



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 262

2 AMENDMENT NO. _____. Amend Senate Bill 262 as follows:

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

5 (15 ILCS 405/23.9)

6 Sec. 23.9. Minority Contractor Opportunity Initiative. The
7 State Comptroller Minority Contractor Opportunity Initiative
8 is created to provide greater opportunities for minority-owned
9 businesses, women-owned ~~female-owned~~ businesses, businesses
10 owned by persons with disabilities, and small businesses with
11 20 or fewer employees in this State to participate in the State
12 procurement process. The initiative shall be administered by
13 the Comptroller. Under this initiative, the Comptroller is
14 responsible for the following: (i) outreach to minority-owned
15 businesses, women-owned ~~female-owned~~ businesses, businesses
16 owned by persons with disabilities, and small businesses

1 capable of providing services to the State; (ii) education of
2 minority-owned businesses, women-owned ~~female-owned~~
3 businesses, businesses owned by persons with disabilities, and
4 small businesses concerning State contracting and procurement;
5 (iii) notification of minority-owned businesses, women-owned
6 ~~female-owned~~ businesses, businesses owned by persons with
7 disabilities, and small businesses of State contracting
8 opportunities; and (iv) maintenance of an online database of
9 State contracts that identifies the contracts awarded to
10 minority-owned businesses, women-owned ~~female-owned~~
11 businesses, businesses owned by persons with disabilities, and
12 small businesses that includes the total amount paid by State
13 agencies to contractors and the percentage paid to
14 minority-owned businesses, women-owned ~~female-owned~~
15 businesses, businesses owned by persons with disabilities, and
16 small businesses.

17 The Comptroller shall work with the Business Enterprise
18 Council created under Section 5 of the Business Enterprise for
19 Minorities, Women ~~Females~~, and Persons with Disabilities Act to
20 fulfill the Comptroller's responsibilities under this Section.
21 The Comptroller may rely on the Business Enterprise Council's
22 identification of minority-owned businesses, women-owned
23 ~~female-owned~~ businesses, and businesses owned by persons with
24 disabilities.

25 The Comptroller shall annually prepare and submit a report
26 to the Governor and the General Assembly concerning the

1 progress of this initiative including the following
2 information for the preceding calendar year: (i) a statement of
3 the total amounts paid by each executive branch agency to
4 contractors since the previous report; (ii) the percentage of
5 the amounts that were paid to minority-owned businesses,
6 women-owned ~~female-owned~~ businesses, businesses owned by
7 persons with disabilities, and small businesses; (iii) the
8 successes achieved and the challenges faced by the Comptroller
9 in operating outreach programs for minorities, women, persons
10 with disabilities, and small businesses; (iv) the challenges
11 each executive branch agency may face in hiring qualified
12 minority, woman ~~female~~, and small business employees and
13 employees with disabilities and contracting with qualified
14 minority-owned businesses, women-owned ~~female-owned~~
15 businesses, businesses owned by persons with disabilities, and
16 small businesses; and (iv) any other information, findings,
17 conclusions, and recommendations for legislative or agency
18 action, as the Comptroller deems appropriate.

19 On and after the effective date of this amendatory Act of
20 the 97th General Assembly, any bidder or offeror awarded a
21 contract of \$1,000 or more under Section 20-10, 20-15, 20-25,
22 or 20-30 of the Illinois Procurement Code is required to pay a
23 fee of \$15 to cover expenses related to the administration of
24 this Section. The Comptroller shall deduct the fee from the
25 first check issued to the vendor under the contract and deposit
26 the fee into the Comptroller's Administrative Fund. Contracts

1 administered for statewide orders placed by agencies (commonly
2 referred to as "statewide master contracts") are exempt from
3 this fee.

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

5 (20 ILCS 605/605-525 rep.)

6 Section 10. The Department of Commerce and Economic
7 Opportunity Law of the Civil Administrative Code of Illinois is
8 amended by repealing Section 605-525.

9 Section 15. The Illinois Lottery Law is amended by changing
10 Section 9.1 as follows:

11 (20 ILCS 1605/9.1)

12 Sec. 9.1. Private manager and management agreement.

13 (a) As used in this Section:

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

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

19 (1) Statements of qualifications.

20 (2) Proposals to enter into a management agreement,
21 including the identity of any prospective vendor or vendors
22 that the offeror intends to initially engage to assist the
23 offeror in performing its obligations under the management

1 agreement.

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

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

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

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

1 following:

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

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

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

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

22 (c-5) The Department shall include provisions in the
23 management agreement whereby the private manager shall, for a
24 fee, and pursuant to a contract negotiated with the Department
25 (the "Employee Use Contract"), utilize the services of current
26 Department employees to assist in the administration and

1 operation of the Lottery. The Department shall be the employer
2 of all such bargaining unit employees assigned to perform such
3 work for the private manager, and such employees shall be State
4 employees, as defined by the Personnel Code. Department
5 employees shall operate under the same employment policies,
6 rules, regulations, and procedures, as other employees of the
7 Department. In addition, neither historical representation
8 rights under the Illinois Public Labor Relations Act, nor
9 existing collective bargaining agreements, shall be disturbed
10 by the management agreement with the private manager for the
11 management of the Lottery.

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

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

16 (2) A provision specifying that the Department:

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

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

21 (B) has ready access at any time to information
22 regarding Lottery operations;

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

26 (D) retains ownership of all trade names,

1 trademarks, and intellectual property associated with
2 the Lottery.

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

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

16 (5) A provision providing for compensation of the
17 private manager that may consist of, among other things, a
18 fee for services and a performance based bonus as
19 consideration for managing the Lottery, including terms
20 that may provide the private manager with an increase in
21 compensation if Lottery revenues grow by a specified
22 percentage in a given year.

23 (6) (Blank).

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

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

3 (8-5) A provision encouraging that at least 20% of the
4 cost of contracts entered into for goods and services by
5 the private manager in connection with its management of
6 the Lottery, other than contracts with sales agents or
7 technical advisors, be awarded to businesses that are a
8 minority-owned ~~minority-owned~~ business, a women-owned
9 ~~female-owned~~ business, or a business owned by a person with
10 disability, as those terms are defined in the Business
11 Enterprise for Minorities, Women ~~Females~~, and Persons with
12 Disabilities Act.

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

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

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

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

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

26 (E) The implementation of a program by the private

1 manager to curb compulsive gambling by persons playing
2 the Lottery.

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

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

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

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

22 (13) A requirement that the Department monitor and
23 oversee the private manager's practices and take action
24 that the Department considers appropriate to ensure that
25 the private manager is in compliance with the terms of the
26 management agreement, while allowing the manager, unless

1 specifically prohibited by law or the management
2 agreement, to negotiate and sign its own contracts with
3 vendors.

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

8 (15) Cash reserves requirements.

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

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

15 (18) Procedures for amendment of the agreement.

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

25 (20) The transition of rights and obligations,
26 including any associated equipment or other assets used in

1 the operation of the Lottery, from the manager to any
2 successor manager of the lottery, including the
3 Department, following the termination of or foreclosure
4 upon the management agreement.

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

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

15 (e) Notwithstanding any other law to the contrary, the
16 Department shall select a private manager through a competitive
17 request for qualifications process consistent with Section
18 20-35 of the Illinois Procurement Code, which shall take into
19 account:

20 (1) the offeror's ability to market the Lottery to
21 those residents who are new, infrequent, or lapsed players
22 of the Lottery, especially those who are most likely to
23 make regular purchases on the Internet;

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

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

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

10 (f) The Department may retain the services of an advisor or
11 advisors with significant experience in financial services or
12 the management, operation, and procurement of goods, services,
13 and equipment for a government-run lottery to assist in the
14 preparation of the terms of the request for qualifications and
15 selection of the private manager. Any prospective advisor
16 seeking to provide services under this subsection (f) shall
17 disclose any material business or financial relationship
18 during the past 3 years with any potential offeror, or with a
19 contractor or subcontractor presently providing goods,
20 services, or equipment to the Department to support the
21 Lottery. The Department shall evaluate the material business or
22 financial relationship of each prospective advisor. The
23 Department shall not select any prospective advisor with a
24 substantial business or financial relationship that the
25 Department deems to impair the objectivity of the services to
26 be provided by the prospective advisor. During the course of

1 the advisor's engagement by the Department, and for a period of
2 one year thereafter, the advisor shall not enter into any
3 business or financial relationship with any offeror or any
4 vendor identified to assist an offeror in performing its
5 obligations under the management agreement. Any advisor
6 retained by the Department shall be disqualified from being an
7 offeror. The Department shall not include terms in the request
8 for qualifications that provide a material advantage whether
9 directly or indirectly to any potential offeror, or any
10 contractor or subcontractor presently providing goods,
11 services, or equipment to the Department to support the
12 Lottery, including terms contained in previous responses to
13 requests for proposals or qualifications submitted to
14 Illinois, another State or foreign government when those terms
15 are uniquely associated with a particular potential offeror,
16 contractor, or subcontractor. The request for proposals
17 offered by the Department on December 22, 2008 as
18 "LOT08GAMESYS" and reference number "22016176" is declared
19 void.

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

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

2 (2) The subject matter of the hearing.

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

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

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

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

1 management agreement with the private manager.

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

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

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

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

21 (m) Neither this Section nor any management agreement
22 entered into under this Section prohibits the General Assembly
23 from authorizing forms of gambling that are not in direct
24 competition with the Lottery.

25 (n) The private manager shall be subject to a complete
26 investigation in the third, seventh, and tenth years of the

1 agreement (if the agreement is for a 10-year term) by the
2 Department in cooperation with the Auditor General to determine
3 whether the private manager has complied with this Section and
4 the management agreement. The private manager shall bear the
5 cost of an investigation or reinvestigation of the private
6 manager under this subsection.

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

26 Upon receipt of a written request from the Chief

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

17 Notwithstanding any other provision of this Section to the
18 contrary, the Chief Procurement Officer shall adopt
19 administrative rules, including emergency rules, to establish
20 a procurement process to select a successor private manager if
21 a private management agreement has been terminated. The
22 selection process shall at a minimum take into account the
23 criteria set forth in items (1) through (4) of subsection (e)
24 of this Section and may include provisions consistent with
25 subsections (f), (g), (h), and (i) of this Section. The Chief
26 Procurement Officer shall also implement and administer the

1 adopted selection process upon the termination of a private
2 management agreement. The Department, after the Chief
3 Procurement Officer certifies that the procurement process has
4 been followed in accordance with the rules adopted under this
5 subsection (o), shall select a final offeror as the private
6 manager and sign the management agreement with the private
7 manager.

8 Except as provided in Sections 21.5, 21.6, 21.7, 21.8, and
9 21.9, the Department shall distribute all proceeds of lottery
10 tickets and shares sold in the following priority and manner:

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

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

16 (3) On the last day of each month or as soon thereafter
17 as possible, the State Comptroller shall direct and the
18 State Treasurer shall transfer from the State Lottery Fund
19 to the Common School Fund an amount that is equal to the
20 proceeds transferred in the corresponding month of fiscal
21 year 2009, as adjusted for inflation, to the Common School
22 Fund.

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

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

3 (1) the Department shall submit written quarterly
4 reports to the Governor and the General Assembly on the
5 activities and actions of the private manager selected
6 under this Section;

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

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

21 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
22 99-933, eff. 1-27-17.)

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

1 (20 ILCS 2705/2705-585)

2 Sec. 2705-585. Diversity goals.

3 (a) To the extent permitted by any applicable federal law
4 or regulation, all State construction projects funded from
5 amounts (i) made available under the Governor's Fiscal Year
6 2009 supplemental budget or the American Recovery and
7 Reinvestment Act of 2009 and (ii) that are appropriated to the
8 Illinois Department of Transportation shall comply with the
9 Business Enterprise for Minorities, Women ~~Females~~, and Persons
10 with Disabilities Act.

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

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

22 (20 ILCS 2705/2705-600)

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

24 Sec. 2705-600. Target market program. In order to remedy

1 particular incidents and patterns of egregious race or gender
2 discrimination, the chief procurement officer, in consultation
3 with the Department, shall have the power to implement a target
4 market program incorporating the following terms:

5 (0.5) Each fiscal year, the Department shall review any
6 and all evidence of discrimination related to
7 transportation construction projects. Evidence of
8 discrimination may include, but is not limited to: (i) the
9 determination of the Department's utilization of
10 minority-owned and women-owned ~~female-owned~~ firms in its
11 prime contracts and associated subcontracts; (ii) the
12 availability of minority-owned and women-owned
13 ~~female-owned~~ firms in the Department's geographic market
14 areas and specific construction industry markets; (iii)
15 any disparities between the utilization of minority-owned
16 and women-owned ~~female-owned~~ firms in the Department's
17 markets and the utilization of those firms on the
18 Department's prime contracts and subcontracts in those
19 markets; (iv) any disparities between the utilization of
20 minority-owned and women-owned ~~female-owned~~ firms in the
21 overall construction markets in which the Department
22 purchases and the utilization of those firms in the overall
23 construction economy in which the Department operates; (v)
24 evidence of discrimination in the rates at which
25 minority-owned and women-owned ~~female-owned~~ firms in the
26 Department's markets form businesses compared to similar

1 non-minority-owned and non-women-owned ~~non-female-owned~~
2 firms in the Department's markets and in the dollars earned
3 by such businesses; and (vi) quantitative and qualitative
4 anecdotal evidence of discrimination. If after reviewing
5 such evidence, the Department finds and the chief
6 procurement officer concurs in the findings that the
7 Department has a strong basis in evidence that it has a
8 compelling interest in remedying the identified
9 discrimination against a specific group, race, or gender,
10 and that the only remedy for such discrimination is a
11 narrowly tailored target market, the chief procurement
12 officer, in consultation with the Department, has the power
13 to establish and implement a target market program tailored
14 to address the specific findings of egregious
15 discrimination made by the Department, after a public
16 hearing at which minority, women ~~female~~, and general
17 contractor groups, community organizations, and other
18 interested parties shall have the opportunity to provide
19 comments.

20 (1) In January of each year, the Department and the
21 chief procurement officer shall report jointly to the
22 General Assembly the results of any evidentiary inquiries
23 or studies that establish the Department's compelling
24 interest in remedying egregious discrimination based upon
25 strong evidence of the need for a narrowly tailored target
26 market to remedy such discrimination and public hearings

1 held pursuant to this Section, and shall report the actions
2 to be taken to address the findings, including, if
3 warranted, the establishment and implementation of any
4 target market initiatives.

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

21 (3) The chief procurement officer may make
22 participation in the target market program dependent upon
23 submission to stricter compliance audits than are
24 generally applicable. No contract shall be eligible for
25 inclusion in the target market program unless the
26 Department determines that there are at least 3

1 minority-owned businesses or women-owned ~~female-owned~~
2 businesses interested in participating in that type of
3 contract. The Department, with the concurrence of the chief
4 procurement officer, may develop guidelines to regulate
5 the level of participation of individual minority-owned
6 businesses and women-owned ~~female-owned~~ businesses in the
7 target market program in order to prevent the domination of
8 the target market program by a small number of those
9 entities. The Department may require minority-owned
10 businesses and women-owned ~~female-owned~~ businesses to
11 participate in training programs offered by the Department
12 or other State agencies as a condition precedent to
13 participation in the target market program.

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

26 (5) The Department may include in the target market

1 program contracts that are funded by the federal government
2 to the extent allowed by federal law and may vary the
3 standards of eligibility of the target market program to
4 the extent necessary to comply with the federal funding
5 requirements.

6 (6) If no satisfactory bid or response is received with
7 respect to a contract that has been designated as part of
8 the target market program, the chief procurement officer,
9 in consultation with the Department, may delete that
10 contract from the target market program. In addition, the
11 chief procurement officer, in consultation with the
12 Department, may thereupon designate and set aside for the
13 target market program additional contracts corresponding
14 in approximate value to the contract that was deleted from
15 the target market program, in keeping with the narrowly
16 tailored process used for selecting contracts suitable for
17 the program and to the extent feasible.

18 (7) The chief procurement officer, in consultation
19 with the Department, shall promulgate such rules as he or
20 she deems necessary to administer the target market
21 program.

22 If any part, sentence, or clause of this Section is for any
23 reason held invalid or to be unconstitutional, such decision
24 shall not affect the validity of the remaining portions of this
25 Section.

26 This Section is repealed on June 30, 2017.

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

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

4 (20 ILCS 3105/16) (from Ch. 127, par. 783b)

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

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

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

18 (2) The occurrence of an event or series of events
19 which, in the Board's opinion, warrants a summary
20 suspension or modification of a prequalification without a
21 hearing including, without limitation, (i) the indictment
22 of the holder of the prequalification by a State or federal
23 agency or other branch of government for a crime; (ii) the
24 suspension or modification of a license or

1 prequalification by another State agency or federal agency
2 or other branch of government after hearings; (iii) a
3 material breach of a contract made between the Board and an
4 architect, engineer or contractor; and (iv) the failure to
5 comply with State law including, without limitation, the
6 Business Enterprise for Minorities, Women ~~Females~~, and
7 Persons with Disabilities Act, the prevailing wage
8 requirements, and the Steel Products Procurement Act.

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

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

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

19 (20 ILCS 3860/20)

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

21 Sec. 20. Powers and duties of the Illinois Health
22 Information Exchange Authority. The Authority has the
23 following powers, together with all powers incidental or
24 necessary to accomplish the purposes of this Act:

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

5 (2) The Authority shall establish and adopt standards
6 and requirements for the use of health information and the
7 requirements for participation in the ILHIE by persons or
8 entities including, but not limited to, health care
9 providers, payors, and local health information exchanges.

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

22 (4) The Authority shall identify barriers to the
23 adoption of electronic health records systems, including
24 researching the rates and patterns of dissemination and use
25 of electronic health record systems throughout the State.
26 The Authority shall make the results of the research

1 available on its website.

2 (5) The Authority shall prepare educational materials
3 and educate the general public on the benefits of
4 electronic health records, the ILHIE, and the safeguards
5 available to prevent unauthorized disclosure of health
6 information.

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

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

21 (8) The Authority may solicit and accept grants, loans,
22 contributions, or appropriations from any public or
23 private source and may expend those moneys, through
24 contracts, grants, loans, or agreements, on activities it
25 considers suitable to the performance of its duties under
26 this Act.

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

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

18 (11) The Authority shall consult and coordinate with
19 the Department of Public Health to further the Authority's
20 collection of health information from health care
21 providers for public health purposes. The collection of
22 public health information shall include identifiable
23 information for use by the Authority or other State
24 agencies to comply with State and federal laws. Any
25 identifiable information so collected shall be privileged
26 and confidential in accordance with Sections 8-2101,

1 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
2 Procedure.

3 (12) All identified or deidentified health information
4 in the form of health data or medical records contained in,
5 stored in, submitted to, transferred by, or released from
6 the Illinois Health Information Exchange, and identified
7 or deidentified health information in the form of health
8 data and medical records of the Illinois Health Information
9 Exchange in the possession of the Illinois Health
10 Information Exchange Authority due to its administration
11 of the Illinois Health Information Exchange, shall be
12 exempt from inspection and copying under the Freedom of
13 Information Act. The terms "identified" and "deidentified"
14 shall be given the same meaning as in the Health Insurance
15 Portability and Accountability Act of 1996, Public Law
16 104-191, or any subsequent amendments thereto, and any
17 regulations promulgated thereunder.

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

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

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

3 (20 ILCS 3948/20)

4 Sec. 20. Board of directors. IGP shall be governed by a
5 board of directors. The IGP board of directors shall consist of
6 14 members. Five of the members shall be voting members
7 appointed by the Governor with the advice and consent of the
8 Senate. The Speaker and Minority Leader of the House of
9 Representatives, the President and Minority Leader of the
10 Senate, the Lieutenant Governor, the Director of Agriculture,
11 the Director of Commerce and Economic Opportunity, the
12 Chairperson of the Illinois Arts Council, and the Director of
13 the Illinois Finance Authority, or the designee of each, shall
14 be non-voting ex officio members.

15 Of the members appointed by the Governor, one member must
16 have a background in agriculture, one member must have a
17 background in manufacturing, and one member must have a
18 background in international business relations.

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

1 Members of the board shall receive no compensation but
2 shall be reimbursed for expenses incurred in the performance of
3 their duties.

4 The Governor shall designate the chairman of the board
5 until a successor is designated. The board shall meet at the
6 call of the chair.

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

16 On December 31 of each year, the board shall report to the
17 General Assembly and the Governor regarding the use of services
18 provided by businesses owned by minorities, women ~~females~~, and
19 persons with disabilities, as defined under the Business
20 Enterprise for Minorities, Women ~~Females~~, and Persons with
21 Disabilities Act.

