the
7 Department of Central Management Services. Notification may be
8 made through direct written communication to the Secretary to
9 be received at least 14 days before execution of the contract
10 (or the solicitation response date, if applicable) ~~or by~~
11 ~~advertising in the official State newspaper for at least 3~~
12 ~~days, the last of which must be at least 10 days after the~~
13 ~~first publication.~~ The agency or public institution of higher
14 education must consider any vendor referred by the Secretary
15 before execution of the contract. The provisions of this
16 Section shall not apply to any State agency or public
17 institution of higher education that has awarded contracts for
18 professional and artistic services to businesses owned by
19 minorities, women ~~females~~, and persons with disabilities
20 totaling ~~totalling~~ in the aggregate \$40,000,000 or more during
21 the preceding fiscal year.

22 (Source: P.A. 99-462, eff. 8-25-15.)

23 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

24 (Section scheduled to be repealed on June 30, 2020)

25 Sec. 7. Exemptions; and ~~and~~ waivers; publication of data.

1 (1) Individual contract exemptions. The Council, on its own
2 initiative or at the request of the affected agency, public
3 institution of higher education, or recipient of a grant or
4 loan of State funds of \$250,000 or more complying with Section
5 45 of the State Finance Act, may permit an individual contract
6 or contract package, (related contracts being bid or awarded
7 simultaneously for the same project or improvements) be made
8 wholly or partially exempt from State contracting goals for
9 businesses owned by minorities, women ~~females~~, and persons with
10 disabilities prior to the advertisement for bids or
11 solicitation of proposals whenever there has been a
12 determination, reduced to writing and based on the best
13 information available at the time of the determination, that
14 there is an insufficient number of businesses owned by
15 minorities, women ~~females~~, and persons with disabilities to
16 ensure adequate competition and an expectation of reasonable
17 prices on bids or proposals solicited for the individual
18 contract or contract package in question.

19 (2) Class exemptions.

20 (a) Creation. The Council, on its own initiative or at
21 the request of the affected agency or public institution of
22 higher education, may permit an entire class of contracts
23 be made exempt from State contracting goals for businesses
24 owned by minorities, women ~~females~~, and persons with
25 disabilities whenever there has been a determination,
26 reduced to writing and based on the best information

1 available at the time of the determination, that there is
2 an insufficient number of qualified businesses owned by
3 minorities, women ~~females~~, and persons with disabilities
4 to ensure adequate competition and an expectation of
5 reasonable prices on bids or proposals within that class.

6 (b) Limitation. Any such class exemption shall not be
7 permitted for a period of more than one year at a time.

8 (3) Waivers. Where a particular contract requires a
9 contractor to meet a goal established pursuant to this Act, the
10 contractor shall have the right to request a waiver from such
11 requirements. The Council shall grant the waiver where the
12 contractor demonstrates that there has been made a good faith
13 effort to comply with the goals for participation by businesses
14 owned by minorities, women ~~females~~, and persons with
15 disabilities.

16 (4) Conflict with other laws. In the event that any State
17 contract, which otherwise would be subject to the provisions of
18 this Act, is or becomes subject to federal laws or regulations
19 which conflict with the provisions of this Act or actions of
20 the State taken pursuant hereto, the provisions of the federal
21 laws or regulations shall apply and the contract shall be
22 interpreted and enforced accordingly.

23 (5) Each chief procurement officer, as defined in the
24 Illinois Procurement Code, shall maintain on his or her
25 official Internet website a database of waivers granted under
26 this Section with respect to contracts under his or her

1 jurisdiction. The database, which shall be updated
2 periodically as necessary, shall be searchable by contractor
3 name and by contracting State agency.

4 (6) Each chief procurement officer, as defined by the
5 Illinois Procurement Code, shall maintain on its website a list
6 of all firms that have been prohibited from bidding, offering,
7 or entering into a contract with the State of Illinois as a
8 result of violations of this Act.

9 Each public notice required by law of the award of a State
10 contract shall include for each bid or offer submitted for that
11 contract the following: (i) the bidder's or offeror's name,
12 (ii) the bid amount, (iii) the name or names of the certified
13 firms identified in the bidder's or offeror's submitted
14 utilization plan, and (iv) ~~(iii)~~ the bid's amount and
15 percentage of the contract awarded to businesses owned by
16 minorities, women, and persons with disabilities identified in
17 the ~~of disadvantaged business~~ utilization plan , and ~~(iv)~~ the
18 bid's percentage of business enterprise program utilization
19 plan.

20 (Source: P.A. 99-462, eff. 8-25-15.)

21 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

22 (Section scheduled to be repealed on June 30, 2020)

23 Sec. 8. Enforcement.

24 (1) The Council shall make such findings, recommendations
25 and proposals to the Governor as are necessary and appropriate

1 to enforce this Act. If, as a result of its monitoring
2 activities, the Council determines that its goals and policies
3 are not being met by any State agency or public institution of
4 higher education, the Council may recommend any or all of the
5 following actions:

6 (a) Establish enforcement procedures whereby the
7 Council may recommend to the appropriate State agency,
8 public institutions of higher education, or law
9 enforcement officer that legal or administrative remedies
10 be initiated for violations of contract provisions or rules
11 issued hereunder or by a contracting State agency or public
12 institutions of higher education. State agencies and
13 public institutions of higher education shall be
14 authorized to adopt remedies for such violations which
15 shall include (1) termination of the contract involved, (2)
16 prohibition of participation of the respondents in public
17 contracts for a period not to exceed one year, (3)
18 imposition of a penalty not to exceed any profit acquired
19 as a result of violation, or (4) any combination thereof.

20 (b) If the Council concludes that a compliance plan
21 submitted under Section 6 is unlikely to produce the
22 participation goals for businesses owned by minorities,
23 women ~~females~~, and persons with disabilities within the
24 then current fiscal year, the Council may recommend that
25 the State agency or public institution of higher education
26 revise its plan to provide additional opportunities for

1 participation by businesses owned by minorities, women
2 ~~females~~, and persons with disabilities. Such recommended
3 revisions may include, but shall not be limited to, the
4 following:

5 (i) assurances of stronger and better focused
6 solicitation efforts to obtain more businesses owned
7 by minorities, women ~~females~~, and persons with
8 disabilities as potential sources of supply;

9 (ii) division of job or project requirements, when
10 economically feasible, into tasks or quantities to
11 permit participation of businesses owned by
12 minorities, women ~~females~~, and persons with
13 disabilities;

14 (iii) elimination of extended experience or
15 capitalization requirements, when programmatically
16 feasible, to permit participation of businesses owned
17 by minorities, women ~~females~~, and persons with
18 disabilities;

19 (iv) identification of specific proposed contracts
20 as particularly attractive or appropriate for
21 participation by businesses owned by minorities, women
22 ~~females~~, and persons with disabilities, such
23 identification to result from and be coupled with the
24 efforts of subparagraphs (i) through (iii);

25 (v) implementation of those regulations
26 established for the use of the sheltered market

1 process.

2 (2) State agencies and public institutions of higher
3 education shall review a vendor's compliance with its
4 utilization plan and the terms of its contract. Without
5 limitation, a vendor's failure to comply with its contractual
6 commitments as contained in the utilization plan; failure to
7 cooperate in providing information regarding its compliance
8 with its utilization plan; or the provision of false or
9 misleading information or statements concerning compliance,
10 certification status, or eligibility of the Business
11 Enterprise Program-certified vendor, good faith efforts, or
12 any other material fact or representation shall constitute a
13 material breach of the contract and entitle the State agency or
14 public institution of higher education to declare a default,
15 terminate the contract, or exercise those remedies provided for
16 in the contract, at law, or in equity.

17 (3) A vendor shall be in breach of the contract and may be
18 subject to penalties for failure to meet contract goals
19 established under this Act, unless the vendor can show that it
20 made good faith efforts to meet the contract goals.

21 (Source: P.A. 99-462, eff. 8-25-15.)

22 (30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

23 (Section scheduled to be repealed on June 30, 2020)

24 Sec. 8a. Advance and progress payments. Any contract
25 awarded to a business owned by a minority, woman ~~female~~, or

1 person with a disability pursuant to this Act may contain a
2 provision for advance or progress payments, or both, except
3 that a State construction contract awarded to a minority-owned
4 ~~minority~~ or women-owned ~~female-owned~~ business pursuant to this
5 Act may contain a provision for progress payments but may not
6 contain a provision for advance payments.

7 (Source: P.A. 88-597, eff. 8-28-94.)

8 (30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 8b. Scheduled council meetings; sheltered market. The
11 Council shall conduct regular meetings to carry out its
12 responsibilities under this Act. At each of the regularly
13 scheduled meetings, time shall be allocated for the Council to
14 receive, review and discuss any evidence regarding past or
15 present racial, ethnic or gender based discrimination which
16 directly impacts State contracting with businesses owned by
17 minorities, women ~~females~~, and persons with disabilities. If
18 after reviewing such evidence the Council finds that there is
19 or has been such discrimination against a specific group, race
20 or sex, the Council shall establish sheltered markets or adjust
21 existing sheltered markets tailored to address the Council's
22 specific findings.

23 "Sheltered market" shall mean a procurement procedure
24 whereby certain contracts are selected and specifically set
25 aside for businesses owned by minorities, women ~~females~~, and

1 persons with disabilities on a competitive bid or negotiated
2 basis.

3 As part of the annual report which the Council must file
4 pursuant to paragraph (e) of subsection (2) of Section 5, the
5 Council shall report on any findings made pursuant to this
6 Section.

7 (Source: P.A. 88-597, eff. 8-28-94.)

8 (30 ILCS 575/8f)

9 (Section scheduled to be repealed on June 30, 2020)

10 Sec. 8f. Annual report. The Council shall file no later
11 than March 1 of each year, an annual report that shall detail
12 the level of achievement toward the goals specified in this Act
13 over the 3 most recent fiscal years. The annual report shall
14 include, but need not be limited to the following:

15 (1) a summary detailing expenditures subject to the
16 goals, the actual goals specified, and the goals attained
17 by each State agency and public institution of higher
18 education;

19 (2) a summary of the number of contracts awarded and
20 the average contract amount by each State agency and public
21 institution of higher education;

22 (3) an analysis of the level of overall goal
23 achievement concerning purchases from minority-owned
24 ~~minority~~ businesses, women-owned ~~female-owned~~ businesses,
25 and businesses owned by persons with disabilities;

1 (4) an analysis of the number of businesses owned by
2 minorities, women ~~females~~, and persons with disabilities
3 that are certified under the program as well as the number
4 of those businesses that received State procurement
5 contracts; and

6 (5) a summary of the number of contracts awarded to
7 businesses with annual gross sales of less than \$1,000,000;
8 of \$1,000,000 or more, but less than \$5,000,000; of
9 \$5,000,000 or more, but less than \$10,000,000; and of
10 \$10,000,000 or more.

11 (Source: P.A. 99-462, eff. 8-25-15.)

12 (30 ILCS 575/8g new)

13 Sec. 8g. Business Enterprise Program Council reports.

14 (a) The Department of Central Management Services shall
15 provide a report to the Council identifying all State agency
16 non-construction solicitations that exceed \$20,000,000 and
17 that have less than a 20% established goal prior to
18 publication.

19 (b) The Department of Central Management Services shall
20 provide a report to the Council identifying all State agency
21 non-construction contracts that exceed \$20,000,000 prior to
22 award. The report shall contain the following: (i) the name of
23 the proposed awardee, (ii) the total bid amount, (iii) the
24 established Business Enterprise Program goal, (iv) the dollar
25 amount and percentage of participation by businesses owned by

1 minorities, women, and persons with disabilities, and (v) the
2 names of the certified firms identified in the utilization
3 plan.

4 (30 ILCS 575/8h new)

5 Sec. 8h. Encouragement for telecom and communications
6 entities to submit supplier diversity reports.

7 (1) The following entities that do business in Illinois or
8 serve Illinois customers shall be subject to this Section:

9 (i) all local exchange telecommunications carriers
10 with at least 35,000 subscriber access lines;

11 (ii) cable and video providers, as defined in Section
12 21-201 of the Public Utilities Act;

13 (iii) interconnected VoIP providers, as defined in
14 Section 13-235 of the Public Utilities Act;

15 (iv) wireless service providers;

16 (v) broadband internet access services providers; and

17 (vi) any other entity that provides messaging, voice,
18 or video services via the Internet or a social media
19 platform.

20 (2) Each entity subject to this Section may submit to the
21 Illinois Commerce Commission and the Business Enterprise
22 Council an annual report by April 15, 2018, and every April 15
23 thereafter, which provides, for the previous calendar year,
24 information and data on diversity goals, and progress toward
25 achieving those goals, by certified businesses owned by

1 minorities, women, persons with disabilities, and
2 service-disabled veterans, provided that if the entity does not
3 track such information and data for businesses owned by
4 service-disabled veterans, the entity may provide information
5 and data for businesses owned by veterans.

6 The diversity report shall include the following:

7 (i) Overall annual spending on all such certified
8 businesses.

9 (ii) A narrative description of the entity's supplier
10 diversity goals and plans for meeting those goals.

11 (iii) The entity's best estimate of its annual spending
12 in professional services and spending with certified
13 businesses owned by minorities, women, persons with
14 disabilities, and service-disabled veterans (or veterans,
15 if the reporting entity does not track spending with
16 service-disabled veterans), including, but not limited to,
17 the following professional services categories:
18 accounting; architecture and engineering; consulting;
19 information technology; insurance; financial, legal, and
20 marketing services; and other professional services. The
21 diversity report shall also include the entity's overall
22 annual spending in the listed professional service
23 categories. For the diversity reports due on April 15, 2018
24 and April 15, 2019, the information on annual spending with
25 certified businesses for professional services required by
26 this Section may be provided for all professional services

1 on an aggregated basis.

2 (iv) Beginning with the diversity report due on April
3 15, 2020, the total number and percentage of women and
4 minorities that provided services for each construction
5 project in the State.

6 An entity subject to this Section which is part of an
7 affiliated group of entities may provide information for the
8 affiliated group as a whole.

9 (3) Any entity that is subject to this Section that does
10 not submit a report shall be reported by the Business
11 Enterprise Council to each chief procurement officer. Upon
12 receiving a report from the Business Enterprise Council, the
13 chief procurement officer shall prohibit any entities that do
14 not submit a report from bidding on State contracts for a
15 period of one year beginning the first day of the following
16 fiscal year and post on its respective bulletin the names of
17 all entities that fail to comply with the provisions of this
18 Section.

19 (4) A vendor may appeal any of the actions taken pursuant
20 to this Section in the same manner as a vendor denied
21 certification, by following the appeal procedures in the
22 administrative rules created pursuant to this Act.

23 (30 ILCS 575/8i new)

24 Sec. 8i. Renewals. State agencies and public institutions
25 of higher education shall:

1 (a) review all existing contracts prior to the time of
2 renewal to determine if the diversity goal is being met by
3 the prime vendor;

4 (b) review all existing contracts prior to the time of
5 renewal to determine if the contract goal should be
6 increased based upon market conditions and availability of
7 firms certified pursuant to this Act;

8 (c) review existing contracts with no contract goal to
9 determine if a goal can be established; if it is determined
10 that a diversity goal can be established, the State agency
11 or public institution of higher education shall encourage
12 the prime vendor to amend the contract to include the
13 contract goal; prime contractors shall be required to
14 complete a utilization plan to demonstrate how it intends
15 to meet the diversity goal; and

16 (e) review renewals at least 6 months prior to renewal
17 to allow adequate time to rebid if it is determined that
18 the prime contractor has not demonstrated good faith
19 efforts towards meeting the diversity goal.

20 All renewals shall be subject to any amendments made to
21 this Act, or amendments made to any administrative rules
22 adopted under this Act, that become effective prior to the date
23 of renewal.

24 The requirements of this Section shall not apply to
25 construction and construction-related services procurements.

26 This Section is operative on and after January 1, 2018.

1 Section 75. The Film Production Services Tax Credit Act of
2 2008 is amended by changing Sections 30 and 45 as follows:

3 (35 ILCS 16/30)

4 Sec. 30. Review of application for accredited production
5 certificate.

6 (a) In determining whether to issue an accredited
7 production certificate, the Department must determine that a
8 preponderance of the following conditions exist:

9 (1) The applicant's production intends to make the
10 expenditure in the State required for certification.

11 (2) The applicant's production is economically sound
12 and will benefit the people of the State of Illinois by
13 increasing opportunities for employment and strengthen the
14 economy of Illinois.

15 (3) The applicant has filed a diversity plan with the
16 Department outlining specific goals (i) for hiring
17 minority persons and women ~~females~~, as defined in the
18 Business Enterprise for Minorities, Women ~~Females~~, and
19 Persons with Disabilities Act, and (ii) for using vendors
20 receiving certification under the Business Enterprise for
21 Minorities, Women ~~Females~~, and Persons with Disabilities
22 Act; the Department has approved the plan as meeting the
23 requirements established by the Department; and the
24 Department has verified that the applicant has met or made

1 good-faith efforts in achieving those goals. The
2 Department must adopt any rules that are necessary to
3 ensure compliance with the provisions of this item (3) and
4 that are necessary to require that the applicant's plan
5 reflects the diversity of this State.

6 (4) The applicant's production application indicates
7 whether the applicant intends to participate in training,
8 education, and recruitment programs that are organized in
9 cooperation with Illinois colleges and universities, labor
10 organizations, and the motion picture industry and are
11 designed to promote and encourage the training and hiring
12 of Illinois residents who represent the diversity of the
13 Illinois population.

14 (5) That, if not for the credit, the applicant's
15 production would not occur in Illinois, which may be
16 demonstrated by any means including, but not limited to,
17 evidence that the applicant has multi-state or
18 international location options and could reasonably and
19 efficiently locate outside of the State, or demonstration
20 that at least one other state or nation is being considered
21 for the production, or evidence that the receipt of the
22 credit is a major factor in the applicant's decision and
23 that without the credit the applicant likely would not
24 create or retain jobs in Illinois, or demonstration that
25 receiving the credit is essential to the applicant's
26 decision to create or retain new jobs in the State.

1 (6) Awarding the credit will result in an overall
2 positive impact to the State, as determined by the
3 Department using the best available data.

4 (b) If any of the provisions in this Section conflict with
5 any existing collective bargaining agreements, the terms and
6 conditions of those collective bargaining agreements shall
7 control.

8 (Source: P.A. 95-720, eff. 5-27-08.)

9 (35 ILCS 16/45)

10 Sec. 45. Evaluation of tax credit program; reports to the
11 General Assembly.

12 (a) The Department shall evaluate the tax credit program.
13 The evaluation must include an assessment of the effectiveness
14 of the program in creating and retaining new jobs in Illinois
15 and of the revenue impact of the program, and may include a
16 review of the practices and experiences of other states or
17 nations with similar programs. Upon completion of this
18 evaluation, the Department shall determine the overall success
19 of the program, and may make a recommendation to extend,
20 modify, or not extend the program based on this evaluation.

21 (b) At the end of each fiscal quarter, the Department must
22 submit to the General Assembly a report that includes, without
23 limitation, the following information:

24 (1) the economic impact of the tax credit program,
25 including the number of jobs created and retained,

1 including whether the job positions are entry level,
2 management, talent-related, vendor-related, or
3 production-related;

4 (2) the amount of film production spending brought to
5 Illinois, including the amount of spending and type of
6 Illinois vendors hired in connection with an accredited
7 production; and

8 (3) an overall picture of whether the human
9 infrastructure of the motion picture industry in Illinois
10 reflects the geographical, racial and ethnic, gender, and
11 income-level diversity of the State of Illinois.

12 (c) At the end of each fiscal year, the Department must
13 submit to the General Assembly a report that includes, without
14 limitation, the following information:

15 (1) an identification of each vendor that provided
16 goods or services that were included in an accredited
17 production's Illinois production spending;

18 (2) the amount paid to each identified vendor by the
19 accredited production;

20 (3) for each identified vendor, a statement as to
21 whether the vendor is a minority-owned ~~minority-owned~~
22 business or a women-owned ~~female-owned~~ business, as defined
23 under Section 2 of the Business Enterprise for Minorities,
24 Women ~~Females~~, and Persons with Disabilities Act; and

25 (4) a description of any steps taken by the Department
26 to encourage accredited productions to use vendors who are

1 a minority-owned ~~minority-owned~~ business or a women-owned
2 ~~female-owned~~ business.

3 (Source: P.A. 95-720, eff. 5-27-08.)

4 Section 80. The Live Theater Production Tax Credit Act is
5 amended by changing Sections 10-30 and 10-50 as follows:

6 (35 ILCS 17/10-30)

7 Sec. 10-30. Review of application for accredited theater
8 production certificate.

9 (a) The Department shall issue an accredited theater
10 production certificate to an applicant if it finds that by a
11 preponderance the following conditions exist:

12 (1) the applicant intends to make the expenditure in
13 the State required for certification of the accredited
14 theater production;

15 (2) the applicant's accredited theater production is
16 economically sound and will benefit the people of the State
17 of Illinois by increasing opportunities for employment and
18 will strengthen the economy of Illinois;

19 (3) the following requirements related to the
20 implementation of a diversity plan have been met: (i) the
21 applicant has filed with the Department a diversity plan
22 outlining specific goals for hiring Illinois labor
23 expenditure eligible minority persons and women ~~females~~,
24 as defined in the Business Enterprise for Minorities, Women

1 ~~Females~~, and Persons with Disabilities Act, and for using
2 vendors receiving certification under the Business
3 Enterprise for Minorities, Women ~~Females~~, and Persons with
4 Disabilities Act; (ii) the Department has approved the plan
5 as meeting the requirements established by the Department
6 and verified that the applicant has met or made good faith
7 efforts in achieving those goals; and (iii) the Department
8 has adopted any rules that are necessary to ensure
9 compliance with the provisions set forth in this paragraph
10 and necessary to require that the applicant's plan reflects
11 the diversity of the population of this State;

12 (4) the applicant's accredited theater production
13 application indicates whether the applicant intends to
14 participate in training, education, and recruitment
15 programs that are organized in cooperation with Illinois
16 colleges and universities, labor organizations, and the
17 holders of accredited theater production certificates and
18 are designed to promote and encourage the training and
19 hiring of Illinois residents who represent the diversity of
20 Illinois;

21 (5) if not for the tax credit award, the applicant's
22 accredited theater production would not occur in Illinois,
23 which may be demonstrated by any means, including, but not
24 limited to, evidence that: (i) the applicant, presenter,
25 owner, or licensee of the production rights has other state
26 or international location options at which to present the

1 production and could reasonably and efficiently locate
2 outside of the State, (ii) at least one other state or
3 nation could be considered for the production, (iii) the
4 receipt of the tax award credit is a major factor in the
5 decision of the applicant, presenter, production owner or
6 licensee as to where the production will be presented and
7 that without the tax credit award the applicant likely
8 would not create or retain jobs in Illinois, or (iv)
9 receipt of the tax credit award is essential to the
10 applicant's decision to create or retain new jobs in the
11 State; and

12 (6) the tax credit award will result in an overall
13 positive impact to the State, as determined by the
14 Department using the best available data.

15 (b) If any of the provisions in this Section conflict with
16 any existing collective bargaining agreements, the terms and
17 conditions of those collective bargaining agreements shall
18 control.

19 (c) The Department shall act expeditiously regarding
20 approval of applications for accredited theater production
21 certificates so as to accommodate the pre-production work,
22 booking, commencement of ticket sales, determination of
23 performance dates, load in, and other matters relating to the
24 live theater productions for which approval is sought.

25 (Source: P.A. 97-636, eff. 6-1-12.)

1 (35 ILCS 17/10-50)

2 Sec. 10-50. Live theater tax credit award program
3 evaluation and reports.

4 (a) The Department's live theater tax credit award
5 evaluation must include:

6 (i) an assessment of the effectiveness of the program
7 in creating and retaining new jobs in Illinois;

8 (ii) an assessment of the revenue impact of the
9 program;

10 (iii) in the discretion of the Department, a review of
11 the practices and experiences of other states or nations
12 with similar programs; and

13 (iv) an assessment of the overall success of the
14 program. The Department may make a recommendation to
15 extend, modify, or not extend the program based on the
16 evaluation.

17 (b) At the end of each fiscal quarter, the Department shall
18 submit to the General Assembly a report that includes, without
19 limitation:

20 (i) an assessment of the economic impact of the
21 program, including the number of jobs created and retained,
22 and whether the job positions are entry level, management,
23 vendor, or production related;

24 (ii) the amount of accredited theater production
25 spending brought to Illinois, including the amount of
26 spending and type of Illinois vendors hired in connection

1 with an accredited theater production; and

2 (iii) a determination of whether those receiving
3 qualifying Illinois labor expenditure salaries or wages
4 reflect the geographical, racial and ethnic, gender, and
5 income level diversity of the State of Illinois.

6 (c) At the end of each fiscal year, the Department shall
7 submit to the General Assembly a report that includes, without
8 limitation:

9 (i) the identification of each vendor that provided
10 goods or services that were included in an accredited
11 theater production's Illinois production spending;

12 (ii) a statement of the amount paid to each identified
13 vendor by the accredited theater production and whether the
14 vendor is a minority-owned ~~minority~~ or women-owned ~~female~~
15 ~~owned~~ business as defined in Section 2 of the Business
16 Enterprise for Minorities, Women ~~Females~~, and Persons with
17 Disabilities Act; and

18 (iii) a description of the steps taken by the
19 Department to encourage accredited theater productions to
20 use vendors who are minority-owned ~~minority~~ or women-owned
21 ~~female-owned~~ businesses.

22 (Source: P.A. 97-636, eff. 6-1-12.)

23 Section 85. The Illinois Pension Code is amended by
24 changing Sections 1-109.1 and 1-113.21 as follows:

1 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

2 Sec. 1-109.1. Allocation and delegation of fiduciary
3 duties.

4 (1) Subject to the provisions of Section 22A-113 of this
5 Code and subsections (2) and (3) of this Section, the board of
6 trustees of a retirement system or pension fund established
7 under this Code may:

8 (a) Appoint one or more investment managers as
9 fiduciaries to manage (including the power to acquire and
10 dispose of) any assets of the retirement system or pension
11 fund; and

12 (b) Allocate duties among themselves and designate
13 others as fiduciaries to carry out specific fiduciary
14 activities other than the management of the assets of the
15 retirement system or pension fund.

16 (2) The board of trustees of a pension fund established
17 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
18 transfer its investment authority, nor transfer the assets of
19 the fund to any other person or entity for the purpose of
20 consolidating or merging its assets and management with any
21 other pension fund or public investment authority, unless the
22 board resolution authorizing such transfer is submitted for
23 approval to the contributors and pensioners of the fund at
24 elections held not less than 30 days after the adoption of such
25 resolution by the board, and such resolution is approved by a
26 majority of the votes cast on the question in both the

1 contributors election and the pensioners election. The
2 election procedures and qualifications governing the election
3 of trustees shall govern the submission of resolutions for
4 approval under this paragraph, insofar as they may be made
5 applicable.

6 (3) Pursuant to subsections (h) and (i) of Section 6 of
7 Article VII of the Illinois Constitution, the investment
8 authority of boards of trustees of retirement systems and
9 pension funds established under this Code is declared to be a
10 subject of exclusive State jurisdiction, and the concurrent
11 exercise by a home rule unit of any power affecting such
12 investment authority is hereby specifically denied and
13 preempted.

14 (4) For the purposes of this Code, "emerging investment
15 manager" means a qualified investment adviser that manages an
16 investment portfolio of at least \$10,000,000 but less than
17 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~
18 business", "women-owned ~~female-owned~~ business" or "business
19 owned by a person with a disability" as those terms are defined
20 in the Business Enterprise for Minorities, Women ~~Females~~, and
21 Persons with Disabilities Act.

22 It is hereby declared to be the public policy of the State
23 of Illinois to encourage the trustees of public employee
24 retirement systems, pension funds, and investment boards to use
25 emerging investment managers in managing their system's
26 assets, encompassing all asset classes, and increase the

1 racial, ethnic, and gender diversity of its fiduciaries, to the
2 greatest extent feasible within the bounds of financial and
3 fiduciary prudence, and to take affirmative steps to remove any
4 barriers to the full participation in investment opportunities
5 afforded by those retirement systems, pension funds, and
6 investment boards.

7 On or before January 1, 2010, a retirement system, pension
8 fund, or investment board subject to this Code, except those
9 whose investments are restricted by Section 1-113.2 of this
10 Code, shall adopt a policy that sets forth goals for
11 utilization of emerging investment managers. This policy shall
12 include quantifiable goals for the management of assets in
13 specific asset classes by emerging investment managers. The
14 retirement system, pension fund, or investment board shall
15 establish 3 separate goals for: (i) emerging investment
16 managers that are minority-owned ~~minority-owned~~ businesses;
17 (ii) emerging investment managers that are women-owned ~~female~~
18 ~~owned~~ businesses; and (iii) emerging investment managers that
19 are businesses owned by a person with a disability. The goals
20 established shall be based on the percentage of total dollar
21 amount of investment service contracts let to minority-owned
22 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
23 businesses, and businesses owned by a person with a disability,
24 as those terms are defined in the Business Enterprise for
25 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
26 The retirement system, pension fund, or investment board shall

1 annually review the goals established under this subsection.