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

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

1 (30 ILCS 105/8.32) (from Ch. 127, par. 144.32)

2 Sec. 8.32. All moneys received by the Minority and Women
3 ~~Female~~ Business Enterprise Council, or by the Department of
4 Central Management Services on behalf of the Council or the
5 Department's ~~Minority and Female~~ Business Enterprise for
6 Minorities, Women, and Persons with Disabilities Division,
7 from grants, donations, seminar registration fees, and the sale
8 of directories, lists and other such information, shall be
9 deposited into the Minority and Female Business Enterprise Fund
10 in the State treasury. Expenses of the Council or the
11 Department's ~~Minority and Female~~ Business Enterprise for
12 Minorities, Women, and Persons with Disabilities Division may
13 be paid from this Fund.

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

15 (30 ILCS 105/45)

16 Sec. 45. Award of capital funds. Each award by grant or
17 loan of State funds of \$250,000 or more for capital
18 construction costs or professional services is conditioned
19 upon the recipient's written certification that the recipient
20 shall comply with the business enterprise program practices for
21 minority-owned businesses, women-owned ~~female-owned~~
22 businesses, and businesses owned by persons with disabilities
23 of the Business Enterprise for Minorities, Women ~~Females~~, and
24 Persons with Disabilities Act (30 ILCS 575/) and the equal
25 employment practices of Section 2-105 of the Illinois Human

1 Rights Act (775 ILCS 5/2-105). This Section, however, does not
2 apply to any grant or loan (i) for which a grant or loan
3 agreement was executed before the effective date of this
4 amendatory Act of the 96th General Assembly, (ii) for which
5 prior-incurred costs are being reimbursed, or (iii) for a
6 federally funded program under which the requirement of this
7 Section would contravene federal law. Each recipient shall
8 submit the written certification and business enterprise
9 program plan for minority-owned businesses, women-owned
10 ~~female-owned~~ businesses, and businesses owned by persons with
11 disabilities before signing the relevant grant or loan
12 agreement. Each grant or loan agreement shall include a
13 provision that the grant or loan recipient agrees to comply
14 with the provisions of the Business Enterprise for Minorities,
15 Women ~~Females~~, and Persons with Disabilities Act (30 ILCS 575/)
16 and the equal employment practices of Section 2-105 of the
17 Illinois Human Rights Act (775 ILCS 5/2-105).

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

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

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

1 (30 ILCS 330/8) (from Ch. 127, par. 658)

2 Sec. 8. Bond sale expenses.

3 (a) An amount not to exceed 0.5 percent of the principal
4 amount of the proceeds of sale of each bond sale is authorized
5 to be used to pay the reasonable costs of issuance and sale,
6 including, without limitation, underwriter's discounts and
7 fees, but excluding bond insurance, of State of Illinois
8 general obligation bonds authorized and sold pursuant to this
9 Act, provided that no salaries of State employees or other
10 State office operating expenses shall be paid out of
11 non-appropriated proceeds, provided further that the percent
12 shall be 1.0% for each sale of "Build America Bonds" or
13 "Qualified School Construction Bonds" as defined in
14 subsections (d) and (e) of Section 9, respectively. The
15 Governor's Office of Management and Budget shall compile a
16 summary of all costs of issuance on each sale (including both
17 costs paid out of proceeds and those paid out of appropriated
18 funds) and post that summary on its web site within 20 business
19 days after the issuance of the Bonds. The summary shall
20 include, as applicable, the respective percentages of
21 participation and compensation of each underwriter that is a
22 member of the underwriting syndicate, legal counsel, financial
23 advisors, and other professionals for the bond issue and an
24 identification of all costs of issuance paid to minority-owned
25 ~~minority-owned~~ businesses, women-owned ~~female-owned~~

1 businesses, and businesses owned by persons with disabilities.
2 The terms "minority-owned ~~minority-owned~~ businesses",
3 "women-owned ~~female-owned~~ businesses", and "business owned by a
4 person with a disability" have the meanings given to those
5 terms in the Business Enterprise for Minorities, Women ~~Females~~,
6 and Persons with Disabilities Act. That posting shall be
7 maintained on the web site for a period of at least 30 days. In
8 addition, the Governor's Office of Management and Budget shall
9 provide a written copy of each summary of costs to the Speaker
10 and Minority Leader of the House of Representatives, the
11 President and Minority Leader of the Senate, and the Commission
12 on Government Forecasting and Accountability within 20
13 business days after each issuance of the Bonds. In addition,
14 the Governor's Office of Management and Budget shall provide
15 copies of all contracts under which any costs of issuance are
16 paid or to be paid to the Commission on Government Forecasting
17 and Accountability within 20 business days after the issuance
18 of Bonds for which those costs are paid or to be paid. Instead
19 of filing a second or subsequent copy of the same contract, the
20 Governor's Office of Management and Budget may file a statement
21 that specified costs are paid under specified contracts filed
22 earlier with the Commission.

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

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

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

16 (30 ILCS 330/15.5)

17 Sec. 15.5. Compliance with the Business Enterprise for
18 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
19 Notwithstanding any other provision of law, the Governor's
20 Office of Management and Budget shall comply with the Business
21 Enterprise for Minorities, Women ~~Females~~, and Persons with
22 Disabilities Act.

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

24 Section 50. The Build Illinois Bond Act is amended by

1 changing Sections 5 and 8.3 as follows:

2 (30 ILCS 425/5) (from Ch. 127, par. 2805)

3 Sec. 5. Bond Sale Expenses.

4 (a) An amount not to exceed 0.5% of the principal amount of
5 the proceeds of the sale of each bond sale is authorized to be
6 used to pay reasonable costs of each issuance and sale of Bonds
7 authorized and sold pursuant to this Act, including, without
8 limitation, underwriter's discounts and fees, but excluding
9 bond insurance, advertising, printing, bond rating, travel of
10 outside vendors, security, delivery, legal and financial
11 advisory services, initial fees of trustees, registrars,
12 paying agents and other fiduciaries, initial costs of credit or
13 liquidity enhancement arrangements, initial fees of indexing
14 and remarketing agents, and initial costs of interest rate
15 swaps, guarantees or arrangements to limit interest rate risk,
16 as determined in the related Bond Sale Order, from the proceeds
17 of each Bond sale, provided that no salaries of State employees
18 or other State office operating expenses shall be paid out of
19 non-appropriated proceeds, and provided further that the
20 percent shall be 1.0% for each sale of "Build America Bonds" as
21 defined in subsection (c) of Section 6. The Governor's Office
22 of Management and Budget shall compile a summary of all costs
23 of issuance on each sale (including both costs paid out of
24 proceeds and those paid out of appropriated funds) and post
25 that summary on its web site within 20 business days after the

1 issuance of the bonds. That posting shall be maintained on the
2 web site for a period of at least 30 days. In addition, the
3 Governor's Office of Management and Budget shall provide a
4 written copy of each summary of costs to the Speaker and
5 Minority Leader of the House of Representatives, the President
6 and Minority Leader of the Senate, and the Commission on
7 Government Forecasting and Accountability within 20 business
8 days after each issuance of the bonds. This summary shall
9 include, as applicable, the respective percentage of
10 participation and compensation of each underwriter that is a
11 member of the underwriting syndicate, legal counsel, financial
12 advisors, and other professionals for the Bond issue, and an
13 identification of all costs of issuance paid to minority-owned
14 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
15 businesses, and businesses owned by persons with disabilities.
16 The terms "minority-owned ~~minority-owned~~ businesses",
17 "women-owned ~~female-owned~~ businesses", and "business owned by a
18 person with a disability" have the meanings given to those
19 terms in the Business Enterprise for Minorities, Women ~~Females~~,
20 and Persons with Disabilities Act. In addition, the Governor's
21 Office of Management and Budget shall provide copies of all
22 contracts under which any costs of issuance are paid or to be
23 paid to the Commission on Government Forecasting and
24 Accountability within 20 business days after the issuance of
25 Bonds for which those costs are paid or to be paid. Instead of
26 filing a second or subsequent copy of the same contract, the

1 Governor's Office of Management and Budget may file a statement
2 that specified costs are paid under specified contracts filed
3 earlier with the Commission.

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

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

24 (30 ILCS 425/8.3)

25 Sec. 8.3. Compliance with the Business Enterprise for

1 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
2 Notwithstanding any other provision of law, the Governor's
3 Office of Management and Budget shall comply with the Business
4 Enterprise for Minorities, Women ~~Females~~, and Persons with
5 Disabilities Act.

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

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

10 (30 ILCS 500/15-25)

11 Sec. 15-25. Bulletin content.

12 (a) Invitations for bids. Notice of each and every contract
13 that is offered, including renegotiated contracts and change
14 orders, shall be published in the Bulletin. All businesses
15 listed on the Department of Transportation Disadvantaged
16 Business Enterprise Directory, the Department of Central
17 Management Services Business Enterprise Program, and the Chief
18 Procurement Office's Small Business Vendors Directory shall be
19 furnished written instructions and information on how to
20 register on each Procurement Bulletin maintained by the State.
21 Such information shall be provided to each business within 30
22 calendar days after the business' notice of certification. The
23 applicable chief procurement officer may provide by rule an
24 organized format for the publication of this information, but

1 in any case it must include at least the date first offered,
2 the date submission of offers is due, the location that offers
3 are to be submitted to, the purchasing State agency, the
4 responsible State purchasing officer, a brief purchase
5 description, the method of source selection, information of how
6 to obtain a comprehensive purchase description and any
7 disclosure and contract forms, and encouragement to potential
8 contractors to hire qualified veterans, as defined by Section
9 45-67 of this Code, and qualified Illinois minorities, women,
10 persons with disabilities, and residents discharged from any
11 Illinois adult correctional center.

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

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

22 (b-5) Contracts awarded. Notice of each and every contract
23 that is awarded, including renegotiated contracts and change
24 orders, shall be issued electronically to the successful
25 responsible bidder, offeror, or contractor and published in the
26 next available subsequent Bulletin. The applicable chief

1 procurement officer may provide by rule an organized format for
2 the publication of this information, but in any case it must
3 include at least all of the information specified in subsection
4 (a) as well as the name of the successful responsible bidder,
5 offeror, the contract price, the number of unsuccessful bidders
6 or offerors and any other disclosure specified in any Section
7 of this Code. This notice must be posted in the online
8 electronic Bulletin prior to execution of the contract.

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

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

1 online electronic Procurement Bulletin no later than 14
2 calendar days prior to the hearing.

3 (c-5) Business Enterprise Program report. Each purchasing
4 agency shall, with the assistance of the applicable chief
5 procurement officer, post in the online electronic Bulletin a
6 copy of its annual report of utilization of businesses owned by
7 minorities, women ~~females~~, and persons with disabilities as
8 submitted to the Business Enterprise Council for Minorities,
9 Women ~~Females~~, and Persons with Disabilities pursuant to
10 Section 6(c) of the Business Enterprise for Minorities, Women
11 ~~Females~~, and Persons with Disabilities Act within 10 calendar
12 days after its submission of its report to the Council.

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

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

1 (d) Other required disclosure. The applicable chief
2 procurement officer shall provide by rule for the organized
3 publication of all other disclosure required in other Sections
4 of this Code in a timely manner.

5 (e) The changes to subsections (b), (c), (c-5), (c-10), and
6 (c-15) of this Section made by this amendatory Act of the 96th
7 General Assembly apply to reports submitted, offers made, and
8 notices on contracts executed on or after its effective date.

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

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

16 (30 ILCS 500/30-30)

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

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

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

24 (1) plumbing;

25 (2) heating, piping, refrigeration, and automatic

1 temperature control systems, including the testing and
2 balancing of those systems;

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

6 (4) electric wiring; and

7 (5) general contract work.

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

20 Beginning on the effective date of this amendatory Act of
21 the 99th General Assembly and through December 31, 2019, for
22 single prime projects: (i) the bid of the successful low bidder
23 shall identify the name of the subcontractor, if any, and the
24 bid proposal costs for each of the 5 subdivisions of work set
25 forth in this Section; (ii) the contract entered into with the
26 successful bidder shall provide that no identified

1 subcontractor may be terminated without the written consent of
2 the Capital Development Board; (iii) the contract shall comply
3 with the disadvantaged business practices of the Business
4 Enterprise for Minorities, Women ~~Females~~, and Persons with
5 Disabilities Act and the equal employment practices of Section
6 2-105 of the Illinois Human Rights Act; (iv) the Capital
7 Development Board shall submit a quarterly report to the
8 Procurement Policy Board with information on the general scope,
9 project budget, and established Business Enterprise Program
10 goals for any single prime procurement bid in the previous 3
11 months with a total construction cost valued at \$10,000,000 or
12 less; and (v) the Capital Development Board shall submit an
13 annual report to the General Assembly and Governor on the
14 bidding, award, and performance of all single prime projects.

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

23 Beginning on the effective date of this amendatory Act of
24 the 99th General Assembly and through December 31, 2017, the
25 Capital Development Board shall, on a weekly basis: review the
26 projects that have been designed, and approved to bid; and, for

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

25 (b) The provisions of this subsection are operative on and
26 after January 1, 2020. For building construction contracts in

1 excess of \$250,000, separate specifications shall be prepared
2 for all equipment, labor, and materials in connection with the
3 following 5 subdivisions of the work to be performed:

4 (1) plumbing;

5 (2) heating, piping, refrigeration, and automatic
6 temperature control systems, including the testing and
7 balancing of those systems;

8 (3) ventilating and distribution systems for
9 conditioned air, including the testing and balancing of
10 those systems;

11 (4) electric wiring; and

12 (5) general contract work.

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

26 (Source: P.A. 98-431, eff. 8-16-13; 98-1076, eff. 1-1-15;

1 99-257, eff. 8-4-15.)

2 (30 ILCS 500/45-45)

3 Sec. 45-45. Small businesses.

4 (a) Set-asides. Each chief procurement officer has
5 authority to designate as small business set-asides a fair
6 proportion of construction, supply, and service contracts for
7 award to small businesses in Illinois. Advertisements for bids
8 or offers for those contracts shall specify designation as
9 small business set-asides. In awarding the contracts, only bids
10 or offers from qualified small businesses shall be considered.

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

25 (1) No wholesale business is a small business if its

1 annual sales for its most recently completed fiscal year
2 exceed \$13,000,000.

3 (2) No retail business or business selling services is
4 a small business if its annual sales and receipts exceed
5 \$8,000,000.

6 (3) No manufacturing business is a small business if it
7 employs more than 250 persons.

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

10 (c) Fair proportion. For the purpose of subsection (a), for
11 State agencies of the executive branch, a fair proportion of
12 construction contracts shall be no less than 25% nor more than
13 40% of the annual total contracts for construction.

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

21 (e) Small business specialist. The chief procurement
22 officer shall designate a State purchasing officer who will be
23 responsible for engaging an experienced contract negotiator to
24 serve as its small business specialist, whose duties shall
25 include:

26 (1) Compiling and maintaining a comprehensive list of

1 potential small contractors. In this duty, he or she shall
2 cooperate with the Federal Small Business Administration
3 in locating potential sources for various products and
4 services.

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

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

11 (4) Making recommendations to the chief procurement
12 officer for the simplification of specifications and terms
13 in order to increase the opportunities for small business
14 participation.

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

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

1 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
2 in the preceding fiscal year under the designation of small
3 business set-aside.

4 The requirement for reporting to the General Assembly shall
5 be satisfied by filing copies of the report as required by
6 Section 3.1 of the General Assembly Organization Act.

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

8 (30 ILCS 500/45-57)

9 Sec. 45-57. Veterans.

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

25 (b) Fiscal year reports. By each September 1, each chief

1 procurement officer shall report to the Department of Central
2 Management Services on all of the following for the immediately
3 preceding fiscal year, and by each March 1 the Department of
4 Central Management Services shall compile and report that
5 information to the General Assembly:

6 (1) The total number of VOSB, and the number of SDVOSB,
7 who submitted bids for contracts under this Code.

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

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

24 (d) Governor's recommendations. To assist the State in
25 reaching the goal described in subsection (a), the Governor
26 shall recommend to the General Assembly changes in programs to

1 assist businesses owned by qualified veterans.

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

3 "Armed forces of the United States" means the United States
4 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in
5 active duty as defined under 38 U.S.C. Section 101. Service in
6 the Merchant Marine that constitutes active duty under Section
7 401 of federal Public Act 95-202 shall also be considered
8 service in the armed forces for purposes of this Section.

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

23 "Control" means the exclusive, ultimate, majority, or sole
24 control of the business, including but not limited to capital
25 investment and all other financial matters, property,
26 acquisitions, contract negotiations, legal matters,

1 officer-director-employee selection and comprehensive hiring,
2 operation responsibilities, cost-control matters, income and
3 dividend matters, financial transactions, and rights of other
4 shareholders or joint partners. Control shall be real,
5 substantial, and continuing, not pro forma. Control shall
6 include the power to direct or cause the direction of the
7 management and policies of the business and to make the
8 day-to-day as well as major decisions in matters of policy,
9 management, and operations. Control shall be exemplified by
10 possessing the requisite knowledge and expertise to run the
11 particular business, and control shall not include simple
12 majority or absentee ownership.

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

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

26 "Qualified veteran-owned small business" or "VOSB" means a

1 small business (i) that is at least 51% owned by one or more
2 qualified veterans living in Illinois or, in the case of a
3 corporation, at least 51% of the stock of which is owned by one
4 or more qualified veterans living in Illinois; (ii) that has
5 its home office in Illinois; and (iii) for which items (i) and
6 (ii) are factually verified annually by the Department of
7 Central Management Services.

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

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

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

23 "Time of hostilities with a foreign country" means any
24 period of time in the past, present, or future during which a
25 declaration of war by the United States Congress has been or is
26 in effect or during which an emergency condition has been or is

1 in effect that is recognized by the issuance of a Presidential
2 proclamation or a Presidential executive order and in which the
3 armed forces expeditionary medal or other campaign service
4 medals are awarded according to Presidential executive order.

5 "Veteran" means a person who (i) has been a member of the
6 armed forces of the United States or, while a citizen of the
7 United States, was a member of the armed forces of allies of
8 the United States in time of hostilities with a foreign country
9 and (ii) has served under one or more of the following
10 conditions: (a) the veteran served a total of at least 6
11 months; (b) the veteran served for the duration of hostilities
12 regardless of the length of the engagement; (c) the veteran was
13 discharged on the basis of hardship; or (d) the veteran was
14 released from active duty because of a service connected
15 disability and was discharged under honorable conditions.

16 (f) Certification program. The Illinois Department of
17 Veterans' Affairs and the Department of Central Management
18 Services shall work together to devise a certification
19 procedure to assure that businesses taking advantage of this
20 Section are legitimately classified as qualified
21 service-disabled veteran-owned small businesses or qualified
22 veteran-owned small businesses.

23 (g) Penalties.

24 (1) Administrative penalties. The chief procurement
25 officers appointed pursuant to Section 10-20 shall suspend
26 any person who commits a violation of Section 17-10.3 or

1 subsection (d) of Section 33E-6 of the Criminal Code of
2 2012 relating to this Section from bidding on, or
3 participating as a contractor, subcontractor, or supplier
4 in, any State contract or project for a period of not less
5 than 3 years, and, if the person is certified as a
6 service-disabled veteran-owned small business or a
7 veteran-owned small business, then the Department shall
8 revoke the business's certification for a period of not
9 less than 3 years. An additional or subsequent violation
10 shall extend the periods of suspension and revocation for a
11 period of not less than 5 years. The suspension and
12 revocation shall apply to the principals of the business
13 and any subsequent business formed or financed by, or
14 affiliated with, those principals.

15 (2) Reports of violations. Each State agency shall
16 report any alleged violation of Section 17-10.3 or
17 subsection (d) of Section 33E-6 of the Criminal Code of
18 2012 relating to this Section to the chief procurement
19 officers appointed pursuant to Section 10-20. The chief
20 procurement officers appointed pursuant to Section 10-20
21 shall subsequently report all such alleged violations to
22 the Attorney General, who shall determine whether to bring
23 a civil action against any person for the violation.

24 (3) List of suspended persons. The chief procurement
25 officers appointed pursuant to Section 10-20 shall monitor
26 the status of all reported violations of Section 17-10.3 or

1 subsection (d) of Section 33E-6 of the Criminal Code of
2 1961 or the Criminal Code of 2012 relating to this Section
3 and shall maintain and make available to all State agencies
4 a central listing of all persons that committed violations
5 resulting in suspension.

6 (4) Use of suspended persons. During the period of a
7 person's suspension under paragraph (1) of this
8 subsection, a State agency shall not enter into any
9 contract with that person or with any contractor using the
10 services of that person as a subcontractor.

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

19 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;
20 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

21 (30 ILCS 500/45-65)

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

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

25 (2) the Illinois Mined Coal Act;

- 1 (3) the Steel Products Procurement Act;
- 2 (4) the Veterans Preference Act;
- 3 (5) the Business Enterprise for Minorities, Women
- 4 ~~Females~~, and Persons with Disabilities Act; and
- 5 (6) the Procurement of Domestic Products Act.
- 6 (Source: P.A. 93-954, eff. 1-1-05.)