2 If in any case an emerging investment manager meets the
3 criteria established by a board for a specific search and meets
4 the criteria established by a consultant for that search, then
5 that emerging investment manager shall receive an invitation by
6 the board of trustees, or an investment committee of the board
7 of trustees, to present his or her firm for final consideration
8 of a contract. In the case where multiple emerging investment
9 managers meet the criteria of this Section, the staff may
10 choose the most qualified firm or firms to present to the
11 board.

12 The use of an emerging investment manager does not
13 constitute a transfer of investment authority for the purposes
14 of subsection (2) of this Section.

15 (5) Each retirement system, pension fund, or investment
16 board subject to this Code, except those whose investments are
17 restricted by Section 1-113.2 of this Code, shall establish a
18 policy that sets forth goals for increasing the racial, ethnic,
19 and gender diversity of its fiduciaries, including its
20 consultants and senior staff. Each system, fund, and investment
21 board shall annually review the goals established under this
22 subsection.

23 (6) On or before January 1, 2010, a retirement system,
24 pension fund, or investment board subject to this Code, except
25 those whose investments are restricted by Section 1-113.2 of
26 this Code, shall adopt a policy that sets forth goals for

1 utilization of businesses owned by minorities, women ~~females~~,
2 and persons with disabilities for all contracts and services.
3 The goals established shall be based on the percentage of total
4 dollar amount of all contracts let to minority-owned ~~minority~~
5 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
6 businesses owned by a person with a disability, as those terms
7 are defined in the Business Enterprise for Minorities, Women
8 ~~Females~~, and Persons with Disabilities Act. The retirement
9 system, pension fund, or investment board shall annually review
10 the goals established under this subsection.

11 (7) On or before January 1, 2010, a retirement system,
12 pension fund, or investment board subject to this Code, except
13 those whose investments are restricted by Section 1-113.2 of
14 this Code, shall adopt a policy that sets forth goals for
15 increasing the utilization of minority broker-dealers. For the
16 purposes of this Code, "minority broker-dealer" means a
17 qualified broker-dealer who meets the definition of
18 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
19 ~~owned~~ business", or "business owned by a person with a
20 disability", as those terms are defined in the Business
21 Enterprise for Minorities, Women ~~Females~~, and Persons with
22 Disabilities Act. The retirement system, pension fund, or
23 investment board shall annually review the goals established
24 under this Section.

25 (8) Each retirement system, pension fund, and investment
26 board subject to this Code, except those whose investments are

1 restricted by Section 1-113.2 of this Code, shall submit a
2 report to the Governor and the General Assembly by January 1 of
3 each year that includes the following: (i) the policy adopted
4 under subsection (4) of this Section, including the names and
5 addresses of the emerging investment managers used, percentage
6 of the assets under the investment control of emerging
7 investment managers for the 3 separate goals, and the actions
8 it has undertaken to increase the use of emerging investment
9 managers, including encouraging other investment managers to
10 use emerging investment managers as subcontractors when the
11 opportunity arises; (ii) the policy adopted under subsection
12 (5) of this Section; (iii) the policy adopted under subsection
13 (6) of this Section; (iv) the policy adopted under subsection
14 (7) of this Section, including specific actions undertaken to
15 increase the use of minority broker-dealers; and (v) the policy
16 adopted under subsection (9) of this Section.

17 (9) On or before February 1, 2015, a retirement system,
18 pension fund, or investment board subject to this Code, except
19 those whose investments are restricted by Section 1-113.2 of
20 this Code, shall adopt a policy that sets forth goals for
21 increasing the utilization of minority investment managers.
22 For the purposes of this Code, "minority investment manager"
23 means a qualified investment manager that manages an investment
24 portfolio and meets the definition of "minority-owned ~~minority~~
25 ~~owned~~ business", "women-owned ~~female-owned~~ business", or
26 "business owned by a person with a disability", as those terms

1 are defined in the Business Enterprise for Minorities, Women
2 ~~Females~~, and Persons with Disabilities Act.

3 It is hereby declared to be the public policy of the State
4 of Illinois to encourage the trustees of public employee
5 retirement systems, pension funds, and investment boards to use
6 minority investment managers in managing their systems'
7 assets, encompassing all asset classes, and to increase the
8 racial, ethnic, and gender diversity of their fiduciaries, to
9 the greatest extent feasible within the bounds of financial and
10 fiduciary prudence, and to take affirmative steps to remove any
11 barriers to the full participation in investment opportunities
12 afforded by those retirement systems, pension funds, and
13 investment boards.

14 The retirement system, pension fund, or investment board
15 shall establish 3 separate goals for: (i) minority investment
16 managers that are minority-owned ~~minority-owned~~ businesses;
17 (ii) minority investment managers that are women-owned ~~female~~
18 ~~owned~~ businesses; and (iii) minority investment managers that
19 are businesses owned by a person with a disability. The
20 retirement system, pension fund, or investment board shall
21 annually review the goals established under this Section.

22 If in any case a minority investment manager meets the
23 criteria established by a board for a specific search and meets
24 the criteria established by a consultant for that search, then
25 that minority investment manager shall receive an invitation by
26 the board of trustees, or an investment committee of the board

1 of trustees, to present his or her firm for final consideration
2 of a contract. In the case where multiple minority investment
3 managers meet the criteria of this Section, the staff may
4 choose the most qualified firm or firms to present to the
5 board.

6 The use of a minority investment manager does not
7 constitute a transfer of investment authority for the purposes
8 of subsection (2) of this Section.

9 (10) Beginning January 1, 2016, it shall be the
10 aspirational goal for a retirement system, pension fund, or
11 investment board subject to this Code to use emerging
12 investment managers for not less than 20% of the total funds
13 under management. Furthermore, it shall be the aspirational
14 goal that not less than 20% of investment advisors be
15 minorities, women ~~females~~, and persons with disabilities as
16 those terms are defined in the Business Enterprise for
17 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
18 It shall be the aspirational goal to utilize businesses owned
19 by minorities, women ~~females~~, and persons with disabilities for
20 not less than 20% of contracts awarded for "information
21 technology services", "accounting services", "insurance
22 brokers", "architectural and engineering services", and "legal
23 services" as those terms are defined in the Act.

24 (Source: P.A. 98-1022, eff. 1-1-15; 99-462, eff. 8-25-15.)

25 (40 ILCS 5/1-113.21)

1 Sec. 1-113.21. Contracts for services.

2 (a) Beginning January 1, 2015, no contract, oral or
3 written, for investment services, consulting services, or
4 commitment to a private market fund shall be awarded by a
5 retirement system, pension fund, or investment board
6 established under this Code unless the investment advisor,
7 consultant, or private market fund first discloses:

8 (1) the number of its investment and senior staff and
9 the percentage of its investment and senior staff who are
10 (i) a minority person, (ii) a woman ~~female~~, and (iii) a
11 person with a disability; and

12 (2) the number of contracts, oral or written, for
13 investment services, consulting services, and professional
14 and artistic services that the investment advisor,
15 consultant, or private market fund has with (i) a
16 minority-owned ~~minority-owned~~ business, (ii) a women-owned
17 ~~female-owned~~ business, or (iii) a business owned by a
18 person with a disability; and

19 (3) the number of contracts, oral or written, for
20 investment services, consulting services, and professional
21 and artistic services the investment advisor, consultant,
22 or private market fund has with a business other than (i) a
23 minority-owned ~~minority-owned~~ business, (ii) a women-owned
24 ~~female-owned~~ business or (iii) a business owned by a person
25 with a disability, if more than 50% of services performed
26 pursuant to the contract are performed by (i) a minority

1 person, (ii) a woman ~~female~~, and (iii) a person with a
2 disability.

3 (b) The disclosures required by this Section shall be
4 considered, within the bounds of financial and fiduciary
5 prudence, prior to the awarding of a contract, oral or written,
6 for investment services, consulting services, or commitment to
7 a private market fund.

8 (c) For the purposes of this Section, the terms "minority
9 person", "woman ~~female~~", "person with a disability",
10 "minority-owned ~~minority owned~~ business", "women-owned ~~female~~
11 ~~owned~~ business", and "business owned by a person with a
12 disability" have the same meaning as those terms have in the
13 Business Enterprise for Minorities, Women ~~Females~~, and Persons
14 with Disabilities Act.

15 (d) For purposes of this Section, the term "private market
16 fund" means any private equity fund, private equity fund of
17 funds, venture capital fund, hedge fund, hedge fund of funds,
18 real estate fund, or other investment vehicle that is not
19 publicly traded.

20 (Source: P.A. 98-1022, eff. 1-1-15.)

21 Section 90. The Counties Code is amended by changing
22 Section 5-1134 as follows:

23 (55 ILCS 5/5-1134)

24 Sec. 5-1134. Project labor agreements.

1 (a) Any sports, arts, or entertainment facilities that
2 receive revenue from a tax imposed under subsection (b) of
3 Section 5-1030 of this Code shall be considered to be public
4 works within the meaning of the Prevailing Wage Act. The county
5 authorities responsible for the construction, renovation,
6 modification, or alteration of the sports, arts, or
7 entertainment facilities shall enter into project labor
8 agreements with labor organizations as defined in the National
9 Labor Relations Act to assure that no labor dispute interrupts
10 or interferes with the construction, renovation, modification,
11 or alteration of the projects.

12 (b) The project labor agreements must include the
13 following:

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

16 (2) provisions establishing the benefits and other
17 compensation for such class of labor organization; and

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

20 The county, taxing bodies, municipalities, and the labor
21 organizations shall have the authority to include other terms
22 and conditions as they deem necessary.

23 (c) The project labor agreement shall be filed with the
24 Director of the Illinois Department of Labor in accordance with
25 procedures established by the Department. At a minimum, the
26 project labor agreement must provide the names, addresses, and

1 occupations of the owner of the facilities and the individuals
2 representing the labor organization employees participating in
3 the project labor agreement. The agreement must also specify
4 the terms and conditions required in subsection (b) of this
5 Section.

6 (d) In any agreement for the construction or rehabilitation
7 of a facility using revenue generated under subsection (b) of
8 Section 5-1030 of this Code, in connection with the
9 prequalification of general contractors for construction or
10 rehabilitation of the facility, it shall be required that a
11 commitment will be submitted detailing how the general
12 contractor will expend 15% or more of the aggregate dollar
13 value of the project as a whole with one or more minority-owned
14 businesses, women-owned ~~female-owned~~ businesses, or businesses
15 owned by a person with a disability, as these terms are defined
16 in Section 2 of the Business Enterprise for Minorities, Women
17 ~~Females~~, and Persons with Disabilities Act.

18 (Source: P.A. 98-313, eff. 8-12-13; 98-756, eff. 7-16-14.)

19 Section 95. The River Edge Redevelopment Zone Act is
20 amended by changing Section 10-5.3 as follows:

21 (65 ILCS 115/10-5.3)

22 Sec. 10-5.3. Certification of River Edge Redevelopment
23 Zones.

24 (a) Approval of designated River Edge Redevelopment Zones

1 shall be made by the Department by certification of the
2 designating ordinance. The Department shall promptly issue a
3 certificate for each zone upon its approval. The certificate
4 shall be signed by the Director of the Department, shall make
5 specific reference to the designating ordinance, which shall be
6 attached thereto, and shall be filed in the office of the
7 Secretary of State. A certified copy of the River Edge
8 Redevelopment Zone Certificate, or a duplicate original
9 thereof, shall be recorded in the office of the recorder of
10 deeds of the county in which the River Edge Redevelopment Zone
11 lies.

12 (b) A River Edge Redevelopment Zone shall be effective upon
13 its certification. The Department shall transmit a copy of the
14 certification to the Department of Revenue, and to the
15 designating municipality. Upon certification of a River Edge
16 Redevelopment Zone, the terms and provisions of the designating
17 ordinance shall be in effect, and may not be amended or
18 repealed except in accordance with Section 10-5.4.

19 (c) A River Edge Redevelopment Zone shall be in effect for
20 the period stated in the certificate, which shall in no event
21 exceed 30 calendar years. Zones shall terminate at midnight of
22 December 31 of the final calendar year of the certified term,
23 except as provided in Section 10-5.4.

24 (d) In calendar years 2006 and 2007, the Department may
25 certify one pilot River Edge Redevelopment Zone in the City of
26 East St. Louis, one pilot River Edge Redevelopment Zone in the

1 City of Rockford, and one pilot River Edge Redevelopment Zone
2 in the City of Aurora.

3 In calendar year 2009, the Department may certify one pilot
4 River Edge Redevelopment Zone in the City of Elgin.

5 On or after the effective date of this amendatory Act of
6 the 97th General Assembly, the Department may certify one
7 additional pilot River Edge Redevelopment Zone in the City of
8 Peoria.

9 Thereafter the Department may not certify any additional
10 River Edge Redevelopment Zones, but may amend and rescind
11 certifications of existing River Edge Redevelopment Zones in
12 accordance with Section 10-5.4, except that no River Edge
13 Redevelopment Zone may be extended on or after the effective
14 date of this amendatory Act of the 97th General Assembly. Each
15 River Edge Redevelopment Zone in existence on the effective
16 date of this amendatory Act of the 97th General Assembly shall
17 continue until its scheduled termination under this Act, unless
18 the Zone is decertified sooner. At the time of its term
19 expiration each River Edge Redevelopment Zone will become an
20 open enterprise zone, available for the previously designated
21 area or a different area to compete for designation as an
22 enterprise zone. No preference for designation as a Zone will
23 be given to the previously designated area.

24 (e) A municipality in which a River Edge Redevelopment Zone
25 has been certified must submit to the Department, within 60
26 days after the certification, a plan for encouraging the

1 participation by minority persons, women ~~females~~, persons with
2 disabilities, and veterans in the zone. The Department may
3 assist the municipality in developing and implementing the
4 plan. The terms "minority person", "woman ~~female~~", and "person
5 with a disability" have the meanings set forth under Section 2
6 of the Business Enterprise for Minorities, Women ~~Females~~, and
7 Persons with Disabilities Act. "Veteran" means an Illinois
8 resident who is a veteran as defined in subsection (h) of
9 Section 1491 of Title 10 of the United States Code.

10 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;
11 97-905, eff. 8-7-12.)

12 Section 100. The Metropolitan Pier and Exposition
13 Authority Act is amended by changing Sections 10.2 and 23.1 as
14 follows:

15 (70 ILCS 210/10.2)

16 Sec. 10.2. Bonding disclosure.

17 (a) Truth in borrowing disclosure. Within 60 business days
18 after the issuance of any bonds under this Act, the Authority
19 shall disclose the total principal and interest payments to be
20 paid on the bonds over the full stated term of the bonds. The
21 disclosure also shall include principal and interest payments
22 to be made by each fiscal year over the full stated term of the
23 bonds and total principal and interest payments to be made by
24 each fiscal year on all other outstanding bonds issued under

1 this Act over the full stated terms of those bonds. These
2 disclosures shall be calculated assuming bonds are not redeemed
3 or refunded prior to their stated maturities. Amounts included
4 in these disclosures as payment of interest on variable rate
5 bonds shall be computed at an interest rate equal to the rate
6 at which the variable rate bonds are first set upon issuance,
7 plus 2.5%, after taking into account any credits permitted in
8 the related indenture or other instrument against the amount of
9 such interest for each fiscal year.

10 (b) Bond sale expenses disclosure. Within 60 business days
11 after the issuance of any bonds under this Act, the Authority
12 shall disclose all costs of issuance on each sale of bonds
13 under this Act. The disclosure shall include, as applicable,
14 the respective percentages of participation and compensation
15 of each underwriter that is a member of the underwriting
16 syndicate, legal counsel, financial advisors, and other
17 professionals for the bond issue and an identification of all
18 costs of issuance paid to minority-owned ~~minority-owned~~
19 businesses, women-owned ~~female-owned~~ businesses, and
20 businesses owned by persons with disabilities. The terms
21 "minority-owned ~~minority-owned~~ businesses", "women-owned
22 ~~female-owned~~ businesses", and "business owned by a person with
23 a disability" have the meanings given to those terms in the
24 Business Enterprise for Minorities, Women ~~Females~~, and Persons
25 with Disabilities Act. In addition, the Authority shall provide
26 copies of all contracts under which any costs of issuance are

1 paid or to be paid to the Commission on Government Forecasting
2 and Accountability within 60 business days after the issuance
3 of bonds for which those costs are paid or to be paid. Instead
4 of filing a second or subsequent copy of the same contract, the
5 Authority may file a statement that specified costs are paid
6 under specified contracts filed earlier with the Commission.

7 (c) The disclosures required in this Section shall be
8 published by posting the disclosures for no less than 30 days
9 on the website of the Authority and shall be available to the
10 public upon request. The Authority shall also provide the
11 disclosures to the Governor's Office of Management and Budget,
12 the Commission on Government Forecasting and Accountability,
13 and the General Assembly.

14 (Source: P.A. 96-898, eff. 5-27-10.)

15 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

16 Sec. 23.1. Affirmative action.

17 (a) The Authority shall, within 90 days after the effective
18 date of this amendatory Act of 1984, establish and maintain an
19 affirmative action program designed to promote equal
20 employment opportunity and eliminate the effects of past
21 discrimination. Such program shall include a plan, including
22 timetables where appropriate, which shall specify goals and
23 methods for increasing participation by women and minorities in
24 employment, including employment related to the planning,
25 organization, and staging of the games, by the Authority and by

1 parties which contract with the Authority. The Authority shall
2 submit a detailed plan with the General Assembly prior to
3 September 1 of each year. Such program shall also establish
4 procedures and sanctions ~~(including debarment)~~, which the
5 Authority shall enforce to ensure compliance with the plan
6 established pursuant to this Section and with State and federal
7 laws and regulations relating to the employment of women and
8 minorities. A determination by the Authority as to whether a
9 party to a contract with the Authority has achieved the goals
10 or employed the methods for increasing participation by women
11 and minorities shall be determined in accordance with the terms
12 of such contracts or the applicable provisions of rules and
13 regulations of the Authority existing at the time such contract
14 was executed, including any provisions for consideration of
15 good faith efforts at compliance which the Authority may
16 reasonably adopt.

17 (b) The Authority shall adopt and maintain minority-owned
18 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
19 procurement programs under the affirmative action program
20 described in subsection (a) for any and all work, including all
21 contracting related to the planning, organization, and staging
22 of the games, undertaken by the Authority. That work shall
23 include, but is not limited to, the purchase of professional
24 services, construction services, supplies, materials, and
25 equipment. The programs shall establish goals of awarding not
26 less than 25% of the annual dollar value of all contracts,

1 purchase orders, or other agreements (collectively referred to
2 as "contracts") to minority-owned ~~minority-owned~~ businesses
3 and 5% of the annual dollar value of all contracts to
4 women-owned ~~female-owned~~ businesses. Without limiting the
5 generality of the foregoing, the programs shall require in
6 connection with the prequalification or consideration of
7 vendors for professional service contracts, construction
8 contracts, and contracts for supplies, materials, equipment,
9 and services that each proposer or bidder submit as part of his
10 or her proposal or bid a commitment detailing how he or she
11 will expend 25% or more of the dollar value of his or her
12 contracts with one or more minority-owned ~~minority-owned~~
13 businesses and 5% or more of the dollar value with one or more
14 women-owned ~~female-owned~~ businesses. Bids or proposals that do
15 not include such detailed commitments are not responsive and
16 shall be rejected unless the Authority deems it appropriate to
17 grant a waiver of these requirements. In addition the Authority
18 may, in connection with the selection of providers of
19 professional services, reserve the right to select a
20 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business
21 or businesses to fulfill the commitment to minority and woman
22 ~~female~~ business participation. The commitment to minority and
23 woman ~~female~~ business participation may be met by the
24 contractor or professional service provider's status as a
25 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business,
26 by joint venture or by subcontracting a portion of the work

1 with or purchasing materials for the work from one or more such
2 businesses, or by any combination thereof. Each contract shall
3 require the contractor or provider to submit a certified
4 monthly report detailing the status of that contractor or
5 provider's compliance with the Authority's minority-owned
6 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
7 procurement program. The Authority, after reviewing the
8 monthly reports of the contractors and providers, shall compile
9 a comprehensive report regarding compliance with this
10 procurement program and file it quarterly with the General
11 Assembly. If, in connection with a particular contract, the
12 Authority determines that it is impracticable or excessively
13 costly to obtain minority-owned ~~minority~~ or women-owned ~~female~~
14 ~~owned~~ businesses to perform sufficient work to fulfill the
15 commitment required by this subsection, the Authority shall
16 reduce or waive the commitment in the contract, as may be
17 appropriate. The Authority shall establish rules and
18 regulations setting forth the standards to be used in
19 determining whether or not a reduction or waiver is
20 appropriate. The terms "minority-owned ~~minority-owned~~
21 business" and "women-owned ~~female-owned~~ business" have the
22 meanings given to those terms in the Business Enterprise for
23 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

24 (c) The Authority shall adopt and maintain an affirmative
25 action program in connection with the hiring of minorities and
26 women on the Expansion Project and on any and all construction

1 projects, including all contracting related to the planning,
2 organization, and staging of the games, undertaken by the
3 Authority. The program shall be designed to promote equal
4 employment opportunity and shall specify the goals and methods
5 for increasing the participation of minorities and women in a
6 representative mix of job classifications required to perform
7 the respective contracts awarded by the Authority.

8 (d) In connection with the Expansion Project, the Authority
9 shall incorporate the following elements into its
10 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business
11 procurement programs to the extent feasible: (1) a major
12 contractors program that permits minority-owned ~~minority-owned~~
13 businesses and women-owned ~~female-owned~~ businesses to bear
14 significant responsibility and risk for a portion of the
15 project; (2) a mentor/protege program that provides financial,
16 technical, managerial, equipment, and personnel support to
17 minority-owned ~~minority-owned~~ businesses and women-owned
18 ~~female-owned~~ businesses; (3) an emerging firms program that
19 includes minority-owned ~~minority-owned~~ businesses and
20 women-owned ~~female-owned~~ businesses that would not otherwise
21 qualify for the project due to inexperience or limited
22 resources; (4) a small projects program that includes
23 participation by smaller minority-owned ~~minority-owned~~
24 businesses and women-owned ~~female-owned~~ businesses on jobs
25 where the total dollar value is \$5,000,000 or less; and (5) a
26 set-aside program that will identify contracts requiring the

1 expenditure of funds less than \$50,000 for bids to be submitted
2 solely by minority-owned ~~minority-owned~~ businesses and
3 women-owned ~~female-owned~~ businesses.

4 (e) The Authority is authorized to enter into agreements
5 with contractors' associations, labor unions, and the
6 contractors working on the Expansion Project to establish an
7 Apprenticeship Preparedness Training Program to provide for an
8 increase in the number of minority and women ~~female~~ journeymen
9 and apprentices in the building trades and to enter into
10 agreements with Community College District 508 to provide
11 readiness training. The Authority is further authorized to
12 enter into contracts with public and private educational
13 institutions and persons in the hospitality industry to provide
14 training for employment in the hospitality industry.

15 (f) McCormick Place Advisory Board. There is created a
16 McCormick Place Advisory Board composed as follows: 2 members
17 shall be appointed by the Mayor of Chicago; 2 members shall be
18 appointed by the Governor; 2 members shall be State Senators
19 appointed by the President of the Senate; 2 members shall be
20 State Senators appointed by the Minority Leader of the Senate;
21 2 members shall be State Representatives appointed by the
22 Speaker of the House of Representatives; and 2 members shall be
23 State Representatives appointed by the Minority Leader of the
24 House of Representatives. The terms of all previously appointed
25 members of the Advisory Board expire on the effective date of
26 this amendatory Act of the 92nd General Assembly. A State

1 Senator or State Representative member may appoint a designee
2 to serve on the McCormick Place Advisory Board in his or her
3 absence.

4 A "member of a minority group" shall mean a person who is a
5 citizen or lawful permanent resident of the United States and
6 who is any of the following:

7 (1) American Indian or Alaska Native (a person having
8 origins in any of the original peoples of North and South
9 America, including Central America, and who maintains
10 tribal affiliation or community attachment).

11 (2) Asian (a person having origins in any of the
12 original peoples of the Far East, Southeast Asia, or the
13 Indian subcontinent, including, but not limited to,
14 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,
15 the Philippine Islands, Thailand, and Vietnam).

16 (3) Black or African American (a person having origins
17 in any of the black racial groups of Africa). Terms such as
18 "Haitian" or "Negro" can be used in addition to "Black or
19 African American".

20 (4) Hispanic or Latino (a person of Cuban, Mexican,
21 Puerto Rican, South or Central American, or other Spanish
22 culture or origin, regardless of race).

23 (5) Native Hawaiian or Other Pacific Islander (a person
24 having origins in any of the original peoples of Hawaii,
25 Guam, Samoa, or other Pacific Islands).

26 Members of the McCormick Place Advisory Board shall serve

1 2-year terms and until their successors are appointed, except
2 members who serve as a result of their elected position whose
3 terms shall continue as long as they hold their designated
4 elected positions. Vacancies shall be filled by appointment for
5 the unexpired term in the same manner as original appointments
6 are made. The McCormick Place Advisory Board shall elect its
7 own chairperson.

8 Members of the McCormick Place Advisory Board shall serve
9 without compensation but, at the Authority's discretion, shall
10 be reimbursed for necessary expenses in connection with the
11 performance of their duties.

12 The McCormick Place Advisory Board shall meet quarterly, or
13 as needed, shall produce any reports it deems necessary, and
14 shall:

15 (1) Work with the Authority on ways to improve the area
16 physically and economically;

17 (2) Work with the Authority regarding potential means
18 for providing increased economic opportunities to
19 minorities and women produced indirectly or directly from
20 the construction and operation of the Expansion Project;

21 (3) Work with the Authority to minimize any potential
22 impact on the area surrounding the McCormick Place
23 Expansion Project, including any impact on minority-owned
24 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting
25 from the construction and operation of the Expansion
26 Project;

1 (4) Work with the Authority to find candidates for
2 building trades apprenticeships, for employment in the
3 hospitality industry, and to identify job training
4 programs;

5 (5) Work with the Authority to implement the provisions
6 of subsections (a) through (e) of this Section in the
7 construction of the Expansion Project, including the
8 Authority's goal of awarding not less than 25% and 5% of
9 the annual dollar value of contracts to minority-owned
10 ~~minority~~ and women-owned ~~female-owned~~ businesses, the
11 outreach program for minorities and women, and the
12 mentor/protege program for providing assistance to
13 minority-owned ~~minority~~ and women-owned ~~female-owned~~
14 businesses.

15 (g) The Authority shall comply with subsection (e) of
16 Section 5-42 of the Olympic Games and Paralympic Games (2016)
17 Law. For purposes of this Section, the term "games" has the
18 meaning set forth in the Olympic Games and Paralympic Games
19 (2016) Law.

20 (Source: P.A. 96-7, eff. 4-3-09; 97-396, eff. 1-1-12.)

21 Section 105. The Illinois Sports Facilities Authority Act
22 is amended by changing Section 9 as follows:

23 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

24 Sec. 9. Duties. In addition to the powers set forth

1 elsewhere in this Act, subject to the terms of any agreements
2 with the holders of the Authority's bonds or notes, the
3 Authority shall:

4 (1) Comply with all zoning, building, and land use
5 controls of the municipality within which is located any
6 stadium facility owned by the Authority or for which the
7 Authority provides financial assistance.

8 (2) With respect to a facility owned or to be owned by
9 the Authority, enter or have entered into a management
10 agreement with a tenant of the Authority to operate the
11 facility that requires the tenant to operate the facility
12 for a period at least as long as the term of any bonds
13 issued to finance the development, establishment,
14 construction, erection, acquisition, repair,
15 reconstruction, remodeling, adding to, extension,
16 improvement, equipping, operation, and maintenance of the
17 facility. Such agreement shall contain appropriate and
18 reasonable provisions with respect to termination, default
19 and legal remedies.

20 (3) With respect to a facility owned or to be owned by
21 a governmental owner other than the Authority, enter into
22 an assistance agreement with either a governmental owner of
23 a facility or its tenant, or both, that requires the
24 tenant, or if the tenant is not a party to the assistance
25 agreement requires the governmental owner to enter into an
26 agreement with the tenant that requires the tenant to use

1 the facility for a period at least as long as the term of
2 any bonds issued to finance the reconstruction,
3 renovation, remodeling, extension or improvement of all or
4 substantially all of the facility.

5 (4) Create and maintain a separate financial reserve
6 for repair and replacement of capital assets of any
7 facility owned by the Authority or for which the Authority
8 provides financial assistance and deposit into this
9 reserve not less than \$1,000,000 per year for each such
10 facility beginning at such time as the Authority and the
11 tenant, or the Authority and a governmental owner of a
12 facility, as applicable, shall agree.