7 Section 60. The Design-Build Procurement Act is amended by

8 changing Sections 5, 15, 30, and 46 as follows:

9 (30 ILCS 537/5)

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

11 Sec. 5. Legislative policy. It is the intent of the

12 General Assembly that the Capital Development Board be allowed

13 to use the design-build delivery method for public projects if

14 it is shown to be in the State's best interest for that

15 particular project. It shall be the policy of the Capital

16 Development Board in the procurement of design-build services

17 to publicly announce all requirements for design-build

18 services and to procure these services on the basis of

19 demonstrated competence and qualifications and with due regard

20 for the principles of competitive selection.

21 The Capital Development Board shall, prior to issuing

22 requests for proposals, promulgate and publish procedures for

23 the solicitation and award of contracts pursuant to this Act.

24 The Capital Development Board shall, for each public

1 project or projects permitted under this Act, make a written
2 determination, including a description as to the particular
3 advantages of the design-build procurement method, that it is
4 in the best interests of this State to enter into a
5 design-build contract for the project or projects. In making
6 that determination, the following factors shall be considered:

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

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

13 (3) The ability of the State construction agency to
14 define and provide comprehensive scope and performance
15 criteria for the project.

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

23 The Capital Development Board shall within 15 days after
24 the initial determination provide an advisory copy to the
25 Procurement Policy Board and maintain the full record of
26 determination for 5 years.

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

2 (30 ILCS 537/15)

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

4 Sec. 15. Solicitation of proposals.

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

17 (b) The request for proposal shall be prepared for each
18 project and must contain, without limitation, the following
19 information:

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

21 (2) A preliminary schedule for the completion of the
22 contract.

23 (3) The proposed budget for the project, the source of
24 funds, and the currently available funds at the time the
25 request for proposal is submitted.

1 (4) Prequalification criteria for design-build
2 entities wishing to submit proposals. The State
3 construction agency shall include, at a minimum, its normal
4 prequalification, licensing, registration, and other
5 requirements, but nothing contained herein precludes the
6 use of additional prequalification criteria by the State
7 construction agency.

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

16 (6) The performance criteria.

17 (7) The evaluation criteria for each phase of the
18 solicitation.

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

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

25 (d) The date that proposals are due must be at least 21
26 calendar days after the date of the issuance of the request for

1 proposal. In the event the cost of the project is estimated to
2 exceed \$10 million, then the proposal due date must be at least
3 28 calendar days after the date of the issuance of the request
4 for proposal. The State construction agency shall include in
5 the request for proposal a minimum of 30 days to develop the
6 Phase II submissions after the selection of entities from the
7 Phase I evaluation is completed.

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

9 (30 ILCS 537/30)

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

11 Sec. 30. Procedures for Selection.

12 (a) The State construction agency must use a two-phase
13 procedure for the selection of the successful design-build
14 entity. Phase I of the procedure will evaluate and shortlist
15 the design-build entities based on qualifications, and Phase II
16 will evaluate the technical and cost proposals.

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

1 event of a protest regarding the solicitation.

2 The State construction agency shall include the following
3 criteria in every Phase I evaluation of design-build entities:

4 (1) experience of personnel; (2) successful experience with
5 similar project types; (3) financial capability; (4)
6 timeliness of past performance; (5) experience with similarly
7 sized projects; (6) successful reference checks of the firm;
8 (7) commitment to assign personnel for the duration of the
9 project and qualifications of the entity's consultants; and (8)
10 ability or past performance in meeting or exhausting good faith
11 efforts to meet the utilization goals for business enterprises
12 established in the Business Enterprise for Minorities, Women
13 ~~Females~~, and Persons with Disabilities Act and with Section
14 2-105 of the Illinois Human Rights Act. The State construction
15 agency may include any additional relevant criteria in Phase I
16 that it deems necessary for a proper qualification review.

17 The State construction agency may not consider any
18 design-build entity for evaluation or award if the entity has
19 any pecuniary interest in the project or has other
20 relationships or circumstances, including but not limited to,
21 long-term leasehold, mutual performance, or development
22 contracts with the State construction agency, that may give the
23 design-build entity a financial or tangible advantage over
24 other design-build entities in the preparation, evaluation, or
25 performance of the design-build contract or that create the
26 appearance of impropriety. No proposal shall be considered that

1 does not include an entity's plan to comply with the
2 requirements established in the Business Enterprise for
3 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
4 for both the design and construction areas of performance, and
5 with Section 2-105 of the Illinois Human Rights Act.

6 Upon completion of the qualifications evaluation, the
7 State construction agency shall create a shortlist of the most
8 highly qualified design-build entities. The State construction
9 agency, in its discretion, is not required to shortlist the
10 maximum number of entities as identified for Phase II
11 evaluation, provided however, no less than 2 design-build
12 entities nor more than 6 are selected to submit Phase II
13 proposals.

14 The State construction agency shall notify the entities
15 selected for the shortlist in writing. This notification shall
16 commence the period for the preparation of the Phase II
17 technical and cost evaluations. The State construction agency
18 must allow sufficient time for the shortlist entities to
19 prepare their Phase II submittals considering the scope and
20 detail requested by the State agency.

21 (c) The State construction agency shall include in the
22 request for proposal the evaluating factors to be used in the
23 technical and cost submission components of Phase II. Each
24 request for proposal shall establish, for both the technical
25 and cost submission components of Phase II, the relative
26 importance assigned to each evaluation factor and subfactor,

1 including any weighting of criteria to be employed by the State
2 construction agency. The State construction agency must
3 maintain a record of the evaluation scoring to be disclosed in
4 event of a protest regarding the solicitation.

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

16 The State construction agency shall include the following
17 criteria in every Phase II cost evaluation: the total project
18 cost, the construction costs, and the time of completion. The
19 State construction agency may include any additional relevant
20 technical evaluation factors it deems necessary for proper
21 selection. The total project cost criteria weighing factor
22 shall be 25%.

23 The State construction agency shall directly employ or
24 retain a licensed design professional to evaluate the technical
25 and cost submissions to determine if the technical submissions
26 are in accordance with generally accepted industry standards.

1 Upon completion of the technical submissions and cost
2 submissions evaluation, the State construction agency may
3 award the design-build contract to the highest overall ranked
4 entity.

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

6 (30 ILCS 537/46)

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

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

1 of Section 2-105 of the Illinois Human Rights Act.

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

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

5 (30 ILCS 571/25)

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

8 (a) Set forth effective, immediate, and mutually
9 binding procedures for resolving jurisdictional labor
10 disputes and grievances arising before the completion of
11 work.

12 (b) Contain guarantees against strikes, lockouts, or
13 similar actions.

14 (c) Ensure a reliable source of skilled and experienced
15 labor.

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

23 (e) Permit the selection of the lowest qualified
24 responsible bidder, without regard to union or non-union

1 status at other construction sites.

2 (f) Bind all contractors and subcontractors on the
3 public works project through the inclusion of appropriate
4 bid specifications in all relevant bid documents.

5 (g) Include such other terms as the parties deem
6 appropriate.

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

8 (30 ILCS 571/37)

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

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

22 Section 70. The Business Enterprise for Minorities,
23 Females, and Persons with Disabilities Act is amended by
24 changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, and

1 8f and by adding Sections 8g, 8h, and 8i as follows:

2 (30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

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

4 Sec. 0.01. Short title. This Act may be cited as the
5 Business Enterprise for Minorities, Women ~~Females~~, and Persons
6 with Disabilities Act.

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

8 (30 ILCS 575/1) (from Ch. 127, par. 132.601)

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

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

1 attainment of the 10% minimum goals established under this Act,
2 and, after considering evidence that minority and women ~~female~~
3 businesses, as established in 1982, constituted and continue to
4 constitute more than 10% of the businesses operating in this
5 State, the State declares that the continuation of such 10%
6 minimum goals under this amendatory Act of 1989 is a narrowly
7 tailored means of promoting open access and thus the further
8 growth and development of minority and women ~~female~~ businesses.

9 The State of Illinois further declares that it is the
10 public policy of this State to promote and encourage the
11 continuous economic development of businesses owned by persons
12 with disabilities and a 2% contracting goal is a narrowly
13 tailored means of promoting open access and thus the further
14 growth and development of those businesses.

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

16 (30 ILCS 575/2)

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

18 Sec. 2. Definitions.

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

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

24 (a) American Indian or Alaska Native (a person
25 having origins in any of the original peoples of North

1 and South America, including Central America, and who
2 maintains tribal affiliation or community attachment).

3 (b) Asian (a person having origins in any of the
4 original peoples of the Far East, Southeast Asia, or
5 the Indian subcontinent, including, but not limited
6 to, Cambodia, China, India, Japan, Korea, Malaysia,
7 Pakistan, the Philippine Islands, Thailand, and
8 Vietnam).

9 (c) Black or African American (a person having
10 origins in any of the black racial groups of Africa).
11 Terms such as "Haitian" or "Negro" can be used in
12 addition to "Black or African American".

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

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

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

22 (2.05) "Person with a disability" means a person who is
23 a citizen or lawful resident of the United States and is a
24 person qualifying as a person with a disability under
25 subdivision (2.1) of this subsection (A).

26 (2.1) "Person with a disability" means a person with a

1 severe physical or mental disability that:

2 (a) results from:

3 amputation,

4 arthritis,

5 autism,

6 blindness,

7 burn injury,

8 cancer,

9 cerebral palsy,

10 Crohn's disease,

11 cystic fibrosis,

12 deafness,

13 head injury,

14 heart disease,

15 hemiplegia,

16 hemophilia,

17 respiratory or pulmonary dysfunction,

18 an intellectual disability,

19 mental illness,

20 multiple sclerosis,

21 muscular dystrophy,

22 musculoskeletal disorders,

23 neurological disorders, including stroke and

24 epilepsy,

25 paraplegia,

26 quadriplegia and other spinal cord conditions,

1 sickle cell anemia,
2 ulcerative colitis,
3 specific learning disabilities, or
4 end stage renal failure disease; and

5 (b) substantially limits one or more of the
6 person's major life activities.

7 Another disability or combination of disabilities may
8 also be considered as a severe disability for the purposes
9 of item (a) of this subdivision (2.1) if it is determined
10 by an evaluation of rehabilitation potential to cause a
11 comparable degree of substantial functional limitation
12 similar to the specific list of disabilities listed in item
13 (a) of this subdivision (2.1).

14 (3) "Minority-owned ~~Minority-owned~~ business" means a
15 business which is at least 51% owned by one or more
16 minority persons, or in the case of a corporation, at least
17 51% of the stock in which is owned by one or more minority
18 persons; and the management and daily business operations
19 of which are controlled by one or more of the minority
20 individuals who own it.

21 (4) "Women-owned ~~Female-owned~~ business" means a
22 business which is at least 51% owned by one or more women
23 ~~females~~, or, in the case of a corporation, at least 51% of
24 the stock in which is owned by one or more women ~~females~~;
25 and the management and daily business operations of which
26 are controlled by one or more of the women ~~females~~ who own

1 it.

2 (4.1) "Business owned by a person with a disability"
3 means a business that is at least 51% owned by one or more
4 persons with a disability and the management and daily
5 business operations of which are controlled by one or more
6 of the persons with disabilities who own it. A
7 not-for-profit agency for persons with disabilities that
8 is exempt from taxation under Section 501 of the Internal
9 Revenue Code of 1986 is also considered a "business owned
10 by a person with a disability".

11 (4.2) "Council" means the Business Enterprise Council
12 for Minorities, Women ~~Females~~, and Persons with
13 Disabilities created under Section 5 of this Act.

14 (5) "State contracts" means all contracts entered into
15 by the State, any agency or department thereof, or any
16 public institution of higher education, including
17 community college districts, regardless of the source of
18 the funds with which the contracts are paid, which are not
19 subject to federal reimbursement. "State contracts" does
20 not include contracts awarded by a retirement system,
21 pension fund, or investment board subject to Section
22 1-109.1 of the Illinois Pension Code. This definition shall
23 control over any existing definition under this Act or
24 applicable administrative rule.

25 "State construction contracts" means all State
26 contracts entered into by a State agency or public

1 institution of higher education for the repair,
2 remodeling, renovation or construction of a building or
3 structure, or for the construction or maintenance of a
4 highway defined in Article 2 of the Illinois Highway Code.

5 (6) "State agencies" shall mean all departments,
6 officers, boards, commissions, institutions and bodies
7 politic and corporate of the State, but does not include
8 the Board of Trustees of the University of Illinois, the
9 Board of Trustees of Southern Illinois University, the
10 Board of Trustees of Chicago State University, the Board of
11 Trustees of Eastern Illinois University, the Board of
12 Trustees of Governors State University, the Board of
13 Trustees of Illinois State University, the Board of
14 Trustees of Northeastern Illinois University, the Board of
15 Trustees of Northern Illinois University, the Board of
16 Trustees of Western Illinois University, municipalities or
17 other local governmental units, or other State
18 constitutional officers.

19 (7) "Public institutions of higher education" means
20 the University of Illinois, Southern Illinois University,
21 Chicago State University, Eastern Illinois University,
22 Governors State University, Illinois State University,
23 Northeastern Illinois University, Northern Illinois
24 University, Western Illinois University, the public
25 community colleges of the State, and any other public
26 universities, colleges, and community colleges now or

1 hereafter established or authorized by the General
2 Assembly.

3 (8) "Certification" means a determination made by the
4 Council or by one delegated authority from the Council to
5 make certifications, or by a State agency with statutory
6 authority to make such a certification, that a business
7 entity is a business owned by a minority, woman ~~female~~, or
8 person with a disability for whatever purpose. A business
9 owned and controlled by women ~~females~~ shall be certified as
10 a "woman-owned ~~female-owned~~ business". A business owned and
11 controlled by women ~~females~~ who are also minorities shall
12 be certified as both a "women-owned ~~female-owned~~ business"
13 and a "minority-owned ~~minority-owned~~ business".

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

1 operations. Control shall be exemplified by possessing the
2 requisite knowledge and expertise to run the particular
3 business and control shall not include simple majority or
4 absentee ownership.

5 (10) "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
8 in excess of this cap may apply to the Council for
9 certification for a particular contract if the firm can
10 demonstrate that the contract would have significant
11 impact on businesses owned by minorities, women ~~females~~, or
12 persons with disabilities as suppliers or subcontractors
13 or in employment of minorities, women ~~females~~, or persons
14 with disabilities.

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

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

26 (B) When a business is owned at least 51% by any

1 combination of minority persons, women ~~females~~, or persons with
2 disabilities, even though none of the 3 classes alone holds at
3 least a 51% interest, the ownership requirement for purposes of
4 this Act is considered to be met. The certification category
5 for the business is that of the class holding the largest
6 ownership interest in the business. If 2 or more classes have
7 equal ownership interests, the certification category shall be
8 determined by the business.

9 (Source: P.A. 98-95, eff. 7-17-13; 99-143, eff. 7-27-15;
10 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

11 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

13 Sec. 4. Award of State contracts.

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

1 2% shall be awarded to businesses owned by persons with
2 disabilities.

3 The above percentage relates to the total dollar amount of
4 State contracts during each State fiscal year, calculated by
5 examining independently each type of contract for each agency
6 or public institutions of higher education which lets such
7 contracts. Only that percentage of arrangements which
8 represents the participation of businesses owned by
9 minorities, women ~~females~~, and persons with disabilities on
10 such contracts shall be included.

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

23 (c) In the case of all work undertaken by the University of
24 Illinois related to the planning, organization, and staging of
25 the games, the University of Illinois shall establish a goal of
26 awarding not less than 25% of the annual dollar value of all

1 contracts, purchase orders, and other agreements (collectively
2 referred to as "the contracts") to minority-owned businesses or
3 businesses owned by a person with a disability and 5% of the
4 annual dollar value the contracts to women-owned ~~female-owned~~
5 businesses. For purposes of this subsection, the term "games"
6 has the meaning set forth in the Olympic Games and Paralympic
7 Games (2016) Law.

8 (d) Within one year after April 28, 2009 (the effective
9 date of Public Act 96-8), the Department of Central Management
10 Services shall conduct a social scientific study that measures
11 the impact of discrimination on minority and women ~~female~~
12 business development in Illinois. Within 18 months after April
13 28, 2009 (the effective date of Public Act 96-8), the
14 Department shall issue a report of its findings and any
15 recommendations on whether to adjust the goals for minority and
16 women ~~female~~ participation established in this Act. Copies of
17 this report and the social scientific study shall be filed with
18 the Governor and the General Assembly.

19 (e) Except as permitted under this Act or as otherwise
20 mandated by federal law or regulation, those who submit bids or
21 proposals for State construction contracts subject to the
22 provisions of this Act, whose bids or proposals are successful
23 and include a completed utilization plan but that fail to meet
24 the goals set forth in subsection (b) of this Section, shall be
25 notified of that deficiency and shall be afforded a period not
26 to exceed 5 ~~10~~ days from the date of notification to cure that

1 deficiency in the bid or proposal. The deficiency in the bid or
2 proposal may only be cured by contracting with additional
3 subcontractors who are owned by minorities or women ~~females~~,
4 but in no case shall an identified subcontractor with a
5 certification made pursuant to this Act be terminated from the
6 contract without the written consent of the State agency or
7 public institution of higher education entering into the
8 contract.

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

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

17 (30 ILCS 575/4f)

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

19 Sec. 4f. Award of State contracts.

20 (1) It is hereby declared to be the public policy of the
21 State of Illinois to promote and encourage each State agency
22 and public institution of higher education to use businesses
23 owned by minorities, women ~~females~~, and persons with
24 disabilities in the area of goods and services, including, but
25 not limited to, insurance services, investment management

1 services, information technology services, accounting
2 services, architectural and engineering services, and legal
3 services. Furthermore, each State agency and public
4 institution of higher education shall utilize such firms to the
5 greatest extent feasible within the bounds of financial and
6 fiduciary prudence, and take affirmative steps to remove any
7 barriers to the full participation of such firms in the
8 procurement and contracting opportunities afforded.

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

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

1 ~~females~~, and persons with disabilities.

2 (c) When a State agency or public institution of higher
3 education, other than a community college, awards
4 contracts for information technology services, accounting
5 services, architectural and engineering services, and
6 legal services, for each State agency and public
7 institution of higher education, it shall be the
8 aspirational goal to use such firms owned by minorities,
9 women ~~females~~, and persons with disabilities as defined by
10 this Act and lawyers who are minorities, women ~~females~~, and
11 persons with disabilities as defined by this Act, for not
12 less than 20% of the total dollar amount of State
13 contracts.

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

1 with disabilities for the purposes of this Section.

2 (2) As used in this Section:

3 "Accounting services" means the measurement,
4 processing and communication of financial information
5 about economic entities including, but is not limited to,
6 financial accounting, management accounting, auditing,
7 cost containment and auditing services, taxation and
8 accounting information systems.

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

21 "Emerging investment manager" means an investment
22 manager or claims consultant having assets under
23 management below \$10 billion or otherwise adjudicating
24 claims.

25 "Information technology services" means, but is not
26 limited to, specialized technology-oriented solutions by

1 combining the processes and functions of software,
2 hardware, networks, telecommunications, web designers,
3 cloud developing resellers, and electronics.

4 "Insurance broker" means an insurance brokerage firm,
5 claims administrator, or both, that procures, places all
6 lines of insurance, or administers claims with annual
7 premiums or fees of at least \$5,000,000 but not more than
8 \$10,000,000.

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

12 (3) Each State agency and public institution of higher
13 education shall adopt policies that identify its plan and
14 implementation procedures for increasing the use of service
15 firms owned by minorities, women ~~females~~, and persons with
16 disabilities.

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

1 firms to use other service firms owned by minorities, women
2 ~~females~~, and persons with disabilities as subcontractors when
3 the opportunities arise, (iii) state any recommendations made
4 by the Council to each State agency and public institution of
5 higher education to increase participation by the use of
6 service firms owned by minorities, women ~~females~~, and persons
7 with disabilities, and (iv) include the following:

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

21 (B) For investment management services: the names of
22 the investment managers used, the total funds under
23 management of investment managers; the total commissions,
24 fees paid, or both; the total and percentage of funds under
25 management of emerging investment managers owned by
26 minorities, women ~~females~~, and persons with disabilities,

1 including the total and percentage of total commissions,
2 fees paid, or both by each State agency and public
3 institution of higher education.

4 (C) The names of service firms, the percentage and
5 total dollar amount paid for professional services by
6 category by each State agency and public institution of
7 higher education.

8 (D) The names of service firms, the percentage and
9 total dollar amount paid for services by category to firms
10 owned by minorities, women ~~females~~, and persons with
11 disabilities by each State agency and public institution of
12 higher education.

13 (E) The total number of contracts awarded for services
14 by category and the total number of contracts awarded to
15 firms owned by minorities, women ~~females~~, and persons with
16 disabilities by each State agency and public institution of
17 higher education.

18 (5) For community college districts, the Business
19 Enterprise Council shall only report the following information
20 for each community college district: (i) the name of the
21 community colleges in the district, (ii) the name and contact
22 information of a person at each community college appointed to
23 be the single point of contact for vendors owned by minorities,
24 women ~~females~~, or persons with disabilities, (iii) the policy
25 of the community college district concerning certified
26 vendors, (iv) the certifications recognized by the community

1 college district for determining whether a business is owned or
2 controlled by a minority, woman ~~female~~, or person with a
3 disability, (v) outreach efforts conducted by the community
4 college district to increase the use of certified vendors, (vi)
5 the total expenditures by the community college district in the
6 prior fiscal year in the divisions of work specified in
7 paragraphs (a), (b), and (c) of subsection (1) of this Section
8 and the amount paid to certified vendors in those divisions of
9 work, and (vii) the total number of contracts entered into for
10 the divisions of work specified in paragraphs (a), (b), and (c)
11 of subsection (1) of this Section and the total number of
12 contracts awarded to certified vendors providing these
13 services to the community college district. The Business
14 Enterprise Council shall not make any utilization reports under
15 this Act for community college districts for Fiscal Year 2015
16 and Fiscal Year 2016, but shall make the report required by
17 this subsection for Fiscal Year 2017 and for each fiscal year
18 thereafter. The Business Enterprise Council shall report the
19 information in items (i), (ii), (iii), and (iv) of this
20 subsection beginning in September of 2016. The Business
21 Enterprise Council may collect the data needed to make its
22 report from the Illinois Community College Board.

23 (6) The status of the utilization of services shall be
24 discussed at each of the regularly scheduled Business
25 Enterprise Council meetings. Time shall be allotted for the
26 Council to receive, review, and discuss the progress of the use

1 of service firms owned by minorities, women ~~females~~, and
2 persons with disabilities by each State agency and public
3 institution of higher education; and any evidence regarding
4 past or present racial, ethnic, or gender-based discrimination
5 which directly impacts a State agency or public institution of
6 higher education contracting with such firms. If after
7 reviewing such evidence the Council finds that there is or has
8 been such discrimination against a specific group, race or sex,
9 the Council shall establish sheltered markets or adjust
10 existing sheltered markets tailored to address the Council's
11 specific findings for the divisions of work specified in
12 paragraphs (a), (b), and (c) of subsection (1) of this Section.
13 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

14 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

16 Sec. 5. Business Enterprise Council.

17 (1) To help implement, monitor and enforce the goals of
18 this Act, there is created the Business Enterprise Council for
19 Minorities, Women ~~Females~~, and Persons with Disabilities,
20 hereinafter referred to as the Council, composed of the
21 Secretary of Human Services and the Directors of the Department
22 of Human Rights, the Department of Commerce and Economic
23 Opportunity, the Department of Central Management Services,
24 the Department of Transportation and the Capital Development
25 Board, or their duly appointed representatives. Ten

1 individuals representing businesses that are minority-owned
2 ~~minority~~ or women-owned ~~female-owned~~ or owned by persons with
3 disabilities, 2 individuals representing the business
4 community, and a representative of public institutions of
5 higher education shall be appointed by the Governor. These
6 members shall serve 2 year terms and shall be eligible for
7 reappointment. Any vacancy occurring on the Council shall also
8 be filled by the Governor. Any member appointed to fill a
9 vacancy occurring prior to the expiration of the term for which
10 his predecessor was appointed shall be appointed for the
11 remainder of such term. Members of the Council shall serve
12 without compensation but shall be reimbursed for any ordinary
13 and necessary expenses incurred in the performance of their
14 duties.

15 The Director of the Department of Central Management
16 Services shall serve as the Council chairperson and shall
17 select, subject to approval of the council, a Secretary
18 responsible for the operation of the program who shall serve as
19 the Division Manager of the Business Enterprise for Minorities,
20 Women ~~Females~~, and Persons with Disabilities Division of the
21 Department of Central Management Services.

22 The Director of each State agency and the chief executive
23 officer of each public institutions of higher education shall
24 appoint a liaison to the Council. The liaison shall be
25 responsible for submitting to the Council any reports and
26 documents necessary under this Act.

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

2 (a) Devise a certification procedure to assure that
3 businesses taking advantage of this Act are legitimately
4 classified as businesses owned by minorities, women
5 ~~females~~, or persons with disabilities.

6 (b) Maintain a list of all businesses legitimately
7 classified as businesses owned by minorities, women
8 ~~females~~, or persons with disabilities to provide to State
9 agencies and public institutions of higher education.

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

13 (d) Review compliance plans submitted by each State
14 agency and public institutions of higher education
15 pursuant to this Act.

16 (e) Make annual reports as provided in Section 8f to
17 the Governor and the General Assembly on the status of the
18 program.

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

26 (g) Establish a toll free telephone number to

1 facilitate information requests concerning the
2 certification process and pending contracts.

3 (3) No premium bond rate of a surety company for a bond
4 required of a business owned by a minority, woman ~~female~~, or
5 person with a disability bidding for a State contract shall be
6 higher than the lowest rate charged by that surety company for
7 a similar bond in the same classification of work that would be
8 written for a business not owned by a minority, woman ~~female~~,
9 or person with a disability.

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

14 (5) The Secretary shall have the following duties and
15 responsibilities:

16 (a) To be responsible for the day-to-day operation of
17 the Council.

18 (b) To serve as a coordinator for all of the State's
19 programs for businesses owned by minorities, women
20 ~~females~~, and persons with disabilities and as the
21 information and referral center for all State initiatives
22 for businesses owned by minorities, women ~~females~~, and
23 persons with disabilities.

24 (c) To establish an enforcement procedure whereby the
25 Council may recommend to the appropriate State legal
26 officer that the State exercise its legal remedies which

1 shall include (1) termination of the contract involved, (2)
2 prohibition of participation by the respondent in public
3 contracts for a period not to exceed 3 years ~~one year~~, (3)
4 imposition of a penalty not to exceed any profit acquired
5 as a result of violation, or (4) any combination thereof.
6 Such procedures shall require prior approval by Council.

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

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

20 (f) To accept donations and, with the approval of the
21 Council or the Director of Central Management Services,
22 grants related to the purposes of this Act; to conduct
23 seminars related to the purpose of this Act and to charge
24 reasonable registration fees; and to sell directories,
25 vendor lists and other such information to interested
26 parties, except that forms necessary to become eligible for

1 the program shall be provided free of charge to a business
2 or individual applying for the program.

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

4 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

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

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

19 (a) The compliance plan shall also include, but not be
20 limited to, (1) a policy statement, signed by the State agency
21 or public institution of higher education head, expressing a
22 commitment to encourage the use of businesses owned by
23 minorities, women ~~females~~, and persons with disabilities, (2)
24 the designation of the liaison officer provided for in Section
25 5 of this Act, (3) procedures to distribute to potential

1 contractors and vendors the list of all businesses legitimately
2 classified as businesses owned by minorities, women ~~females~~,
3 and persons with disabilities and so certified under this Act,
4 (4) procedures to set separate contract goals on specific prime
5 contracts and purchase orders with subcontracting
6 possibilities based upon the type of work or services and
7 subcontractor availability, (5) procedures to assure that
8 contractors and vendors make good faith efforts to meet
9 contract goals, (6) procedures for contract goal exemption,
10 modification and waiver, and (7) the delineation of separate
11 contract goals for businesses owned by minorities, women
12 ~~females~~, and persons with disabilities.

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

20 (c) Each State agency and public institution of higher
21 education under the jurisdiction of this Act shall file with
22 the Council an annual report of its utilization of businesses
23 owned by minorities, women ~~females~~, and persons with
24 disabilities during the preceding fiscal year including lapse
25 period spending and a mid-fiscal year report of its utilization
26 to date for the then current fiscal year. The reports shall

1 include a self-evaluation of the efforts of the State agency or
2 public institution of higher education to meet its goals under
3 the Act.

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

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

2 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

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

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

1 the preceding fiscal year.

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

3 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

5 Sec. 7. Exemptions; ~~and~~ waivers; debarment; publication of
6 data.

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

25 (2) Class exemptions.

1 (a) Creation. The Council, on its own initiative or at
2 the request of the affected agency or public institution of
3 higher education, may permit an entire class of contracts
4 be made exempt from State contracting goals for businesses
5 owned by minorities, women ~~females~~, and persons with
6 disabilities whenever there has been a determination,
7 reduced to writing and based on the best information
8 available at the time of the determination, that there is
9 an insufficient number of qualified businesses owned by
10 minorities, women ~~females~~, and persons with disabilities
11 to ensure adequate competition and an expectation of
12 reasonable prices on bids or proposals within that class.

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

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

23 (4) Conflict with other laws. In the event that any State
24 contract, which otherwise would be subject to the provisions of
25 this Act, is or becomes subject to federal laws or regulations
26 which conflict with the provisions of this Act or actions of

1 the State taken pursuant hereto, the provisions of the federal
2 laws or regulations shall apply and the contract shall be
3 interpreted and enforced accordingly.

4 (5) Each chief procurement officer, as defined in the
5 Illinois Procurement Code, shall maintain on his or her
6 official Internet website a database of waivers granted under
7 this Section with respect to contracts under his or her
8 jurisdiction. The database, which shall be updated
9 periodically as necessary, shall be searchable by contractor
10 name and by contracting State agency.

11 (6) Each chief procurement officer, as defined by the
12 Illinois Procurement Code, shall maintain on its website a list
13 of all firms that have been debarred as a result of not
14 achieving the firm's diversity goal.

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

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

1 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

3 Sec. 8. Enforcement.

4 (1) The Council shall make such findings, recommendations
5 and proposals to the Governor as are necessary and appropriate
6 to enforce this Act. If, as a result of its monitoring
7 activities, the Council determines that its goals and policies
8 are not being met by any State agency or public institution of
9 higher education, the Council may recommend any or all of the
10 following actions:

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

25 (b) If the Council concludes that a compliance plan

1 submitted under Section 6 is unlikely to produce the
2 participation goals for businesses owned by minorities,
3 women ~~females~~, and persons with disabilities within the
4 then current fiscal year, the Council may recommend that
5 the State agency or public institution of higher education
6 revise its plan to provide additional opportunities for
7 participation by businesses owned by minorities, women
8 ~~females~~, and persons with disabilities. Such recommended
9 revisions may include, but shall not be limited to, the
10 following:

11 (i) assurances of stronger and better focused
12 solicitation efforts to obtain more businesses owned
13 by minorities, women ~~females~~, and persons with
14 disabilities as potential sources of supply;

15 (ii) division of job or project requirements, when
16 economically feasible, into tasks or quantities to
17 permit participation of businesses owned by
18 minorities, women ~~females~~, and persons with
19 disabilities;

20 (iii) elimination of extended experience or
21 capitalization requirements, when programmatically
22 feasible, to permit participation of businesses owned
23 by minorities, women ~~females~~, and persons with
24 disabilities;

25 (iv) identification of specific proposed contracts
26 as particularly attractive or appropriate for

1 participation by businesses owned by minorities, women
2 ~~females~~, and persons with disabilities, such
3 identification to result from and be coupled with the
4 efforts of subparagraphs (i) through (iii);

5 (v) implementation of those regulations
6 established for the use of the sheltered market
7 process.

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

23 (3) A vendor shall be in breach of the contract and may be
24 subject to penalties for failure to meet its diversity
25 commitments.

26 (a) If the Council or its delegate determines, upon

1 reviewing a particular contract, that the diversity
2 participation commitments have not been met, a penalty in
3 the amount of the discrepancy between the amount of the
4 commitment, as the amount may be amended through change
5 orders or otherwise over the term of the contract, and the
6 achieved amount may be applied to the contractor.

7 (b) Prior to imposing a penalty specified by this
8 subsection (3), the Council shall notify the contractor of
9 the fact and amount of the proposed penalty. The contractor
10 shall have the opportunity to present evidence to the
11 Council to controvert the fact or amount of the proposed
12 penalty. Within 15 days of receiving the final decision of
13 the Council on the matter, and in the event that the final
14 decision is adverse to the contractor, the contractor may
15 submit to the Council a written request for a hearing to be
16 conducted by the legal counsel for the Business Enterprise
17 Program.

18 (c) Upon receipt of a timely request for a hearing, the
19 Council shall institute an action with the legal counsel of
20 the Business Enterprise Program, which shall conduct the
21 hearing within 30 days of receiving the request.

22 (d) The penalty specified by this subsection (3) shall
23 be imposed either upon expiration of the time period in
24 which the contractor may seek review by the legal counsel
25 of the Business Enterprise Program, or upon the legal
26 counsel's finding adverse to the contractor, as

1 applicable.

2 (e) The Council shall use all funds collected as
3 penalties under this subsection (3) exclusively for
4 development of businesses owned by minorities, women, and
5 persons with disabilities programs and encouragement of
6 such businesses' participation in the State.

7 (f) In addition to the penalty specified by this
8 subsection (d), after a contractor's second failure to meet
9 diversity commitments, the Council may declare the
10 contractor ineligible for an award of contracts for a
11 period of up to 3 years, following the procedures set forth
12 in paragraphs (b), (c), and (d) of this subsection (3). In
13 determining whether to declare a contractor ineligible,
14 the Council shall take into account the contractor's record
15 for meeting its commitments regarding diversity
16 participation in contracts with the State.

17 (4) The decisions of the legal counsel of the Business
18 Enterprise Program under this Section are final and are subject
19 to review as final decisions under the provisions of the
20 Administrative Review Law, and shall only be overturned if the
21 court finds that they are against the manifest weight of the
22 evidence.

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

24 (30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

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

1 Sec. 8a. Advance and progress payments. Any contract
2 awarded to a business owned by a minority, woman ~~female~~, or
3 person with a disability pursuant to this Act may contain a
4 provision for advance or progress payments, or both, except
5 that a State construction contract awarded to a minority-owned
6 ~~minority~~ or women-owned ~~female-owned~~ business pursuant to this
7 Act may contain a provision for progress payments but may not
8 contain a provision for advance payments.

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

10 (30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

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

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

25 "Sheltered market" shall mean a procurement procedure

1 whereby certain contracts are selected and specifically set
2 aside for businesses owned by minorities, women ~~females~~, and
3 persons with disabilities on a competitive bid or negotiated
4 basis.

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

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

10 (30 ILCS 575/8f)

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

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

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

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

24 (3) an analysis of the level of overall goal
25 achievement concerning purchases from minority-owned

1 ~~minority~~ businesses, women-owned ~~female-owned~~ businesses,
2 and businesses owned by persons with disabilities;

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

8 (5) a summary of the number of contracts awarded to
9 businesses with annual gross sales of less than \$1,000,000;
10 of \$1,000,000 or more, but less than \$5,000,000; of
11 \$5,000,000 or more, but less than \$10,000,000; and of
12 \$10,000,000 or more.

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

14 (30 ILCS 575/8g new)

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

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

21 (b) The Department of Central Management Services shall
22 provide a report to the Council all State agency
23 non-construction contracts that exceed \$20,000,000 prior to
24 award. The report shall contain the following: (i) the name of
25 the proposed awardee, (ii) the total bid amount, (iii) the

1 established Business Enterprise Program goal, (iv) the dollar
2 amount and percentage of participation by businesses owned by
3 minorities, women, and persons with disabilities, and (v) the
4 names of the certified firms identified in the utilization
5 plan.

6 (30 ILCS 575/8h new)

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

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

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

13 (ii) cable and video providers, as defined in Section
14 21-201 of the Public Utilities Act;

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

17 (iv) wireless service providers;

18 (v) broadband internet access services providers; and

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

22 (2) Each entity listed in subsection (1) of this Section
23 may submit to the Illinois Commerce Commission and the Business
24 Enterprise Council an annual report by April 15, 2018, and
25 every April 15 thereafter, which provides, for the previous

1 calendar year, information and data on diversity goals, and
2 progress toward achieving those goals, by businesses owned by
3 minorities, women, persons with disabilities, and veterans.
4 The report shall include a narrative description of the
5 entity's supplier diversity goals and plans for meeting those
6 goals. The report shall include annual spending in professional
7 services and spending with certified businesses owned by
8 minorities, women, persons with disabilities, and veterans,
9 including, but not limited to, the following professional
10 services categories: accounting, architecture and engineering,
11 information technology, insurance, financial, legal, and
12 marketing services. The report shall also include the entity's
13 overall annual spending in the listed professional service
14 categories. An entity subject to this Section which is part of
15 an affiliated group of entities may provide information for the
16 affiliated group as a whole.

17 (3) Any entity that is subject to this Section that fails
18 to comply with the reporting requirements shall be reported by
19 the Business Enterprise Council to each chief procurement
20 officer. Upon receiving a report from the Business Enterprise
21 Council, the chief procurement officer shall prohibit any
22 non-compliant entities from bidding on State contracts for a
23 period of one year beginning the first day of the following
24 fiscal year and post on its respective bulletin the names of
25 all entities that fail to comply with the provisions of this
26 Section.

1 (4) The decisions of the Council under this Section 8 are
2 final and are subject to review as final decisions under the
3 provisions of the Administrative Review Law, and shall only be
4 overturned if the court finds that they are against the
5 manifest weight of the evidence.

6 (30 ILCS 575/8i new)

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

9 (a) within 30 days of the effective date of this
10 amendatory Act of the 100th General Assembly, review all
11 solicitations and establish diversity goals on a
12 contract-by-contract basis;

13 (b) review all existing contracts prior to the time of
14 renewal to determine if the diversity goal is being met by
15 the prime vendor;

16 (c) review all existing contracts prior to the time of
17 renewal to determine if the diversity goal should be
18 increased based upon market conditions and availability of
19 certified diverse firms;

20 (d) review existing contracts with no diversity goal to
21 determine if a diversity goal should be established; if it
22 is determined that a diversity goal should be established,
23 the State agency or public institution of higher education
24 shall amend the contract to include the diversity goal;
25 prime contractors shall be required to complete a

1 utilization plan to demonstrate how it intends to meet the
2 diversity goal; and

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

7 Section 75. The Film Production Services Tax Credit Act of
8 2008 is amended by changing Sections 30 and 45 as follows:

9 (35 ILCS 16/30)

10 Sec. 30. Review of application for accredited production
11 certificate.

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

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

17 (2) The applicant's production is economically sound
18 and will benefit the people of the State of Illinois by
19 increasing opportunities for employment and strengthen the
20 economy of Illinois.

21 (3) The applicant has filed a diversity plan with the
22 Department outlining specific goals (i) for hiring
23 minority persons and women ~~females~~, as defined in the
24 Business Enterprise for Minorities, Women ~~Females~~, and

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

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

20 (5) That, if not for the credit, the applicant's
21 production would not occur in Illinois, which may be
22 demonstrated by any means including, but not limited to,
23 evidence that the applicant has multi-state or
24 international location options and could reasonably and
25 efficiently locate outside of the State, or demonstration
26 that at least one other state or nation is being considered

1 for the production, or evidence that the receipt of the
2 credit is a major factor in the applicant's decision and
3 that without the credit the applicant likely would not
4 create or retain jobs in Illinois, or demonstration that
5 receiving the credit is essential to the applicant's
6 decision to create or retain new jobs in the State.

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

10 (b) If any of the provisions in this Section conflict with
11 any existing collective bargaining agreements, the terms and
12 conditions of those collective bargaining agreements shall
13 control.

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

15 (35 ILCS 16/45)

16 Sec. 45. Evaluation of tax credit program; reports to the
17 General Assembly.

18 (a) The Department shall evaluate the tax credit program.
19 The evaluation must include an assessment of the effectiveness
20 of the program in creating and retaining new jobs in Illinois
21 and of the revenue impact of the program, and may include a
22 review of the practices and experiences of other states or
23 nations with similar programs. Upon completion of this
24 evaluation, the Department shall determine the overall success
25 of the program, and may make a recommendation to extend,

1 modify, or not extend the program based on this evaluation.

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

5 (1) the economic impact of the tax credit program,
6 including the number of jobs created and retained,
7 including whether the job positions are entry level,
8 management, talent-related, vendor-related, or
9 production-related;

10 (2) the amount of film production spending brought to
11 Illinois, including the amount of spending and type of
12 Illinois vendors hired in connection with an accredited
13 production; and

14 (3) an overall picture of whether the human
15 infrastructure of the motion picture industry in Illinois
16 reflects the geographical, racial and ethnic, gender, and
17 income-level diversity of the State of Illinois.

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

21 (1) an identification of each vendor that provided
22 goods or services that were included in an accredited
23 production's Illinois production spending;

24 (2) the amount paid to each identified vendor by the
25 accredited production;

26 (3) for each identified vendor, a statement as to

1 whether the vendor is a minority-owned ~~minority-owned~~
2 business or a women-owned ~~female-owned~~ business, as defined
3 under Section 2 of the Business Enterprise for Minorities,
4 Women ~~Females~~, and Persons with Disabilities Act; and

5 (4) a description of any steps taken by the Department
6 to encourage accredited productions to use vendors who are
7 a minority-owned ~~minority-owned~~ business or a women-owned
8 ~~female-owned~~ business.