13 (5) In connection with prequalification of general
14 contractors for the construction of a new stadium facility
15 or the reconstruction, renovation, remodeling, extension,
16 or improvement of all or substantially all of an existing
17 facility, the Authority shall require submission of a
18 commitment detailing how the general contractor will
19 expend 25% or more of the dollar value of the general
20 contract with one or more minority-owned businesses
21 ~~minority business enterprises~~ and 5% or more of the dollar
22 value with one or more women-owned businesses ~~female~~
23 ~~business enterprises~~. This commitment may be met by
24 contractor's status as a minority-owned businesses
25 ~~minority business enterprise~~ or women-owned businesses
26 ~~female business enterprise~~, by a joint venture or by

1 subcontracting a portion of the work with or by purchasing
2 materials for the work from one or more such businesses
3 ~~enterprises~~, or by any combination thereof. Any contract
4 with the general contractor for construction of the new
5 stadium facility and any contract for the reconstruction,
6 renovation, remodeling, adding to, extension or
7 improvement of all or substantially all of an existing
8 facility shall require the general contractor to meet the
9 foregoing obligations and shall require monthly reporting
10 to the Authority with respect to the status of the
11 implementation of the contractor's affirmative action plan
12 and compliance with that plan. This report shall be filed
13 with the General Assembly. The Authority shall establish
14 and maintain an affirmative action program designed to
15 promote equal employment opportunity which specifies the
16 goals and methods for increasing participation by
17 minorities and women in a representative mix of job
18 classifications required to perform the respective
19 contracts. The Authority shall file a report before March 1
20 of each year with the General Assembly detailing its
21 implementation of this paragraph. The terms
22 "minority-owned businesses", "women-owned businesses", and
23 "business owned by a person with a disability" have the
24 meanings given to those terms ~~The terms "minority business~~
25 ~~enterprise" and "female business enterprise" shall have~~
26 ~~the same meanings as "minority owned business" and "female~~

1 ~~owned business", respectively, as defined~~ in the Business
2 Enterprise for Minorities, Women ~~Females~~, and Persons with
3 Disabilities Act.

4 (6) Provide for the construction of any new facility
5 pursuant to one or more contracts which require delivery of
6 a completed facility at a fixed maximum price to be insured
7 or guaranteed by a third party determined by the Authority
8 to be financially capable of causing completion of such
9 construction of the new facility.

10 In connection with any assistance agreement with a
11 governmental owner that provides financial assistance for a
12 facility to be used by a National Football League team, the
13 assistance agreement shall provide that the Authority or its
14 agent shall enter into the contract or contracts for the design
15 and construction services or design/build services for such
16 facility and thereafter transfer its rights and obligations
17 under the contract or contracts to the governmental owner of
18 the facility. In seeking parties to provide design and
19 construction services or design/build services with respect to
20 such facility, the Authority may use such procurement
21 procedures as it may determine, including, without limitation,
22 the selection of design professionals and construction
23 managers or design/builders as may be required by a team that
24 is at risk, in whole or in part, for the cost of design and
25 construction of the facility.

26 An assistance agreement may not provide, directly or

1 indirectly, for the payment to the Chicago Park District of
2 more than a total of \$10,000,000 on account of the District's
3 loss of property or revenue in connection with the renovation
4 of a facility pursuant to the assistance agreement.

5 (Source: P.A. 91-935, eff. 6-1-01; 92-16, eff. 6-28-01.)

6 Section 110. The Downstate Illinois Sports Facilities
7 Authority Act is amended by changing Section 40 as follows:

8 (70 ILCS 3210/40)

9 Sec. 40. Duties.

10 (a) In addition to the powers set forth elsewhere in this
11 Act, subject to the terms of any agreements with the holders of
12 the Authority's evidences of indebtedness, the Authority shall
13 do the following:

14 (1) Comply with all zoning, building, and land use
15 controls of the municipality within which is located any
16 stadium facility owned by the Authority or for which the
17 Authority provides financial assistance.

18 (2) Enter into a loan agreement with an owner of a
19 facility to finance the acquisition, construction,
20 maintenance, or rehabilitation of the facility. The
21 agreement shall contain appropriate and reasonable
22 provisions with respect to termination, default, and legal
23 remedies. The loan may be at below-market interest rates.

24 (3) Create and maintain a financial reserve for repair

1 and replacement of capital assets.

2 (b) In a loan agreement for the construction of a new
3 facility, in connection with prequalification of general
4 contractors for construction of the facility, the Authority
5 shall require that the owner of the facility require submission
6 of a commitment detailing how the general contractor will
7 expend 25% or more of the dollar value of the general contract
8 with one or more minority-owned businesses ~~minority business~~
9 ~~enterprises~~ and 5% or more of the dollar value with one or more
10 women-owned businesses ~~female business enterprises~~. This
11 commitment may be met by contractor's status as a
12 minority-owned businesses ~~minority business enterprise~~ or
13 women-owned businesses ~~female business enterprise~~, by a joint
14 venture, or by subcontracting a portion of the work with or by
15 purchasing materials for the work from one or more such
16 businesses ~~enterprises~~, or by any combination thereof. Any
17 contract with the general contractor for construction of the
18 new facility shall require the general contractor to meet the
19 foregoing obligations and shall require monthly reporting to
20 the Authority with respect to the status of the implementation
21 of the contractor's affirmative action plan and compliance with
22 that plan. This report shall be filed with the General
23 Assembly. The Authority shall require that the facility owner
24 establish and maintain an affirmative action program designed
25 to promote equal employment opportunity and that specifies the
26 goals and methods for increasing participation by minorities

1 and women in a representative mix of job classifications
2 required to perform the respective contracts. The Authority
3 shall file a report before March 1 of each year with the
4 General Assembly detailing its implementation of this
5 subsection. The terms "minority-owned businesses ~~minority~~
6 ~~business—enterprise~~" and "women-owned businesses ~~female~~
7 ~~business—enterprise~~" have the meanings provided in the Business
8 Enterprise for Minorities, Women ~~Females~~, and Persons with
9 Disabilities Act.

10 (c) With respect to a facility owned or to be owned by the
11 Authority, enter or have entered into a management agreement
12 with a tenant of the Authority to operate the facility that
13 requires the tenant to operate the facility for a period at
14 least as long as the term of any bonds issued to finance the
15 development, establishment, construction, erection,
16 acquisition, repair, reconstruction, remodeling, adding to,
17 extension, improvement, equipping, operation, and maintenance
18 of the facility. Such agreement shall contain appropriate and
19 reasonable provisions with respect to termination, default,
20 and legal remedies.

21 (Source: P.A. 93-227, eff. 1-1-04.)

22 Section 115. The Metropolitan Transit Authority Act is
23 amended by changing Section 12c as follows:

24 (70 ILCS 3605/12c)

1 Sec. 12c. Retiree Benefits Bonds and Notes.

2 (a) In addition to all other bonds or notes that it is
3 authorized to issue, the Authority is authorized to issue its
4 bonds or notes for the purposes of providing funds for the
5 Authority to make the deposits described in Section 12c(b)(1)
6 and (2), for refunding any bonds authorized to be issued under
7 this Section, as well as for the purposes of paying costs of
8 issuance, obtaining bond insurance or other credit enhancement
9 or liquidity facilities, paying costs of obtaining related
10 swaps as authorized in the Bond Authorization Act ("Swaps"),
11 providing a debt service reserve fund, paying Debt Service (as
12 defined in paragraph (i) of this Section 12c), and paying all
13 other costs related to any such bonds or notes.

14 (b)(1) After its receipt of a certified copy of a report of
15 the Auditor General of the State of Illinois meeting the
16 requirements of Section 3-2.3 of the Illinois State Auditing
17 Act, the Authority may issue \$1,348,550,000 aggregate original
18 principal amount of bonds and notes. After payment of the costs
19 of issuance and necessary deposits to funds and accounts
20 established with respect to debt service, the net proceeds of
21 such bonds or notes shall be deposited only in the Retirement
22 Plan for Chicago Transit Authority Employees and used only for
23 the purposes required by Section 22-101 of the Illinois Pension
24 Code. Provided that no less than \$1,110,500,000 has been
25 deposited in the Retirement Plan, remaining proceeds of bonds
26 issued under this subparagraph (b)(1) may be used to pay costs

1 of issuance and make necessary deposits to funds and accounts
2 with respect to debt service for bonds and notes issued under
3 this subparagraph or subparagraph (b) (2) .

4 (2) After its receipt of a certified copy of a report of
5 the Auditor General of the State of Illinois meeting the
6 requirements of Section 3-2.3 of the Illinois State Auditing
7 Act, the Authority may issue \$639,680,000 aggregate original
8 principal amount of bonds and notes. After payment of the costs
9 of issuance and necessary deposits to funds and accounts
10 established with respect to debt service, the net proceeds of
11 such bonds or notes shall be deposited only in the Retiree
12 Health Care Trust and used only for the purposes required by
13 Section 22-101B of the Illinois Pension Code. Provided that no
14 less than \$528,800,000 has been deposited in the Retiree Health
15 Care Trust, remaining proceeds of bonds issued under this
16 subparagraph (b) (2) may be used to pay costs of issuance and
17 make necessary deposits to funds and accounts with respect to
18 debt service for bonds and notes issued under this subparagraph
19 or subparagraph (b) (1) .

20 (3) In addition, refunding bonds are authorized to be
21 issued for the purpose of refunding outstanding bonds or notes
22 issued under this Section 12c.

23 (4) The bonds or notes issued under 12c(b) (1) shall be
24 issued as soon as practicable after the Auditor General issues
25 the report provided in Section 3-2.3(b) of the Illinois State
26 Auditing Act. The bonds or notes issued under 12c(b) (2) shall

1 be issued as soon as practicable after the Auditor General
2 issues the report provided in Section 3-2.3(c) of the Illinois
3 State Auditing Act.

4 (5) With respect to bonds and notes issued under
5 subparagraph (b), scheduled aggregate annual payments of
6 interest or deposits into funds and accounts established for
7 the purpose of such payment shall commence within one year
8 after the bonds and notes are issued. With respect to principal
9 and interest, scheduled aggregate annual payments of principal
10 and interest or deposits into funds and accounts established
11 for the purpose of such payment shall be not less than 70% in
12 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled
13 payments or deposits of principal and interest in 2012 and
14 shall be substantially equal beginning in 2012 and each year
15 thereafter. For purposes of this subparagraph (b),
16 "substantially equal" means that debt service in any full year
17 after calendar year 2011 is not more than 115% of debt service
18 in any other full year after calendar year 2011 during the term
19 of the bonds or notes. For the purposes of this subsection (b),
20 with respect to bonds and notes that bear interest at a
21 variable rate, interest shall be assumed at a rate equal to the
22 rate for United States Treasury Securities - State and Local
23 Government Series for the same maturity, plus 75 basis points.
24 If the Authority enters into a Swap with a counterparty
25 requiring the Authority to pay a fixed interest rate on a
26 notional amount, and the Authority has made a determination

1 that such Swap was entered into for the purpose of providing
2 substitute interest payments for variable interest rate bonds
3 or notes of a particular maturity or maturities in a principal
4 amount equal to the notional amount of the Swap, then during
5 the term of the Swap for purposes of any calculation of
6 interest payable on such bonds or notes, the interest rate on
7 the bonds or notes of such maturity or maturities shall be
8 determined as if such bonds or notes bore interest at the fixed
9 interest rate payable by the Authority under such Swap.

10 (6) No bond or note issued under this Section 12c shall
11 mature later than December 31, 2040.

12 (c) The Chicago Transit Board shall provide for the
13 issuance of bonds or notes as authorized in this Section 12c by
14 the adoption of an ordinance. The ordinance, together with the
15 bonds or notes, shall constitute a contract among the
16 Authority, the owners from time to time of the bonds or notes,
17 any bond trustee with respect to the bonds or notes, any
18 related credit enhancer and any provider of any related Swaps.

19 (d) The Authority is authorized to cause the proceeds of
20 the bonds or notes, and any interest or investment earnings on
21 the bonds or notes, and of any Swaps, to be invested until the
22 proceeds and any interest or investment earnings have been
23 deposited with the Retirement Plan or the Retiree Health Care
24 Trust.

25 (e) Bonds or notes issued pursuant to this Section 12c may
26 be general obligations of the Authority, to which shall be

1 pledged the full faith and credit of the Authority, or may be
2 obligations payable solely from particular sources of funds all
3 as may be provided in the authorizing ordinance. The
4 authorizing ordinance for the bonds and notes, whether or not
5 general obligations of the Authority, may provide for the Debt
6 Service (as defined in paragraph (i) of this Section 12c) to
7 have a claim for payment from particular sources of funds,
8 including, without limitation, amounts to be paid to the
9 Authority or a bond trustee. The authorizing ordinance may
10 provide for the means by which the bonds or notes (and any
11 related Swaps) may be secured, which may include, a pledge of
12 any revenues or funds of the Authority from whatever source
13 which may by law be utilized for paying Debt Service. In
14 addition to any other security, upon the written approval of
15 the Regional Transportation Authority by the affirmative vote
16 of 12 of its then Directors, the ordinance may provide a
17 specific pledge or assignment of and lien on or security
18 interest in amounts to be paid to the Authority by the Regional
19 Transportation Authority and direct payment thereof to the bond
20 trustee for payment of Debt Service with respect to the bonds
21 or notes, subject to the provisions of existing lease
22 agreements of the Authority with any public building
23 commission. The authorizing ordinance may also provide a
24 specific pledge or assignment of and lien on or security
25 interest in and direct payment to the trustee of all or a
26 portion of the moneys otherwise payable to the Authority from

1 the City of Chicago pursuant to an intergovernmental agreement
2 with the Authority to provide financial assistance to the
3 Authority. Any such pledge, assignment, lien or security
4 interest for the benefit of owners of bonds or notes shall be
5 valid and binding from the time the bonds or notes are issued,
6 without any physical delivery or further act, and shall be
7 valid and binding as against and prior to the claims of all
8 other parties having claims of any kind against the Authority
9 or any other person, irrespective of whether such other parties
10 have notice of such pledge, assignment, lien or security
11 interest, all as provided in the Local Government Debt Reform
12 Act, as it may be amended from time to time. The bonds or notes
13 of the Authority issued pursuant to this Section 12c shall have
14 such priority of payment and as to their claim for payment from
15 particular sources of funds, including their priority with
16 respect to obligations of the Authority issued under other
17 Sections of this Act, all as shall be provided in the
18 ordinances authorizing the issuance of the bonds or notes. The
19 ordinance authorizing the issuance of any bonds or notes under
20 this Section may provide for the creation of, deposits in, and
21 regulation and disposition of sinking fund or reserve accounts
22 relating to those bonds or notes and related agreements. The
23 ordinance authorizing the issuance of any such bonds or notes
24 authorized under this Section 12c may contain provisions for
25 the creation of a separate fund to provide for the payment of
26 principal of and interest on those bonds or notes and related

1 agreements. The ordinance may also provide limitations on the
2 issuance of additional bonds or notes of the Authority.

3 (f) Bonds or notes issued under this Section 12c shall not
4 constitute an indebtedness of the Regional Transportation
5 Authority, the State of Illinois, or of any other political
6 subdivision of or municipality within the State, except the
7 Authority.

8 (g) The ordinance of the Chicago Transit Board authorizing
9 the issuance of bonds or notes pursuant to this Section 12c may
10 provide for the appointment of a corporate trustee (which may
11 be any trust company or bank having the powers of a trust
12 company within Illinois) with respect to bonds or notes issued
13 pursuant to this Section 12c. The ordinance shall prescribe the
14 rights, duties, and powers of the trustee to be exercised for
15 the benefit of the Authority and the protection of the owners
16 of bonds or notes issued pursuant to this Section 12c. The
17 ordinance may provide for the trustee to hold in trust, invest
18 and use amounts in funds and accounts created as provided by
19 the ordinance with respect to the bonds or notes in accordance
20 with this Section 12c. The Authority may apply, as it shall
21 determine, any amounts received upon the sale of the bonds or
22 notes to pay any Debt Service on the bonds or notes. The
23 ordinance may provide for a trust indenture to set forth terms
24 of, sources of payment for and security for the bonds and
25 notes.

26 (h) The State of Illinois pledges to and agrees with the

1 owners of the bonds or notes issued pursuant to Section 12c
2 that the State of Illinois will not limit the powers vested in
3 the Authority by this Act to pledge and assign its revenues and
4 funds as security for the payment of the bonds or notes, or
5 vested in the Regional Transportation Authority by the Regional
6 Transportation Authority Act or this Act, so as to materially
7 impair the payment obligations of the Authority under the terms
8 of any contract made by the Authority with those owners or to
9 materially impair the rights and remedies of those owners until
10 those bonds or notes, together with interest and any redemption
11 premium, and all costs and expenses in connection with any
12 action or proceedings by or on behalf of such owners are fully
13 met and discharged. The Authority is authorized to include
14 these pledges and agreements of the State of Illinois in any
15 contract with owners of bonds or notes issued pursuant to this
16 Section 12c.

17 (i) For purposes of this Section, "Debt Service" with
18 respect to bonds or notes includes, without limitation,
19 principal (at maturity or upon mandatory redemption),
20 redemption premium, interest, periodic, upfront, and
21 termination payments on Swaps, fees for bond insurance or other
22 credit enhancement, liquidity facilities, the funding of bond
23 or note reserves, bond trustee fees, and all other costs of
24 providing for the security or payment of the bonds or notes.

25 (j) The Authority shall adopt a procurement program with
26 respect to contracts relating to the following service

1 providers in connection with the issuance of debt for the
2 benefit of the Retirement Plan for Chicago Transit Authority
3 Employees: underwriters, bond counsel, financial advisors, and
4 accountants. The program shall include goals for the payment of
5 not less than 30% of the total dollar value of the fees from
6 these contracts to minority-owned ~~minority-owned~~ businesses
7 and women-owned ~~female-owned~~ businesses as defined in the
8 Business Enterprise for Minorities, Women ~~Females~~, and Persons
9 with Disabilities Act. The Authority shall conduct outreach to
10 minority-owned ~~minority-owned~~ businesses and women-owned
11 ~~female-owned~~ businesses. Outreach shall include, but is not
12 limited to, advertisements in periodicals and newspapers,
13 mailings, and other appropriate media. The Authority shall
14 submit to the General Assembly a comprehensive report that
15 shall include, at a minimum, the details of the procurement
16 plan, outreach efforts, and the results of the efforts to
17 achieve goals for the payment of fees. The service providers
18 selected by the Authority pursuant to such program shall not be
19 subject to approval by the Regional Transportation Authority,
20 and the Regional Transportation Authority's approval pursuant
21 to subsection (e) of this Section 12c related to the issuance
22 of debt shall not be based in any way on the service providers
23 selected by the Authority pursuant to this Section.

24 (k) No person holding an elective office in this State,
25 holding a seat in the General Assembly, serving as a director,
26 trustee, officer, or employee of the Regional Transportation

1 Authority or the Chicago Transit Authority, including the
2 spouse or minor child of that person, may receive a legal,
3 banking, consulting, or other fee related to the issuance of
4 any bond issued by the Chicago Transit Authority pursuant to
5 this Section.

6 (Source: P.A. 95-708, eff. 1-18-08.)

7 Section 120. The School Code is amended by changing Section
8 10-20.44 as follows:

9 (105 ILCS 5/10-20.44)

10 Sec. 10-20.44. Report on contracts.

11 (a) This Section applies to all school districts, including
12 a school district organized under Article 34 of this Code.

13 (b) A school board must list on the district's Internet
14 website, if any, all contracts over \$25,000 and any contract
15 that the school board enters into with an exclusive bargaining
16 representative.

17 (c) Each year, in conjunction with the submission of the
18 Statement of Affairs to the State Board of Education prior to
19 December 1, provided for in Section 10-17, each school district
20 shall submit to the State Board of Education an annual report
21 on all contracts over \$25,000 awarded by the school district
22 during the previous fiscal year. The report shall include at
23 least the following:

24 (1) the total number of all contracts awarded by the

1 school district;

2 (2) the total value of all contracts awarded;

3 (3) the number of contracts awarded to minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities, as defined in the Business Enterprise for
7 Minorities, Women, ~~Females~~ and Persons with Disabilities
8 Act, and locally owned businesses; and

9 (4) the total value of contracts awarded to
10 minority-owned ~~minority-owned~~ businesses, women-owned
11 ~~female-owned~~ businesses, and businesses owned by persons
12 with disabilities, as defined in the Business Enterprise
13 for Minorities, Women, ~~Females~~ and Persons with
14 Disabilities Act, and locally owned businesses.

15 The report shall be made available to the public, including
16 publication on the school district's Internet website, if any.

17 (Source: P.A. 95-707, eff. 1-11-08; 96-328, eff. 8-11-09.)

18 Section 125. The Public University Energy Conservation Act
19 is amended by changing Sections 3 and 5-10 as follows:

20 (110 ILCS 62/3)

21 Sec. 3. Applicable laws. Other State laws and related
22 administrative requirements apply to this Act, including, but
23 not limited to, the following laws and related administrative
24 requirements: the Illinois Human Rights Act, the Prevailing

1 Wage Act, the Public Construction Bond Act, the Public Works
2 Preference Act (repealed on June 16, 2010 by Public Act
3 96-929), the Employment of Illinois Workers on Public Works
4 Act, the Freedom of Information Act, the Open Meetings Act, the
5 Illinois Architecture Practice Act of 1989, the Professional
6 Engineering Practice Act of 1989, the Structural Engineering
7 Practice Act of 1989, the Architectural, Engineering, and Land
8 Surveying Qualifications Based Selection Act, the Public
9 Contract Fraud Act, the Business Enterprise for Minorities,
10 Women ~~Females~~, and Persons with Disabilities Act, and the
11 Public Works Employment Discrimination Act.

12 (Source: P.A. 97-333, eff. 8-12-11.)

13 (110 ILCS 62/5-10)

14 Sec. 5-10. Energy conservation measure.

15 (a) "Energy conservation measure" means any improvement,
16 repair, alteration, or betterment of any building or facility,
17 subject to all applicable building codes, owned or operated by
18 a public university or any equipment, fixture, or furnishing to
19 be added to or used in any such building or facility that is
20 designed to reduce energy consumption or operating costs, and
21 may include, without limitation, one or more of the following:

22 (1) Insulation of the building structure or systems
23 within the building.

24 (2) Storm windows or doors, caulking or
25 weatherstripping, multiglazed windows or doors, heat

1 absorbing or heat reflective glazed and coated window or
2 door systems, additional glazing, reductions in glass
3 area, or other window and door system modifications that
4 reduce energy consumption.

5 (3) Automated or computerized energy control systems.

6 (4) Heating, ventilating, or air conditioning system
7 modifications or replacements.

8 (5) Replacement or modification of lighting fixtures
9 to increase the energy efficiency of the lighting system
10 without increasing the overall illumination of a facility,
11 unless an increase in illumination is necessary to conform
12 to the applicable State or local building code for the
13 lighting system after the proposed modifications are made.

14 (6) Energy recovery systems.

15 (7) Energy conservation measures that provide
16 long-term operating cost reductions.

17 (b) From the effective date of this amendatory Act of the
18 96th General Assembly until January 1, 2015, "energy
19 conservation measure" includes a renewable energy center pilot
20 project at Eastern Illinois University, provided that:

21 (1) the University signs a partnership contract with a
22 qualified energy conservation measure provider as provided
23 in this Act;

24 (2) the University has responsibility for the
25 qualified provider's actions with regard to applicable
26 laws;

1 (3) the University obtains a performance bond in
2 accordance with this Act;

3 (4) the University and the qualified provider follow
4 all aspects of the Prevailing Wage Act as provided by this
5 Act;

6 (5) the University and the qualified provider use an
7 approved list of firms from the Capital Development Board
8 (CDB), unless the University requires services that are not
9 typically performed by the firms on CDB's list;

10 (6) the University provides monthly progress reports
11 to the Procurement Policy Board, and the University allows
12 a representative from CDB to monitor the project, provided
13 that such involvement is at no cost to the University;

14 (7) the University requires the qualified provider to
15 follow the provisions of the Business Enterprise for
16 Minorities, Women ~~Females~~, and Persons with Disabilities
17 Act and the Public Works Employment Discrimination Act as
18 provided in this Act;

19 (8) the University agrees to award new building
20 construction work to a responsible bidder, as defined in
21 Section 30-22 of the Illinois Procurement Code;

22 (9) the University includes in its contract with the
23 qualified provider a requirement that the qualified
24 provider name the sub-contractors that it will use, and the
25 qualified provider may not change these without the
26 University's written approval;

1 (10) the University follows, to the extent possible,
2 the Design-Build Procurement Act for construction of the
3 project, taking into consideration the current status of
4 the project; for purposes of this Act, the definition of
5 "State construction agency" in the Design-Build
6 Procurement Act means Eastern Illinois University for the
7 purpose of this project;

8 (11) the University follows, to the extent possible,
9 the Architectural, Engineering, and Land Surveying
10 Qualifications Based Selection Act;

11 (12) the University requires all engineering,
12 architecture, and design work related to the installation
13 or modification of facilities be performed by design
14 professionals licensed by the State of Illinois and
15 professional design firms registered in the State of
16 Illinois; and

17 (13) the University produces annual reports and a final
18 report describing the project upon completion and files the
19 reports with the Procurement Policy Board, CDB, and the
20 General Assembly.

21 The provisions of this subsection (b), other than this
22 sentence, are inoperative after January 1, 2015.

23 (Source: P.A. 96-16, eff. 6-22-09.)

24 (110 ILCS 320/1.1 rep.)

25 Section 130. The University of Illinois at Chicago Act is

1 amended by repealing Section 1.1.

2 Section 135. The Illinois State University Law is amended
3 by changing Section 20-115 as follows:

4 (110 ILCS 675/20-115)

5 Sec. 20-115. Illinois Institute for Entrepreneurship
6 Education.

7 (a) There is created, effective July 1, 1997, within the
8 State at Illinois State University, the Illinois Institute for
9 Entrepreneurship Education, hereinafter referred to as the
10 Institute.

11 (b) The Institute created under this Section shall commence
12 its operations on July 1, 1997 and shall have a board composed
13 of 15 members representative of education, commerce and
14 industry, government, or labor, appointed as follows: 2 members
15 shall be appointees of the Governor, one of whom shall be a
16 minority or woman ~~female~~ person as defined in Section 2 of the
17 Business Enterprise for Minorities, Women ~~Females~~, and Persons
18 with Disabilities Act; one member shall be an appointee of the
19 President of the Senate; one member shall be an appointee of
20 the Minority Leader of the Senate; one member shall be an
21 appointee of the Speaker of the House of Representatives; one
22 member shall be an appointee of the Minority Leader of the
23 House of Representatives; 2 members shall be appointees of
24 Illinois State University; one member shall be an appointee of

1 the Board of Higher Education; one member shall be an appointee
2 of the State Board of Education; one member shall be an
3 appointee of the Department of Commerce and Economic
4 Opportunity; one member shall be an appointee of the Illinois
5 chapter of Economics America; and 3 members shall be appointed
6 by majority vote of the other 12 appointed members to represent
7 business owner-entrepreneurs. Each member shall have expertise
8 and experience in the area of entrepreneurship education,
9 including small business and entrepreneurship. The majority of
10 voting members must be from the private sector. The members
11 initially appointed to the board of the Institute created under
12 this Section shall be appointed to take office on July 1, 1997
13 and shall by lot determine the length of their respective terms
14 as follows: 5 members shall be selected by lot to serve terms
15 of one year, 5 members shall be selected by lot to serve terms
16 of 2 years, and 5 members shall be selected by lot to serve
17 terms of 3 years. Subsequent appointees shall each serve terms
18 of 3 years. The board shall annually select a chairperson from
19 among its members. Each board member shall serve without
20 compensation but shall be reimbursed for expenses incurred in
21 the performance of his or her duties.

22 (c) The purpose of the Institute shall be to foster the
23 growth and development of entrepreneurship education in the
24 State of Illinois. The Institute shall help remedy the
25 deficiencies in the preparation of entrepreneurship education
26 teachers, increase the quality and quantity of

1 entrepreneurship education programs, improve instructional
2 materials, and prepare personnel to serve as leaders and
3 consultants in the field of entrepreneurship education and
4 economic development. The Institute shall promote
5 entrepreneurship as a career option, promote and support the
6 development of innovative entrepreneurship education materials
7 and delivery systems, promote business, industry, and
8 education partnerships, promote collaboration and involvement
9 in entrepreneurship education programs, encourage and support
10 in-service and preservice teacher education programs within
11 various educational systems, and develop and distribute
12 relevant materials. The Institute shall provide a framework
13 under which the public and private sectors may work together
14 toward entrepreneurship education goals. These goals shall be
15 achieved by bringing together programs that have an impact on
16 entrepreneurship education to achieve coordination among
17 agencies and greater efficiency in the expenditure of funds.

18 (d) Beginning July 1, 1997, the Institute shall have the
19 following powers subject to State and Illinois State University
20 Board of Trustees regulations and guidelines:

21 (1) To employ and determine the compensation of an
22 executive director and such staff as it deems necessary;

23 (2) To own property and expend and receive funds and
24 generate funds;

25 (3) To enter into agreements with public and private
26 entities in the furtherance of its purpose; and

1 (4) To request and receive the cooperation and
2 assistance of all State departments and agencies in the
3 furtherance of its purpose.

4 (e) The board of the Institute shall be a policy making
5 body with the responsibility for planning and developing
6 Institute programs. The Institute, through the Board of
7 Trustees of Illinois State University, shall annually report to
8 the Governor and General Assembly by January 31 as to its
9 activities and operations, including its findings and
10 recommendations.

11 (f) Beginning on July 1, 1997, the Institute created under
12 this Section shall be deemed designated by law as the successor
13 to the Illinois Institute for Entrepreneurship Education,
14 previously created and existing under Section 2-11.5 of the
15 Public Community College Act until its abolition on July 1,
16 1997 as provided in that Section. On July 1, 1997, all
17 financial and other records of the Institute so abolished and
18 all of its property, whether real or personal, including but
19 not limited to all inventory and equipment, shall be deemed
20 transferred by operation of law to the Illinois Institute for
21 Entrepreneurship Education created under this Section 20-115.
22 The Illinois Institute for Entrepreneurship Education created
23 under this Section 20-115 shall have, with respect to the
24 predecessor Institute so abolished, all authority, powers, and
25 duties of a successor agency under Section 10-15 of the
26 Successor Agency Act.

1 (Source: P.A. 94-793, eff. 5-19-06.)

2 Section 140. The Public Utilities Act is amended by
3 changing Section 9-220 as follows:

4 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

5 Sec. 9-220. Rate changes based on changes in fuel costs.

6 (a) Notwithstanding the provisions of Section 9-201, the
7 Commission may authorize the increase or decrease of rates and
8 charges based upon changes in the cost of fuel used in the
9 generation or production of electric power, changes in the cost
10 of purchased power, or changes in the cost of purchased gas
11 through the application of fuel adjustment clauses or purchased
12 gas adjustment clauses. The Commission may also authorize the
13 increase or decrease of rates and charges based upon
14 expenditures or revenues resulting from the purchase or sale of
15 emission allowances created under the federal Clean Air Act
16 Amendments of 1990, through such fuel adjustment clauses, as a
17 cost of fuel. For the purposes of this paragraph, cost of fuel
18 used in the generation or production of electric power shall
19 include the amount of any fees paid by the utility for the
20 implementation and operation of a process for the
21 desulfurization of the flue gas when burning high sulfur coal
22 at any location within the State of Illinois irrespective of
23 the attainment status designation of such location; but shall
24 not include transportation costs of coal (i) except to the

1 extent that for contracts entered into on and after the
2 effective date of this amendatory Act of 1997, the cost of the
3 coal, including transportation costs, constitutes the lowest
4 cost for adequate and reliable fuel supply reasonably available
5 to the public utility in comparison to the cost, including
6 transportation costs, of other adequate and reliable sources of
7 fuel supply reasonably available to the public utility, or (ii)
8 except as otherwise provided in the next 3 sentences of this
9 paragraph. Such costs of fuel shall, when requested by a
10 utility or at the conclusion of the utility's next general
11 electric rate proceeding, whichever shall first occur, include
12 transportation costs of coal purchased under existing coal
13 purchase contracts. For purposes of this paragraph "existing
14 coal purchase contracts" means contracts for the purchase of
15 coal in effect on the effective date of this amendatory Act of
16 1991, as such contracts may thereafter be amended, but only to
17 the extent that any such amendment does not increase the
18 aggregate quantity of coal to be purchased under such contract.
19 Nothing herein shall authorize an electric utility to recover
20 through its fuel adjustment clause any amounts of
21 transportation costs of coal that were included in the revenue
22 requirement used to set base rates in its most recent general
23 rate proceeding. Cost shall be based upon uniformly applied
24 accounting principles. Annually, the Commission shall initiate
25 public hearings to determine whether the clauses reflect actual
26 costs of fuel, gas, power, or coal transportation purchased to

1 determine whether such purchases were prudent, and to reconcile
2 any amounts collected with the actual costs of fuel, power,
3 gas, or coal transportation prudently purchased. In each such
4 proceeding, the burden of proof shall be upon the utility to
5 establish the prudence of its cost of fuel, power, gas, or coal
6 transportation purchases and costs. The Commission shall issue
7 its final order in each such annual proceeding for an electric
8 utility by December 31 of the year immediately following the
9 year to which the proceeding pertains, provided, that the
10 Commission shall issue its final order with respect to such
11 annual proceeding for the years 1996 and earlier by December
12 31, 1998.

13 (b) A public utility providing electric service, other than
14 a public utility described in subsections (e) or (f) of this
15 Section, may at any time during the mandatory transition period
16 file with the Commission proposed tariff sheets that eliminate
17 the public utility's fuel adjustment clause and adjust the
18 public utility's base rate tariffs by the amount necessary for
19 the base fuel component of the base rates to recover the public
20 utility's average fuel and power supply costs per kilowatt-hour
21 for the 2 most recent years for which the Commission has issued
22 final orders in annual proceedings pursuant to subsection (a),
23 where the average fuel and power supply costs per kilowatt-hour
24 shall be calculated as the sum of the public utility's prudent
25 and allowable fuel and power supply costs as found by the
26 Commission in the 2 proceedings divided by the public utility's

1 actual jurisdictional kilowatt-hour sales for those 2 years.
2 Notwithstanding any contrary or inconsistent provisions in
3 Section 9-201 of this Act, in subsection (a) of this Section or
4 in any rules or regulations promulgated by the Commission
5 pursuant to subsection (g) of this Section, the Commission
6 shall review and shall by order approve, or approve as
7 modified, the proposed tariff sheets within 60 days after the
8 date of the public utility's filing. The Commission may modify
9 the public utility's proposed tariff sheets only to the extent
10 the Commission finds necessary to achieve conformance to the
11 requirements of this subsection (b). During the 5 years
12 following the date of the Commission's order, but in any event
13 no earlier than January 1, 2007, a public utility whose fuel
14 adjustment clause has been eliminated pursuant to this
15 subsection shall not file proposed tariff sheets seeking, or
16 otherwise petition the Commission for, reinstatement of a fuel
17 adjustment clause.

18 (c) Notwithstanding any contrary or inconsistent
19 provisions in Section 9-201 of this Act, in subsection (a) of
20 this Section or in any rules or regulations promulgated by the
21 Commission pursuant to subsection (g) of this Section, a public
22 utility providing electric service, other than a public utility
23 described in subsection (e) or (f) of this Section, may at any
24 time during the mandatory transition period file with the
25 Commission proposed tariff sheets that establish the rate per
26 kilowatt-hour to be applied pursuant to the public utility's

1 fuel adjustment clause at the average value for such rate
2 during the preceding 24 months, provided that such average rate
3 results in a credit to customers' bills, without making any
4 revisions to the public utility's base rate tariffs. The
5 proposed tariff sheets shall establish the fuel adjustment rate
6 for a specific time period of at least 3 years but not more
7 than 5 years, provided that the terms and conditions for any
8 reinstatement earlier than 5 years shall be set forth in the
9 proposed tariff sheets and subject to modification or approval
10 by the Commission. The Commission shall review and shall by
11 order approve the proposed tariff sheets if it finds that the
12 requirements of this subsection are met. The Commission shall
13 not conduct the annual hearings specified in the last 3
14 sentences of subsection (a) of this Section for the utility for
15 the period that the factor established pursuant to this
16 subsection is in effect.

17 (d) A public utility providing electric service, or a
18 public utility providing gas service may file with the
19 Commission proposed tariff sheets that eliminate the public
20 utility's fuel or purchased gas adjustment clause and adjust
21 the public utility's base rate tariffs to provide for recovery
22 of power supply costs or gas supply costs that would have been
23 recovered through such clause; provided, that the provisions of
24 this subsection (d) shall not be available to a public utility
25 described in subsections (e) or (f) of this Section to
26 eliminate its fuel adjustment clause. Notwithstanding any

1 contrary or inconsistent provisions in Section 9-201 of this
2 Act, in subsection (a) of this Section, or in any rules or
3 regulations promulgated by the Commission pursuant to
4 subsection (g) of this Section, the Commission shall review and
5 shall by order approve, or approve as modified in the
6 Commission's order, the proposed tariff sheets within 240 days
7 after the date of the public utility's filing. The Commission's
8 order shall approve rates and charges that the Commission,
9 based on information in the public utility's filing or on the
10 record if a hearing is held by the Commission, finds will
11 recover the reasonable, prudent and necessary jurisdictional
12 power supply costs or gas supply costs incurred or to be
13 incurred by the public utility during a 12 month period found
14 by the Commission to be appropriate for these purposes,
15 provided, that such period shall be either (i) a 12 month
16 historical period occurring during the 15 months ending on the
17 date of the public utility's filing, or (ii) a 12 month future
18 period ending no later than 15 months following the date of the
19 public utility's filing. The public utility shall include with
20 its tariff filing information showing both (1) its actual
21 jurisdictional power supply costs or gas supply costs for a 12
22 month historical period conforming to (i) above and (2) its
23 projected jurisdictional power supply costs or gas supply costs
24 for a future 12 month period conforming to (ii) above. If the
25 Commission's order requires modifications in the tariff sheets
26 filed by the public utility, the public utility shall have 7

1 days following the date of the order to notify the Commission
2 whether the public utility will implement the modified tariffs
3 or elect to continue its fuel or purchased gas adjustment
4 clause in force as though no order had been entered. The
5 Commission's order shall provide for any reconciliation of
6 power supply costs or gas supply costs, as the case may be, and
7 associated revenues through the date that the public utility's
8 fuel or purchased gas adjustment clause is eliminated. During
9 the 5 years following the date of the Commission's order, a
10 public utility whose fuel or purchased gas adjustment clause
11 has been eliminated pursuant to this subsection shall not file
12 proposed tariff sheets seeking, or otherwise petition the
13 Commission for, reinstatement or adoption of a fuel or
14 purchased gas adjustment clause. Nothing in this subsection (d)
15 shall be construed as limiting the Commission's authority to
16 eliminate a public utility's fuel adjustment clause or
17 purchased gas adjustment clause in accordance with any other
18 applicable provisions of this Act.

19 (e) Notwithstanding any contrary or inconsistent
20 provisions in Section 9-201 of this Act, in subsection (a) of
21 this Section, or in any rules promulgated by the Commission
22 pursuant to subsection (g) of this Section, a public utility
23 providing electric service to more than 1,000,000 customers in
24 this State may, within the first 6 months after the effective
25 date of this amendatory Act of 1997, file with the Commission
26 proposed tariff sheets that eliminate, effective January 1,

1 1997, the public utility's fuel adjustment clause without
2 adjusting its base rates, and such tariff sheets shall be
3 effective upon filing. To the extent the application of the
4 fuel adjustment clause had resulted in net charges to customers
5 after January 1, 1997, the utility shall also file a tariff
6 sheet that provides for a refund stated on a per kilowatt-hour
7 basis of such charges over a period not to exceed 6 months;
8 provided however, that such refund shall not include the
9 proportional amounts of taxes paid under the Use Tax Act,
10 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
11 Occupation Tax Act on fuel used in generation. The Commission
12 shall issue an order within 45 days after the date of the
13 public utility's filing approving or approving as modified such
14 tariff sheet. If the fuel adjustment clause is eliminated
15 pursuant to this subsection, the Commission shall not conduct
16 the annual hearings specified in the last 3 sentences of
17 subsection (a) of this Section for the utility for any period
18 after December 31, 1996 and prior to any reinstatement of such
19 clause. A public utility whose fuel adjustment clause has been
20 eliminated pursuant to this subsection shall not file a
21 proposed tariff sheet seeking, or otherwise petition the
22 Commission for, reinstatement of the fuel adjustment clause
23 prior to January 1, 2007.

24 (f) Notwithstanding any contrary or inconsistent
25 provisions in Section 9-201 of this Act, in subsection (a) of
26 this Section, or in any rules or regulations promulgated by the

1 Commission pursuant to subsection (g) of this Section, a public
2 utility providing electric service to more than 500,000
3 customers but fewer than 1,000,000 customers in this State may,
4 within the first 6 months after the effective date of this
5 amendatory Act of 1997, file with the Commission proposed
6 tariff sheets that eliminate, effective January 1, 1997, the
7 public utility's fuel adjustment clause and adjust its base
8 rates by the amount necessary for the base fuel component of
9 the base rates to recover 91% of the public utility's average
10 fuel and power supply costs for the 2 most recent years for
11 which the Commission, as of January 1, 1997, has issued final
12 orders in annual proceedings pursuant to subsection (a), where
13 the average fuel and power supply costs per kilowatt-hour shall
14 be calculated as the sum of the public utility's prudent and
15 allowable fuel and power supply costs as found by the
16 Commission in the 2 proceedings divided by the public utility's
17 actual jurisdictional kilowatt-hour sales for those 2 years,
18 provided, that such tariff sheets shall be effective upon
19 filing. To the extent the application of the fuel adjustment
20 clause had resulted in net charges to customers after January
21 1, 1997, the utility shall also file a tariff sheet that
22 provides for a refund stated on a per kilowatt-hour basis of
23 such charges over a period not to exceed 6 months. Provided
24 however, that such refund shall not include the proportional
25 amounts of taxes paid under the Use Tax Act, Service Use Tax
26 Act, Service Occupation Tax Act, and Retailers' Occupation Tax

1 Act on fuel used in generation. The Commission shall issue an
2 order within 45 days after the date of the public utility's
3 filing approving or approving as modified such tariff sheet. If
4 the fuel adjustment clause is eliminated pursuant to this
5 subsection, the Commission shall not conduct the annual
6 hearings specified in the last 3 sentences of subsection (a) of
7 this Section for the utility for any period after December 31,
8 1996 and prior to any reinstatement of such clause. A public
9 utility whose fuel adjustment clause has been eliminated
10 pursuant to this subsection shall not file a proposed tariff
11 sheet seeking, or otherwise petition the Commission for,
12 reinstatement of the fuel adjustment clause prior to January 1,
13 2007.

14 (g) The Commission shall have authority to promulgate rules
15 and regulations to carry out the provisions of this Section.

16 (h) Any Illinois gas utility may enter into a contract on
17 or before September 30, 2011 for up to 10 years of supply with
18 any company for the purchase of substitute natural gas (SNG)
19 produced from coal through the gasification process if the
20 company has commenced construction of a clean coal SNG facility
21 by July 1, 2012 and commencement of construction shall mean
22 that material physical site work has occurred, such as site
23 clearing and excavation, water runoff prevention, water
24 retention reservoir preparation, or foundation development.
25 The contract shall contain the following provisions: (i) at
26 least 90% of feedstock to be used in the gasification process

1 shall be coal with a high volatile bituminous rank and greater
2 than 1.7 pounds of sulfur per million Btu content; (ii) at the
3 time the contract term commences, the price per million Btu may
4 not exceed \$7.95 in 2008 dollars, adjusted annually based on
5 the change in the Annual Consumer Price Index for All Urban
6 Consumers for the Midwest Region as published in April by the
7 United States Department of Labor, Bureau of Labor Statistics
8 (or a suitable Consumer Price Index calculation if this
9 Consumer Price Index is not available) for the previous
10 calendar year; provided that the price per million Btu shall
11 not exceed \$9.95 at any time during the contract; (iii) the
12 utility's supply contract for the purchase of SNG does not
13 exceed 15% of the annual system supply requirements of the
14 utility as of 2008; and (iv) the contract costs pursuant to
15 subsection (h-10) of this Section shall not include any
16 lobbying expenses, charitable contributions, advertising,
17 organizational memberships, carbon dioxide pipeline or
18 sequestration expenses, or marketing expenses.

19 Any gas utility that is providing service to more than
20 150,000 customers on August 2, 2011 (the effective date of
21 Public Act 97-239) shall either elect to enter into a contract
22 on or before September 30, 2011 for 10 years of SNG supply with
23 the owner of a clean coal SNG facility or to file biennial rate
24 proceedings before the Commission in the years 2012, 2014, and
25 2016, with such filings made after August 2, 2011 and no later
26 than September 30 of the years 2012, 2014, and 2016 consistent

1 with all requirements of 83 Ill. Adm. Code 255 and 285 as
2 though the gas utility were filing for an increase in its
3 rates, without regard to whether such filing would produce an
4 increase, a decrease, or no change in the gas utility's rates,
5 and the Commission shall review the gas utility's filing and
6 shall issue its order in accordance with the provisions of
7 Section 9-201 of this Act.

8 Within 7 days after August 2, 2011, the owner of the clean
9 coal SNG facility shall submit to the Illinois Power Agency and
10 each gas utility that is providing service to more than 150,000
11 customers on August 2, 2011 a copy of a draft contract. Within
12 30 days after the receipt of the draft contract, each such gas
13 utility shall provide the Illinois Power Agency and the owner
14 of the clean coal SNG facility with its comments and
15 recommended revisions to the draft contract. Within 7 days
16 after the receipt of the gas utility's comments and recommended
17 revisions, the owner of the facility shall submit its
18 responsive comments and a further revised draft of the contract
19 to the Illinois Power Agency. The Illinois Power Agency shall
20 review the draft contract and comments.

21 During its review of the draft contract, the Illinois Power
22 Agency shall:

23 (1) review and confirm in writing that the terms stated
24 in this subsection (h) are incorporated in the SNG
25 contract;

26 (2) review the SNG pricing formula included in the

1 contract and approve that formula if the Illinois Power
2 Agency determines that the formula, at the time the
3 contract term commences: (A) starts with a price of \$6.50
4 per MMBtu adjusted by the adjusted final capitalized plant
5 cost; (B) takes into account budgeted miscellaneous net
6 revenue after cost allowance, including sale of SNG
7 produced by the clean coal SNG facility above the nameplate
8 capacity of the facility and other by-products produced by
9 the facility, as approved by the Illinois Power Agency; (C)
10 does not include carbon dioxide transportation or
11 sequestration expenses; and (D) includes all provisions
12 required under this subsection (h); if the Illinois Power
13 Agency does not approve of the SNG pricing formula, then
14 the Illinois Power Agency shall modify the formula to
15 ensure that it meets the requirements of this subsection
16 (h);

17 (3) review and approve the amount of budgeted
18 miscellaneous net revenue after cost allowance, including
19 sale of SNG produced by the clean coal SNG facility above
20 the nameplate capacity of the facility and other
21 by-products produced by the facility, to be included in the
22 pricing formula; the Illinois Power Agency shall approve
23 the amount of budgeted miscellaneous net revenue to be
24 included in the pricing formula if it determines the
25 budgeted amount to be reasonable and accurate;

26 (4) review and confirm in writing that using the EIA

1 Annual Energy Outlook-2011 Henry Hub Spot Price, the
2 contract terms set out in subsection (h), the
3 reconciliation account terms as set out in subsection
4 (h-15), and an estimated inflation rate of 2.5% for each
5 corresponding year, that there will be no cumulative
6 estimated increase for residential customers; and

7 (5) allocate the nameplate capacity of the clean coal
8 SNG by total therms sold to ultimate customers by each gas
9 utility in 2008; provided, however, no utility shall be
10 required to purchase more than 42% of the projected annual
11 output of the facility; additionally, the Illinois Power
12 Agency shall further adjust the allocation only as required
13 to take into account (A) adverse consolidation,
14 derivative, or lease impacts to the balance sheet or income
15 statement of any gas utility or (B) the physical capacity
16 of the gas utility to accept SNG.

17 If the parties to the contract do not agree on the terms
18 therein, then the Illinois Power Agency shall retain an
19 independent mediator to mediate the dispute between the
20 parties. If the parties are in agreement on the terms of the
21 contract, then the Illinois Power Agency shall approve the
22 contract. If after mediation the parties have failed to come to
23 agreement, then the Illinois Power Agency shall revise the
24 draft contract as necessary to confirm that the contract
25 contains only terms that are reasonable and equitable. The
26 Illinois Power Agency may, in its discretion, retain an

1 independent, qualified, and experienced expert to assist in its
2 obligations under this subsection (h). The Illinois Power
3 Agency shall adopt and make public policies detailing the
4 processes for retaining a mediator and an expert under this
5 subsection (h). Any mediator or expert retained under this
6 subsection (h) shall be retained no later than 60 days after
7 August 2, 2011.

8 The Illinois Power Agency shall complete all of its
9 responsibilities under this subsection (h) within 60 days after
10 August 2, 2011. The clean coal SNG facility shall pay a
11 reasonable fee as required by the Illinois Power Agency for its
12 services under this subsection (h) and shall pay the mediator's
13 and expert's reasonable fees, if any. A gas utility and its
14 customers shall have no obligation to reimburse the clean coal
15 SNG facility or the Illinois Power Agency of any such costs.

16 Within 30 days after commercial production of SNG has
17 begun, the Commission shall initiate a review to determine
18 whether the final capitalized plant cost of the clean coal SNG
19 facility reflects actual incurred costs and whether the
20 incurred costs were reasonable. In determining the actual
21 incurred costs included in the final capitalized plant cost and
22 the reasonableness of those costs, the Commission may in its
23 discretion retain independent, qualified, and experienced
24 experts to assist in its determination. The expert shall not
25 own or control any direct or indirect interest in the clean
26 coal SNG facility and shall have no contractual relationship

1 with the clean coal SNG facility. If an expert is retained by
2 the Commission, then the clean coal SNG facility shall pay the
3 expert's reasonable fees. The fees shall not be passed on to a
4 utility or its customers. The Commission shall adopt and make
5 public a policy detailing the process for retaining experts
6 under this subsection (h).

7 Within 30 days after completion of its review, the
8 Commission shall initiate a formal proceeding on the final
9 capitalized plant cost of the clean coal SNG facility at which
10 comments and testimony may be submitted by any interested
11 parties and the public. If the Commission finds that the final
12 capitalized plant cost includes costs that were not actually
13 incurred or costs that were unreasonably incurred, then the
14 Commission shall disallow the amount of non-incurred or
15 unreasonable costs from the SNG price under contracts entered
16 into under this subsection (h). If the Commission disallows any
17 costs, then the Commission shall adjust the SNG price using the
18 price formula in the contract approved by the Illinois Power
19 Agency under this subsection (h) to reflect the disallowed
20 costs and shall enter an order specifying the revised price. In
21 addition, the Commission's order shall direct the clean coal
22 SNG facility to issue refunds of such sums as shall represent
23 the difference between actual gross revenues and the gross
24 revenue that would have been obtained based upon the same
25 volume, from the price revised by the Commission. Any refund
26 shall include interest calculated at a rate determined by the

1 Commission and shall be returned according to procedures
2 prescribed by the Commission.

3 Nothing in this subsection (h) shall preclude any party
4 affected by a decision of the Commission under this subsection
5 (h) from seeking judicial review of the Commission's decision.

6 (h-1) Any Illinois gas utility may enter into a sourcing
7 agreement for up to 30 years of supply with the clean coal SNG
8 brownfield facility if the clean coal SNG brownfield facility
9 has commenced construction. Any gas utility that is providing
10 service to more than 150,000 customers on July 13, 2011 (the
11 effective date of Public Act 97-096) shall either elect to file
12 biennial rate proceedings before the Commission in the years
13 2012, 2014, and 2016 or enter into a sourcing agreement or
14 sourcing agreements with a clean coal SNG brownfield facility
15 with an initial term of 30 years for either (i) a percentage of
16 43,500,000,000 cubic feet per year, such that the utilities
17 entering into sourcing agreements with the clean coal SNG
18 brownfield facility purchase 100%, allocated by total therms
19 sold to ultimate customers by each gas utility in 2008 or (ii)
20 such lesser amount as may be available from the clean coal SNG
21 brownfield facility; provided that no utility shall be required
22 to purchase more than 42% of the projected annual output of the
23 clean coal SNG brownfield facility, with the remainder of such
24 utility's obligation to be divided proportionately between the
25 other utilities, and provided that the Illinois Power Agency
26 shall further adjust the allocation only as required to take

1 into account adverse consolidation, derivative, or lease
2 impacts to the balance sheet or income statement of any gas
3 utility.

4 A gas utility electing to file biennial rate proceedings
5 before the Commission must file a notice of its election with
6 the Commission within 60 days after July 13, 2011 or its right
7 to make the election is irrevocably waived. A gas utility
8 electing to file biennial rate proceedings shall make such
9 filings no later than August 1 of the years 2012, 2014, and
10 2016, consistent with all requirements of 83 Ill. Adm. Code 255
11 and 285 as though the gas utility were filing for an increase
12 in its rates, without regard to whether such filing would
13 produce an increase, a decrease, or no change in the gas
14 utility's rates, and notwithstanding any other provisions of
15 this Act, the Commission shall fully review the gas utility's
16 filing and shall issue its order in accordance with the
17 provisions of Section 9-201 of this Act, regardless of whether
18 the Commission has approved a formula rate for the gas utility.

19 Within 15 days after July 13, 2011, the owner of the clean
20 coal SNG brownfield facility shall submit to the Illinois Power
21 Agency and each gas utility that is providing service to more
22 than 150,000 customers on July 13, 2011 a copy of a draft
23 sourcing agreement. Within 45 days after receipt of the draft
24 sourcing agreement, each such gas utility shall provide the
25 Illinois Power Agency and the owner of a clean coal SNG
26 brownfield facility with its comments and recommended

1 revisions to the draft sourcing agreement. Within 15 days after
2 the receipt of the gas utility's comments and recommended
3 revisions, the owner of the clean coal SNG brownfield facility
4 shall submit its responsive comments and a further revised
5 draft of the sourcing agreement to the Illinois Power Agency.
6 The Illinois Power Agency shall review the draft sourcing
7 agreement and comments.

8 If the parties to the sourcing agreement do not agree on
9 the terms therein, then the Illinois Power Agency shall retain
10 an independent mediator to mediate the dispute between the
11 parties. If the parties are in agreement on the terms of the
12 sourcing agreement, the Illinois Power Agency shall approve the
13 final draft sourcing agreement. If after mediation the parties
14 have failed to come to agreement, then the Illinois Power
15 Agency shall revise the draft sourcing agreement as necessary
16 to confirm that the final draft sourcing agreement contains
17 only terms that are reasonable and equitable. The Illinois
18 Power Agency shall adopt and make public a policy detailing the
19 process for retaining a mediator under this subsection (h-1).
20 Any mediator retained to assist with mediating disputes between
21 the parties regarding the sourcing agreement shall be retained
22 no later than 60 days after July 13, 2011.

23 Upon approval of a final draft agreement, the Illinois
24 Power Agency shall submit the final draft agreement to the
25 Capital Development Board and the Commission no later than 90
26 days after July 13, 2011. The gas utility and the clean coal

1 SNG brownfield facility shall pay a reasonable fee as required
2 by the Illinois Power Agency for its services under this
3 subsection (h-1) and shall pay the mediator's reasonable fees,
4 if any. The Illinois Power Agency shall adopt and make public a
5 policy detailing the process for retaining a mediator under
6 this Section.

7 The sourcing agreement between a gas utility and the clean
8 coal SNG brownfield facility shall contain the following
9 provisions:

10 (1) Any and all coal used in the gasification process
11 must be coal that has high volatile bituminous rank and
12 greater than 1.7 pounds of sulfur per million Btu content.

13 (2) Coal and petroleum coke are feedstocks for the
14 gasification process, with coal comprising at least 50% of
15 the total feedstock over the term of the sourcing agreement
16 unless the facility reasonably determines that it is
17 necessary to use additional petroleum coke to deliver net
18 consumer savings, in which case the facility shall use coal
19 for at least 35% of the total feedstock over the term of
20 any sourcing agreement and with the feedstocks to be
21 procured in accordance with requirements of Section 1-78 of
22 the Illinois Power Agency Act.

23 (3) The sourcing agreement has an initial term that
24 once entered into terminates no more than 30 years after
25 the commencement of the commercial production of SNG at the
26 clean coal SNG brownfield facility.

1 (4) The clean coal SNG brownfield facility guarantees a
2 minimum of \$100,000,000 in consumer savings to customers of
3 the utilities that have entered into sourcing agreements
4 with the clean coal SNG brownfield facility, calculated in
5 real 2010 dollars at the conclusion of the term of the
6 sourcing agreement by comparing the delivered SNG price to
7 the Chicago City-gate price on a weighted daily basis for
8 each day over the entire term of the sourcing agreement, to
9 be provided in accordance with subsection (h-2) of this
10 Section.

11 (5) Prior to the clean coal SNG brownfield facility
12 issuing a notice to proceed to construction, the clean coal
13 SNG brownfield facility shall establish a consumer
14 protection reserve account for the benefit of the customers
15 of the utilities that have entered into sourcing agreements
16 with the clean coal SNG brownfield facility pursuant to
17 this subsection (h-1), with cash principal in the amount of
18 \$150,000,000. This cash principal shall only be
19 recoverable through the consumer protection reserve
20 account and not as a cost to be recovered in the delivered
21 SNG price pursuant to subsection (h-3) of this Section. The
22 consumer protection reserve account shall be maintained
23 and administered by an independent trustee that is mutually
24 agreed upon by the clean coal SNG brownfield facility, the
25 utilities, and the Commission in an interest-bearing
26 account in accordance with subsection (h-2) of this

1 Section.

2 "Consumer protection reserve account principal maximum
3 amount" shall mean the maximum amount of principal to be
4 maintained in the consumer protection reserve account.
5 During the first 2 years of operation of the facility,
6 there shall be no consumer protection reserve account
7 maximum amount. After the first 2 years of operation of the
8 facility, the consumer protection reserve account maximum
9 amount shall be \$150,000,000. After 5 years of operation,
10 and every 5 years thereafter, the trustee shall calculate
11 the 5-year average balance of the consumer protection
12 reserve account. If the trustee determines that during the
13 prior 5 years the consumer protection reserve account has
14 had an average account balance of less than \$75,000,000,
15 then the consumer protection reserve account principal
16 maximum amount shall be increased by \$5,000,000. If the
17 trustee determines that during the prior 5 years the
18 consumer protection reserve account has had an average
19 account balance of more than \$75,000,000, then the consumer
20 protection reserve account principal maximum amount shall
21 be decreased by \$5,000,000.

22 (6) The clean coal SNG brownfield facility shall
23 identify and sell economically viable by-products produced
24 by the facility.

25 (7) Fifty percent of all additional net revenue,
26 defined as miscellaneous net revenue from products

1 produced by the facility and delivered during the month
2 after cost allowance for costs associated with additional
3 net revenue that are not otherwise recoverable pursuant to
4 subsection (h-3) of this Section, including net revenue
5 from sales of substitute natural gas derived from the
6 facility above the nameplate capacity of the facility and
7 other by-products produced by the facility, shall be
8 credited to the consumer protection reserve account
9 pursuant to subsection (h-2) of this Section.