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

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

12 (35 ILCS 17/10-30)

13 Sec. 10-30. Review of application for accredited theater
14 production certificate.

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

18 (1) the applicant intends to make the expenditure in
19 the State required for certification of the accredited
20 theater production;

21 (2) the applicant's accredited theater production is
22 economically sound and will benefit the people of the State
23 of Illinois by increasing opportunities for employment and
24 will strengthen the economy of Illinois;

1 (3) the following requirements related to the
2 implementation of a diversity plan have been met: (i) the
3 applicant has filed with the Department a diversity plan
4 outlining specific goals for hiring Illinois labor
5 expenditure eligible minority persons and women ~~females~~,
6 as defined in the Business Enterprise for Minorities, Women
7 ~~Females~~, and Persons with Disabilities Act, and for using
8 vendors receiving certification under the Business
9 Enterprise for Minorities, Women ~~Females~~, and Persons with
10 Disabilities Act; (ii) the Department has approved the plan
11 as meeting the requirements established by the Department
12 and verified that the applicant has met or made good faith
13 efforts in achieving those goals; and (iii) the Department
14 has adopted any rules that are necessary to ensure
15 compliance with the provisions set forth in this paragraph
16 and necessary to require that the applicant's plan reflects
17 the diversity of the population of this State;

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

1 (5) if not for the tax credit award, the applicant's
2 accredited theater production would not occur in Illinois,
3 which may be demonstrated by any means, including, but not
4 limited to, evidence that: (i) the applicant, presenter,
5 owner, or licensee of the production rights has other state
6 or international location options at which to present the
7 production and could reasonably and efficiently locate
8 outside of the State, (ii) at least one other state or
9 nation could be considered for the production, (iii) the
10 receipt of the tax award credit is a major factor in the
11 decision of the applicant, presenter, production owner or
12 licensee as to where the production will be presented and
13 that without the tax credit award the applicant likely
14 would not create or retain jobs in Illinois, or (iv)
15 receipt of the tax credit award is essential to the
16 applicant's decision to create or retain new jobs in the
17 State; and

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

21 (b) If any of the provisions in this Section conflict with
22 any existing collective bargaining agreements, the terms and
23 conditions of those collective bargaining agreements shall
24 control.

25 (c) The Department shall act expeditiously regarding
26 approval of applications for accredited theater production

1 certificates so as to accommodate the pre-production work,
2 booking, commencement of ticket sales, determination of
3 performance dates, load in, and other matters relating to the
4 live theater productions for which approval is sought.

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

6 (35 ILCS 17/10-50)

7 Sec. 10-50. Live theater tax credit award program
8 evaluation and reports.

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

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

13 (ii) an assessment of the revenue impact of the
14 program;

15 (iii) in the discretion of the Department, a review of
16 the practices and experiences of other states or nations
17 with similar programs; and

18 (iv) an assessment of the overall success of the
19 program. The Department may make a recommendation to
20 extend, modify, or not extend the program based on the
21 evaluation.

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

25 (i) an assessment of the economic impact of the

1 program, including the number of jobs created and retained,
2 and whether the job positions are entry level, management,
3 vendor, or production related;

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

8 (iii) a determination of whether those receiving
9 qualifying Illinois labor expenditure salaries or wages
10 reflect 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 shall
13 submit to the General Assembly a report that includes, without
14 limitation:

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

18 (ii) a statement of the amount paid to each identified
19 vendor by the accredited theater production and whether the
20 vendor is a minority-owned ~~minority~~ or women-owned ~~female~~
21 ~~owned~~ business as defined in Section 2 of the Business
22 Enterprise for Minorities, Women ~~Females~~, and Persons with
23 Disabilities Act; and

24 (iii) a description of the steps taken by the
25 Department to encourage accredited theater productions to
26 use vendors who are minority-owned ~~minority~~ or women-owned

1 ~~female-owned~~ businesses.

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

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

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

6 Sec. 1-109.1. Allocation and delegation of fiduciary
7 duties.

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

12 (a) Appoint one or more investment managers as
13 fiduciaries to manage (including the power to acquire and
14 dispose of) any assets of the retirement system or pension
15 fund; and

16 (b) Allocate duties among themselves and designate
17 others as fiduciaries to carry out specific fiduciary
18 activities other than the management of the assets of the
19 retirement system or pension fund.

20 (2) The board of trustees of a pension fund established
21 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
22 transfer its investment authority, nor transfer the assets of
23 the fund to any other person or entity for the purpose of
24 consolidating or merging its assets and management with any

1 other pension fund or public investment authority, unless the
2 board resolution authorizing such transfer is submitted for
3 approval to the contributors and pensioners of the fund at
4 elections held not less than 30 days after the adoption of such
5 resolution by the board, and such resolution is approved by a
6 majority of the votes cast on the question in both the
7 contributors election and the pensioners election. The
8 election procedures and qualifications governing the election
9 of trustees shall govern the submission of resolutions for
10 approval under this paragraph, insofar as they may be made
11 applicable.

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

20 (4) For the purposes of this Code, "emerging investment
21 manager" means a qualified investment adviser that manages an
22 investment portfolio of at least \$10,000,000 but less than
23 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~
24 business", "women-owned ~~female-owned~~ business" or "business
25 owned by a person with a disability" as those terms are defined
26 in the Business Enterprise for Minorities, Women ~~Females~~, and

1 Persons with Disabilities Act.

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

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

1 amount of investment service contracts let to minority-owned
2 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
3 businesses, and businesses owned by a person with a disability,
4 as those terms are defined in the Business Enterprise for
5 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
6 The retirement system, pension fund, or investment board shall
7 annually review the goals established under this subsection.

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

18 The use of an emerging investment manager does not
19 constitute a transfer of investment authority for the purposes
20 of subsection (2) of this Section.

21 (5) Each retirement system, pension fund, or investment
22 board subject to this Code, except those whose investments are
23 restricted by Section 1-113.2 of this Code, shall establish a
24 policy that sets forth goals for increasing the racial, ethnic,
25 and gender diversity of its fiduciaries, including its
26 consultants and senior staff. Each system, fund, and investment

1 board shall annually review the goals established under this
2 subsection.

3 (6) On or before January 1, 2010, a retirement system,
4 pension fund, or investment board subject to this Code, except
5 those whose investments are restricted by Section 1-113.2 of
6 this Code, shall adopt a policy that sets forth goals for
7 utilization of businesses owned by minorities, women ~~females~~,
8 and persons with disabilities for all contracts and services.
9 The goals established shall be based on the percentage of total
10 dollar amount of all contracts let to minority-owned ~~minority~~
11 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
12 businesses owned by a person with a disability, as those terms
13 are defined in the Business Enterprise for Minorities, Women
14 ~~Females~~, and Persons with Disabilities Act. The retirement
15 system, pension fund, or investment board shall annually review
16 the goals established under this subsection.

17 (7) On or before January 1, 2010, 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 broker-dealers. For the
22 purposes of this Code, "minority broker-dealer" means a
23 qualified broker-dealer who meets the definition of
24 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
25 ~~owned~~ business", or "business owned by a person with a
26 disability", as those terms are defined in the Business

1 Enterprise for Minorities, Women ~~Females~~, and Persons with
2 Disabilities Act. The retirement system, pension fund, or
3 investment board shall annually review the goals established
4 under this Section.

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

23 (9) On or before February 1, 2015, 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 increasing the utilization of minority investment managers.
2 For the purposes of this Code, "minority investment manager"
3 means a qualified investment manager that manages an investment
4 portfolio and meets the definition of "minority-owned ~~minority~~
5 ~~owned~~ business", "women-owned ~~female-owned~~ business", or
6 "business 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.

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

20 The retirement system, pension fund, or investment board
21 shall establish 3 separate goals for: (i) minority investment
22 managers that are minority-owned ~~minority-owned~~ businesses;
23 (ii) minority investment managers that are women-owned ~~female~~
24 ~~owned~~ businesses; and (iii) minority investment managers that
25 are businesses owned by a person with a disability. The
26 retirement system, pension fund, or investment board shall

1 annually review the goals established under this Section.

2 If in any case a minority 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 minority 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 minority 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 a minority investment manager does not
13 constitute a transfer of investment authority for the purposes
14 of subsection (2) of this Section.

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

1 technology services", "accounting services", "insurance
2 brokers", "architectural and engineering services", and "legal
3 services" as those terms are defined in the Act.

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

5 (40 ILCS 5/1-113.21)

6 Sec. 1-113.21. Contracts for services.

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

13 (1) the number of its investment and senior staff and
14 the percentage of its investment and senior staff who are
15 (i) a minority person, (ii) a woman ~~female~~, and (iii) a
16 person with a disability; and

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

24 (3) the number of contracts, oral or written, for
25 investment services, consulting services, and professional

1 and artistic services the investment advisor, consultant,
2 or private market fund has with a business other than (i) a
3 minority-owned ~~minority-owned~~ business, (ii) a women-owned
4 ~~female-owned~~ business or (iii) a business owned by a person
5 with a disability, if more than 50% of services performed
6 pursuant to the contract are performed by (i) a minority
7 person, (ii) a woman ~~female~~, and (iii) a person with a
8 disability.

9 (b) The disclosures required by this Section shall be
10 considered, within the bounds of financial and fiduciary
11 prudence, prior to the awarding of a contract, oral or written,
12 for investment services, consulting services, or commitment to
13 a private market fund.

14 (c) For the purposes of this Section, the terms "minority
15 person", "woman ~~female~~", "person with a disability",
16 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
17 ~~owned~~ business", and "business owned by a person with a
18 disability" have the same meaning as those terms have in the
19 Business Enterprise for Minorities, Women ~~Females~~, and Persons
20 with Disabilities Act.

21 (d) For purposes of this Section, the term "private market
22 fund" means any private equity fund, private equity fund of
23 funds, venture capital fund, hedge fund, hedge fund of funds,
24 real estate fund, or other investment vehicle that is not
25 publicly traded.

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

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

3 (55 ILCS 5/5-1134)

4 Sec. 5-1134. Project labor agreements.

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

16 (b) The project labor agreements must include the
17 following:

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

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

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

24 The county, taxing bodies, municipalities, and the labor

1 organizations shall have the authority to include other terms
2 and conditions as they deem necessary.

3 (c) The project labor agreement shall be filed with the
4 Director of the Illinois Department of Labor in accordance with
5 procedures established by the Department. At a minimum, the
6 project labor agreement must provide the names, addresses, and
7 occupations of the owner of the facilities and the individuals
8 representing the labor organization employees participating in
9 the project labor agreement. The agreement must also specify
10 the terms and conditions required in subsection (b) of this
11 Section.

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

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

25 Section 95. The River Edge Redevelopment Zone Act is

1 amended by changing Section 10-5.3 as follows:

2 (65 ILCS 115/10-5.3)

3 Sec. 10-5.3. Certification of River Edge Redevelopment
4 Zones.

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

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

24 (c) A River Edge Redevelopment Zone shall be in effect for
25 the period stated in the certificate, which shall in no event

1 exceed 30 calendar years. Zones shall terminate at midnight of
2 December 31 of the final calendar year of the certified term,
3 except as provided in Section 10-5.4.

4 (d) In calendar years 2006 and 2007, the Department may
5 certify one pilot River Edge Redevelopment Zone in the City of
6 East St. Louis, one pilot River Edge Redevelopment Zone in the
7 City of Rockford, and one pilot River Edge Redevelopment Zone
8 in the City of Aurora.

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

11 On or after the effective date of this amendatory Act of
12 the 97th General Assembly, the Department may certify one
13 additional pilot River Edge Redevelopment Zone in the City of
14 Peoria.

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

1 area or a different area to compete for designation as an
2 enterprise zone. No preference for designation as a Zone will
3 be given to the previously designated area.

4 (e) A municipality in which a River Edge Redevelopment Zone
5 has been certified must submit to the Department, within 60
6 days after the certification, a plan for encouraging the
7 participation by minority persons, women ~~females~~, persons with
8 disabilities, and veterans in the zone. The Department may
9 assist the municipality in developing and implementing the
10 plan. The terms "minority person", "woman ~~female~~", and "person
11 with a disability" have the meanings set forth under Section 2
12 of the Business Enterprise for Minorities, Women ~~Females~~, and
13 Persons with Disabilities Act. "Veteran" means an Illinois
14 resident who is a veteran as defined in subsection (h) of
15 Section 1491 of Title 10 of the United States Code.

16 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;
17 97-905, eff. 8-7-12.)

18 Section 100. The Metropolitan Pier and Exposition
19 Authority Act is amended by changing Sections 10.2 and 23.1 as
20 follows:

21 (70 ILCS 210/10.2)

22 Sec. 10.2. Bonding disclosure.

23 (a) Truth in borrowing disclosure. Within 60 business days
24 after the issuance of any bonds under this Act, the Authority

1 shall disclose the total principal and interest payments to be
2 paid on the bonds over the full stated term of the bonds. The
3 disclosure also shall include principal and interest payments
4 to be made by each fiscal year over the full stated term of the
5 bonds and total principal and interest payments to be made by
6 each fiscal year on all other outstanding bonds issued under
7 this Act over the full stated terms of those bonds. These
8 disclosures shall be calculated assuming bonds are not redeemed
9 or refunded prior to their stated maturities. Amounts included
10 in these disclosures as payment of interest on variable rate
11 bonds shall be computed at an interest rate equal to the rate
12 at which the variable rate bonds are first set upon issuance,
13 plus 2.5%, after taking into account any credits permitted in
14 the related indenture or other instrument against the amount of
15 such interest for each fiscal year.

16 (b) Bond sale expenses disclosure. Within 60 business days
17 after the issuance of any bonds under this Act, the Authority
18 shall disclose all costs of issuance on each sale of bonds
19 under this Act. The disclosure shall include, as applicable,
20 the respective percentages of participation and compensation
21 of each underwriter that is a member of the underwriting
22 syndicate, legal counsel, financial advisors, and other
23 professionals for the bond issue and an identification of all
24 costs of issuance paid to minority-owned ~~minority-owned~~
25 businesses, women-owned ~~female-owned~~ businesses, and
26 businesses owned by persons with disabilities. The terms

1 "minority-owned ~~minority-owned~~ businesses", "women-owned
2 ~~female-owned~~ businesses", and "business owned by a person with
3 a disability" have the meanings given to those terms in the
4 Business Enterprise for Minorities, Women ~~Females~~, and Persons
5 with Disabilities Act. In addition, the Authority shall provide
6 copies of all contracts under which any costs of issuance are
7 paid or to be paid to the Commission on Government Forecasting
8 and Accountability within 60 business days after the issuance
9 of bonds for which those costs are paid or to be paid. Instead
10 of filing a second or subsequent copy of the same contract, the
11 Authority may file a statement that specified costs are paid
12 under specified contracts filed earlier with the Commission.

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

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

21 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

22 Sec. 23.1. Affirmative action.

23 (a) The Authority shall, within 90 days after the effective
24 date of this amendatory Act of 1984, establish and maintain an
25 affirmative action program designed to promote equal

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

23 (b) The Authority shall adopt and maintain minority-owned
24 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
25 procurement programs under the affirmative action program
26 described in subsection (a) for any and all work, including all

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

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

1 business" and "women-owned ~~female-owned~~ business" have the
2 meanings given to those terms in the Business Enterprise for
3 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

4 (c) The Authority shall adopt and maintain an affirmative
5 action program in connection with the hiring of minorities and
6 women on the Expansion Project and on any and all construction
7 projects, including all contracting related to the planning,
8 organization, and staging of the games, undertaken by the
9 Authority. The program shall be designed to promote equal
10 employment opportunity and shall specify the goals and methods
11 for increasing the participation of minorities and women in a
12 representative mix of job classifications required to perform
13 the respective contracts awarded by the Authority.

14 (d) In connection with the Expansion Project, the Authority
15 shall incorporate the following elements into its
16 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business
17 procurement programs to the extent feasible: (1) a major
18 contractors program that permits minority-owned ~~minority-owned~~
19 businesses and women-owned ~~female-owned~~ businesses to bear
20 significant responsibility and risk for a portion of the
21 project; (2) a mentor/protege program that provides financial,
22 technical, managerial, equipment, and personnel support to
23 minority-owned ~~minority-owned~~ businesses and women-owned
24 ~~female-owned~~ businesses; (3) an emerging firms program that
25 includes minority-owned ~~minority-owned~~ businesses and
26 women-owned ~~female-owned~~ businesses that would not otherwise

1 qualify for the project due to inexperience or limited
2 resources; (4) a small projects program that includes
3 participation by smaller minority-owned ~~minority-owned~~
4 businesses and women-owned ~~female-owned~~ businesses on jobs
5 where the total dollar value is \$5,000,000 or less; and (5) a
6 set-aside program that will identify contracts requiring the
7 expenditure of funds less than \$50,000 for bids to be submitted
8 solely by minority-owned ~~minority-owned~~ businesses and
9 women-owned ~~female-owned~~ businesses.

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

21 (f) McCormick Place Advisory Board. There is created a
22 McCormick Place Advisory Board composed as follows: 2 members
23 shall be appointed by the Mayor of Chicago; 2 members shall be
24 appointed by the Governor; 2 members shall be State Senators
25 appointed by the President of the Senate; 2 members shall be
26 State Senators appointed by the Minority Leader of the Senate;

1 2 members shall be State Representatives appointed by the
2 Speaker of the House of Representatives; and 2 members shall be
3 State Representatives appointed by the Minority Leader of the
4 House of Representatives. The terms of all previously appointed
5 members of the Advisory Board expire on the effective date of
6 this amendatory Act of the 92nd General Assembly. A State
7 Senator or State Representative member may appoint a designee
8 to serve on the McCormick Place Advisory Board in his or her
9 absence.

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

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

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

22 (3) Black or African American (a person having origins
23 in any of the black racial groups of Africa). Terms such as
24 "Haitian" or "Negro" can be used in addition to "Black or
25 African American".

26 (4) Hispanic or Latino (a person of Cuban, Mexican,

1 Puerto Rican, South or Central American, or other Spanish
2 culture or origin, regardless of race).

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

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

14 Members of the McCormick Place Advisory Board shall serve
15 without compensation but, at the Authority's discretion, shall
16 be reimbursed for necessary expenses in connection with the
17 performance of their duties.

18 The McCormick Place Advisory Board shall meet quarterly, or
19 as needed, shall produce any reports it deems necessary, and
20 shall:

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

23 (2) Work with the Authority regarding potential means
24 for providing increased economic opportunities to
25 minorities and women produced indirectly or directly from
26 the construction and operation of the Expansion Project;

1 (3) Work with the Authority to minimize any potential
2 impact on the area surrounding the McCormick Place
3 Expansion Project, including any impact on minority-owned
4 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting
5 from the construction and operation of the Expansion
6 Project;

7 (4) Work with the Authority to find candidates for
8 building trades apprenticeships, for employment in the
9 hospitality industry, and to identify job training
10 programs;

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

21 (g) The Authority shall comply with subsection (e) of
22 Section 5-42 of the Olympic Games and Paralympic Games (2016)
23 Law. For purposes of this Section, the term "games" has the
24 meaning set forth in the Olympic Games and Paralympic Games
25 (2016) Law.

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

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

3 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

4 Sec. 9. Duties. In addition to the powers set forth
5 elsewhere in this Act, subject to the terms of any agreements
6 with the holders of the Authority's bonds or notes, the
7 Authority shall:

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

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

24 (3) With respect to a facility owned or to be owned by

1 a governmental owner other than the Authority, enter into
2 an assistance agreement with either a governmental owner of
3 a facility or its tenant, or both, that requires the
4 tenant, or if the tenant is not a party to the assistance
5 agreement requires the governmental owner to enter into an
6 agreement with the tenant that requires the tenant to use
7 the facility for a period at least as long as the term of
8 any bonds issued to finance the reconstruction,
9 renovation, remodeling, extension or improvement of all or
10 substantially all of the facility.

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

19 (5) In connection with prequalification of general
20 contractors for the construction of a new stadium facility
21 or the reconstruction, renovation, remodeling, extension,
22 or improvement of all or substantially all of an existing
23 facility, the Authority shall require submission of a
24 commitment detailing how the general contractor will
25 expend 25% or more of the dollar value of the general
26 contract with one or more minority-owned businesses

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

1 implementation of this paragraph. The terms
2 "minority-owned businesses", "women-owned businesses", and
3 "business owned by a person with a disability" have the
4 meanings given to those terms ~~The terms "minority business~~
5 ~~enterprise" and "female business enterprise" shall have~~
6 ~~the same meanings as "minority owned business" and "female~~
7 ~~owned business", respectively, as defined in the Business~~
8 Enterprise for Minorities, Women Females, and Persons with
9 Disabilities Act.

10 (6) Provide for the construction of any new facility
11 pursuant to one or more contracts which require delivery of
12 a completed facility at a fixed maximum price to be insured
13 or guaranteed by a third party determined by the Authority
14 to be financially capable of causing completion of such
15 construction of the new facility.

16 In connection with any assistance agreement with a
17 governmental owner that provides financial assistance for a
18 facility to be used by a National Football League team, the
19 assistance agreement shall provide that the Authority or its
20 agent shall enter into the contract or contracts for the design
21 and construction services or design/build services for such
22 facility and thereafter transfer its rights and obligations
23 under the contract or contracts to the governmental owner of
24 the facility. In seeking parties to provide design and
25 construction services or design/build services with respect to
26 such facility, the Authority may use such procurement

1 procedures as it may determine, including, without limitation,
2 the selection of design professionals and construction
3 managers or design/builders as may be required by a team that
4 is at risk, in whole or in part, for the cost of design and
5 construction of the facility.

6 An assistance agreement may not provide, directly or
7 indirectly, for the payment to the Chicago Park District of
8 more than a total of \$10,000,000 on account of the District's
9 loss of property or revenue in connection with the renovation
10 of a facility pursuant to the assistance agreement.

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

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

14 (70 ILCS 3210/40)

15 Sec. 40. Duties.

16 (a) In addition to the powers set forth elsewhere in this
17 Act, subject to the terms of any agreements with the holders of
18 the Authority's evidences of indebtedness, the Authority shall
19 do the following:

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

24 (2) Enter into a loan agreement with an owner of a

1 facility to finance the acquisition, construction,
2 maintenance, or rehabilitation of the facility. The
3 agreement shall contain appropriate and reasonable
4 provisions with respect to termination, default, and legal
5 remedies. The loan may be at below-market interest rates.

6 (3) Create and maintain a financial reserve for repair
7 and replacement of capital assets.

8 (b) In a loan agreement for the construction of a new
9 facility, in connection with prequalification of general
10 contractors for construction of the facility, the Authority
11 shall require that the owner of the facility require submission
12 of a commitment detailing how the general contractor will
13 expend 25% or more of the dollar value of the general contract
14 with one or more minority-owned businesses ~~minority business~~
15 ~~enterprises~~ and 5% or more of the dollar value with one or more
16 women-owned businesses ~~female business enterprises~~. This
17 commitment may be met by contractor's status as a
18 minority-owned businesses ~~minority business enterprise~~ or
19 women-owned businesses ~~female business enterprise~~, by a joint
20 venture, or by subcontracting a portion of the work with or by
21 purchasing materials for the work from one or more such
22 businesses ~~enterprises~~, or by any combination thereof. Any
23 contract with the general contractor for construction of the
24 new facility shall require the general contractor to meet the
25 foregoing obligations and shall require monthly reporting to
26 the Authority with respect to the status of the implementation

1 of the contractor's affirmative action plan and compliance with
2 that plan. This report shall be filed with the General
3 Assembly. The Authority shall require that the facility owner
4 establish and maintain an affirmative action program designed
5 to promote equal employment opportunity and that specifies the
6 goals and methods for increasing participation by minorities
7 and women in a representative mix of job classifications
8 required to perform the respective contracts. The Authority
9 shall file a report before March 1 of each year with the
10 General Assembly detailing its implementation of this
11 subsection. The terms "minority-owned businesses ~~minority~~
12 ~~business—enterprise~~" and "women-owned businesses ~~female~~
13 ~~business enterprise~~" have the meanings provided in the Business
14 Enterprise for Minorities, Women ~~Females~~, and Persons with
15 Disabilities Act.

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

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

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

4 (70 ILCS 3605/12c)

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

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

18 (b) (1) After its receipt of a certified copy of a report of
19 the Auditor General of the State of Illinois meeting the
20 requirements of Section 3-2.3 of the Illinois State Auditing
21 Act, the Authority may issue \$1,348,550,000 aggregate original
22 principal amount of bonds and notes. After payment of the costs
23 of issuance and necessary deposits to funds and accounts
24 established with respect to debt service, the net proceeds of

1 such bonds or notes shall be deposited only in the Retirement
2 Plan for Chicago Transit Authority Employees and used only for
3 the purposes required by Section 22-101 of the Illinois Pension
4 Code. Provided that no less than \$1,110,500,000 has been
5 deposited in the Retirement Plan, remaining proceeds of bonds
6 issued under this subparagraph (b) (1) may be used to pay costs
7 of issuance and make necessary deposits to funds and accounts
8 with respect to debt service for bonds and notes issued under
9 this subparagraph or subparagraph (b) (2).

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

26 (3) In addition, refunding bonds are authorized to be

1 issued for the purpose of refunding outstanding bonds or notes
2 issued under this Section 12c.

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

10 (5) With respect to bonds and notes issued under
11 subparagraph (b), scheduled aggregate annual payments of
12 interest or deposits into funds and accounts established for
13 the purpose of such payment shall commence within one year
14 after the bonds and notes are issued. With respect to principal
15 and interest, scheduled aggregate annual payments of principal
16 and interest or deposits into funds and accounts established
17 for the purpose of such payment shall be not less than 70% in
18 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled
19 payments or deposits of principal and interest in 2012 and
20 shall be substantially equal beginning in 2012 and each year
21 thereafter. For purposes of this subparagraph (b),
22 "substantially equal" means that debt service in any full year
23 after calendar year 2011 is not more than 115% of debt service
24 in any other full year after calendar year 2011 during the term
25 of the bonds or notes. For the purposes of this subsection (b),
26 with respect to bonds and notes that bear interest at a

1 variable rate, interest shall be assumed at a rate equal to the
2 rate for United States Treasury Securities - State and Local
3 Government Series for the same maturity, plus 75 basis points.
4 If the Authority enters into a Swap with a counterparty
5 requiring the Authority to pay a fixed interest rate on a
6 notional amount, and the Authority has made a determination
7 that such Swap was entered into for the purpose of providing
8 substitute interest payments for variable interest rate bonds
9 or notes of a particular maturity or maturities in a principal
10 amount equal to the notional amount of the Swap, then during
11 the term of the Swap for purposes of any calculation of
12 interest payable on such bonds or notes, the interest rate on
13 the bonds or notes of such maturity or maturities shall be
14 determined as if such bonds or notes bore interest at the fixed
15 interest rate payable by the Authority under such Swap.

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

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

25 (d) The Authority is authorized to cause the proceeds of
26 the bonds or notes, and any interest or investment earnings on

1 the bonds or notes, and of any Swaps, to be invested until the
2 proceeds and any interest or investment earnings have been
3 deposited with the Retirement Plan or the Retiree Health Care
4 Trust.

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

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

1 regulation and disposition of sinking fund or reserve accounts
2 relating to those bonds or notes and related agreements. The
3 ordinance authorizing the issuance of any such bonds or notes
4 authorized under this Section 12c may contain provisions for
5 the creation of a separate fund to provide for the payment of
6 principal of and interest on those bonds or notes and related
7 agreements. The ordinance may also provide limitations on the
8 issuance of additional bonds or notes of the Authority.

9 (f) Bonds or notes issued under this Section 12c shall not
10 constitute an indebtedness of the Regional Transportation
11 Authority, the State of Illinois, or of any other political
12 subdivision of or municipality within the State, except the
13 Authority.

14 (g) The ordinance of the Chicago Transit Board authorizing
15 the issuance of bonds or notes pursuant to this Section 12c may
16 provide for the appointment of a corporate trustee (which may
17 be any trust company or bank having the powers of a trust
18 company within Illinois) with respect to bonds or notes issued
19 pursuant to this Section 12c. The ordinance shall prescribe the
20 rights, duties, and powers of the trustee to be exercised for
21 the benefit of the Authority and the protection of the owners
22 of bonds or notes issued pursuant to this Section 12c. The
23 ordinance may provide for the trustee to hold in trust, invest
24 and use amounts in funds and accounts created as provided by
25 the ordinance with respect to the bonds or notes in accordance
26 with this Section 12c. The Authority may apply, as it shall

1 determine, any amounts received upon the sale of the bonds or
2 notes to pay any Debt Service on the bonds or notes. The
3 ordinance may provide for a trust indenture to set forth terms
4 of, sources of payment for and security for the bonds and
5 notes.

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

23 (i) For purposes of this Section, "Debt Service" with
24 respect to bonds or notes includes, without limitation,
25 principal (at maturity or upon mandatory redemption),
26 redemption premium, interest, periodic, upfront, and

1 termination payments on Swaps, fees for bond insurance or other
2 credit enhancement, liquidity facilities, the funding of bond
3 or note reserves, bond trustee fees, and all other costs of
4 providing for the security or payment of the bonds or notes.

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

1 to subsection (e) of this Section 12c related to the issuance
2 of debt shall not be based in any way on the service providers
3 selected by the Authority pursuant to this Section.

4 (k) No person holding an elective office in this State,
5 holding a seat in the General Assembly, serving as a director,
6 trustee, officer, or employee of the Regional Transportation
7 Authority or the Chicago Transit Authority, including the
8 spouse or minor child of that person, may receive a legal,
9 banking, consulting, or other fee related to the issuance of
10 any bond issued by the Chicago Transit Authority pursuant to
11 this Section.

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

13 Section 120. The School Code is amended by changing Section
14 10-20.44 as follows:

15 (105 ILCS 5/10-20.44)

16 Sec. 10-20.44. Report on contracts.

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

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

23 (c) Each year, in conjunction with the submission of the
24 Statement of Affairs to the State Board of Education prior to

1 December 1, provided for in Section 10-17, each school district
2 shall submit to the State Board of Education an annual report
3 on all contracts over \$25,000 awarded by the school district
4 during the previous fiscal year. The report shall include at
5 least the following:

6 (1) the total number of all contracts awarded by the
7 school district;

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

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

15 (4) the total value of contracts awarded to
16 minority-owned ~~minority-owned~~ businesses, women-owned
17 ~~female-owned~~ businesses, and businesses owned by persons
18 with disabilities, as defined in the Business Enterprise
19 for Minorities, Women, ~~Females~~ and Persons with
20 Disabilities Act, and locally owned businesses.

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

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

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

1 (110 ILCS 62/3)

2 Sec. 3. Applicable laws. Other State laws and related
3 administrative requirements apply to this Act, including, but
4 not limited to, the following laws and related administrative
5 requirements: the Illinois Human Rights Act, the Prevailing
6 Wage Act, the Public Construction Bond Act, the Public Works
7 Preference Act (repealed on June 16, 2010 by Public Act
8 96-929), the Employment of Illinois Workers on Public Works
9 Act, the Freedom of Information Act, the Open Meetings Act, the
10 Illinois Architecture Practice Act of 1989, the Professional
11 Engineering Practice Act of 1989, the Structural Engineering
12 Practice Act of 1989, the Architectural, Engineering, and Land
13 Surveying Qualifications Based Selection Act, the Public
14 Contract Fraud Act, the Business Enterprise for Minorities,
15 Women ~~Females~~, and Persons with Disabilities Act, and the
16 Public Works Employment Discrimination Act.

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

18 (110 ILCS 62/5-10)

19 Sec. 5-10. Energy conservation measure.

20 (a) "Energy conservation measure" means any improvement,
21 repair, alteration, or betterment of any building or facility,
22 subject to all applicable building codes, owned or operated by
23 a public university or any equipment, fixture, or furnishing to
24 be added to or used in any such building or facility that is

1 designed to reduce energy consumption or operating costs, and
2 may include, without limitation, one or more of the following:

3 (1) Insulation of the building structure or systems
4 within the building.

5 (2) Storm windows or doors, caulking or
6 weatherstripping, multiglazed windows or doors, heat
7 absorbing or heat reflective glazed and coated window or
8 door systems, additional glazing, reductions in glass
9 area, or other window and door system modifications that
10 reduce energy consumption.

11 (3) Automated or computerized energy control systems.

12 (4) Heating, ventilating, or air conditioning system
13 modifications or replacements.

14 (5) Replacement or modification of lighting fixtures
15 to increase the energy efficiency of the lighting system
16 without increasing the overall illumination of a facility,
17 unless an increase in illumination is necessary to conform
18 to the applicable State or local building code for the
19 lighting system after the proposed modifications are made.

20 (6) Energy recovery systems.

21 (7) Energy conservation measures that provide
22 long-term operating cost reductions.

23 (b) From the effective date of this amendatory Act of the
24 96th General Assembly until January 1, 2015, "energy
25 conservation measure" includes a renewable energy center pilot
26 project at Eastern Illinois University, provided that:

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

4 (2) the University has responsibility for the
5 qualified provider's actions with regard to applicable
6 laws;

7 (3) the University obtains a performance bond in
8 accordance with this Act;

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

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

16 (6) the University provides monthly progress reports
17 to the Procurement Policy Board, and the University allows
18 a representative from CDB to monitor the project, provided
19 that such involvement is at no cost to the University;

20 (7) the University requires the qualified provider to
21 follow the provisions of the Business Enterprise for
22 Minorities, Women ~~Females~~, and Persons with Disabilities
23 Act and the Public Works Employment Discrimination Act as
24 provided in this Act;

25 (8) the University agrees to award new building
26 construction work to a responsible bidder, as defined in

1 Section 30-22 of the Illinois Procurement Code;

2 (9) the University includes in its contract with the
3 qualified provider a requirement that the qualified
4 provider name the sub-contractors that it will use, and the
5 qualified provider may not change these without the
6 University's written approval;

7 (10) the University follows, to the extent possible,
8 the Design-Build Procurement Act for construction of the
9 project, taking into consideration the current status of
10 the project; for purposes of this Act, the definition of
11 "State construction agency" in the Design-Build
12 Procurement Act means Eastern Illinois University for the
13 purpose of this project;

14 (11) the University follows, to the extent possible,
15 the Architectural, Engineering, and Land Surveying
16 Qualifications Based Selection Act;

17 (12) the University requires all engineering,
18 architecture, and design work related to the installation
19 or modification of facilities be performed by design
20 professionals licensed by the State of Illinois and
21 professional design firms registered in the State of
22 Illinois; and

23 (13) the University produces annual reports and a final
24 report describing the project upon completion and files the
25 reports with the Procurement Policy Board, CDB, and the
26 General Assembly.

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

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

4 (110 ILCS 320/1.1 rep.)

5 Section 130. The University of Illinois at Chicago Act is
6 amended by repealing Section 1.1.

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

9 (110 ILCS 675/20-115)

10 Sec. 20-115. Illinois Institute for Entrepreneurship
11 Education.

12 (a) There is created, effective July 1, 1997, within the
13 State at Illinois State University, the Illinois Institute for
14 Entrepreneurship Education, hereinafter referred to as the
15 Institute.

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

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

1 the performance of his or her duties.

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

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

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

3 (2) To own property and expend and receive funds and
4 generate funds;

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

7 (4) To request and receive the cooperation and
8 assistance of all State departments and agencies in the
9 furtherance of its purpose.

10 (e) The board of the Institute shall be a policy making
11 body with the responsibility for planning and developing
12 Institute programs. The Institute, through the Board of
13 Trustees of Illinois State University, shall annually report to
14 the Governor and General Assembly by January 31 as to its
15 activities and operations, including its findings and
16 recommendations.

17 (f) Beginning on July 1, 1997, the Institute created under
18 this Section shall be deemed designated by law as the successor
19 to the Illinois Institute for Entrepreneurship Education,
20 previously created and existing under Section 2-11.5 of the
21 Public Community College Act until its abolition on July 1,
22 1997 as provided in that Section. On July 1, 1997, all
23 financial and other records of the Institute so abolished and
24 all of its property, whether real or personal, including but
25 not limited to all inventory and equipment, shall be deemed
26 transferred by operation of law to the Illinois Institute for

1 Entrepreneurship Education created under this Section 20-115.
2 The Illinois Institute for Entrepreneurship Education created
3 under this Section 20-115 shall have, with respect to the
4 predecessor Institute so abolished, all authority, powers, and
5 duties of a successor agency under Section 10-15 of the
6 Successor Agency Act.

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

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

10 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

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

12 (a) Notwithstanding the provisions of Section 9-201, the
13 Commission may authorize the increase or decrease of rates and
14 charges based upon changes in the cost of fuel used in the
15 generation or production of electric power, changes in the cost
16 of purchased power, or changes in the cost of purchased gas
17 through the application of fuel adjustment clauses or purchased
18 gas adjustment clauses. The Commission may also authorize the
19 increase or decrease of rates and charges based upon
20 expenditures or revenues resulting from the purchase or sale of
21 emission allowances created under the federal Clean Air Act
22 Amendments of 1990, through such fuel adjustment clauses, as a
23 cost of fuel. For the purposes of this paragraph, cost of fuel
24 used in the generation or production of electric power shall

1 include the amount of any fees paid by the utility for the
2 implementation and operation of a process for the
3 desulfurization of the flue gas when burning high sulfur coal
4 at any location within the State of Illinois irrespective of
5 the attainment status designation of such location; but shall
6 not include transportation costs of coal (i) except to the
7 extent that for contracts entered into on and after the
8 effective date of this amendatory Act of 1997, the cost of the
9 coal, including transportation costs, constitutes the lowest
10 cost for adequate and reliable fuel supply reasonably available
11 to the public utility in comparison to the cost, including
12 transportation costs, of other adequate and reliable sources of
13 fuel supply reasonably available to the public utility, or (ii)
14 except as otherwise provided in the next 3 sentences of this
15 paragraph. Such costs of fuel shall, when requested by a
16 utility or at the conclusion of the utility's next general
17 electric rate proceeding, whichever shall first occur, include
18 transportation costs of coal purchased under existing coal
19 purchase contracts. For purposes of this paragraph "existing
20 coal purchase contracts" means contracts for the purchase of
21 coal in effect on the effective date of this amendatory Act of
22 1991, as such contracts may thereafter be amended, but only to
23 the extent that any such amendment does not increase the
24 aggregate quantity of coal to be purchased under such contract.
25 Nothing herein shall authorize an electric utility to recover
26 through its fuel adjustment clause any amounts of

1 transportation costs of coal that were included in the revenue
2 requirement used to set base rates in its most recent general
3 rate proceeding. Cost shall be based upon uniformly applied
4 accounting principles. Annually, the Commission shall initiate
5 public hearings to determine whether the clauses reflect actual
6 costs of fuel, gas, power, or coal transportation purchased to
7 determine whether such purchases were prudent, and to reconcile
8 any amounts collected with the actual costs of fuel, power,
9 gas, or coal transportation prudently purchased. In each such
10 proceeding, the burden of proof shall be upon the utility to
11 establish the prudence of its cost of fuel, power, gas, or coal
12 transportation purchases and costs. The Commission shall issue
13 its final order in each such annual proceeding for an electric
14 utility by December 31 of the year immediately following the
15 year to which the proceeding pertains, provided, that the
16 Commission shall issue its final order with respect to such
17 annual proceeding for the years 1996 and earlier by December
18 31, 1998.

19 (b) A public utility providing electric service, other than
20 a public utility described in subsections (e) or (f) of this
21 Section, may at any time during the mandatory transition period
22 file with the Commission proposed tariff sheets that eliminate
23 the public utility's fuel adjustment clause and adjust the
24 public utility's base rate tariffs by the amount necessary for
25 the base fuel component of the base rates to recover the public
26 utility's average fuel and power supply costs per kilowatt-hour

1 for the 2 most recent years for which the Commission has issued
2 final orders in annual proceedings pursuant to subsection (a),
3 where the average fuel and power supply costs per kilowatt-hour
4 shall be calculated as the sum of the public utility's prudent
5 and allowable fuel and power supply costs as found by the
6 Commission in the 2 proceedings divided by the public utility's
7 actual jurisdictional kilowatt-hour sales for those 2 years.
8 Notwithstanding any contrary or inconsistent provisions in
9 Section 9-201 of this Act, in subsection (a) of this Section or
10 in any rules or regulations promulgated by the Commission
11 pursuant to subsection (g) of this Section, the Commission
12 shall review and shall by order approve, or approve as
13 modified, the proposed tariff sheets within 60 days after the
14 date of the public utility's filing. The Commission may modify
15 the public utility's proposed tariff sheets only to the extent
16 the Commission finds necessary to achieve conformance to the
17 requirements of this subsection (b). During the 5 years
18 following the date of the Commission's order, but in any event
19 no earlier than January 1, 2007, a public utility whose fuel
20 adjustment clause has been eliminated pursuant to this
21 subsection shall not file proposed tariff sheets seeking, or
22 otherwise petition the Commission for, reinstatement of a fuel
23 adjustment clause.