10 (8) The delivered SNG price per million btu to be paid
11 monthly by the utility to the clean coal SNG brownfield
12 facility, which shall be based only upon the following: (A)
13 a capital recovery charge, operations and maintenance
14 costs, and sequestration costs, only to the extent approved
15 by the Commission pursuant to paragraphs (1), (2), and (3)
16 of subsection (h-3) of this Section; (B) the actual
17 delivered and processed fuel costs pursuant to paragraph
18 (4) of subsection (h-3) of this Section; (C) actual costs
19 of SNG transportation pursuant to paragraph (6) of
20 subsection (h-3) of this Section; (D) certain taxes and
21 fees imposed by the federal government, the State, or any
22 unit of local government as provided in paragraph (6) of
23 subsection (h-3) of this Section; and (E) the credit, if
24 any, from the consumer protection reserve account pursuant
25 to subsection (h-2) of this Section. The delivered SNG
26 price per million Btu shall proportionately reflect these

1 elements over the term of the sourcing agreement.

2 (9) A formula to translate the recoverable costs and
3 charges under subsection (h-3) of this Section into the
4 delivered SNG price per million btu.

5 (10) Title to the SNG shall pass at a mutually
6 agreeable point in Illinois, and may provide that, rather
7 than the utility taking title to the SNG, a mutually agreed
8 upon third-party gas marketer pursuant to a contract
9 approved by the Illinois Power Agency or its designee may
10 take title to the SNG pursuant to an agreement between the
11 utility, the owner of the clean coal SNG brownfield
12 facility, and the third-party gas marketer.

13 (11) A utility may exit the sourcing agreement without
14 penalty if the clean coal SNG brownfield facility does not
15 commence construction by July 1, 2015.

16 (12) A utility is responsible to pay only the
17 Commission determined unit price cost of SNG that is
18 purchased by the utility. Nothing in the sourcing agreement
19 will obligate a utility to invest capital in a clean coal
20 SNG brownfield facility.

21 (13) The quality of SNG must, at a minimum, be
22 equivalent to the quality required for interstate pipeline
23 gas before a utility is required to accept and pay for SNG
24 gas.

25 (14) Nothing in the sourcing agreement will require a
26 utility to construct any facilities to accept delivery of

1 SNG. Provided, however, if a utility is required by law or
2 otherwise elects to connect the clean coal SNG brownfield
3 facility to an interstate pipeline, then the utility shall
4 be entitled to recover pursuant to its tariffs all just and
5 reasonable costs that are prudently incurred. Any costs
6 incurred by the utility to receive, deliver, manage, or
7 otherwise accommodate purchases under the SNG sourcing
8 agreement will be fully recoverable through a utility's
9 purchased gas adjustment clause rider mechanism in
10 conjunction with a SNG brownfield facility rider
11 mechanism. The SNG brownfield facility rider mechanism (A)
12 shall be applicable to all customers who receive
13 transportation service from the utility, (B) shall be
14 designed to have an equal percent impact on the
15 transportation services rates of each class of the
16 utility's customers, and (C) shall accurately reflect the
17 net consumer savings, if any, and above-market costs, if
18 any, associated with the utility receiving, delivering,
19 managing, or otherwise accommodating purchases under the
20 SNG sourcing agreement.

21 (15) Remedies for the clean coal SNG brownfield
22 facility's failure to deliver a designated amount for a
23 designated period.

24 (16) The clean coal SNG brownfield facility shall make
25 a good faith effort to ensure that an amount equal to not
26 less than 15% of the value of its prime construction

1 contract for the facility shall be established as a goal to
2 be awarded to minority-owned ~~minority-owned~~ businesses,
3 women-owned ~~female-owned~~ businesses, and businesses owned
4 by a person with a disability; provided that at least 75%
5 of the amount of such total goal shall be for
6 minority-owned ~~minority-owned~~ businesses. "Minority-owned
7 ~~Minority-owned~~ business", "women-owned ~~female-owned~~
8 business", and "business owned by a person with a
9 disability" shall have the meanings ascribed to them in
10 Section 2 of the Business Enterprise for Minorities, Women,
11 ~~Females~~ and Persons with Disabilities Act.

12 (17) Prior to the clean coal SNG brownfield facility
13 issuing a notice to proceed to construction, the clean coal
14 SNG brownfield facility shall file with the Commission a
15 certificate from an independent engineer that the clean
16 coal SNG brownfield facility has (A) obtained all
17 applicable State and federal environmental permits
18 required for construction; (B) obtained approval from the
19 Commission of a carbon capture and sequestration plan; and
20 (C) obtained all necessary permits required for
21 construction for the transportation and sequestration of
22 carbon dioxide as set forth in the Commission-approved
23 carbon capture and sequestration plan.

24 (h-2) Consumer protection reserve account. The clean coal
25 SNG brownfield facility shall guarantee a minimum of
26 \$100,000,000 in consumer savings to customers of the utilities

1 that have entered into sourcing agreements with the clean coal
2 SNG brownfield facility, calculated in real 2010 dollars at the
3 conclusion of the term of the sourcing agreement by comparing
4 the delivered SNG price to the Chicago City-gate price on a
5 weighted daily basis for each day over the entire term of the
6 sourcing agreement. Prior to the clean coal SNG brownfield
7 facility issuing a notice to proceed to construction, the clean
8 coal SNG brownfield facility shall establish a consumer
9 protection reserve account for the benefit of the retail
10 customers of the utilities that have entered into sourcing
11 agreements with the clean coal SNG brownfield facility pursuant
12 to subsection (h-1), with cash principal in the amount of
13 \$150,000,000. Such cash principal shall only be recovered
14 through the consumer protection reserve account and not as a
15 cost to be recovered in the delivered SNG price pursuant to
16 subsection (h-3) of this Section. The consumer protection
17 reserve account shall be maintained and administered by an
18 independent trustee that is mutually agreed upon by the clean
19 coal SNG brownfield facility, the utilities, and the Commission
20 in an interest-bearing account in accordance with the
21 following:

22 (1) The clean coal SNG brownfield facility monthly
23 shall calculate (A) the difference between the monthly
24 delivered SNG price and the Chicago City-gate price, by
25 comparing the delivered SNG price, which shall include the
26 cost of transportation to the delivery point, if any, to

1 the Chicago City-gate price on a weighted daily basis for
2 each day of the prior month based upon a mutually agreed
3 upon published index and (B) the overage amount, if any, by
4 calculating the annualized incremental additional cost, if
5 any, of the delivered SNG in excess of 2.015% of the
6 average annual inflation-adjusted amounts paid by all gas
7 distribution customers in connection with natural gas
8 service during the 5 years ending May 31, 2010.

9 (2) During the first 2 years of operation of the
10 facility:

11 (A) to the extent there is an overage amount, the
12 consumer protection reserve account shall be used to
13 provide a credit to reduce the SNG price by an amount
14 equal to the overage amount; and

15 (B) to the extent the monthly delivered SNG price
16 is less than or equal to the Chicago City-gate price,
17 the utility shall credit the difference between the
18 monthly delivered SNG price and the monthly Chicago
19 City-gate price, if any, to the consumer protection
20 reserve account. Such credit issued pursuant to this
21 paragraph (B) shall be deemed prudent and reasonable
22 and not subject to a Commission prudence review;

23 (3) After 2 years of operation of the facility, and
24 monthly, on an on-going basis, thereafter:

25 (A) to the extent that the monthly delivered SNG
26 price is less than or equal to the Chicago City-gate

1 price, calculated using the weighted average of the
2 daily Chicago City-gate price on a daily basis over the
3 entire month, the utility shall credit the difference,
4 if any, to the consumer protection reserve account.
5 Such credit issued pursuant to this subparagraph (A)
6 shall be deemed prudent and reasonable and not subject
7 to a Commission prudence review;

8 (B) any amounts in the consumer protection reserve
9 account in excess of the consumer protection reserve
10 account principal maximum amount shall be distributed
11 as follows: (i) if retail customers have not realized
12 net consumer savings, calculated by comparing the
13 delivered SNG price to the weighted average of the
14 daily Chicago City-gate price on a daily basis over the
15 entire term of the sourcing agreement to date, then 50%
16 of any amounts in the consumer protection reserve
17 account in excess of the consumer protection reserve
18 account principal maximum shall be distributed to the
19 clean coal SNG brownfield facility, with the remaining
20 50% of any such additional amounts being credited to
21 retail customers, and (ii) if retail customers have
22 realized net consumer savings, then 100% of any amounts
23 in the consumer protection reserve account in excess of
24 the consumer protection reserve account principal
25 maximum shall be distributed to the clean coal SNG
26 brownfield facility; provided, however, that under no

1 circumstances shall the total cumulative amount
2 distributed to the clean coal SNG brownfield facility
3 under this subparagraph (B) exceed \$150,000,000;

4 (C) to the extent there is an overage amount, after
5 distributing the amounts pursuant to subparagraph (B)
6 of this paragraph (3), if any, the consumer protection
7 reserve account shall be used to provide a credit to
8 reduce the SNG price by an amount equal to the overage
9 amount;

10 (D) if retail customers have realized net consumer
11 savings, calculated by comparing the delivered SNG
12 price to the weighted average of the daily Chicago
13 City-gate price on a daily basis over the entire term
14 of the sourcing agreement to date, then after
15 distributing the amounts pursuant to subparagraphs (B)
16 and (C) of this paragraph (3), 50% of any additional
17 amounts in the consumer protection reserve account in
18 excess of the consumer protection reserve account
19 principal maximum shall be distributed to the clean
20 coal SNG brownfield facility, with the remaining 50% of
21 any such additional amounts being credited to retail
22 customers; provided, however, that if retail customers
23 have not realized such net consumer savings, no such
24 distribution shall be made to the clean coal SNG
25 brownfield facility, and 100% of such additional
26 amounts shall be credited to the retail customers to

1 the extent the consumer protection reserve account
2 exceeds the consumer protection reserve account
3 principal maximum amount.

4 (4) Fifty percent of all additional net revenue,
5 defined as miscellaneous net revenue after cost allowance
6 for costs associated with additional net revenue that are
7 not otherwise recoverable pursuant to subsection (h-3) of
8 this Section, including net revenue from sales of
9 substitute natural gas derived from the facility above the
10 nameplate capacity of the facility and other by-products
11 produced by the facility, shall be credited to the consumer
12 protection reserve account.

13 (5) At the conclusion of the term of the sourcing
14 agreement, to the extent retail customers have not saved
15 the minimum of \$100,000,000 in consumer savings as
16 guaranteed in this subsection (h-2), amounts in the
17 consumer protection reserve account shall be credited to
18 retail customers to the extent the retail customers have
19 saved the minimum of \$100,000,000; 50% of any additional
20 amounts in the consumer protection reserve account shall be
21 distributed to the company, and the remaining 50% shall be
22 distributed to retail customers.

23 (6) If, at the conclusion of the term of the sourcing
24 agreement, the customers have not saved the minimum
25 \$100,000,000 in savings as guaranteed in this subsection
26 (h-2) and the consumer protection reserve account has been

1 depleted, then the clean coal SNG brownfield facility shall
2 be liable for any remaining amount owed to the retail
3 customers to the extent that the customers are provided
4 with the \$100,000,000 in savings as guaranteed in this
5 subsection (h-2). The retail customers shall have first
6 priority in recovering that debt above any creditors,
7 except the original senior secured lender to the extent
8 that the original senior secured lender has any senior
9 secured debt outstanding, including any clean coal SNG
10 brownfield facility parent companies or affiliates.

11 (7) The clean coal SNG brownfield facility, the
12 utilities, and the trustee shall work together to take
13 commercially reasonable steps to minimize the tax impact of
14 these transactions, while preserving the consumer
15 benefits.

16 (8) The clean coal SNG brownfield facility shall each
17 month, starting in the facility's first year of commercial
18 operation, file with the Commission, in such form as the
19 Commission shall require, a report as to the consumer
20 protection reserve account. The monthly report must
21 contain the following information:

22 (A) the extent the monthly delivered SNG price is
23 greater than, less than, or equal to the Chicago
24 City-gate price;

25 (B) the amount credited or debited to the consumer
26 protection reserve account during the month;

1 (C) the amounts credited to consumers and
2 distributed to the clean coal SNG brownfield facility
3 during the month;

4 (D) the total amount of the consumer protection
5 reserve account at the beginning and end of the month;

6 (E) the total amount of consumer savings to date;

7 (F) a confidential summary of the inputs used to
8 calculate the additional net revenue; and

9 (G) any other additional information the
10 Commission shall require.

11 When any report is erroneous or defective or appears to
12 the Commission to be erroneous or defective, the Commission
13 may notify the clean coal SNG brownfield facility to amend
14 the report within 30 days, and, before or after the
15 termination of the 30-day period, the Commission may
16 examine the trustee of the consumer protection reserve
17 account or the officers, agents, employees, books,
18 records, or accounts of the clean coal SNG brownfield
19 facility and correct such items in the report as upon such
20 examination the Commission may find defective or
21 erroneous. All reports shall be under oath.

22 All reports made to the Commission by the clean coal
23 SNG brownfield facility and the contents of the reports
24 shall be open to public inspection and shall be deemed a
25 public record under the Freedom of Information Act. Such
26 reports shall be preserved in the office of the Commission.

1 The Commission shall publish an annual summary of the
2 reports prior to February 1 of the following year. The
3 annual summary shall be made available to the public on the
4 Commission's website and shall be submitted to the General
5 Assembly.

6 Any facility that fails to file a report required under
7 this paragraph (8) to the Commission within the time
8 specified or to make specific answer to any question
9 propounded by the Commission within 30 days from the time
10 it is lawfully required to do so, or within such further
11 time not to exceed 90 days as may in its discretion be
12 allowed by the Commission, shall pay a penalty of \$500 to
13 the Commission for each day it is in default.

14 Any person who willfully makes any false report to the
15 Commission or to any member, officer, or employee thereof,
16 any person who willfully in a report withholds or fails to
17 provide material information to which the Commission is
18 entitled under this paragraph (8) and which information is
19 either required to be filed by statute, rule, regulation,
20 order, or decision of the Commission or has been requested
21 by the Commission, and any person who willfully aids or
22 abets such person shall be guilty of a Class A misdemeanor.

23 (h-3) Recoverable costs and revenue by the clean coal SNG
24 brownfield facility.

25 (1) A capital recovery charge approved by the
26 Commission shall be recoverable by the clean coal SNG

1 brownfield facility under a sourcing agreement. The
2 capital recovery charge shall be comprised of capital costs
3 and a reasonable rate of return. "Capital costs" means
4 costs to be incurred in connection with the construction
5 and development of a facility, as defined in Section 1-10
6 of the Illinois Power Agency Act, and such other costs as
7 the Capital Development Board deems appropriate to be
8 recovered in the capital recovery charge.

9 (A) Capital costs. The Capital Development Board
10 shall calculate a range of capital costs that it
11 believes would be reasonable for the clean coal SNG
12 brownfield facility to recover under the sourcing
13 agreement. In making this determination, the Capital
14 Development Board shall review the facility cost
15 report, if any, of the clean coal SNG brownfield
16 facility, adjusting the results based on the change in
17 the Annual Consumer Price Index for All Urban Consumers
18 for the Midwest Region as published in April by the
19 United States Department of Labor, Bureau of Labor
20 Statistics, the final draft of the sourcing agreement,
21 and the rate of return approved by the Commission. In
22 addition, the Capital Development Board may consult as
23 much as it deems necessary with the clean coal SNG
24 brownfield facility and conduct whatever research and
25 investigation it deems necessary.

26 The Capital Development Board shall retain an

1 engineering expert to assist in determining both the
2 range of capital costs and the range of operations and
3 maintenance costs that it believes would be reasonable
4 for the clean coal SNG brownfield facility to recover
5 under the sourcing agreement. Provided, however, that
6 such expert shall: (i) not have been involved in the
7 clean coal SNG brownfield facility's facility cost
8 report, if any, (ii) not own or control any direct or
9 indirect interest in the initial clean coal facility,
10 and (iii) have no contractual relationship with the
11 clean coal SNG brownfield facility. In order to qualify
12 as an independent expert, a person or company must
13 have:

14 (i) direct previous experience conducting
15 front-end engineering and design studies for
16 large-scale energy facilities and administering
17 large-scale energy operations and maintenance
18 contracts, which may be particularized to the
19 specific type of financing associated with the
20 clean coal SNG brownfield facility;

21 (ii) an advanced degree in economics,
22 mathematics, engineering, or a related area of
23 study;

24 (iii) ten years of experience in the energy
25 sector, including construction and risk management
26 experience;

1 (iv) expertise in assisting companies with
2 obtaining financing for large-scale energy
3 projects, which may be particularized to the
4 specific type of financing associated with the
5 clean coal SNG brownfield facility;

6 (v) expertise in operations and maintenance
7 which may be particularized to the specific type of
8 operations and maintenance associated with the
9 clean coal SNG brownfield facility;

10 (vi) expertise in credit and contract
11 protocols;

12 (vii) adequate resources to perform and
13 fulfill the required functions and
14 responsibilities; and

15 (viii) the absence of a conflict of interest
16 and inappropriate bias for or against an affected
17 gas utility or the clean coal SNG brownfield
18 facility.

19 The clean coal SNG brownfield facility and the
20 Illinois Power Agency shall cooperate with the Capital
21 Development Board in any investigation it deems
22 necessary. The Capital Development Board shall make
23 its final determination of the range of capital costs
24 confidentially and shall submit that range to the
25 Commission in a confidential filing within 120 days
26 after July 13, 2011 (the effective date of Public Act

1 97-096). The clean coal SNG brownfield facility shall
2 submit to the Commission its estimate of the capital
3 costs to be recovered under the sourcing agreement.
4 Only after the clean coal SNG brownfield facility has
5 submitted this estimate shall the Commission publicly
6 announce the range of capital costs submitted by the
7 Capital Development Board.

8 In the event that the estimate submitted by the
9 clean coal SNG brownfield facility is within or below
10 the range submitted by the Capital Development Board,
11 the clean coal SNG brownfield facility's estimate
12 shall be approved by the Commission as the amount of
13 capital costs to be recovered under the sourcing
14 agreement. In the event that the estimate submitted by
15 the clean coal SNG brownfield facility is above the
16 range submitted by the Capital Development Board, the
17 amount of capital costs at the lowest end of the range
18 submitted by the Capital Development Board shall be
19 approved by the Commission as the amount of capital
20 costs to be recovered under the sourcing agreement.
21 Within 15 days after the Capital Development Board has
22 submitted its range and the clean coal SNG brownfield
23 facility has submitted its estimate, the Commission
24 shall approve the capital costs for the clean coal SNG
25 brownfield facility.

26 The Capital Development Board shall monitor the

1 construction of the clean coal SNG brownfield facility
2 for the full duration of construction to assess
3 potential cost overruns. The Capital Development
4 Board, in its discretion, may retain an expert to
5 facilitate such monitoring. The clean coal SNG
6 brownfield facility shall pay a reasonable fee as
7 required by the Capital Development Board for the
8 Capital Development Board's services under this
9 subsection (h-3) to be deposited into the Capital
10 Development Board Revolving Fund, and such fee shall
11 not be passed through to a utility or its customers. If
12 an expert is retained by the Capital Development Board
13 for monitoring of construction, then the clean coal SNG
14 brownfield facility must pay for the expert's
15 reasonable fees and such costs shall not be passed
16 through to a utility or its customers.

17 (B) Rate of Return. No later than 30 days after the
18 date on which the Illinois Power Agency submits a final
19 draft sourcing agreement, the Commission shall hold a
20 public hearing to determine the rate of return to be
21 recovered under the sourcing agreement. Rate of return
22 shall be comprised of the clean coal SNG brownfield
23 facility's actual cost of debt, including
24 mortgage-style amortization, and a reasonable return
25 on equity. The Commission shall post notice of the
26 hearing on its website no later than 10 days prior to

1 the date of the hearing. The Commission shall provide
2 the public and all interested parties, including the
3 gas utilities, the Attorney General, and the Illinois
4 Power Agency, an opportunity to be heard.

5 In determining the return on equity, the
6 Commission shall select a commercially reasonable
7 return on equity taking into account the return on
8 equity being received by developers of similar
9 facilities in or outside of Illinois, the need to
10 balance an incentive for clean-coal technology with
11 the need to protect ratepayers from high gas prices,
12 the risks being borne by the clean coal SNG brownfield
13 facility in the final draft sourcing agreement, and any
14 other information that the Commission may deem
15 relevant. The Commission may establish a return on
16 equity that varies with the amount of savings, if any,
17 to customers during the term of the sourcing agreement,
18 comparing the delivered SNG price to a daily weighted
19 average price of natural gas, based upon an index. The
20 Illinois Power Agency shall recommend a return on
21 equity to the Commission using the same criteria.
22 Within 60 days after receiving the final draft sourcing
23 agreement from the Illinois Power Agency, the
24 Commission shall approve the rate of return for the
25 clean coal brownfield facility. Within 30 days after
26 obtaining debt financing for the clean coal SNG

1 brownfield facility, the clean coal SNG brownfield
2 facility shall file a notice with the Commission
3 identifying the actual cost of debt.

4 (2) Operations and maintenance costs approved by the
5 Commission shall be recoverable by the clean coal SNG
6 brownfield facility under the sourcing agreement. The
7 operations and maintenance costs mean costs that have been
8 incurred for the administration, supervision, operation,
9 maintenance, preservation, and protection of the clean
10 coal SNG brownfield facility's physical plant.

11 The Capital Development Board shall calculate a range
12 of operations and maintenance costs that it believes would
13 be reasonable for the clean coal SNG brownfield facility to
14 recover under the sourcing agreement, incorporating an
15 inflation index or combination of inflation indices to most
16 accurately reflect the actual costs of operating the clean
17 coal SNG brownfield facility. In making this
18 determination, the Capital Development Board shall review
19 the facility cost report, if any, of the clean coal SNG
20 brownfield facility, adjusting the results for inflation
21 based on the change in the Annual Consumer Price Index for
22 All Urban Consumers for the Midwest Region as published in
23 April by the United States Department of Labor, Bureau of
24 Labor Statistics, the final draft of the sourcing
25 agreement, and the rate of return approved by the
26 Commission. In addition, the Capital Development Board may

1 consult as much as it deems necessary with the clean coal
2 SNG brownfield facility and conduct whatever research and
3 investigation it deems necessary. As set forth in
4 subparagraph (A) of paragraph (1) of this subsection (h-3),
5 the Capital Development Board shall retain an independent
6 engineering expert to assist in determining both the range
7 of operations and maintenance costs that it believes would
8 be reasonable for the clean coal SNG brownfield facility to
9 recover under the sourcing agreement. The clean coal SNG
10 brownfield facility and the Illinois Power Agency shall
11 cooperate with the Capital Development Board in any
12 investigation it deems necessary. The Capital Development
13 Board shall make its final determination of the range of
14 operations and maintenance costs confidentially and shall
15 submit that range to the Commission in a confidential
16 filing within 120 days after July 13, 2011.

17 The clean coal SNG brownfield facility shall submit to
18 the Commission its estimate of the operations and
19 maintenance costs to be recovered under the sourcing
20 agreement. Only after the clean coal SNG brownfield
21 facility has submitted this estimate shall the Commission
22 publicly announce the range of operations and maintenance
23 costs submitted by the Capital Development Board. In the
24 event that the estimate submitted by the clean coal SNG
25 brownfield facility is within or below the range submitted
26 by the Capital Development Board, the clean coal SNG

1 brownfield facility's estimate shall be approved by the
2 Commission as the amount of operations and maintenance
3 costs to be recovered under the sourcing agreement. In the
4 event that the estimate submitted by the clean coal SNG
5 brownfield facility is above the range submitted by the
6 Capital Development Board, the amount of operations and
7 maintenance costs at the lowest end of the range submitted
8 by the Capital Development Board shall be approved by the
9 Commission as the amount of operations and maintenance
10 costs to be recovered under the sourcing agreement. Within
11 15 days after the Capital Development Board has submitted
12 its range and the clean coal SNG brownfield facility has
13 submitted its estimate, the Commission shall approve the
14 operations and maintenance costs for the clean coal SNG
15 brownfield facility.

16 The clean coal SNG brownfield facility shall pay for
17 the independent engineering expert's reasonable fees and
18 such costs shall not be passed through to a utility or its
19 customers. The clean coal SNG brownfield facility shall pay
20 a reasonable fee as required by the Capital Development
21 Board for the Capital Development Board's services under
22 this subsection (h-3) to be deposited into the Capital
23 Development Board Revolving Fund, and such fee shall not be
24 passed through to a utility or its customers.

25 (3) Sequestration costs approved by the Commission
26 shall be recoverable by the clean coal SNG brownfield

1 facility. "Sequestration costs" means costs to be incurred
2 by the clean coal SNG brownfield facility in accordance
3 with its Commission-approved carbon capture and
4 sequestration plan to:

5 (A) capture carbon dioxide;

6 (B) build, operate, and maintain a sequestration
7 site in which carbon dioxide may be injected;

8 (C) build, operate, and maintain a carbon dioxide
9 pipeline; and

10 (D) transport the carbon dioxide to the
11 sequestration site or a pipeline.

12 The Commission shall assess the prudence of the
13 sequestration costs for the clean coal SNG brownfield
14 facility before construction commences at the
15 sequestration site or pipeline. Any revenues the clean coal
16 SNG brownfield facility receives as a result of the
17 capture, transportation, or sequestration of carbon
18 dioxide shall be first credited against all sequestration
19 costs, with the positive balance, if any, treated as
20 additional net revenue.

21 The Commission may, in its discretion, retain an expert
22 to assist in its review of sequestration costs. The clean
23 coal SNG brownfield facility shall pay for the expert's
24 reasonable fees if an expert is retained by the Commission,
25 and such costs shall not be passed through to a utility or
26 its customers. Once made, the Commission's determination

1 of the amount of recoverable sequestration costs shall not
2 be increased unless the clean coal SNG brownfield facility
3 can show by clear and convincing evidence that (i) the
4 costs were not reasonably foreseeable; (ii) the costs were
5 due to circumstances beyond the clean coal SNG brownfield
6 facility's control; and (iii) the clean coal SNG brownfield
7 facility took all reasonable steps to mitigate the costs.
8 If the Commission determines that sequestration costs may
9 be increased, the Commission shall provide for notice and a
10 public hearing for approval of the increased sequestration
11 costs.

12 (4) Actual delivered and processed fuel costs shall be
13 set by the Illinois Power Agency through a SNG feedstock
14 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
15 the Illinois Power Agency Act, to be performed at least
16 every 5 years and purchased by the clean coal SNG
17 brownfield facility pursuant to feedstock procurement
18 contracts developed by the Illinois Power Agency, with coal
19 comprising at least 50% of the total feedstock over the
20 term of the sourcing agreement and petroleum coke
21 comprising the remainder of the SNG feedstock. If the
22 Commission fails to approve a feedstock procurement plan or
23 fails to approve the results of a feedstock procurement
24 event, then the fuel shall be purchased by the company
25 month-by-month on the spot market and those actual
26 delivered and processed fuel costs shall be recoverable

1 under the sourcing agreement. If a supplier defaults under
2 the terms of a procurement contract, then the Illinois
3 Power Agency shall immediately initiate a feedstock
4 procurement process to obtain a replacement supply, and,
5 prior to the conclusion of that process, fuel shall be
6 purchased by the company month-by-month on the spot market
7 and those actual delivered and processed fuel costs shall
8 be recoverable under the sourcing agreement.

9 (5) Taxes and fees imposed by the federal government,
10 the State, or any unit of local government applicable to
11 the clean coal SNG brownfield facility, excluding income
12 tax, shall be recoverable by the clean coal SNG brownfield
13 facility under the sourcing agreement to the extent such
14 taxes and fees were not applicable to the facility on July
15 13, 2011.

16 (6) The actual transportation costs, in accordance
17 with the applicable utility's tariffs, and third-party
18 marketer costs incurred by the company, if any, associated
19 with transporting the SNG from the clean coal SNG
20 brownfield facility to the Chicago City-gate to sell such
21 SNG into the natural gas markets shall be recoverable under
22 the sourcing agreement.

23 (7) Unless otherwise provided, within 30 days after a
24 decision of the Commission on recoverable costs under this
25 Section, any interested party to the Commission's decision
26 may apply for a rehearing with respect to the decision. The

1 Commission shall receive and consider the application for
2 rehearing and shall grant or deny the application in whole
3 or in part within 20 days after the date of the receipt of
4 the application by the Commission. If no rehearing is
5 applied for within the required 30 days or an application
6 for rehearing is denied, then the Commission decision shall
7 be final. If an application for rehearing is granted, then
8 the Commission shall hold a rehearing within 30 days after
9 granting the application. The decision of the Commission
10 upon rehearing shall be final.

11 Any person affected by a decision of the Commission
12 under this subsection (h-3) may have the decision reviewed
13 only under and in accordance with the Administrative Review
14 Law. Unless otherwise provided, the provisions of the
15 Administrative Review Law, all amendments and
16 modifications to that Law, and the rules adopted pursuant
17 to that Law shall apply to and govern all proceedings for
18 the judicial review of final administrative decisions of
19 the Commission under this subsection (h-3). The term
20 "administrative decision" is defined as in Section 3-101 of
21 the Code of Civil Procedure.

22 (8) The Capital Development Board shall adopt and make
23 public a policy detailing the process for retaining experts
24 under this Section. Any experts retained to assist with
25 calculating the range of capital costs or operations and
26 maintenance costs shall be retained no later than 45 days

1 after July 13, 2011.