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

23 (d) A public utility providing electric service, or a
24 public utility providing gas service may file with the
25 Commission proposed tariff sheets that eliminate the public
26 utility's fuel or purchased gas adjustment clause and adjust

1 the public utility's base rate tariffs to provide for recovery
2 of power supply costs or gas supply costs that would have been
3 recovered through such clause; provided, that the provisions of
4 this subsection (d) shall not be available to a public utility
5 described in subsections (e) or (f) of this Section to
6 eliminate its fuel adjustment clause. Notwithstanding any
7 contrary or inconsistent provisions in Section 9-201 of this
8 Act, in subsection (a) of this Section, or in any rules or
9 regulations promulgated by the Commission pursuant to
10 subsection (g) of this Section, the Commission shall review and
11 shall by order approve, or approve as modified in the
12 Commission's order, the proposed tariff sheets within 240 days
13 after the date of the public utility's filing. The Commission's
14 order shall approve rates and charges that the Commission,
15 based on information in the public utility's filing or on the
16 record if a hearing is held by the Commission, finds will
17 recover the reasonable, prudent and necessary jurisdictional
18 power supply costs or gas supply costs incurred or to be
19 incurred by the public utility during a 12 month period found
20 by the Commission to be appropriate for these purposes,
21 provided, that such period shall be either (i) a 12 month
22 historical period occurring during the 15 months ending on the
23 date of the public utility's filing, or (ii) a 12 month future
24 period ending no later than 15 months following the date of the
25 public utility's filing. The public utility shall include with
26 its tariff filing information showing both (1) its actual

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

25 (e) Notwithstanding any contrary or inconsistent
26 provisions in Section 9-201 of this Act, in subsection (a) of

1 this Section, or in any rules promulgated by the Commission
2 pursuant to subsection (g) of this Section, a public utility
3 providing electric service to more than 1,000,000 customers in
4 this State may, within the first 6 months after the effective
5 date of this amendatory Act of 1997, file with the Commission
6 proposed tariff sheets that eliminate, effective January 1,
7 1997, the public utility's fuel adjustment clause without
8 adjusting its base rates, and such tariff sheets shall be
9 effective upon filing. To the extent the application of the
10 fuel adjustment clause had resulted in net charges to customers
11 after January 1, 1997, the utility shall also file a tariff
12 sheet that provides for a refund stated on a per kilowatt-hour
13 basis of such charges over a period not to exceed 6 months;
14 provided however, that such refund shall not include the
15 proportional amounts of taxes paid under the Use Tax Act,
16 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
17 Occupation Tax Act on fuel used in generation. The Commission
18 shall issue an order within 45 days after the date of the
19 public utility's filing approving or approving as modified such
20 tariff sheet. If the fuel adjustment clause is eliminated
21 pursuant to this subsection, the Commission shall not conduct
22 the annual hearings specified in the last 3 sentences of
23 subsection (a) of this Section for the utility for any period
24 after December 31, 1996 and prior to any reinstatement of such
25 clause. A public utility whose fuel adjustment clause has been
26 eliminated pursuant to this subsection shall not file a

1 proposed tariff sheet seeking, or otherwise petition the
2 Commission for, reinstatement of the fuel adjustment clause
3 prior to January 1, 2007.

4 (f) Notwithstanding any contrary or inconsistent
5 provisions in Section 9-201 of this Act, in subsection (a) of
6 this Section, or in any rules or regulations promulgated by the
7 Commission pursuant to subsection (g) of this Section, a public
8 utility providing electric service to more than 500,000
9 customers but fewer than 1,000,000 customers in this State may,
10 within the first 6 months after the effective date of this
11 amendatory Act of 1997, file with the Commission proposed
12 tariff sheets that eliminate, effective January 1, 1997, the
13 public utility's fuel adjustment clause and adjust its base
14 rates by the amount necessary for the base fuel component of
15 the base rates to recover 91% of the public utility's average
16 fuel and power supply costs for the 2 most recent years for
17 which the Commission, as of January 1, 1997, has issued final
18 orders in annual proceedings pursuant to subsection (a), where
19 the average fuel and power supply costs per kilowatt-hour shall
20 be calculated as the sum of the public utility's prudent and
21 allowable fuel and power supply costs as found by the
22 Commission in the 2 proceedings divided by the public utility's
23 actual jurisdictional kilowatt-hour sales for those 2 years,
24 provided, that such tariff sheets shall be effective upon
25 filing. To the extent the application of the fuel adjustment
26 clause had resulted in net charges to customers after January

1 1, 1997, the utility shall also file a tariff sheet that
2 provides for a refund stated on a per kilowatt-hour basis of
3 such charges over a period not to exceed 6 months. Provided
4 however, that such refund shall not include the proportional
5 amounts of taxes paid under the Use Tax Act, Service Use Tax
6 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
7 Act on fuel used in generation. The Commission shall issue an
8 order within 45 days after the date of the public utility's
9 filing approving or approving as modified such tariff sheet. If
10 the fuel adjustment clause is eliminated pursuant to this
11 subsection, the Commission shall not conduct the annual
12 hearings specified in the last 3 sentences of subsection (a) of
13 this Section for the utility for any period after December 31,
14 1996 and prior to any reinstatement of such clause. A public
15 utility whose fuel adjustment clause has been eliminated
16 pursuant to this subsection shall not file a proposed tariff
17 sheet seeking, or otherwise petition the Commission for,
18 reinstatement of the fuel adjustment clause prior to January 1,
19 2007.

20 (g) The Commission shall have authority to promulgate rules
21 and regulations to carry out the provisions of this Section.

22 (h) Any Illinois gas utility may enter into a contract on
23 or before September 30, 2011 for up to 10 years of supply with
24 any company for the purchase of substitute natural gas (SNG)
25 produced from coal through the gasification process if the
26 company has commenced construction of a clean coal SNG facility

1 by July 1, 2012 and commencement of construction shall mean
2 that material physical site work has occurred, such as site
3 clearing and excavation, water runoff prevention, water
4 retention reservoir preparation, or foundation development.
5 The contract shall contain the following provisions: (i) at
6 least 90% of feedstock to be used in the gasification process
7 shall be coal with a high volatile bituminous rank and greater
8 than 1.7 pounds of sulfur per million Btu content; (ii) at the
9 time the contract term commences, the price per million Btu may
10 not exceed \$7.95 in 2008 dollars, adjusted annually based on
11 the change in the Annual Consumer Price Index for All Urban
12 Consumers for the Midwest Region as published in April by the
13 United States Department of Labor, Bureau of Labor Statistics
14 (or a suitable Consumer Price Index calculation if this
15 Consumer Price Index is not available) for the previous
16 calendar year; provided that the price per million Btu shall
17 not exceed \$9.95 at any time during the contract; (iii) the
18 utility's supply contract for the purchase of SNG does not
19 exceed 15% of the annual system supply requirements of the
20 utility as of 2008; and (iv) the contract costs pursuant to
21 subsection (h-10) of this Section shall not include any
22 lobbying expenses, charitable contributions, advertising,
23 organizational memberships, carbon dioxide pipeline or
24 sequestration expenses, or marketing expenses.

25 Any gas utility that is providing service to more than
26 150,000 customers on August 2, 2011 (the effective date of

1 Public Act 97-239) shall either elect to enter into a contract
2 on or before September 30, 2011 for 10 years of SNG supply with
3 the owner of a clean coal SNG facility or to file biennial rate
4 proceedings before the Commission in the years 2012, 2014, and
5 2016, with such filings made after August 2, 2011 and no later
6 than September 30 of the years 2012, 2014, and 2016 consistent
7 with all requirements of 83 Ill. Adm. Code 255 and 285 as
8 though the gas utility were filing for an increase in its
9 rates, without regard to whether such filing would produce an
10 increase, a decrease, or no change in the gas utility's rates,
11 and the Commission shall review the gas utility's filing and
12 shall issue its order in accordance with the provisions of
13 Section 9-201 of this Act.

14 Within 7 days after August 2, 2011, the owner of the clean
15 coal SNG facility shall submit to the Illinois Power Agency and
16 each gas utility that is providing service to more than 150,000
17 customers on August 2, 2011 a copy of a draft contract. Within
18 30 days after the receipt of the draft contract, each such gas
19 utility shall provide the Illinois Power Agency and the owner
20 of the clean coal SNG facility with its comments and
21 recommended revisions to the draft contract. Within 7 days
22 after the receipt of the gas utility's comments and recommended
23 revisions, the owner of the facility shall submit its
24 responsive comments and a further revised draft of the contract
25 to the Illinois Power Agency. The Illinois Power Agency shall
26 review the draft contract and comments.

1 During its review of the draft contract, the Illinois Power
2 Agency shall:

3 (1) review and confirm in writing that the terms stated
4 in this subsection (h) are incorporated in the SNG
5 contract;

6 (2) review the SNG pricing formula included in the
7 contract and approve that formula if the Illinois Power
8 Agency determines that the formula, at the time the
9 contract term commences: (A) starts with a price of \$6.50
10 per MMBtu adjusted by the adjusted final capitalized plant
11 cost; (B) takes into account budgeted miscellaneous net
12 revenue after cost allowance, including sale of SNG
13 produced by the clean coal SNG facility above the nameplate
14 capacity of the facility and other by-products produced by
15 the facility, as approved by the Illinois Power Agency; (C)
16 does not include carbon dioxide transportation or
17 sequestration expenses; and (D) includes all provisions
18 required under this subsection (h); if the Illinois Power
19 Agency does not approve of the SNG pricing formula, then
20 the Illinois Power Agency shall modify the formula to
21 ensure that it meets the requirements of this subsection
22 (h);

23 (3) review and approve the amount of budgeted
24 miscellaneous net revenue after cost allowance, including
25 sale of SNG produced by the clean coal SNG facility above
26 the nameplate capacity of the facility and other

1 by-products produced by the facility, to be included in the
2 pricing formula; the Illinois Power Agency shall approve
3 the amount of budgeted miscellaneous net revenue to be
4 included in the pricing formula if it determines the
5 budgeted amount to be reasonable and accurate;

6 (4) review and confirm in writing that using the EIA
7 Annual Energy Outlook-2011 Henry Hub Spot Price, the
8 contract terms set out in subsection (h), the
9 reconciliation account terms as set out in subsection
10 (h-15), and an estimated inflation rate of 2.5% for each
11 corresponding year, that there will be no cumulative
12 estimated increase for residential customers; and

13 (5) allocate the nameplate capacity of the clean coal
14 SNG by total therms sold to ultimate customers by each gas
15 utility in 2008; provided, however, no utility shall be
16 required to purchase more than 42% of the projected annual
17 output of the facility; additionally, the Illinois Power
18 Agency shall further adjust the allocation only as required
19 to take into account (A) adverse consolidation,
20 derivative, or lease impacts to the balance sheet or income
21 statement of any gas utility or (B) the physical capacity
22 of the gas utility to accept SNG.

23 If the parties to the contract do not agree on the terms
24 therein, then the Illinois Power Agency shall retain an
25 independent mediator to mediate the dispute between the
26 parties. If the parties are in agreement on the terms of the

1 contract, then the Illinois Power Agency shall approve the
2 contract. If after mediation the parties have failed to come to
3 agreement, then the Illinois Power Agency shall revise the
4 draft contract as necessary to confirm that the contract
5 contains only terms that are reasonable and equitable. The
6 Illinois Power Agency may, in its discretion, retain an
7 independent, qualified, and experienced expert to assist in its
8 obligations under this subsection (h). The Illinois Power
9 Agency shall adopt and make public policies detailing the
10 processes for retaining a mediator and an expert under this
11 subsection (h). Any mediator or expert retained under this
12 subsection (h) shall be retained no later than 60 days after
13 August 2, 2011.

14 The Illinois Power Agency shall complete all of its
15 responsibilities under this subsection (h) within 60 days after
16 August 2, 2011. The clean coal SNG facility shall pay a
17 reasonable fee as required by the Illinois Power Agency for its
18 services under this subsection (h) and shall pay the mediator's
19 and expert's reasonable fees, if any. A gas utility and its
20 customers shall have no obligation to reimburse the clean coal
21 SNG facility or the Illinois Power Agency of any such costs.

22 Within 30 days after commercial production of SNG has
23 begun, the Commission shall initiate a review to determine
24 whether the final capitalized plant cost of the clean coal SNG
25 facility reflects actual incurred costs and whether the
26 incurred costs were reasonable. In determining the actual

1 incurred costs included in the final capitalized plant cost and
2 the reasonableness of those costs, the Commission may in its
3 discretion retain independent, qualified, and experienced
4 experts to assist in its determination. The expert shall not
5 own or control any direct or indirect interest in the clean
6 coal SNG facility and shall have no contractual relationship
7 with the clean coal SNG facility. If an expert is retained by
8 the Commission, then the clean coal SNG facility shall pay the
9 expert's reasonable fees. The fees shall not be passed on to a
10 utility or its customers. The Commission shall adopt and make
11 public a policy detailing the process for retaining experts
12 under this subsection (h).

13 Within 30 days after completion of its review, the
14 Commission shall initiate a formal proceeding on the final
15 capitalized plant cost of the clean coal SNG facility at which
16 comments and testimony may be submitted by any interested
17 parties and the public. If the Commission finds that the final
18 capitalized plant cost includes costs that were not actually
19 incurred or costs that were unreasonably incurred, then the
20 Commission shall disallow the amount of non-incurred or
21 unreasonable costs from the SNG price under contracts entered
22 into under this subsection (h). If the Commission disallows any
23 costs, then the Commission shall adjust the SNG price using the
24 price formula in the contract approved by the Illinois Power
25 Agency under this subsection (h) to reflect the disallowed
26 costs and shall enter an order specifying the revised price. In

1 addition, the Commission's order shall direct the clean coal
2 SNG facility to issue refunds of such sums as shall represent
3 the difference between actual gross revenues and the gross
4 revenue that would have been obtained based upon the same
5 volume, from the price revised by the Commission. Any refund
6 shall include interest calculated at a rate determined by the
7 Commission and shall be returned according to procedures
8 prescribed by the Commission.

9 Nothing in this subsection (h) shall preclude any party
10 affected by a decision of the Commission under this subsection
11 (h) from seeking judicial review of the Commission's decision.

12 (h-1) Any Illinois gas utility may enter into a sourcing
13 agreement for up to 30 years of supply with the clean coal SNG
14 brownfield facility if the clean coal SNG brownfield facility
15 has commenced construction. Any gas utility that is providing
16 service to more than 150,000 customers on July 13, 2011 (the
17 effective date of Public Act 97-096) shall either elect to file
18 biennial rate proceedings before the Commission in the years
19 2012, 2014, and 2016 or enter into a sourcing agreement or
20 sourcing agreements with a clean coal SNG brownfield facility
21 with an initial term of 30 years for either (i) a percentage of
22 43,500,000,000 cubic feet per year, such that the utilities
23 entering into sourcing agreements with the clean coal SNG
24 brownfield facility purchase 100%, allocated by total therms
25 sold to ultimate customers by each gas utility in 2008 or (ii)
26 such lesser amount as may be available from the clean coal SNG

1 brownfield facility; provided that no utility shall be required
2 to purchase more than 42% of the projected annual output of the
3 clean coal SNG brownfield facility, with the remainder of such
4 utility's obligation to be divided proportionately between the
5 other utilities, and provided that the Illinois Power Agency
6 shall further adjust the allocation only as required to take
7 into account adverse consolidation, derivative, or lease
8 impacts to the balance sheet or income statement of any gas
9 utility.

10 A gas utility electing to file biennial rate proceedings
11 before the Commission must file a notice of its election with
12 the Commission within 60 days after July 13, 2011 or its right
13 to make the election is irrevocably waived. A gas utility
14 electing to file biennial rate proceedings shall make such
15 filings no later than August 1 of the years 2012, 2014, and
16 2016, consistent with all requirements of 83 Ill. Adm. Code 255
17 and 285 as though the gas utility were filing for an increase
18 in its rates, without regard to whether such filing would
19 produce an increase, a decrease, or no change in the gas
20 utility's rates, and notwithstanding any other provisions of
21 this Act, the Commission shall fully review the gas utility's
22 filing and shall issue its order in accordance with the
23 provisions of Section 9-201 of this Act, regardless of whether
24 the Commission has approved a formula rate for the gas utility.

25 Within 15 days after July 13, 2011, the owner of the clean
26 coal SNG brownfield facility shall submit to the Illinois Power

1 Agency and each gas utility that is providing service to more
2 than 150,000 customers on July 13, 2011 a copy of a draft
3 sourcing agreement. Within 45 days after receipt of the draft
4 sourcing agreement, each such gas utility shall provide the
5 Illinois Power Agency and the owner of a clean coal SNG
6 brownfield facility with its comments and recommended
7 revisions to the draft sourcing agreement. Within 15 days after
8 the receipt of the gas utility's comments and recommended
9 revisions, the owner of the clean coal SNG brownfield facility
10 shall submit its responsive comments and a further revised
11 draft of the sourcing agreement to the Illinois Power Agency.
12 The Illinois Power Agency shall review the draft sourcing
13 agreement and comments.

14 If the parties to the sourcing agreement do not agree on
15 the terms therein, then the Illinois Power Agency shall retain
16 an independent mediator to mediate the dispute between the
17 parties. If the parties are in agreement on the terms of the
18 sourcing agreement, the Illinois Power Agency shall approve the
19 final draft sourcing agreement. If after mediation the parties
20 have failed to come to agreement, then the Illinois Power
21 Agency shall revise the draft sourcing agreement as necessary
22 to confirm that the final draft sourcing agreement contains
23 only terms that are reasonable and equitable. The Illinois
24 Power Agency shall adopt and make public a policy detailing the
25 process for retaining a mediator under this subsection (h-1).
26 Any mediator retained to assist with mediating disputes between

1 the parties regarding the sourcing agreement shall be retained
2 no later than 60 days after July 13, 2011.

3 Upon approval of a final draft agreement, the Illinois
4 Power Agency shall submit the final draft agreement to the
5 Capital Development Board and the Commission no later than 90
6 days after July 13, 2011. The gas utility and the clean coal
7 SNG brownfield facility shall pay a reasonable fee as required
8 by the Illinois Power Agency for its services under this
9 subsection (h-1) and shall pay the mediator's reasonable fees,
10 if any. The Illinois Power Agency shall adopt and make public a
11 policy detailing the process for retaining a mediator under
12 this Section.

13 The sourcing agreement between a gas utility and the clean
14 coal SNG brownfield facility shall contain the following
15 provisions:

16 (1) Any and all coal used in the gasification process
17 must be coal that has high volatile bituminous rank and
18 greater than 1.7 pounds of sulfur per million Btu content.

19 (2) Coal and petroleum coke are feedstocks for the
20 gasification process, with coal comprising at least 50% of
21 the total feedstock over the term of the sourcing agreement
22 unless the facility reasonably determines that it is
23 necessary to use additional petroleum coke to deliver net
24 consumer savings, in which case the facility shall use coal
25 for at least 35% of the total feedstock over the term of
26 any sourcing agreement and with the feedstocks to be

1 procured in accordance with requirements of Section 1-78 of
2 the Illinois Power Agency Act.

3 (3) The sourcing agreement has an initial term that
4 once entered into terminates no more than 30 years after
5 the commencement of the commercial production of SNG at the
6 clean coal SNG brownfield facility.

7 (4) The clean coal SNG brownfield facility guarantees a
8 minimum of \$100,000,000 in consumer savings to customers of
9 the utilities that have entered into sourcing agreements
10 with the clean coal SNG brownfield facility, calculated in
11 real 2010 dollars at the conclusion of the term of the
12 sourcing agreement by comparing the delivered SNG price to
13 the Chicago City-gate price on a weighted daily basis for
14 each day over the entire term of the sourcing agreement, to
15 be provided in accordance with subsection (h-2) of this
16 Section.

17 (5) Prior to the clean coal SNG brownfield facility
18 issuing a notice to proceed to construction, the clean coal
19 SNG brownfield facility shall establish a consumer
20 protection reserve account for the benefit of the customers
21 of the utilities that have entered into sourcing agreements
22 with the clean coal SNG brownfield facility pursuant to
23 this subsection (h-1), with cash principal in the amount of
24 \$150,000,000. This cash principal shall only be
25 recoverable through the consumer protection reserve
26 account and not as a cost to be recovered in the delivered

1 SNG price pursuant to subsection (h-3) of this Section. The
2 consumer protection reserve account shall be maintained
3 and administered by an independent trustee that is mutually
4 agreed upon by the clean coal SNG brownfield facility, the
5 utilities, and the Commission in an interest-bearing
6 account in accordance with subsection (h-2) of this
7 Section.

8 "Consumer protection reserve account principal maximum
9 amount" shall mean the maximum amount of principal to be
10 maintained in the consumer protection reserve account.
11 During the first 2 years of operation of the facility,
12 there shall be no consumer protection reserve account
13 maximum amount. After the first 2 years of operation of the
14 facility, the consumer protection reserve account maximum
15 amount shall be \$150,000,000. After 5 years of operation,
16 and every 5 years thereafter, the trustee shall calculate
17 the 5-year average balance of the consumer protection
18 reserve account. If the trustee determines that during the
19 prior 5 years the consumer protection reserve account has
20 had an average account balance of less than \$75,000,000,
21 then the consumer protection reserve account principal
22 maximum amount shall be increased by \$5,000,000. If the
23 trustee determines that during the prior 5 years the
24 consumer protection reserve account has had an average
25 account balance of more than \$75,000,000, then the consumer
26 protection reserve account principal maximum amount shall

1 be decreased by \$5,000,000.

2 (6) The clean coal SNG brownfield facility shall
3 identify and sell economically viable by-products produced
4 by the facility.

5 (7) Fifty percent of all additional net revenue,
6 defined as miscellaneous net revenue from products
7 produced by the facility and delivered during the month
8 after cost allowance for costs associated with additional
9 net revenue that are not otherwise recoverable pursuant to
10 subsection (h-3) of this Section, including net revenue
11 from sales of substitute natural gas derived from the
12 facility above the nameplate capacity of the facility and
13 other by-products produced by the facility, shall be
14 credited to the consumer protection reserve account
15 pursuant to subsection (h-2) of this Section.