2 (h-4) No later than 90 days after the Illinois Power Agency
3 submits the final draft sourcing agreement pursuant to
4 subsection (h-1), the Commission shall approve a sourcing
5 agreement containing (i) the capital costs, rate of return, and
6 operations and maintenance costs established pursuant to
7 subsection (h-3) and (ii) all other terms and conditions,
8 rights, provisions, exceptions, and limitations contained in
9 the final draft sourcing agreement; provided, however, the
10 Commission shall correct typographical and scrivener's errors
11 and modify the contract only as necessary to provide that the
12 gas utility does not have the right to terminate the sourcing
13 agreement due to any future events that may occur other than
14 the clean coal SNG brownfield facility's failure to timely meet
15 milestones, uncured default, extended force majeure, or
16 abandonment. Once the sourcing agreement is approved, then the
17 gas utility subject to that sourcing agreement shall have 45
18 days after the date of the Commission's approval to enter into
19 the sourcing agreement.

20 (h-5) Sequestration enforcement.

21 (A) All contracts entered into under subsection (h) of
22 this Section and all sourcing agreements under subsection
23 (h-1) of this Section, regardless of duration, shall
24 require the owner of any facility supplying SNG under the
25 contract or sourcing agreement to provide certified
26 documentation to the Commission each year, starting in the

1 facility's first year of commercial operation, accurately
2 reporting the quantity of carbon dioxide emissions from the
3 facility that have been captured and sequestered and
4 reporting any quantities of carbon dioxide released from
5 the site or sites at which carbon dioxide emissions were
6 sequestered in prior years, based on continuous monitoring
7 of those sites.

8 (B) If, in any year, the owner of the clean coal SNG
9 facility fails to demonstrate that the SNG facility
10 captured and sequestered at least 90% of the total carbon
11 dioxide emissions that the facility would otherwise emit or
12 that sequestration of emissions from prior years has
13 failed, resulting in the release of carbon dioxide into the
14 atmosphere, then the owner of the clean coal SNG facility
15 must pay a penalty of \$20 per ton of excess carbon dioxide
16 emissions not to exceed \$40,000,000, in any given year
17 which shall be deposited into the Energy Efficiency Trust
18 Fund and distributed pursuant to subsection (b) of Section
19 6-6 of the Renewable Energy, Energy Efficiency, and Coal
20 Resources Development Law of 1997. On or before the 5-year
21 anniversary of the execution of the contract and every 5
22 years thereafter, an expert hired by the owner of the
23 facility with the approval of the Attorney General shall
24 conduct an analysis to determine the cost of sequestration
25 of at least 90% of the total carbon dioxide emissions the
26 plant would otherwise emit. If the analysis shows that the

1 actual annual cost is greater than the penalty, then the
2 penalty shall be increased to equal the actual cost.
3 Provided, however, to the extent that the owner of the
4 facility described in subsection (h) of this Section can
5 demonstrate that the failure was as a result of acts of God
6 (including fire, flood, earthquake, tornado, lightning,
7 hurricane, or other natural disaster); any amendment,
8 modification, or abrogation of any applicable law or
9 regulation that would prevent performance; war; invasion;
10 act of foreign enemies; hostilities (regardless of whether
11 war is declared); civil war; rebellion; revolution;
12 insurrection; military or usurped power or confiscation;
13 terrorist activities; civil disturbance; riots;
14 nationalization; sabotage; blockage; or embargo, the owner
15 of the facility described in subsection (h) of this Section
16 shall not be subject to a penalty if and only if (i) it
17 promptly provides notice of its failure to the Commission;
18 (ii) as soon as practicable and consistent with any order
19 or direction from the Commission, it submits to the
20 Commission proposed modifications to its carbon capture
21 and sequestration plan; and (iii) it carries out its
22 proposed modifications in the manner and time directed by
23 the Commission.

24 If the Commission finds that the facility has not
25 satisfied each of these requirements, then the facility
26 shall be subject to the penalty. If the owner of the clean

1 coal SNG facility captured and sequestered more than 90% of
2 the total carbon dioxide emissions that the facility would
3 otherwise emit, then the owner of the facility may credit
4 such additional amounts to reduce the amount of any future
5 penalty to be paid. The penalty resulting from the failure
6 to capture and sequester at least the minimum amount of
7 carbon dioxide shall not be passed on to a utility or its
8 customers.

9 If the clean coal SNG facility fails to meet the
10 requirements specified in this subsection (h-5), then the
11 Attorney General, on behalf of the People of the State of
12 Illinois, shall bring an action to enforce the obligations
13 related to the facility set forth in this subsection (h-5),
14 including any penalty payments owed, but not including the
15 physical obligation to capture and sequester at least 90%
16 of the total carbon dioxide emissions that the facility
17 would otherwise emit. Such action may be filed in any
18 circuit court in Illinois. By entering into a contract
19 pursuant to subsection (h) of this Section, the clean coal
20 SNG facility agrees to waive any objections to venue or to
21 the jurisdiction of the court with regard to the Attorney
22 General's action under this subsection (h-5).

23 Compliance with the sequestration requirements and any
24 penalty requirements specified in this subsection (h-5)
25 for the clean coal SNG facility shall be assessed annually
26 by the Commission, which may in its discretion retain an

1 expert to facilitate its assessment. If any expert is
2 retained by the Commission, then the clean coal SNG
3 facility shall pay for the expert's reasonable fees, and
4 such costs shall not be passed through to the utility or
5 its customers.

6 In addition, carbon dioxide emission credits received
7 by the clean coal SNG facility in connection with
8 sequestration of carbon dioxide from the facility must be
9 sold in a timely fashion with any revenue, less applicable
10 fees and expenses and any expenses required to be paid by
11 facility for carbon dioxide transportation or
12 sequestration, deposited into the reconciliation account
13 within 30 days after receipt of such funds by the owner of
14 the clean coal SNG facility.

15 The clean coal SNG facility is prohibited from
16 transporting or sequestering carbon dioxide unless the
17 owner of the carbon dioxide pipeline that transfers the
18 carbon dioxide from the facility and the owner of the
19 sequestration site where the carbon dioxide captured by the
20 facility is stored has acquired all applicable permits
21 under applicable State and federal laws, statutes, rules,
22 or regulations prior to the transfer or sequestration of
23 carbon dioxide. The responsibility for compliance with the
24 sequestration requirements specified in this subsection
25 (h-5) for the clean coal SNG facility shall reside solely
26 with the clean coal SNG facility, regardless of whether the

1 facility has contracted with another party to capture,
2 transport, or sequester carbon dioxide.

3 (C) If, in any year, the owner of a clean coal SNG
4 brownfield facility fails to demonstrate that the clean
5 coal SNG brownfield facility captured and sequestered at
6 least 85% of the total carbon dioxide emissions that the
7 facility would otherwise emit, then the owner of the clean
8 coal SNG brownfield facility must pay a penalty of \$20 per
9 ton of excess carbon emissions up to \$20,000,000, which
10 shall be deposited into the Energy Efficiency Trust Fund
11 and distributed pursuant to subsection (b) of Section 6-6
12 of the Renewable Energy, Energy Efficiency, and Coal
13 Resources Development Law of 1997. Provided, however, to
14 the extent that the owner of the clean coal SNG brownfield
15 facility can demonstrate that the failure was as a result
16 of acts of God (including fire, flood, earthquake, tornado,
17 lightning, hurricane, or other natural disaster); any
18 amendment, modification, or abrogation of any applicable
19 law or regulation that would prevent performance; war;
20 invasion; act of foreign enemies; hostilities (regardless
21 of whether war is declared); civil war; rebellion;
22 revolution; insurrection; military or usurped power or
23 confiscation; terrorist activities; civil disturbances;
24 riots; nationalization; sabotage; blockage; or embargo,
25 the owner of the clean coal SNG brownfield facility shall
26 not be subject to a penalty if and only if (i) it promptly

1 provides notice of its failure to the Commission; (ii) as
2 soon as practicable and consistent with any order or
3 direction from the Commission, it submits to the Commission
4 proposed modifications to its carbon capture and
5 sequestration plan; and (iii) it carries out its proposed
6 modifications in the manner and time directed by the
7 Commission. If the Commission finds that the facility has
8 not satisfied each of these requirements, then the facility
9 shall be subject to the penalty. If the owner of a clean
10 coal SNG brownfield facility demonstrates that the clean
11 coal SNG brownfield facility captured and sequestered more
12 than 85% of the total carbon emissions that the facility
13 would otherwise emit, the owner of the clean coal SNG
14 brownfield facility may credit such additional amounts to
15 reduce the amount of any future penalty to be paid. The
16 penalty resulting from the failure to capture and sequester
17 at least the minimum amount of carbon dioxide shall not be
18 passed on to a utility or its customers.

19 In addition to any penalty for the clean coal SNG
20 brownfield facility's failure to capture and sequester at
21 least its minimum sequestration requirement, the Attorney
22 General, on behalf of the People of the State of Illinois,
23 shall bring an action for specific performance of this
24 subsection (h-5). Such action may be filed in any circuit
25 court in Illinois. By entering into a sourcing agreement
26 pursuant to subsection (h-1) of this Section, the clean

1 coal SNG brownfield facility agrees to waive any objections
2 to venue or to the jurisdiction of the court with regard to
3 the Attorney General's action for specific performance
4 under this subsection (h-5).

5 Compliance with the sequestration requirements and
6 penalty requirements specified in this subsection (h-5)
7 for the clean coal SNG brownfield facility shall be
8 assessed annually by the Commission, which may in its
9 discretion retain an expert to facilitate its assessment.
10 If an expert is retained by the Commission, then the clean
11 coal SNG brownfield facility shall pay for the expert's
12 reasonable fees, and such costs shall not be passed through
13 to a utility or its customers. A SNG facility operating
14 pursuant to this subsection (h-5) shall not forfeit its
15 designation as a clean coal SNG facility or a clean coal
16 SNG brownfield facility if the facility fails to fully
17 comply with the applicable carbon sequestration
18 requirements in any given year, provided the requisite
19 offsets are purchased or requisite penalties are paid.

20 Responsibility for compliance with the sequestration
21 requirements specified in this subsection (h-5) for the
22 clean coal SNG brownfield facility shall reside solely with
23 the clean coal SNG brownfield facility regardless of
24 whether the facility has contracted with another party to
25 capture, transport, or sequester carbon dioxide.

26 (h-7) Sequestration permitting, oversight, and

1 investigations.

2 (1) No clean coal facility or clean coal SNG brownfield
3 facility may transport or sequester carbon dioxide unless
4 the Commission approves the method of carbon dioxide
5 transportation or sequestration. Such approval shall be
6 required regardless of whether the facility has contracted
7 with another to transport or sequester the carbon dioxide.
8 Nothing in this subsection (h-7) shall release the owner or
9 operator of a carbon dioxide sequestration site or carbon
10 dioxide pipeline from any other permitting requirements
11 under applicable State and federal laws, statutes, rules,
12 or regulations.

13 (2) The Commission shall review carbon dioxide
14 transportation and sequestration methods proposed by a
15 clean coal facility or a clean coal SNG brownfield facility
16 and shall approve those methods it deems reasonable and
17 cost-effective. For purposes of this review,
18 "cost-effective" means a commercially reasonable price for
19 similar carbon dioxide transportation or sequestration
20 techniques. In determining whether sequestration is
21 reasonable and cost-effective, the Commission may consult
22 with the Illinois State Geological Survey and retain third
23 parties to assist in its determination, provided that such
24 third parties shall not own or control any direct or
25 indirect interest in the facility that is proposing the
26 carbon dioxide transportation or the carbon dioxide

1 sequestration method and shall have no contractual
2 relationship with that facility. If a third party is
3 retained by the Commission, then the facility proposing the
4 carbon dioxide transportation or sequestration method
5 shall pay for the expert's reasonable fees, and these costs
6 shall not be passed through to a utility or its customers.

7 No later than 6 months prior to the date upon which the
8 owner intends to commence construction of a clean coal
9 facility or the clean coal SNG brownfield facility, the
10 owner of the facility shall file with the Commission a
11 carbon dioxide transportation or sequestration plan. The
12 Commission shall hold a public hearing within 30 days after
13 receipt of the facility's carbon dioxide transportation or
14 sequestration plan. The Commission shall post notice of the
15 review on its website upon submission of a carbon dioxide
16 transportation or sequestration method and shall accept
17 written public comments. The Commission shall take the
18 comments into account when making its decision.

19 The Commission may not approve a carbon dioxide
20 sequestration method if the owner or operator of the
21 sequestration site has not received (i) an Underground
22 Injection Control permit from the United States
23 Environmental Protection Agency, or from the Illinois
24 Environmental Protection Agency pursuant to the
25 Environmental Protection Act; (ii) an Underground
26 Injection Control permit from the Illinois Department of

1 Natural Resources pursuant to the Illinois Oil and Gas Act;
2 or (iii) an Underground Injection Control permit from the
3 United States Environmental Protection Agency or a permit
4 similar to items (i) or (ii) from the state in which the
5 sequestration site is located if the sequestration will
6 take place outside of Illinois. The Commission shall
7 approve or deny the carbon dioxide transportation or
8 sequestration method within 90 days after the receipt of
9 all required information.

10 (3) At least annually, the Illinois Environmental
11 Protection Agency shall inspect all carbon dioxide
12 sequestration sites in Illinois. The Illinois
13 Environmental Protection Agency may, as often as deemed
14 necessary, monitor and conduct investigations of those
15 sites. The owner or operator of the sequestration site must
16 cooperate with the Illinois Environmental Protection
17 Agency investigations of carbon dioxide sequestration
18 sites.

19 If the Illinois Environmental Protection Agency
20 determines at any time a site creates conditions that
21 warrant the issuance of a seal order under Section 34 of
22 the Environmental Protection Act, then the Illinois
23 Environmental Protection Agency shall seal the site
24 pursuant to the Environmental Protection Act. If the
25 Illinois Environmental Protection Agency determines at any
26 time a carbon dioxide sequestration site creates

1 conditions that warrant the institution of a civil action
2 for an injunction under Section 43 of the Environmental
3 Protection Act, then the Illinois Environmental Protection
4 Agency shall request the State's Attorney or the Attorney
5 General institute such action. The Illinois Environmental
6 Protection Agency shall provide notice of any such actions
7 as soon as possible on its website. The SNG facility shall
8 incur all reasonable costs associated with any such
9 inspection or monitoring of the sequestration sites, and
10 these costs shall not be recoverable from utilities or
11 their customers.

12 (4) (Blank).

13 (h-9) The clean coal SNG brownfield facility shall have the
14 right to recover prudently incurred increased costs or reduced
15 revenue resulting from any new or amendatory legislation or
16 other action. The State of Illinois pledges that the State will
17 not enact any law or take any action to:

18 (1) break, or repeal the authority for, sourcing
19 agreements approved by the Commission and entered into
20 between public utilities and the clean coal SNG brownfield
21 facility;

22 (2) deny public utilities full cost recovery for their
23 costs incurred under those sourcing agreements; or

24 (3) deny the clean coal SNG brownfield facility full
25 cost and revenue recovery as provided under those sourcing
26 agreements that are recoverable pursuant to subsection

1 (h-3) of this Section.

2 These pledges are for the benefit of the parties to those
3 sourcing agreements and the issuers and holders of bonds or
4 other obligations issued or incurred to finance or refinance
5 the clean coal SNG brownfield facility. The clean coal SNG
6 brownfield facility is authorized to include and refer to these
7 pledges in any financing agreement into which it may enter in
8 regard to those sourcing agreements.

9 The State of Illinois retains and reserves all other rights
10 to enact new or amendatory legislation or take any other
11 action, without impairment of the right of the clean coal SNG
12 brownfield facility to recover prudently incurred increased
13 costs or reduced revenue resulting from the new or amendatory
14 legislation or other action, including, but not limited to,
15 such legislation or other action that would (i) directly or
16 indirectly raise the costs the clean coal SNG brownfield
17 facility must incur; (ii) directly or indirectly place
18 additional restrictions, regulations, or requirements on the
19 clean coal SNG brownfield facility; (iii) prohibit
20 sequestration in general or prohibit a specific sequestration
21 method or project; or (iv) increase minimum sequestration
22 requirements for the clean coal SNG brownfield facility to the
23 extent technically feasible. The clean coal SNG brownfield
24 facility shall have the right to recover prudently incurred
25 increased costs or reduced revenue resulting from the new or
26 amendatory legislation or other action as described in this

1 subsection (h-9).

2 (h-10) Contract costs for SNG incurred by an Illinois gas
3 utility are reasonable and prudent and recoverable through the
4 purchased gas adjustment clause and are not subject to review
5 or disallowance by the Commission. Contract costs are costs
6 incurred by the utility under the terms of a contract that
7 incorporates the terms stated in subsection (h) of this Section
8 as confirmed in writing by the Illinois Power Agency as set
9 forth in subsection (h) of this Section, which confirmation
10 shall be deemed conclusive, or as a consequence of or condition
11 to its performance under the contract, including (i) amounts
12 paid for SNG under the SNG contract and (ii) costs of
13 transportation and storage services of SNG purchased from
14 interstate pipelines under federally approved tariffs. The
15 Illinois gas utility shall initiate a clean coal SNG facility
16 rider mechanism that (A) shall be applicable to all customers
17 who receive transportation service from the utility, (B) shall
18 be designed to have an equal percentage impact on the
19 transportation services rates of each class of the utility's
20 total customers, and (C) shall accurately reflect the net
21 customer savings, if any, and above market costs, if any, under
22 the SNG contract. Any contract, the terms of which have been
23 confirmed in writing by the Illinois Power Agency as set forth
24 in subsection (h) of this Section and the performance of the
25 parties under such contract cannot be grounds for challenging
26 prudence or cost recovery by the utility through the purchased

1 gas adjustment clause, and in such cases, the Commission is
2 directed not to consider, and has no authority to consider, any
3 attempted challenges.

4 The contracts entered into by Illinois gas utilities
5 pursuant to subsection (h) of this Section shall provide that
6 the utility retains the right to terminate the contract without
7 further obligation or liability to any party if the contract
8 has been impaired as a result of any legislative,
9 administrative, judicial, or other governmental action that is
10 taken that eliminates all or part of the prudence protection of
11 this subsection (h-10) or denies the recoverability of all or
12 part of the contract costs through the purchased gas adjustment
13 clause. Should any Illinois gas utility exercise its right
14 under this subsection (h-10) to terminate the contract, all
15 contract costs incurred prior to termination are and will be
16 deemed reasonable, prudent, and recoverable as and when
17 incurred and not subject to review or disallowance by the
18 Commission. Any order, issued by the State requiring or
19 authorizing the discontinuation of the merchant function,
20 defined as the purchase and sale of natural gas by an Illinois
21 gas utility for the ultimate consumer in its service territory
22 shall include provisions necessary to prevent the impairment of
23 the value of any contract hereunder over its full term.

24 (h-11) All costs incurred by an Illinois gas utility in
25 procuring SNG from a clean coal SNG brownfield facility
26 pursuant to subsection (h-1) or a third-party marketer pursuant

1 to subsection (h-1) are reasonable and prudent and recoverable
2 through the purchased gas adjustment clause in conjunction with
3 a SNG brownfield facility rider mechanism and are not subject
4 to review or disallowance by the Commission; provided that if a
5 utility is required by law or otherwise elects to connect the
6 clean coal SNG brownfield facility to an interstate pipeline,
7 then the utility shall be entitled to recover pursuant to its
8 tariffs all just and reasonable costs that are prudently
9 incurred. Sourcing agreement costs are costs incurred by the
10 utility under the terms of a sourcing agreement that
11 incorporates the terms stated in subsection (h-1) of this
12 Section as approved by the Commission as set forth in
13 subsection (h-4) of this Section, which approval shall be
14 deemed conclusive, or as a consequence of or condition to its
15 performance under the contract, including (i) amounts paid for
16 SNG under the SNG contract and (ii) costs of transportation and
17 storage services of SNG purchased from interstate pipelines
18 under federally approved tariffs. Any sourcing agreement, the
19 terms of which have been approved by the Commission as set
20 forth in subsection (h-4) of this Section, and the performance
21 of the parties under the sourcing agreement cannot be grounds
22 for challenging prudence or cost recovery by the utility, and
23 in these cases, the Commission is directed not to consider, and
24 has no authority to consider, any attempted challenges.

25 (h-15) Reconciliation account. The clean coal SNG facility
26 shall establish a reconciliation account for the benefit of the

1 retail customers of the utilities that have entered into
2 contracts with the clean coal SNG facility pursuant to
3 subsection (h). The reconciliation account shall be maintained
4 and administered by an independent trustee that is mutually
5 agreed upon by the owners of the clean coal SNG facility, the
6 utilities, and the Commission in an interest-bearing account in
7 accordance with the following:

8 (1) The clean coal SNG facility shall conduct an
9 analysis annually within 60 days after receiving the
10 necessary cost information, which shall be provided by the
11 gas utility within 6 months after the end of the preceding
12 calendar year, to determine (i) the average annual contract
13 SNG cost, which shall be calculated as the total amount
14 paid for SNG purchased from the clean coal SNG facility
15 over the preceding 12 months, plus the cost to the utility
16 of the required transportation and storage services of SNG,
17 divided by the total number of MMBtus of SNG actually
18 purchased from the clean coal SNG facility in the preceding
19 12 months under the utility contract; (ii) the average
20 annual natural gas purchase cost, which shall be calculated
21 as the total annual supply costs paid for baseload natural
22 gas (excluding any SNG) purchased by such utility over the
23 preceding 12 months plus the costs of transportation and
24 storage services of such natural gas (excluding such costs
25 for SNG), divided by the total number of MMBtus of baseload
26 natural gas (excluding SNG) actually purchased by the

1 utility during the year; (iii) the cost differential, which
2 shall be the difference between the average annual contract
3 SNG cost and the average annual natural gas purchase cost;
4 and (iv) the revenue share target which shall be the cost
5 differential multiplied by the total amount of SNG
6 purchased over the preceding 12 months under such utility
7 contract.

8 (A) To the extent the annual average contract SNG
9 cost is less than the annual average natural gas
10 purchase cost, the utility shall credit an amount equal
11 to the revenue share target to the reconciliation
12 account. Such credit payment shall be made monthly
13 starting within 30 days after the completed analysis in
14 this subsection (h-15) and based on collections from
15 all customers via a line item charge in all customer
16 bills designed to have an equal percentage impact on
17 the transportation services of each class of
18 customers. Credit payments made pursuant to this
19 subparagraph (A) shall be deemed prudent and
20 reasonable and not subject to Commission prudence
21 review.

22 (B) To the extent the annual average contract SNG
23 cost is greater than the annual average natural gas
24 purchase cost, the reconciliation account shall be
25 used to provide a credit equal to the revenue share
26 target to the utilities to be used to reduce the

1 utility's natural gas costs through the purchased gas
2 adjustment clause. Such payment shall be made within 30
3 days after the completed analysis pursuant to this
4 subsection (h-15), but only to the extent that the
5 reconciliation account has a positive balance.

6 (2) At the conclusion of the term of the SNG contracts
7 pursuant to subsection (h) and the completion of the final
8 annual analysis pursuant to this subsection (h-15), to the
9 extent the facility owes any amount to retail customers,
10 amounts in the account shall be credited to retail
11 customers to the extent the owed amount is repaid; 50% of
12 any additional amount in the reconciliation account shall
13 be distributed to the utilities to be used to reduce the
14 utilities' natural gas costs through the purchase gas
15 adjustment clause with the remaining amount distributed to
16 the clean coal SNG facility. Such payment shall be made
17 within 30 days after the last completed analysis pursuant
18 to this subsection (h-15). If the facility has repaid all
19 owed amounts, if any, to retail customers and has
20 distributed 50% of any additional amount in the account to
21 the utilities, then the owners of the clean coal SNG
22 facility shall have no further obligation to the utility or
23 the retail customers.

24 If, at the conclusion of the term of the contracts
25 pursuant to subsection (h) and the completion of the final
26 annual analysis pursuant to this subsection (h-15), the

1 facility owes any amount to retail customers and the
2 account has been depleted, then the clean coal SNG facility
3 shall be liable for any remaining amount owed to the retail
4 customers. The clean coal SNG facility shall market the
5 daily production of SNG and distribute on a monthly basis
6 5% of the amounts collected with respect to such future
7 sales to the utilities in proportion to each utility's SNG
8 contract to be used to reduce the utility's natural gas
9 costs through the purchase gas adjustment clause; such
10 payments to the utility shall continue until either 15
11 years after the conclusion of the contract or such time as
12 the sum of such payments equals the remaining amount owed
13 to the retail customers at the end of the contract,
14 whichever is earlier. If the debt to the retail customers
15 is not repaid within 15 years after the conclusion of the
16 contract, then the owner of the clean coal SNG facility
17 must sell the facility, and all proceeds from that sale
18 must be used to repay any amount owed to the retail
19 customers under this subsection (h-15).

20 The retail customers shall have first priority in
21 recovering that debt above any creditors, except the
22 secured lenders to the extent that the secured lenders have
23 any secured debt outstanding, including any parent
24 companies or affiliates of the clean coal SNG facility.

25 (3) 50% of all additional net revenue, defined as
26 miscellaneous net revenue after cost allowance and above

1 the budgeted estimate established for revenue pursuant to
2 subsection (h), including sale of substitute natural gas
3 derived from the clean coal SNG facility above the
4 nameplate capacity of the facility and other by-products
5 produced by the facility, shall be credited to the
6 reconciliation account on an annual basis with such payment
7 made within 30 days after the end of each calendar year
8 during the term of the contract.

9 (4) The clean coal SNG facility shall each year,
10 starting in the facility's first year of commercial
11 operation, file with the Commission, in such form as the
12 Commission shall require, a report as to the reconciliation
13 account. The annual report must contain the following
14 information:

15 (A) the revenue share target amount;

16 (B) the amount credited or debited to the
17 reconciliation account during the year;

18 (C) the amount credited to the utilities to be used
19 to reduce the utilities natural gas costs through the
20 purchase gas adjustment clause;

21 (D) the total amount of reconciliation account at
22 the beginning and end of the year;

23 (E) the total amount of consumer savings to date;
24 and

25 (F) any additional information the Commission may
26 require.

1 When any report is erroneous or defective or appears to the
2 Commission to be erroneous or defective, the Commission may
3 notify the clean coal SNG facility to amend the report within
4 30 days; before or after the termination of the 30-day period,
5 the Commission may examine the trustee of the reconciliation
6 account or the officers, agents, employees, books, records, or
7 accounts of the clean coal SNG facility and correct such items
8 in the report as upon such examination the Commission may find
9 defective or erroneous. All reports shall be under oath.

10 All reports made to the Commission by the clean coal SNG
11 facility and the contents of the reports shall be open to
12 public inspection and shall be deemed a public record under the
13 Freedom of Information Act. Such reports shall be preserved in
14 the office of the Commission. The Commission shall publish an
15 annual summary of the reports prior to February 1 of the
16 following year. The annual summary shall be made available to
17 the public on the Commission's website and shall be submitted
18 to the General Assembly.

19 Any facility that fails to file the report required under
20 this paragraph (4) to the Commission within the time specified
21 or to make specific answer to any question propounded by the
22 Commission within 30 days after the time it is lawfully
23 required to do so, or within such further time not to exceed 90
24 days as may be allowed by the Commission in its discretion,
25 shall pay a penalty of \$500 to the Commission for each day it
26 is in default.

1 Any person who willfully makes any false report to the
2 Commission or to any member, officer, or employee thereof, any
3 person who willfully in a report withholds or fails to provide
4 material information to which the Commission is entitled under
5 this paragraph (4) and which information is either required to
6 be filed by statute, rule, regulation, order, or decision of
7 the Commission or has been requested by the Commission, and any
8 person who willfully aids or abets such person shall be guilty
9 of a Class A misdemeanor.

10 (h-20) The General Assembly authorizes the Illinois
11 Finance Authority to issue bonds to the maximum extent
12 permitted to finance coal gasification facilities described in
13 this Section, which constitute both "industrial projects"
14 under Article 801 of the Illinois Finance Authority Act and
15 "clean coal and energy projects" under Sections 825-65 through
16 825-75 of the Illinois Finance Authority Act.

17 Administrative costs incurred by the Illinois Finance
18 Authority in performance of this subsection (h-20) shall be
19 subject to reimbursement by the clean coal SNG facility on
20 terms as the Illinois Finance Authority and the clean coal SNG
21 facility may agree. The utility and its customers shall have no
22 obligation to reimburse the clean coal SNG facility or the
23 Illinois Finance Authority for any such costs.

24 (h-25) The State of Illinois pledges that the State may not
25 enact any law or take any action to (1) break or repeal the
26 authority for SNG purchase contracts entered into between

1 public gas utilities and the clean coal SNG facility pursuant
2 to subsection (h) of this Section or (2) deny public gas
3 utilities their full cost recovery for contract costs, as
4 defined in subsection (h-10), that are incurred under such SNG
5 purchase contracts. These pledges are for the benefit of the
6 parties to such SNG purchase contracts and the issuers and
7 holders of bonds or other obligations issued or incurred to
8 finance or refinance the clean coal SNG facility. The
9 beneficiaries are authorized to include and refer to these
10 pledges in any finance agreement into which they may enter in
11 regard to such contracts.

12 (h-30) The State of Illinois retains and reserves all other
13 rights to enact new or amendatory legislation or take any other
14 action, including, but not limited to, such legislation or
15 other action that would (1) directly or indirectly raise the
16 costs that the clean coal SNG facility must incur; (2) directly
17 or indirectly place additional restrictions, regulations, or
18 requirements on the clean coal SNG facility; (3) prohibit
19 sequestration in general or prohibit a specific sequestration
20 method or project; or (4) increase minimum sequestration
21 requirements.

22 (i) If a gas utility or an affiliate of a gas utility has
23 an ownership interest in any entity that produces or sells
24 synthetic natural gas, Article VII of this Act shall apply.

25 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,
26 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;

1 98-463, eff. 8-16-13.)

2 Section 145. The Illinois Horse Racing Act of 1975 is
3 amended by changing Sections 12.1 and 12.2 as follows:

4 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

5 Sec. 12.1. (a) The General Assembly finds that the Illinois
6 Racing Industry does not include a fair proportion of minority
7 or female workers.

8 Therefore, the General Assembly urges that the job training
9 institutes, trade associations and employers involved in the
10 Illinois Horse Racing Industry take affirmative action to
11 encourage equal employment opportunity to all workers
12 regardless of race, color, creed or sex.

13 Before an organization license, inter-track wagering
14 license or inter-track wagering location license can be
15 granted, the applicant for any such license shall execute and
16 file with the Board a good faith affirmative action plan to
17 recruit, train and upgrade minorities and females in all
18 classifications with the applicant for license. One year after
19 issuance of any such license, and each year thereafter, the
20 licensee shall file a report with the Board evidencing and
21 certifying compliance with the originally filed affirmative
22 action plan.

23 (b) At least 10% of the total amount of all State contracts
24 for the infrastructure improvement of any race track grounds in

1 this State shall be let to minority-owned ~~minority-owned~~
2 businesses or women-owned ~~female-owned~~ businesses. "State
3 contract", "minority-owned ~~minority-owned~~ business" and
4 "women-owned ~~female-owned~~ business" shall have the meanings
5 ascribed to them under the Business Enterprise for Minorities,
6 Women ~~Females~~, and Persons with Disabilities Act.
7 (Source: P.A. 92-16, eff. 6-28-01.)

8 (230 ILCS 5/12.2)

9 Sec. 12.2. Business enterprise program.

10 (a) For the purposes of this Section, the terms "minority",
11 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",
12 "women-owned ~~female-owned~~ business", "person with a
13 disability", and "business owned by a person with a disability"
14 have the meanings ascribed to them in the Business Enterprise
15 for Minorities, Women ~~Females~~, and Persons with Disabilities
16 Act.

17 (b) The Board shall, by rule, establish goals for the award
18 of contracts by each organization licensee or inter-track
19 wagering licensee to businesses owned by minorities, women
20 ~~females~~, and persons with disabilities, expressed as
21 percentages of an organization licensee's or inter-track
22 wagering licensee's total dollar amount of contracts awarded
23 during each calendar year. Each organization licensee or
24 inter-track wagering licensee must make every effort to meet
25 the goals established by the Board pursuant to this Section.

1 When setting the goals for the award of contracts, the Board
2 shall not include contracts where: (1) licensees are purchasing
3 goods or services from vendors or suppliers or in markets where
4 there are no or a limited number of minority-owned ~~minority~~
5 ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or
6 businesses owned by persons with disabilities that would be
7 sufficient to satisfy the goal; (2) there are no or a limited
8 number of suppliers licensed by the Board; (3) the licensee or
9 its parent company owns a company that provides the goods or
10 services; or (4) the goods or services are provided to the
11 licensee by a publicly traded company.

12 (c) Each organization licensee or inter-track wagering
13 licensee shall file with the Board an annual report of its
14 utilization of minority-owned ~~minority-owned~~ businesses,
15 women-owned ~~female-owned~~ businesses, and businesses owned by
16 persons with disabilities during the preceding calendar year.
17 The reports shall include a self-evaluation of the efforts of
18 the organization licensee or inter-track wagering licensee to
19 meet its goals under this Section.

20 (d) The organization licensee or inter-track wagering
21 licensee shall have the right to request a waiver from the
22 requirements of this Section. The Board shall grant the waiver
23 where the organization licensee or inter-track wagering
24 licensee demonstrates that there has been made a good faith
25 effort to comply with the goals for participation by
26 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~

1 ~~owned~~ businesses, and businesses owned by persons with
2 disabilities.

3 (e) If the Board determines that its goals and policies are
4 not being met by any organization licensee or inter-track
5 wagering licensee, then the Board may:

6 (1) adopt remedies for such violations; and

7 (2) recommend that the organization licensee or
8 inter-track wagering licensee provide additional
9 opportunities for participation by minority-owned ~~minority~~
10 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
11 businesses owned by persons with disabilities; such
12 recommendations may include, but shall not be limited to:

13 (A) assurances of stronger and better focused
14 solicitation efforts to obtain more minority-owned
15 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
16 businesses, and businesses owned by persons with
17 disabilities as potential sources of supply;

18 (B) division of job or project requirements, when
19 economically feasible, into tasks or quantities to
20 permit participation of minority-owned ~~minority-owned~~
21 businesses, women-owned ~~female-owned~~ businesses, and
22 businesses owned by persons with disabilities;

23 (C) elimination of extended experience or
24 capitalization requirements, when programmatically
25 feasible, to permit participation of minority-owned
26 ~~minority-owned~~ businesses, women-owned ~~female-owned~~

1 businesses, and businesses owned by persons with
2 disabilities;

3 (D) identification of specific proposed contracts
4 as particularly attractive or appropriate for
5 participation by minority-owned ~~minority-owned~~
6 businesses, women-owned ~~female-owned~~ businesses, and
7 businesses owned by persons with disabilities, such
8 identification to result from and be coupled with the
9 efforts of items (A) through (C); and

10 (E) implementation of regulations established for
11 the use of the sheltered market process.

12 (f) The Board shall file, no later than March 1 of each
13 year, an annual report that shall detail the level of
14 achievement toward the goals specified in this Section over the
15 3 most recent fiscal years. The annual report shall include,
16 but need not be limited to:

17 (1) a summary detailing expenditures subject to the
18 goals, the actual goals specified, and the goals attained
19 by each organization licensee or inter-track wagering
20 licensee;

21 (2) a summary of the number of contracts awarded and
22 the average contract amount by each organization licensee
23 or inter-track wagering licensee;

24 (3) an analysis of the level of overall goal
25 achievement concerning purchases from minority-owned
26 ~~minority-owned~~ businesses, women-owned ~~female-owned~~

1 businesses, and businesses owned by persons with
2 disabilities;

3 (4) an analysis of the number of minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities that are certified under the program as well
7 as the number of those businesses that received State
8 procurement contracts; and

9 (5) (blank).

10 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;
11 99-891, eff. 1-1-17.)

12 Section 150. The Riverboat Gambling Act is amended by
13 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

14 (230 ILCS 10/4) (from Ch. 120, par. 2404)

15 Sec. 4. Definitions. As used in this Act:

16 (a) "Board" means the Illinois Gaming Board.

17 (b) "Occupational license" means a license issued by the
18 Board to a person or entity to perform an occupation which the
19 Board has identified as requiring a license to engage in
20 riverboat gambling in Illinois.

21 (c) "Gambling game" includes, but is not limited to,
22 baccarat, twenty-one, poker, craps, slot machine, video game of
23 chance, roulette wheel, klondike table, punchboard, faro
24 layout, keno layout, numbers ticket, push card, jar ticket, or

1 pull tab which is authorized by the Board as a wagering device
2 under this Act.

3 (d) "Riverboat" means a self-propelled excursion boat, a
4 permanently moored barge, or permanently moored barges that are
5 permanently fixed together to operate as one vessel, on which
6 lawful gambling is authorized and licensed as provided in this
7 Act.

8 (e) "Managers license" means a license issued by the Board
9 to a person or entity to manage gambling operations conducted
10 by the State pursuant to Section 7.3.

11 (f) "Dock" means the location where a riverboat moors for
12 the purpose of embarking passengers for and disembarking
13 passengers from the riverboat.

14 (g) "Gross receipts" means the total amount of money
15 exchanged for the purchase of chips, tokens or electronic cards
16 by riverboat patrons.

17 (h) "Adjusted gross receipts" means the gross receipts less
18 winnings paid to wagerers.

19 (i) "Cheat" means to alter the selection of criteria which
20 determine the result of a gambling game or the amount or
21 frequency of payment in a gambling game.

22 (j) (Blank).

23 (k) "Gambling operation" means the conduct of authorized
24 gambling games upon a riverboat.

25 (l) "License bid" means the lump sum amount of money that
26 an applicant bids and agrees to pay the State in return for an

1 owners license that is re-issued on or after July 1, 2003.

2 (m) The terms "minority person", "woman ~~female~~", and
3 "person with a disability" shall have the same meaning as
4 defined in Section 2 of the Business Enterprise for Minorities,
5 Women ~~Females~~, and Persons with Disabilities Act.

6 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

7 (230 ILCS 10/7) (from Ch. 120, par. 2407)

8 Sec. 7. Owners Licenses.

9 (a) The Board shall issue owners licenses to persons, firms
10 or corporations which apply for such licenses upon payment to
11 the Board of the non-refundable license fee set by the Board,
12 upon payment of a \$25,000 license fee for the first year of
13 operation and a \$5,000 license fee for each succeeding year and
14 upon a determination by the Board that the applicant is
15 eligible for an owners license pursuant to this Act and the
16 rules of the Board. From the effective date of this amendatory
17 Act of the 95th General Assembly until (i) 3 years after the
18 effective date of this amendatory Act of the 95th General
19 Assembly, (ii) the date any organization licensee begins to
20 operate a slot machine or video game of chance under the
21 Illinois Horse Racing Act of 1975 or this Act, (iii) the date
22 that payments begin under subsection (c-5) of Section 13 of the
23 Act, or (iv) the wagering tax imposed under Section 13 of this
24 Act is increased by law to reflect a tax rate that is at least
25 as stringent or more stringent than the tax rate contained in

1 subsection (a-3) of Section 13, whichever occurs first, as a
2 condition of licensure and as an alternative source of payment
3 for those funds payable under subsection (c-5) of Section 13 of
4 the Riverboat Gambling Act, any owners licensee that holds or
5 receives its owners license on or after the effective date of
6 this amendatory Act of the 94th General Assembly, other than an
7 owners licensee operating a riverboat with adjusted gross
8 receipts in calendar year 2004 of less than \$200,000,000, must
9 pay into the Horse Racing Equity Trust Fund, in addition to any
10 other payments required under this Act, an amount equal to 3%
11 of the adjusted gross receipts received by the owners licensee.
12 The payments required under this Section shall be made by the
13 owners licensee to the State Treasurer no later than 3:00
14 o'clock p.m. of the day after the day when the adjusted gross
15 receipts were received by the owners licensee. A person, firm
16 or corporation is ineligible to receive an owners license if:

17 (1) the person has been convicted of a felony under the
18 laws of this State, any other state, or the United States;

19 (2) the person has been convicted of any violation of
20 Article 28 of the Criminal Code of 1961 or the Criminal
21 Code of 2012, or substantially similar laws of any other
22 jurisdiction;

23 (3) the person has submitted an application for a
24 license under this Act which contains false information;

25 (4) the person is a member of the Board;

26 (5) a person defined in (1), (2), (3) or (4) is an

1 officer, director or managerial employee of the firm or
2 corporation;

3 (6) the firm or corporation employs a person defined in
4 (1), (2), (3) or (4) who participates in the management or
5 operation of gambling operations authorized under this
6 Act;

7 (7) (blank); or

8 (8) a license of the person, firm or corporation issued
9 under this Act, or a license to own or operate gambling
10 facilities in any other jurisdiction, has been revoked.

11 The Board is expressly prohibited from making changes to
12 the requirement that licensees make payment into the Horse
13 Racing Equity Trust Fund without the express authority of the
14 Illinois General Assembly and making any other rule to
15 implement or interpret this amendatory Act of the 95th General
16 Assembly. For the purposes of this paragraph, "rules" is given
17 the meaning given to that term in Section 1-70 of the Illinois
18 Administrative Procedure Act.

19 (b) In determining whether to grant an owners license to an
20 applicant, the Board shall consider:

21 (1) the character, reputation, experience and
22 financial integrity of the applicants and of any other or
23 separate person that either:

24 (A) controls, directly or indirectly, such
25 applicant, or

26 (B) is controlled, directly or indirectly, by such

1 applicant or by a person which controls, directly or
2 indirectly, such applicant;

3 (2) the facilities or proposed facilities for the
4 conduct of riverboat gambling;

5 (3) the highest prospective total revenue to be derived
6 by the State from the conduct of riverboat gambling;

7 (4) the extent to which the ownership of the applicant
8 reflects the diversity of the State by including minority
9 persons, women ~~females~~, and persons with a disability and
10 the good faith affirmative action plan of each applicant to
11 recruit, train and upgrade minority persons, women
12 ~~females~~, and persons with a disability in all employment
13 classifications;

14 (5) the financial ability of the applicant to purchase
15 and maintain adequate liability and casualty insurance;

16 (6) whether the applicant has adequate capitalization
17 to provide and maintain, for the duration of a license, a
18 riverboat;

19 (7) the extent to which the applicant exceeds or meets
20 other standards for the issuance of an owners license which
21 the Board may adopt by rule; and

22 (8) The amount of the applicant's license bid.

23 (c) Each owners license shall specify the place where
24 riverboats shall operate and dock.

25 (d) Each applicant shall submit with his application, on
26 forms provided by the Board, 2 sets of his fingerprints.

1 (e) The Board may issue up to 10 licenses authorizing the
2 holders of such licenses to own riverboats. In the application
3 for an owners license, the applicant shall state the dock at
4 which the riverboat is based and the water on which the
5 riverboat will be located. The Board shall issue 5 licenses to
6 become effective not earlier than January 1, 1991. Three of
7 such licenses shall authorize riverboat gambling on the
8 Mississippi River, or, with approval by the municipality in
9 which the riverboat was docked on August 7, 2003 and with Board
10 approval, be authorized to relocate to a new location, in a
11 municipality that (1) borders on the Mississippi River or is
12 within 5 miles of the city limits of a municipality that
13 borders on the Mississippi River and (2), on August 7, 2003,
14 had a riverboat conducting riverboat gambling operations
15 pursuant to a license issued under this Act; one of which shall
16 authorize riverboat gambling from a home dock in the city of
17 East St. Louis. One other license shall authorize riverboat
18 gambling on the Illinois River south of Marshall County. The
19 Board shall issue one additional license to become effective
20 not earlier than March 1, 1992, which shall authorize riverboat
21 gambling on the Des Plaines River in Will County. The Board may
22 issue 4 additional licenses to become effective not earlier
23 than March 1, 1992. In determining the water upon which
24 riverboats will operate, the Board shall consider the economic
25 benefit which riverboat gambling confers on the State, and
26 shall seek to assure that all regions of the State share in the

1 economic benefits of riverboat gambling.

2 In granting all licenses, the Board may give favorable
3 consideration to economically depressed areas of the State, to
4 applicants presenting plans which provide for significant
5 economic development over a large geographic area, and to
6 applicants who currently operate non-gambling riverboats in
7 Illinois. The Board shall review all applications for owners
8 licenses, and shall inform each applicant of the Board's
9 decision. The Board may grant an owners license to an applicant
10 that has not submitted the highest license bid, but if it does
11 not select the highest bidder, the Board shall issue a written
12 decision explaining why another applicant was selected and
13 identifying the factors set forth in this Section that favored
14 the winning bidder.

15 In addition to any other revocation powers granted to the
16 Board under this Act, the Board may revoke the owners license
17 of a licensee which fails to begin conducting gambling within
18 15 months of receipt of the Board's approval of the application
19 if the Board determines that license revocation is in the best
20 interests of the State.

21 (f) The first 10 owners licenses issued under this Act
22 shall permit the holder to own up to 2 riverboats and equipment
23 thereon for a period of 3 years after the effective date of the
24 license. Holders of the first 10 owners licenses must pay the
25 annual license fee for each of the 3 years during which they
26 are authorized to own riverboats.

1 (g) Upon the termination, expiration, or revocation of each
2 of the first 10 licenses, which shall be issued for a 3 year
3 period, all licenses are renewable annually upon payment of the
4 fee and a determination by the Board that the licensee
5 continues to meet all of the requirements of this Act and the
6 Board's rules. However, for licenses renewed on or after May 1,
7 1998, renewal shall be for a period of 4 years, unless the
8 Board sets a shorter period.

9 (h) An owners license shall entitle the licensee to own up
10 to 2 riverboats. A licensee shall limit the number of gambling
11 participants to 1,200 for any such owners license. A licensee
12 may operate both of its riverboats concurrently, provided that
13 the total number of gambling participants on both riverboats
14 does not exceed 1,200. Riverboats licensed to operate on the
15 Mississippi River and the Illinois River south of Marshall
16 County shall have an authorized capacity of at least 500
17 persons. Any other riverboat licensed under this Act shall have
18 an authorized capacity of at least 400 persons.

19 (i) A licensed owner is authorized to apply to the Board
20 for and, if approved therefor, to receive all licenses from the
21 Board necessary for the operation of a riverboat, including a
22 liquor license, a license to prepare and serve food for human
23 consumption, and other necessary licenses. All use, occupation
24 and excise taxes which apply to the sale of food and beverages
25 in this State and all taxes imposed on the sale or use of
26 tangible personal property apply to such sales aboard the

1 riverboat.

2 (j) The Board may issue or re-issue a license authorizing a
3 riverboat to dock in a municipality or approve a relocation
4 under Section 11.2 only if, prior to the issuance or
5 re-issuance of the license or approval, the governing body of
6 the municipality in which the riverboat will dock has by a
7 majority vote approved the docking of riverboats in the
8 municipality. The Board may issue or re-issue a license
9 authorizing a riverboat to dock in areas of a county outside
10 any municipality or approve a relocation under Section 11.2
11 only if, prior to the issuance or re-issuance of the license or
12 approval, the governing body of the county has by a majority
13 vote approved of the docking of riverboats within such areas.
14 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

15 (230 ILCS 10/7.1)

16 Sec. 7.1. Re-issuance of revoked or non-renewed owners
17 licenses.

18 (a) If an owners license terminates or expires without
19 renewal or the Board revokes or determines not to renew an
20 owners license (including, without limitation, an owners
21 license for a licensee that was not conducting riverboat
22 gambling operations on January 1, 1998) and that revocation or
23 determination is final, the Board may re-issue such license to
24 a qualified applicant pursuant to an open and competitive
25 bidding process, as set forth in Section 7.5, and subject to

1 the maximum number of authorized licenses set forth in Section
2 7(e).

3 (b) To be a qualified applicant, a person, firm, or
4 corporation cannot be ineligible to receive an owners license
5 under Section 7(a) and must submit an application for an owners
6 license that complies with Section 6. Each such applicant must
7 also submit evidence to the Board that minority persons and
8 women ~~females~~ hold ownership interests in the applicant of at
9 least 16% and 4% respectively.

10 (c) Notwithstanding anything to the contrary in Section
11 7(e), an applicant may apply to the Board for approval of
12 relocation of a re-issued license to a new home dock location
13 authorized under Section 3(c) upon receipt of the approval from
14 the municipality or county, as the case may be, pursuant to
15 Section 7(j).

16 (d) In determining whether to grant a re-issued owners
17 license to an applicant, the Board shall consider all of the
18 factors set forth in Sections 7(b) and (e) as well as the
19 amount of the applicant's license bid. The Board may grant the
20 re-issued owners license to an applicant that has not submitted
21 the highest license bid, but if it does not select the highest
22 bidder, the Board shall issue a written decision explaining why
23 another applicant was selected and identifying the factors set
24 forth in Sections 7(b) and (e) that favored the winning bidder.

25 (e) Re-issued owners licenses shall be subject to annual
26 license fees as provided for in Section 7(a) and shall be

1 governed by the provisions of Sections 7(f), (g), (h), and (i).
2 (Source: P.A. 93-28, eff. 6-20-03.)

3 (230 ILCS 10/7.4)

4 Sec. 7.4. Managers licenses.

5 (a) A qualified person may apply to the Board for a
6 managers license to operate and manage any gambling operation
7 conducted by the State. The application shall be made on forms
8 provided by the Board and shall contain such information as the
9 Board prescribes, including but not limited to information
10 required in Sections 6(a), (b), and (c) and information
11 relating to the applicant's proposed price to manage State
12 gambling operations and to provide the riverboat, gambling
13 equipment, and supplies necessary to conduct State gambling
14 operations.

15 (b) Each applicant must submit evidence to the Board that
16 minority persons and women ~~females~~ hold ownership interests in
17 the applicant of at least 16% and 4%, respectively.

18 (c) A person, firm, or corporation is ineligible to receive
19 a managers license if:

20 (1) the person has been convicted of a felony under the
21 laws of this State, any other state, or the United States;

22 (2) the person has been convicted of any violation of
23 Article 28 of the Criminal Code of 1961 or the Criminal
24 Code of 2012, or substantially similar laws of any other
25 jurisdiction;

1 (3) the person has submitted an application for a
2 license under this Act which contains false information;

3 (4) the person is a member of the Board;

4 (5) a person defined in (1), (2), (3), or (4) is an
5 officer, director, or managerial employee of the firm or
6 corporation;

7 (6) the firm or corporation employs a person defined in
8 (1), (2), (3), or (4) who participates in the management or
9 operation of gambling operations authorized under this
10 Act; or

11 (7) a license of the person, firm, or corporation
12 issued under this Act, or a license to own or operate
13 gambling facilities in any other jurisdiction, has been
14 revoked.

15 (d) Each applicant shall submit with his or her
16 application, on forms prescribed by the Board, 2 sets of his or
17 her fingerprints.

18 (e) The Board shall charge each applicant a fee, set by the
19 Board, to defray the costs associated with the background
20 investigation conducted by the Board.

21 (f) A person who knowingly makes a false statement on an
22 application is guilty of a Class A misdemeanor.

23 (g) The managers license shall be for a term not to exceed
24 10 years, shall be renewable at the Board's option, and shall
25 contain such terms and provisions as the Board deems necessary
26 to protect or enhance the credibility and integrity of State

1 gambling operations, achieve the highest prospective total
2 revenue to the State, and otherwise serve the interests of the
3 citizens of Illinois.

4 (h) Issuance of a managers license shall be subject to an
5 open and competitive bidding process. The Board may select an
6 applicant other than the lowest bidder by price. If it does not
7 select the lowest bidder, the Board shall issue a notice of who
8 the lowest bidder was and a written decision as to why another
9 bidder was selected.

10 (Source: P.A. 97-1150, eff. 1-25-13.)

11 (230 ILCS 10/7.6)

12 Sec. 7.6. Business enterprise program.

13 (a) For the purposes of this Section, the terms "minority",
14 "minority-owned ~~minority-owned~~ business", "woman ~~female~~", "
15 women-owned ~~female-owned~~ business", "person with a
16 disability", and "business owned by a person with a disability"
17 have the meanings ascribed to them in the Business Enterprise
18 for Minorities, Women ~~Females~~, and Persons with Disabilities
19 Act.

20 (b) The Board shall, by rule, establish goals for the award
21 of contracts by each owners licensee to businesses owned by
22 minorities, women ~~females~~, and persons with disabilities,
23 expressed as percentages of an owners licensee's total dollar
24 amount of contracts awarded during each calendar year. Each
25 owners licensee must make every effort to meet the goals

1 established by the Board pursuant to this Section. When setting
2 the goals for the award of contracts, the Board shall not
3 include contracts where: (1) any purchasing mandates would be
4 dependent upon the availability of minority-owned ~~minority~~
5 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
6 businesses owned by persons with disabilities ready, willing,
7 and able with capacity to provide quality goods and services to
8 a gaming operation at reasonable prices; (2) there are no or a
9 limited number of licensed suppliers as defined by this Act for
10 the goods or services provided to the licensee; (3) the
11 licensee or its parent company owns a company that provides the
12 goods or services; or (4) the goods or services are provided to
13 the licensee by a publicly traded company.

14 (c) Each owners licensee shall file with the Board an
15 annual report of its utilization of minority-owned ~~minority~~
16 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
17 businesses owned by persons with disabilities during the
18 preceding calendar year. The reports shall include a
19 self-evaluation of the efforts of the owners licensee to meet
20 its goals under this Section.

21 (d) The owners licensee shall have the right to request a
22 waiver from the requirements of this Section. The Board shall
23 grant the waiver where the owners licensee demonstrates that
24 there has been made a good faith effort to comply with the
25 goals for participation by minority-owned ~~minority-owned~~
26 businesses, women-owned ~~female-owned~~ businesses, and

1 businesses owned by persons with disabilities.

2 (e) If the Board determines that its goals and policies are
3 not being met by any owners licensee, then the Board may:

4 (1) adopt remedies for such violations; and

5 (2) recommend that the owners licensee provide
6 additional opportunities for participation by
7 minority-owned ~~minority-owned~~ businesses, women-owned
8 ~~female-owned~~ businesses, and businesses owned by persons
9 with disabilities; such recommendations may include, but
10 shall not be limited to:

11 (A) assurances of stronger and better focused
12 solicitation efforts to obtain more minority-owned
13 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
14 businesses, and businesses owned by persons with
15 disabilities as potential sources of supply;

16 (B) division of job or project requirements, when
17 economically feasible, into tasks or quantities to
18 permit participation of minority-owned ~~minority-owned~~
19 businesses, women-owned ~~female-owned~~ businesses, and
20 businesses owned by persons with disabilities;

21 (C) elimination of extended experience or
22 capitalization requirements, when programmatically
23 feasible, to permit participation of minority-owned
24 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
25 businesses, and businesses owned by persons with
26 disabilities;

1 (D) identification of specific proposed contracts
2 as particularly attractive or appropriate for
3 participation by minority-owned ~~minority-owned~~
4 businesses, women-owned ~~female-owned~~ businesses, and
5 businesses owned by persons with disabilities, such
6 identification to result from and be coupled with the
7 efforts of items (A) through (C); and

8 (E) implementation of regulations established for
9 the use of the sheltered market process.

10 (f) The Board shall file, no later than March 1 of each
11 year, an annual report that shall detail the level of
12 achievement toward the goals specified in this Section over the
13 3 most recent fiscal years. The annual report shall include,
14 but need not be limited to:

15 (1) a summary detailing expenditures subject to the
16 goals, the actual goals specified, and the goals attained
17 by each owners licensee; and

18 (2) an analysis of the level of overall goal
19 achievement concerning purchases from minority-owned
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
21 businesses, and businesses owned by persons with
22 disabilities.

23 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

24 (230 ILCS 10/11.2)

25 Sec. 11.2. Relocation of riverboat home dock.

1 (a) A licensee that was not conducting riverboat gambling
2 on January 1, 1998 may apply to the Board for renewal and
3 approval of relocation to a new home dock location authorized
4 under Section 3(c) and the Board shall grant the application
5 and approval upon receipt by the licensee of approval from the
6 new municipality or county, as the case may be, in which the
7 licensee wishes to relocate pursuant to Section 7(j).

8 (b) Any licensee that relocates its home dock pursuant to
9 this Section shall attain a level of at least 20% minority
10 person and woman ~~female~~ ownership, at least 16% and 4%
11 respectively, within a time period prescribed by the Board, but
12 not to exceed 12 months from the date the licensee begins
13 conducting gambling at the new home dock location. The 12-month
14 period shall be extended by the amount of time necessary to
15 conduct a background investigation pursuant to Section 6. For
16 the purposes of this Section, the terms "woman ~~female~~" and
17 "minority person" have the meanings provided in Section 2 of
18 the Business Enterprise for Minorities, Women ~~Females~~, and
19 Persons with Disabilities Act.

20 (Source: P.A. 91-40, eff. 6-25-99.)

21 Section 155. The Environmental Protection Act is amended by
22 changing Section 14.7 as follows:

23 (415 ILCS 5/14.7)

24 (This Section may contain text from a Public Act with a

1 delayed effective date)

2 Sec. 14.7. Preservation of community water supplies.

3 (a) The Agency shall adopt rules governing certain
4 corrosion prevention projects carried out on community water
5 supplies. Those rules shall not apply to buried pipelines
6 including, but not limited to, pipes, mains, and joints. The
7 rules shall exclude routine maintenance activities of
8 community water supplies including, but not limited to, the use
9 of protective coatings applied by the owner's utility personnel
10 during the course of performing routine maintenance
11 activities. The activities may include, but not be limited to,
12 the painting of fire hydrants; routine over-coat painting of
13 interior and exterior building surfaces such as floors, doors,
14 windows, and ceilings; and routine touch-up and over-coat
15 application of protective coatings typically found on water
16 utility pumps, pipes, tanks, and other water treatment plant
17 appurtenances and utility owned structures. Those rules shall
18 include:

19 (1) standards for ensuring that community water
20 supplies carry out corrosion prevention and mitigation
21 methods according to corrosion prevention industry
22 standards adopted by the Agency;

23 (2) requirements that community water supplies use:

24 (A) protective coatings personnel to carry out
25 corrosion prevention and mitigation methods on exposed
26 water treatment tanks, exposed non-concrete water

1 treatment structures, exposed water treatment pipe
2 galleys; exposed pumps; and generators; the Agency
3 shall not limit to protective coatings personnel any
4 other work relating to prevention and mitigation
5 methods on any other water treatment appurtenances
6 where protective coatings are utilized for corrosion
7 control and prevention to prolong the life of the water
8 utility asset; and

9 (B) inspectors to ensure that best practices and
10 standards are adhered to on each corrosion prevention
11 project; and

12 (3) standards to prevent environmental degradation
13 that might occur as a result of carrying out corrosion
14 prevention and mitigation methods including, but not
15 limited to, standards to prevent the improper handling and
16 containment of hazardous materials, especially lead paint,
17 removed from the exterior of a community water supply.

18 In adopting rules under this subsection (a), the Agency
19 shall obtain input from corrosion industry experts
20 specializing in the training of personnel to carry out
21 corrosion prevention and mitigation methods.

22 (b) As used in this Section:

23 "Community water supply" has the meaning ascribed to that
24 term in Section 3.145 of this Act.

25 "Corrosion" means a naturally occurring phenomenon
26 commonly defined as the deterioration of a metal that results

1 from a chemical or electrochemical reaction with its
2 environment.

3 "Corrosion prevention and mitigation methods" means the
4 preparation, application, installation, removal, or general
5 maintenance as necessary of a protective coating system,
6 including any or more of the following:

7 (A) surface preparation and coating application on
8 the exterior or interior of a community water supply;
9 or

10 (B) shop painting of structural steel fabricated
11 for installation as part of a community water supply.

12 "Corrosion prevention project" means carrying out
13 corrosion prevention and mitigation methods. "Corrosion
14 prevention project" does not include clean-up related to
15 surface preparation.

16 "Protective coatings personnel" means personnel employed
17 or retained by a contractor providing services covered by this
18 Section to carry out corrosion prevention or mitigation methods
19 or inspections.

20 (c) This Section shall apply to only those projects
21 receiving 100% funding from the State.

22 (d) Each contract procured pursuant to the Illinois
23 Procurement Code for the provision of services covered by this
24 Section (1) shall comply with applicable provisions of the
25 Illinois Procurement Code and (2) shall include provisions for
26 reporting participation by minority persons, as defined by

1 Section 2 of the Business Enterprise for Minorities, Women
2 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as
3 defined by Section 2 of the Business Enterprise for Minorities,
4 Women ~~Females~~, and Persons with Disabilities Act; and veterans,
5 as defined by Section 45-57 of the Illinois Procurement Code,
6 in apprenticeship and training programs in which the contractor
7 or his or her subcontractors participate. The requirements of
8 this Section do not apply to an individual licensed under the
9 Professional Engineering Practice Act of 1989 or the Structural
10 Engineering Act of 1989.

11 (Source: P.A. 99-923, eff. 7-1-17.)

12 Section 160. The Public Private Agreements for the Illiana
13 Expressway Act is amended by changing Section 20 as follows:

14 (605 ILCS 130/20)

15 Sec. 20. Procurement; request for proposals process.

16 (a) Notwithstanding any provision of law to the contrary,
17 the Department on behalf of the State shall select a contractor
18 through a competitive request for proposals process governed by
19 the Illinois Procurement Code and rules adopted under that Code
20 and this Act.

21 (b) The competitive request for proposals process shall, at
22 a minimum, solicit statements of qualification and proposals
23 from offerors.

24 (c) The competitive request for proposals process shall, at

1 a minimum, take into account the following criteria:

2 (1) The offeror's plans for the Illiana Expressway
3 project;

4 (2) The offeror's current and past business practices;

5 (3) The offeror's poor or inadequate past performance
6 in developing, financing, constructing, managing, or
7 operating highways or other public assets;

8 (4) The offeror's ability to meet and past performance
9 in meeting or exhausting good faith efforts to meet the
10 utilization goals for business enterprises established in
11 the Business Enterprise for Minorities, Women ~~Females~~, and
12 Persons with Disabilities Act;

13 (5) The offeror's ability to comply with and past
14 performance in complying with Section 2-105 of the Illinois
15 Human Rights Act; and

16 (6) The offeror's plans to comply with the Business
17 Enterprise for Minorities, Women ~~Females~~, and Persons with
18 Disabilities Act and Section 2-105 of the Illinois Human
19 Rights Act.

20 (d) The Department shall retain the services of an advisor
21 or advisors with significant experience in the development,
22 financing, construction, management, or operation of public
23 assets to assist in the preparation of the request for
24 proposals.

25 (e) The Department shall not include terms in the request
26 for proposals that provide an advantage, whether directly or

1 indirectly, to any contractor presently providing goods,
2 services, or equipment to the Department.

3 (f) The Department shall select at least 2 offerors as
4 finalists. The Department shall submit the offerors'
5 statements of qualification and proposals to the Commission on
6 Government Forecasting and Accountability and the Procurement
7 Policy Board, which shall, within 30 days of the submission,
8 complete a review of the statements of qualification and
9 proposals and, jointly or separately, report on, at a minimum,
10 the satisfaction of the criteria contained in the request for
11 proposals, the qualifications of the offerors, and the value of
12 the proposals to the State. The Department shall not select an
13 offeror as the contractor for the Illiana Expressway project
14 until it has received and considered the findings of the
15 Commission on Government Forecasting and Accountability and
16 the Procurement Policy Board as set forth in their respective
17 reports.

18 (g) Before awarding a public private agreement to an
19 offeror, the Department shall schedule and hold a public
20 hearing or hearings on the proposed public private agreement
21 and publish notice of the hearing or hearings at least 7 days
22 before the hearing and in accordance with Section 4-219 of the
23 Illinois Highway Code. The notice must include the following:

24 (1) the date, time, and place of the hearing and the
25 address of the Department;

26 (2) the subject matter of the hearing;

1 (3) a description of the agreement that may be awarded;
2 and

3 (4) the recommendation that has been made to select an
4 offeror as the contractor for the Illiana Expressway
5 project.

6 At the hearing, the Department shall allow the public to be
7 heard on the subject of the hearing.

8 (h) After the procedures required in this Section have been
9 completed, the Department shall make a determination as to
10 whether the offeror should be designated as the contractor for
11 the Illiana Expressway project and shall submit the decision to
12 the Governor and to the Governor's Office of Management and
13 Budget. After review of the Department's determination, the
14 Governor may accept or reject the determination. If the
15 Governor accepts the determination of the Department, the
16 Governor shall designate the offeror for the Illiana Expressway
17 project.

18 (Source: P.A. 96-913, eff. 6-9-10.)

19 Section 165. The Public-Private Agreements for the South
20 Suburban Airport Act is amended by changing Section 2-30 as
21 follows:

22 (620 ILCS 75/2-30)

23 Sec. 2-30. Request for proposals process to enter into
24 public-private agreements.

1 (a) Notwithstanding any provisions of the Illinois
2 Procurement Code, the Department, on behalf of the State, shall
3 select a contractor through a competitive request for proposals
4 process governed by Section 2-30 of this Act. The Department
5 will consult with the chief procurement officer for
6 construction or construction-related activities designated
7 pursuant to clause (2) of Section 1-15.15 of the Illinois
8 Procurement Code on the competitive request for proposals
9 process, and the Secretary will determine, in consultation with
10 the chief procurement officer, which procedures to adopt and
11 apply to the competitive request for proposals process in order
12 to ensure an open, transparent, and efficient process that
13 accomplishes the purposes of this Act.

14 (b) The competitive request for proposals process shall, at
15 a minimum, solicit statements of qualification and proposals
16 from offerors.

17 (c) The competitive request for proposals process shall, at
18 a minimum, take into account the following criteria:

19 (1) the offeror's plans for the South Suburban Airport
20 project;

21 (2) the offeror's current and past business practices;

22 (3) the offeror's poor or inadequate past performance
23 in developing, financing, constructing, managing, or
24 operating airports or other public assets;

25 (4) the offeror's ability to meet the utilization goals
26 for business enterprises established in the Business

1 Enterprise for Minorities, Women ~~Females~~, and Persons with
2 Disabilities Act;

3 (5) the offeror's ability to comply with Section 2-105
4 of the Illinois Human Rights Act; and

5 (6) the offeror's plans to comply with the Business
6 Enterprise for Minorities, Women ~~Females~~, and Persons with
7 Disabilities Act and Section 2-105 of the Illinois Human
8 Rights Act.

9 (d) The Department shall retain the services of an advisor
10 or advisors with significant experience in the development,
11 financing, construction, management, or operation of public
12 assets to assist in the preparation of the request for
13 proposals.

14 (e) The Department shall not include terms in the request
15 for proposals that provide an advantage, whether directly or
16 indirectly, to any contractor presently providing goods,
17 services, or equipment to the Department.

18 (f) The Department shall select one or more offerors as
19 finalists. The Department shall submit the offeror's
20 statements of qualification and proposals to the Commission on
21 Government Forecasting and Accountability and the Procurement
22 Policy Board, which shall, within 30 days after the submission,
23 complete a review of the statements of qualification and
24 proposals and, jointly or separately, report on, at a minimum,
25 the satisfaction of the criteria contained in the request for
26 proposals, the qualifications of the offerors, and the value of

1 the proposals to the State. The Department shall not select an
2 offeror as the contractor for the South Suburban Airport
3 project until it has received and considered the findings of
4 the Commission on Government Forecasting and Accountability
5 and the Procurement Policy Board as set forth in their
6 respective reports.

7 (g) Before awarding a public-private agreement to an
8 offeror, the Department shall schedule and hold a public
9 hearing or hearings on the proposed public-private agreement
10 and publish notice of the hearing or hearings at least 7 days
11 before the hearing. The notice shall include the following:

12 (1) the date, time, and place of the hearing and the
13 address of the Department;

14 (2) the subject matter of the hearing;

15 (3) a description of the agreement that may be awarded;

16 and

17 (4) the recommendation that has been made to select an
18 offeror as the contractor for the South Suburban Airport
19 project.

20 At the hearing, the Department shall allow the public to be
21 heard on the subject of the hearing.

22 (h) After the procedures required in this Section have been
23 completed, the Department shall make a determination as to
24 whether the offeror should be designated as the contractor for
25 the South Suburban Airport project and shall submit the
26 decision to the Governor and to the Governor's Office of

1 Management and Budget. After review of the Department's
2 determination, the Governor may accept or reject the
3 determination. If the Governor accepts the determination of the
4 Department, the Governor shall designate the offeror for the
5 South Suburban Airport project.

6 (Source: P.A. 98-109, eff. 7-25-13.)

7 Section 170. The Public-Private Partnerships for
8 Transportation Act is amended by changing Section 25 as
9 follows:

10 (630 ILCS 5/25)

11 Sec. 25. Design-build procurement.

12 (a) This Section 25 shall apply only to transportation
13 projects for which the Department or the Authority intends to
14 execute a design-build agreement, in which case the Department
15 or the Authority shall abide by the requirements and procedures
16 of this Section 25 in addition to other applicable requirements
17 and procedures set forth in this Act.

18 (b) (1) The transportation agency must issue a notice of
19 intent to receive proposals for the project at least 14 days
20 before issuing the request for the qualifications. The
21 transportation agency must publish the advance notice in a
22 daily newspaper of general circulation in the county where the
23 transportation agency is located. The transportation agency is
24 encouraged to use publication of the notice in related

1 construction industry service publications. A brief
2 description of the proposed procurement must be included in the
3 notice. The transportation agency must provide a copy of the
4 request for qualifications to any party requesting a copy.

5 (2) The request for qualifications shall be prepared for
6 each project and must contain, without limitation, the
7 following information: (i) the name of the transportation
8 agency; (ii) a preliminary schedule for the completion of the
9 contract; (iii) the proposed budget for the project and the
10 source of funds, to the extent not already reflected in the
11 Department's Multi-Year Highway Improvement Program; (iv) the
12 shortlisting process for entities or groups of entities such as
13 unincorporated joint ventures wishing to submit proposals (the
14 transportation agency shall include, at a minimum, its normal
15 prequalification, licensing, registration, and other
16 requirements, but nothing contained herein precludes the use of
17 additional criteria by the transportation agency); (v) a
18 summary of anticipated material requirements of the contract,
19 including but not limited to, the proposed terms and
20 conditions, required performance and payment bonds, insurance,
21 and the utilization goals established by the transportation
22 agency for minority and women business enterprises and
23 compliance with Section 2-105 of the Illinois Human Rights Act;
24 and (vi) the anticipated number of entities that will be
25 shortlisted for the request for proposals phase.

26 (3) The transportation agency may include any other

1 relevant information in the request for qualifications that it
2 chooses to supply. The private entity shall be entitled to rely
3 upon the accuracy of this documentation in the development of
4 its statement of qualifications and its proposal only to the
5 extent expressly warranted by the transportation agency.

6 (4) The date that statements of qualifications are due must
7 be at least 21 calendar days after the date of the issuance of
8 the request for qualifications. In the event the cost of the
9 project is estimated to exceed \$12,000,000, then the statement
10 of qualifications due date must be at least 28 calendar days
11 after the date of the issuance of the request for
12 qualifications. The transportation agency shall include in the
13 request for proposals a minimum of 30 days to develop the
14 proposals after the selection of entities from the evaluation
15 of the statements of qualifications is completed.

16 (c)(1) The transportation agency shall develop, with the
17 assistance of a licensed design professional, the request for
18 qualifications and the request for proposals, which shall
19 include scope and performance criteria. The scope and
20 performance criteria must be in sufficient detail and contain
21 adequate information to reasonably apprise the private
22 entities of the transportation agency's overall programmatic
23 needs and goals, including criteria and preliminary design
24 plans, general budget parameters, schedule, and delivery
25 requirements.

26 (2) Each request for qualifications and request for

1 proposals shall also include a description of the level of
2 design to be provided in the proposals. This description must
3 include the scope and type of renderings, drawings, and
4 specifications that, at a minimum, will be required by the
5 transportation agency to be produced by the private entities.

6 (3) The scope and performance criteria shall be prepared by
7 a design professional who is an employee of the transportation
8 agency, or the transportation agency may contract with an
9 independent design professional selected under the
10 Architectural, Engineering, and Land Surveying Qualifications
11 Based Selection Act to provide these services.

12 (4) The design professional that prepares the scope and
13 performance criteria is prohibited from participating in any
14 private entity proposal for the project.

15 (d)(1) The transportation agency must use a two phase
16 procedure for the selection of the successful design-build
17 entity. The request for qualifications phase will evaluate and
18 shortlist the private entities based on qualifications, and the
19 request for proposals will evaluate the technical and cost
20 proposals.

21 (2) The transportation agency shall include in the request
22 for qualifications the evaluating factors to be used in the
23 request for qualifications phase. These factors are in addition
24 to any prequalification requirements of private entities that
25 the transportation agency has set forth. Each request for
26 qualifications shall establish the relative importance

1 assigned to each evaluation factor, including any weighting of
2 criteria to be employed by the transportation agency. The
3 transportation agency must maintain a record of the evaluation
4 scoring to be disclosed in event of a protest regarding the
5 solicitation.

6 The transportation agency shall include the following
7 criteria in every request for qualifications phase evaluation
8 of private entities: (i) experience of personnel; (ii)
9 successful experience with similar project types; (iii)
10 financial capability; (iv) timeliness of past performance; (v)
11 experience with similarly sized projects; (vi) successful
12 reference checks of the firm; (vii) commitment to assign
13 personnel for the duration of the project and qualifications of
14 the entity's consultants; and (viii) ability or past
15 performance in meeting or exhausting good faith efforts to meet
16 the utilization goals for business enterprises established in
17 the Business Enterprise for Minorities, Women ~~Females~~, and
18 Persons with Disabilities Act and in complying with Section
19 2-105 of the Illinois Human Rights Act. No proposal shall be
20 considered that does not include an entity's plan to comply
21 with the requirements regarding minority and women business
22 enterprises and economically disadvantaged firms established
23 by the transportation agency and with Section 2-105 of the
24 Illinois Human Rights Act. The transportation agency may
25 include any additional relevant criteria in the request for
26 qualifications phase that it deems necessary for a proper

1 qualification review.

2 Upon completion of the qualifications evaluation, the
3 transportation agency shall create a shortlist of the most
4 highly qualified private entities.

5 The transportation agency shall notify the entities
6 selected for the shortlist in writing. This notification shall
7 commence the period for the preparation of the request for
8 proposals phase technical and cost evaluations. The
9 transportation agency must allow sufficient time for the
10 shortlist entities to prepare their proposals considering the
11 scope and detail requested by the transportation agency.

12 (3) The transportation agency shall include in the request
13 for proposals the evaluating factors to be used in the
14 technical and cost submission components. Each request for
15 proposals shall establish, for both the technical and cost
16 submission components, the relative importance assigned to
17 each evaluation factor, including any weighting of criteria to
18 be employed by the transportation agency. The transportation
19 agency must maintain a record of the evaluation scoring to be
20 disclosed in event of a protest regarding the solicitation.

21 The transportation agency shall include the following
22 criteria in every request for proposals phase technical
23 evaluation of private entities: (i) compliance with objectives
24 of the project; (ii) compliance of proposed services to the
25 request for proposal requirements; (iii) compliance with the
26 request for proposal requirements of products or materials

1 proposed; (iv) quality of design parameters; and (v) design
2 concepts. The transportation agency may include any additional
3 relevant technical evaluation factors it deems necessary for
4 proper selection.

5 The transportation agency shall include the following
6 criteria in every request for proposals phase cost evaluation:
7 the total project cost and the time of completion. The
8 transportation agency may include any additional relevant
9 technical evaluation factors it deems necessary for proper
10 selection. The guaranteed maximum project cost criteria
11 weighing factor shall not exceed 30%.

12 The transportation agency shall directly employ or retain a
13 licensed design professional to evaluate the technical and cost
14 submissions to determine if the technical submissions are in
15 accordance with generally accepted industry standards.

16 (e) Statements of qualifications and proposals must be
17 properly identified and sealed. Statements of qualifications
18 and proposals may not be reviewed until after the deadline for
19 submission has passed as set forth in the request for
20 qualifications or the request for proposals. All private
21 entities submitting statements of qualifications or proposals
22 shall be disclosed after the deadline for submission, and all
23 private entities who are selected for request for proposals
24 phase evaluation shall also be disclosed at the time of that
25 determination.

26 Design-build proposals shall include a bid bond in the form

1 and security as designated in the request for proposals.
2 Proposals shall also contain a separate sealed envelope with
3 the cost information within the overall proposal submission.
4 Proposals shall include a list of all design professionals and
5 other entities to which any work identified in Section 30-30 of
6 the Illinois Procurement Code as a subdivision of construction
7 work may be subcontracted during the performance of the
8 contract to the extent known at the time of proposal. If the
9 information is not known at the time of proposal, then the
10 design-build agreement shall require the identification prior
11 to a previously unlisted subcontractor commencing work on the
12 transportation project.

13 Statements of qualifications and proposals must meet all
14 material requirements of the request for qualifications or
15 request for proposals, or else they may be rejected as
16 non-responsive. The transportation agency shall have the right
17 to reject any and all statements of qualifications and
18 proposals.

19 The private entity's proprietary intellectual property
20 contained in the drawings and specifications of any
21 unsuccessful statement of qualifications or proposal shall
22 remain the property of the private entity.

23 The transportation agency shall review the statements of
24 qualifications and the proposals for compliance with the
25 performance criteria and evaluation factors.

26 Statements of qualifications and proposals may be

1 withdrawn prior to the due date and time for submissions for
2 any cause. After evaluation begins by the transportation
3 agency, clear and convincing evidence of error is required for
4 withdrawal.

5 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

6 Section 175. The Criminal Code of 2012 is amended by
7 changing Sections 17-10.3 and 33E-2 as follows:

8 (720 ILCS 5/17-10.3)

9 Sec. 17-10.3. Deception relating to certification of
10 disadvantaged business enterprises.

11 (a) Fraudulently obtaining or retaining certification. A
12 person who, in the course of business, fraudulently obtains or
13 retains certification as a minority-owned ~~minority-owned~~
14 business, women-owned ~~female-owned~~ business, service-disabled
15 veteran-owned small business, or veteran-owned small business
16 commits a Class 2 felony.

17 (b) Willfully making a false statement. A person who, in
18 the course of business, willfully makes a false statement
19 whether by affidavit, report or other representation, to an
20 official or employee of a State agency or the ~~Minority and~~
21 ~~Female~~ Business Enterprise Council for Minorities, Women, and
22 Persons with Disabilities for the purpose of influencing the
23 certification or denial of certification of any business entity
24 as a minority-owned ~~minority-owned~~ business, women-owned

1 ~~female-owned~~ business, service-disabled veteran-owned small
2 business, or veteran-owned small business commits a Class 2
3 felony.

4 (c) Willfully obstructing or impeding an official or
5 employee of any agency in his or her investigation. Any person
6 who, in the course of business, willfully obstructs or impedes
7 an official or employee of any State agency or the ~~Minority and~~
8 ~~Female~~ Business Enterprise Council for Minorities, Women, and
9 Persons with Disabilities who is investigating the
10 qualifications of a business entity which has requested
11 certification as a minority-owned ~~minority-owned~~ business,
12 women-owned ~~female-owned~~ business, service-disabled
13 veteran-owned small business, or veteran-owned small business
14 commits a Class 2 felony.

15 (d) Fraudulently obtaining public moneys reserved for
16 disadvantaged business enterprises. Any person who, in the
17 course of business, fraudulently obtains public moneys
18 reserved for, or allocated or available to, minority-owned
19 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
20 businesses, service-disabled veteran-owned small businesses,
21 or veteran-owned small businesses commits a Class 2 felony.

22 (e) Definitions. As used in this Article, "minority-owned
23 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",
24 "State agency" with respect to minority-owned ~~minority-owned~~
25 businesses and women-owned ~~female-owned~~ businesses, and
26 "certification" with respect to minority-owned ~~minority-owned~~

1 businesses and women-owned ~~female-owned~~ businesses shall have
2 the meanings ascribed to them in Section 2 of the Business
3 Enterprise for Minorities, Women ~~Females~~, and Persons with
4 Disabilities Act. As used in this Article, "service-disabled
5 veteran-owned small business", "veteran-owned small business",
6 "State agency" with respect to service-disabled veteran-owned
7 small businesses and veteran-owned small businesses, and
8 "certification" with respect to service-disabled veteran-owned
9 small businesses and veteran-owned small businesses have the
10 same meanings as in Section 45-57 of the Illinois Procurement
11 Code.

12 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

13 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

14 Sec. 33E-2. Definitions. In this Act:

15 (a) "Public contract" means any contract for goods,
16 services or construction let to any person with or without bid
17 by any unit of State or local government.

18 (b) "Unit of State or local government" means the State,
19 any unit of state government or agency thereof, any county or
20 municipal government or committee or agency thereof, or any
21 other entity which is funded by or expends tax dollars or the
22 proceeds of publicly guaranteed bonds.

23 (c) "Change order" means a change in a contract term other
24 than as specifically provided for in the contract which
25 authorizes or necessitates any increase or decrease in the cost

1 of the contract or the time to completion.

2 (d) "Person" means any individual, firm, partnership,
3 corporation, joint venture or other entity, but does not
4 include a unit of State or local government.

5 (e) "Person employed by any unit of State or local
6 government" means any employee of a unit of State or local
7 government and any person defined in subsection (d) who is
8 authorized by such unit of State or local government to act on
9 its behalf in relation to any public contract.

10 (f) "Sheltered market" has the meaning ascribed to it in
11 Section 8b of the Business Enterprise for Minorities, Women
12 ~~Females~~, and Persons with Disabilities Act; except that, with
13 respect to State contracts set aside for award to
14 service-disabled veteran-owned small businesses and
15 veteran-owned small businesses pursuant to Section 45-57 of the
16 Illinois Procurement Code, "sheltered market" means
17 procurements pursuant to that Section.

18 (g) "Kickback" means any money, fee, commission, credit,
19 gift, gratuity, thing of value, or compensation of any kind
20 which is provided, directly or indirectly, to any prime
21 contractor, prime contractor employee, subcontractor, or
22 subcontractor employee for the purpose of improperly obtaining
23 or rewarding favorable treatment in connection with a prime
24 contract or in connection with a subcontract relating to a
25 prime contract.

26 (h) "Prime contractor" means any person who has entered

1 into a public contract.

2 (i) "Prime contractor employee" means any officer,
3 partner, employee, or agent of a prime contractor.

4 (i-5) "Stringing" means knowingly structuring a contract
5 or job order to avoid the contract or job order being subject
6 to competitive bidding requirements.

7 (j) "Subcontract" means a contract or contractual action
8 entered into by a prime contractor or subcontractor for the
9 purpose of obtaining goods or services of any kind under a
10 prime contract.

11 (k) "Subcontractor" (1) means any person, other than the
12 prime contractor, who offers to furnish or furnishes any goods
13 or services of any kind under a prime contract or a subcontract
14 entered into in connection with such prime contract; and (2)
15 includes any person who offers to furnish or furnishes goods or
16 services to the prime contractor or a higher tier
17 subcontractor.

18 (l) "Subcontractor employee" means any officer, partner,
19 employee, or agent of a subcontractor.

20 (Source: P.A. 97-260, eff. 8-5-11.)

21 Section 180. The Business Corporation Act of 1983 is
22 amended by changing Section 14.05 as follows:

23 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

24 Sec. 14.05. Annual report of domestic or foreign

1 corporation. Each domestic corporation organized under any
2 general law or special act of this State authorizing the
3 corporation to issue shares, other than homestead
4 associations, building and loan associations, banks and
5 insurance companies (which includes a syndicate or limited
6 syndicate regulated under Article V 1/2 of the Illinois
7 Insurance Code or member of a group of underwriters regulated
8 under Article V of that Code), and each foreign corporation
9 (except members of a group of underwriters regulated under
10 Article V of the Illinois Insurance Code) authorized to
11 transact business in this State, shall file, within the time
12 prescribed by this Act, an annual report setting forth:

13 (a) The name of the corporation.

14 (b) The address, including street and number, or rural
15 route number, of its registered office in this State, and
16 the name of its registered agent at that address.

17 (c) The address, including street and number, or rural
18 route number, of its principal office.

19 (d) The names and respective addresses, including
20 street and number, or rural route number, of its directors
21 and officers.

22 (e) A statement of the aggregate number of shares which
23 the corporation has authority to issue, itemized by classes
24 and series, if any, within a class.

25 (f) A statement of the aggregate number of issued
26 shares, itemized by classes, and series, if any, within a

1 class.

2 (g) A statement, expressed in dollars, of the amount of
3 paid-in capital of the corporation as defined in this Act.

4 (h) Either a statement that (1) all the property of the
5 corporation is located in this State and all of its
6 business is transacted at or from places of business in
7 this State, or the corporation elects to pay the annual
8 franchise tax on the basis of its entire paid-in capital,
9 or (2) a statement, expressed in dollars, of the value of
10 all the property owned by the corporation, wherever
11 located, and the value of the property located within this
12 State, and a statement, expressed in dollars, of the gross
13 amount of business transacted by the corporation and the
14 gross amount thereof transacted by the corporation at or
15 from places of business in this State as of the close of
16 its fiscal year on or immediately preceding the last day of
17 the third month prior to the anniversary month or in the
18 case of a corporation which has established an extended
19 filing month, as of the close of its fiscal year on or
20 immediately preceding the last day of the third month prior
21 to the extended filing month; however, in the case of a
22 domestic corporation that has not completed its first
23 fiscal year, the statement with respect to property owned
24 shall be as of the last day of the third month preceding
25 the anniversary month and the statement with respect to
26 business transacted shall be furnished for the period

1 between the date of incorporation and the last day of the
2 third month preceding the anniversary month. In the case of
3 a foreign corporation that has not been authorized to
4 transact business in this State for a period of 12 months
5 and has not commenced transacting business prior to
6 obtaining authority, the statement with respect to
7 property owned shall be as of the last day of the third
8 month preceding the anniversary month and the statement
9 with respect to business transacted shall be furnished for
10 the period between the date of its authorization to
11 transact business in this State and the last day of the
12 third month preceding the anniversary month. If the data
13 referenced in item (2) of this subsection is not completed,
14 the franchise tax provided for in this Act shall be
15 computed on the basis of the entire paid-in capital.

16 (i) A statement, including the basis therefor, of
17 status as a "minority-owned ~~minority-owned~~ business" or as
18 a "women-owned ~~female-owned~~ business" as those terms are
19 defined in the Business Enterprise for Minorities, Women
20 ~~Females~~, and Persons with Disabilities Act.

21 (j) Additional information as may be necessary or
22 appropriate in order to enable the Secretary of State to
23 administer this Act and to verify the proper amount of fees
24 and franchise taxes payable by the corporation.

25 The annual report shall be made on forms prescribed and
26 furnished by the Secretary of State, and the information

1 therein required by paragraphs (a) through (d), both inclusive,
2 of this Section, shall be given as of the date of the execution
3 of the annual report and the information therein required by
4 paragraphs (e), (f) and (g) of this Section shall be given as
5 of the last day of the third month preceding the anniversary
6 month, except that the information required by paragraphs (e),
7 (f) and (g) shall, in the case of a corporation which has
8 established an extended filing month, be given in its final
9 transition annual report and each subsequent annual report as
10 of the close of its fiscal year immediately preceding its
11 extended filing month. It shall be executed by the corporation
12 by its president, a vice-president, secretary, assistant
13 secretary, treasurer or other officer duly authorized by the
14 board of directors of the corporation to execute those reports,
15 and verified by him or her, or, if the corporation is in the
16 hands of a receiver or trustee, it shall be executed on behalf
17 of the corporation and verified by the receiver or trustee.

18 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,
19 7-1-03.)

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.