16 (8) The delivered SNG price per million btu to be paid
17 monthly by the utility to the clean coal SNG brownfield
18 facility, which shall be based only upon the following: (A)
19 a capital recovery charge, operations and maintenance
20 costs, and sequestration costs, only to the extent approved
21 by the Commission pursuant to paragraphs (1), (2), and (3)
22 of subsection (h-3) of this Section; (B) the actual
23 delivered and processed fuel costs pursuant to paragraph
24 (4) of subsection (h-3) of this Section; (C) actual costs
25 of SNG transportation pursuant to paragraph (6) of
26 subsection (h-3) of this Section; (D) certain taxes and

1 fees imposed by the federal government, the State, or any
2 unit of local government as provided in paragraph (6) of
3 subsection (h-3) of this Section; and (E) the credit, if
4 any, from the consumer protection reserve account pursuant
5 to subsection (h-2) of this Section. The delivered SNG
6 price per million Btu shall proportionately reflect these
7 elements over the term of the sourcing agreement.

8 (9) A formula to translate the recoverable costs and
9 charges under subsection (h-3) of this Section into the
10 delivered SNG price per million btu.

11 (10) Title to the SNG shall pass at a mutually
12 agreeable point in Illinois, and may provide that, rather
13 than the utility taking title to the SNG, a mutually agreed
14 upon third-party gas marketer pursuant to a contract
15 approved by the Illinois Power Agency or its designee may
16 take title to the SNG pursuant to an agreement between the
17 utility, the owner of the clean coal SNG brownfield
18 facility, and the third-party gas marketer.

19 (11) A utility may exit the sourcing agreement without
20 penalty if the clean coal SNG brownfield facility does not
21 commence construction by July 1, 2015.

22 (12) A utility is responsible to pay only the
23 Commission determined unit price cost of SNG that is
24 purchased by the utility. Nothing in the sourcing agreement
25 will obligate a utility to invest capital in a clean coal
26 SNG brownfield facility.

1 (13) The quality of SNG must, at a minimum, be
2 equivalent to the quality required for interstate pipeline
3 gas before a utility is required to accept and pay for SNG
4 gas.

5 (14) Nothing in the sourcing agreement will require a
6 utility to construct any facilities to accept delivery of
7 SNG. Provided, however, if a utility is required by law or
8 otherwise elects to connect the clean coal SNG brownfield
9 facility to an interstate pipeline, then the utility shall
10 be entitled to recover pursuant to its tariffs all just and
11 reasonable costs that are prudently incurred. Any costs
12 incurred by the utility to receive, deliver, manage, or
13 otherwise accommodate purchases under the SNG sourcing
14 agreement will be fully recoverable through a utility's
15 purchased gas adjustment clause rider mechanism in
16 conjunction with a SNG brownfield facility rider
17 mechanism. The SNG brownfield facility rider mechanism (A)
18 shall be applicable to all customers who receive
19 transportation service from the utility, (B) shall be
20 designed to have an equal percent impact on the
21 transportation services rates of each class of the
22 utility's customers, and (C) shall accurately reflect the
23 net consumer savings, if any, and above-market costs, if
24 any, associated with the utility receiving, delivering,
25 managing, or otherwise accommodating purchases under the
26 SNG sourcing agreement.

1 (15) Remedies for the clean coal SNG brownfield
2 facility's failure to deliver a designated amount for a
3 designated period.

4 (16) The clean coal SNG brownfield facility shall make
5 a good faith effort to ensure that an amount equal to not
6 less than 15% of the value of its prime construction
7 contract for the facility shall be established as a goal to
8 be awarded to minority-owned ~~minority-owned~~ businesses,
9 women-owned ~~female-owned~~ businesses, and businesses owned
10 by a person with a disability; provided that at least 75%
11 of the amount of such total goal shall be for
12 minority-owned ~~minority-owned~~ businesses. "Minority-owned
13 ~~Minority-owned~~ business", "women-owned ~~female-owned~~
14 business", and "business owned by a person with a
15 disability" shall have the meanings ascribed to them in
16 Section 2 of the Business Enterprise for Minorities, Women,
17 ~~Females~~ and Persons with Disabilities Act.

18 (17) Prior to the clean coal SNG brownfield facility
19 issuing a notice to proceed to construction, the clean coal
20 SNG brownfield facility shall file with the Commission a
21 certificate from an independent engineer that the clean
22 coal SNG brownfield facility has (A) obtained all
23 applicable State and federal environmental permits
24 required for construction; (B) obtained approval from the
25 Commission of a carbon capture and sequestration plan; and
26 (C) obtained all necessary permits required for

1 construction for the transportation and sequestration of
2 carbon dioxide as set forth in the Commission-approved
3 carbon capture and sequestration plan.

4 (h-2) Consumer protection reserve account. The clean coal
5 SNG brownfield facility shall guarantee a minimum of
6 \$100,000,000 in consumer savings to customers of the utilities
7 that have entered into sourcing agreements with the clean coal
8 SNG brownfield facility, calculated in real 2010 dollars at the
9 conclusion of the term of the sourcing agreement by comparing
10 the delivered SNG price to the Chicago City-gate price on a
11 weighted daily basis for each day over the entire term of the
12 sourcing agreement. Prior to the clean coal SNG brownfield
13 facility issuing a notice to proceed to construction, the clean
14 coal SNG brownfield facility shall establish a consumer
15 protection reserve account for the benefit of the retail
16 customers of the utilities that have entered into sourcing
17 agreements with the clean coal SNG brownfield facility pursuant
18 to subsection (h-1), with cash principal in the amount of
19 \$150,000,000. Such cash principal shall only be recovered
20 through the consumer protection reserve account and not as a
21 cost to be recovered in the delivered SNG price pursuant to
22 subsection (h-3) of this Section. The consumer protection
23 reserve account shall be maintained and administered by an
24 independent trustee that is mutually agreed upon by the clean
25 coal SNG brownfield facility, the utilities, and the Commission
26 in an interest-bearing account in accordance with the

1 following:

2 (1) The clean coal SNG brownfield facility monthly
3 shall calculate (A) the difference between the monthly
4 delivered SNG price and the Chicago City-gate price, by
5 comparing the delivered SNG price, which shall include the
6 cost of transportation to the delivery point, if any, to
7 the Chicago City-gate price on a weighted daily basis for
8 each day of the prior month based upon a mutually agreed
9 upon published index and (B) the overage amount, if any, by
10 calculating the annualized incremental additional cost, if
11 any, of the delivered SNG in excess of 2.015% of the
12 average annual inflation-adjusted amounts paid by all gas
13 distribution customers in connection with natural gas
14 service during the 5 years ending May 31, 2010.

15 (2) During the first 2 years of operation of the
16 facility:

17 (A) to the extent there is an overage amount, the
18 consumer protection reserve account shall be used to
19 provide a credit to reduce the SNG price by an amount
20 equal to the overage amount; and

21 (B) to the extent the monthly delivered SNG price
22 is less than or equal to the Chicago City-gate price,
23 the utility shall credit the difference between the
24 monthly delivered SNG price and the monthly Chicago
25 City-gate price, if any, to the consumer protection
26 reserve account. Such credit issued pursuant to this

1 paragraph (B) shall be deemed prudent and reasonable
2 and not subject to a Commission prudence review;

3 (3) After 2 years of operation of the facility, and
4 monthly, on an on-going basis, thereafter:

5 (A) to the extent that the monthly delivered SNG
6 price is less than or equal to the Chicago City-gate
7 price, calculated using the weighted average of the
8 daily Chicago City-gate price on a daily basis over the
9 entire month, the utility shall credit the difference,
10 if any, to the consumer protection reserve account.
11 Such credit issued pursuant to this subparagraph (A)
12 shall be deemed prudent and reasonable and not subject
13 to a Commission prudence review;

14 (B) any amounts in the consumer protection reserve
15 account in excess of the consumer protection reserve
16 account principal maximum amount shall be distributed
17 as follows: (i) if retail customers have not realized
18 net consumer savings, calculated by comparing the
19 delivered SNG price to the weighted average of the
20 daily Chicago City-gate price on a daily basis over the
21 entire term of the sourcing agreement to date, then 50%
22 of any amounts in the consumer protection reserve
23 account in excess of the consumer protection reserve
24 account principal maximum shall be distributed to the
25 clean coal SNG brownfield facility, with the remaining
26 50% of any such additional amounts being credited to

1 retail customers, and (ii) if retail customers have
2 realized net consumer savings, then 100% of any amounts
3 in the consumer protection reserve account in excess of
4 the consumer protection reserve account principal
5 maximum shall be distributed to the clean coal SNG
6 brownfield facility; provided, however, that under no
7 circumstances shall the total cumulative amount
8 distributed to the clean coal SNG brownfield facility
9 under this subparagraph (B) exceed \$150,000,000;

10 (C) to the extent there is an overage amount, after
11 distributing the amounts pursuant to subparagraph (B)
12 of this paragraph (3), if any, the consumer protection
13 reserve account shall be used to provide a credit to
14 reduce the SNG price by an amount equal to the overage
15 amount;

16 (D) if retail customers have realized net consumer
17 savings, calculated by comparing the delivered SNG
18 price to the weighted average of the daily Chicago
19 City-gate price on a daily basis over the entire term
20 of the sourcing agreement to date, then after
21 distributing the amounts pursuant to subparagraphs (B)
22 and (C) of this paragraph (3), 50% of any additional
23 amounts in the consumer protection reserve account in
24 excess of the consumer protection reserve account
25 principal maximum shall be distributed to the clean
26 coal SNG brownfield facility, with the remaining 50% of

1 any such additional amounts being credited to retail
2 customers; provided, however, that if retail customers
3 have not realized such net consumer savings, no such
4 distribution shall be made to the clean coal SNG
5 brownfield facility, and 100% of such additional
6 amounts shall be credited to the retail customers to
7 the extent the consumer protection reserve account
8 exceeds the consumer protection reserve account
9 principal maximum amount.

10 (4) Fifty percent of all additional net revenue,
11 defined as miscellaneous net revenue after cost allowance
12 for costs associated with additional net revenue that are
13 not otherwise recoverable pursuant to subsection (h-3) of
14 this Section, including net revenue from sales of
15 substitute natural gas derived from the facility above the
16 nameplate capacity of the facility and other by-products
17 produced by the facility, shall be credited to the consumer
18 protection reserve account.

19 (5) At the conclusion of the term of the sourcing
20 agreement, to the extent retail customers have not saved
21 the minimum of \$100,000,000 in consumer savings as
22 guaranteed in this subsection (h-2), amounts in the
23 consumer protection reserve account shall be credited to
24 retail customers to the extent the retail customers have
25 saved the minimum of \$100,000,000; 50% of any additional
26 amounts in the consumer protection reserve account shall be

1 distributed to the company, and the remaining 50% shall be
2 distributed to retail customers.

3 (6) If, at the conclusion of the term of the sourcing
4 agreement, the customers have not saved the minimum
5 \$100,000,000 in savings as guaranteed in this subsection
6 (h-2) and the consumer protection reserve account has been
7 depleted, then the clean coal SNG brownfield facility shall
8 be liable for any remaining amount owed to the retail
9 customers to the extent that the customers are provided
10 with the \$100,000,000 in savings as guaranteed in this
11 subsection (h-2). The retail customers shall have first
12 priority in recovering that debt above any creditors,
13 except the original senior secured lender to the extent
14 that the original senior secured lender has any senior
15 secured debt outstanding, including any clean coal SNG
16 brownfield facility parent companies or affiliates.

17 (7) The clean coal SNG brownfield facility, the
18 utilities, and the trustee shall work together to take
19 commercially reasonable steps to minimize the tax impact of
20 these transactions, while preserving the consumer
21 benefits.

22 (8) The clean coal SNG brownfield facility shall each
23 month, starting in the facility's first year of commercial
24 operation, file with the Commission, in such form as the
25 Commission shall require, a report as to the consumer
26 protection reserve account. The monthly report must

1 contain the following information:

2 (A) the extent the monthly delivered SNG price is
3 greater than, less than, or equal to the Chicago
4 City-gate price;

5 (B) the amount credited or debited to the consumer
6 protection reserve account during the month;

7 (C) the amounts credited to consumers and
8 distributed to the clean coal SNG brownfield facility
9 during the month;

10 (D) the total amount of the consumer protection
11 reserve account at the beginning and end of the month;

12 (E) the total amount of consumer savings to date;

13 (F) a confidential summary of the inputs used to
14 calculate the additional net revenue; and

15 (G) any other additional information the
16 Commission shall require.

17 When any report is erroneous or defective or appears to
18 the Commission to be erroneous or defective, the Commission
19 may notify the clean coal SNG brownfield facility to amend
20 the report within 30 days, and, before or after the
21 termination of the 30-day period, the Commission may
22 examine the trustee of the consumer protection reserve
23 account or the officers, agents, employees, books,
24 records, or accounts of the clean coal SNG brownfield
25 facility and correct such items in the report as upon such
26 examination the Commission may find defective or

1 erroneous. All reports shall be under oath.

2 All reports made to the Commission by the clean coal
3 SNG brownfield facility and the contents of the reports
4 shall be open to public inspection and shall be deemed a
5 public record under the Freedom of Information Act. Such
6 reports shall be preserved in the office of the Commission.
7 The Commission shall publish an annual summary of the
8 reports prior to February 1 of the following year. The
9 annual summary shall be made available to the public on the
10 Commission's website and shall be submitted to the General
11 Assembly.

12 Any facility that fails to file a report required under
13 this paragraph (8) to the Commission within the time
14 specified or to make specific answer to any question
15 propounded by the Commission within 30 days from the time
16 it is lawfully required to do so, or within such further
17 time not to exceed 90 days as may in its discretion be
18 allowed by the Commission, shall pay a penalty of \$500 to
19 the Commission for each day it is in default.

20 Any person who willfully makes any false report to the
21 Commission or to any member, officer, or employee thereof,
22 any person who willfully in a report withholds or fails to
23 provide material information to which the Commission is
24 entitled under this paragraph (8) and which information is
25 either required to be filed by statute, rule, regulation,
26 order, or decision of the Commission or has been requested

1 by the Commission, and any person who willfully aids or
2 abets such person shall be guilty of a Class A misdemeanor.

3 (h-3) Recoverable costs and revenue by the clean coal SNG
4 brownfield facility.

5 (1) A capital recovery charge approved by the
6 Commission shall be recoverable by the clean coal SNG
7 brownfield facility under a sourcing agreement. The
8 capital recovery charge shall be comprised of capital costs
9 and a reasonable rate of return. "Capital costs" means
10 costs to be incurred in connection with the construction
11 and development of a facility, as defined in Section 1-10
12 of the Illinois Power Agency Act, and such other costs as
13 the Capital Development Board deems appropriate to be
14 recovered in the capital recovery charge.

15 (A) Capital costs. The Capital Development Board
16 shall calculate a range of capital costs that it
17 believes would be reasonable for the clean coal SNG
18 brownfield facility to recover under the sourcing
19 agreement. In making this determination, the Capital
20 Development Board shall review the facility cost
21 report, if any, of the clean coal SNG brownfield
22 facility, adjusting the results based on the change in
23 the Annual Consumer Price Index for All Urban Consumers
24 for the Midwest Region as published in April by the
25 United States Department of Labor, Bureau of Labor
26 Statistics, the final draft of the sourcing agreement,

1 and the rate of return approved by the Commission. In
2 addition, the Capital Development Board may consult as
3 much as it deems necessary with the clean coal SNG
4 brownfield facility and conduct whatever research and
5 investigation it deems necessary.

6 The Capital Development Board shall retain an
7 engineering expert to assist in determining both the
8 range of capital costs and the range of operations and
9 maintenance costs that it believes would be reasonable
10 for the clean coal SNG brownfield facility to recover
11 under the sourcing agreement. Provided, however, that
12 such expert shall: (i) not have been involved in the
13 clean coal SNG brownfield facility's facility cost
14 report, if any, (ii) not own or control any direct or
15 indirect interest in the initial clean coal facility,
16 and (iii) have no contractual relationship with the
17 clean coal SNG brownfield facility. In order to qualify
18 as an independent expert, a person or company must
19 have:

20 (i) direct previous experience conducting
21 front-end engineering and design studies for
22 large-scale energy facilities and administering
23 large-scale energy operations and maintenance
24 contracts, which may be particularized to the
25 specific type of financing associated with the
26 clean coal SNG brownfield facility;

1 (ii) an advanced degree in economics,
2 mathematics, engineering, or a related area of
3 study;

4 (iii) ten years of experience in the energy
5 sector, including construction and risk management
6 experience;

7 (iv) expertise in assisting companies with
8 obtaining financing for large-scale energy
9 projects, which may be particularized to the
10 specific type of financing associated with the
11 clean coal SNG brownfield facility;

12 (v) expertise in operations and maintenance
13 which may be particularized to the specific type of
14 operations and maintenance associated with the
15 clean coal SNG brownfield facility;

16 (vi) expertise in credit and contract
17 protocols;

18 (vii) adequate resources to perform and
19 fulfill the required functions and
20 responsibilities; and

21 (viii) the absence of a conflict of interest
22 and inappropriate bias for or against an affected
23 gas utility or the clean coal SNG brownfield
24 facility.

25 The clean coal SNG brownfield facility and the
26 Illinois Power Agency shall cooperate with the Capital

1 Development Board in any investigation it deems
2 necessary. The Capital Development Board shall make
3 its final determination of the range of capital costs
4 confidentially and shall submit that range to the
5 Commission in a confidential filing within 120 days
6 after July 13, 2011 (the effective date of Public Act
7 97-096). The clean coal SNG brownfield facility shall
8 submit to the Commission its estimate of the capital
9 costs to be recovered under the sourcing agreement.
10 Only after the clean coal SNG brownfield facility has
11 submitted this estimate shall the Commission publicly
12 announce the range of capital costs submitted by the
13 Capital Development Board.

14 In the event that the estimate submitted by the
15 clean coal SNG brownfield facility is within or below
16 the range submitted by the Capital Development Board,
17 the clean coal SNG brownfield facility's estimate
18 shall be approved by the Commission as the amount of
19 capital costs to be recovered under the sourcing
20 agreement. In the event that the estimate submitted by
21 the clean coal SNG brownfield facility is above the
22 range submitted by the Capital Development Board, the
23 amount of capital costs at the lowest end of the range
24 submitted by the Capital Development Board shall be
25 approved by the Commission as the amount of capital
26 costs to be recovered under the sourcing agreement.

1 Within 15 days after the Capital Development Board has
2 submitted its range and the clean coal SNG brownfield
3 facility has submitted its estimate, the Commission
4 shall approve the capital costs for the clean coal SNG
5 brownfield facility.

6 The Capital Development Board shall monitor the
7 construction of the clean coal SNG brownfield facility
8 for the full duration of construction to assess
9 potential cost overruns. The Capital Development
10 Board, in its discretion, may retain an expert to
11 facilitate such monitoring. The clean coal SNG
12 brownfield facility shall pay a reasonable fee as
13 required by the Capital Development Board for the
14 Capital Development Board's services under this
15 subsection (h-3) to be deposited into the Capital
16 Development Board Revolving Fund, and such fee shall
17 not be passed through to a utility or its customers. If
18 an expert is retained by the Capital Development Board
19 for monitoring of construction, then the clean coal SNG
20 brownfield facility must pay for the expert's
21 reasonable fees and such costs shall not be passed
22 through to a utility or its customers.

23 (B) Rate of Return. No later than 30 days after the
24 date on which the Illinois Power Agency submits a final
25 draft sourcing agreement, the Commission shall hold a
26 public hearing to determine the rate of return to be

1 recovered under the sourcing agreement. Rate of return
2 shall be comprised of the clean coal SNG brownfield
3 facility's actual cost of debt, including
4 mortgage-style amortization, and a reasonable return
5 on equity. The Commission shall post notice of the
6 hearing on its website no later than 10 days prior to
7 the date of the hearing. The Commission shall provide
8 the public and all interested parties, including the
9 gas utilities, the Attorney General, and the Illinois
10 Power Agency, an opportunity to be heard.

11 In determining the return on equity, the
12 Commission shall select a commercially reasonable
13 return on equity taking into account the return on
14 equity being received by developers of similar
15 facilities in or outside of Illinois, the need to
16 balance an incentive for clean-coal technology with
17 the need to protect ratepayers from high gas prices,
18 the risks being borne by the clean coal SNG brownfield
19 facility in the final draft sourcing agreement, and any
20 other information that the Commission may deem
21 relevant. The Commission may establish a return on
22 equity that varies with the amount of savings, if any,
23 to customers during the term of the sourcing agreement,
24 comparing the delivered SNG price to a daily weighted
25 average price of natural gas, based upon an index. The
26 Illinois Power Agency shall recommend a return on

1 equity to the Commission using the same criteria.
2 Within 60 days after receiving the final draft sourcing
3 agreement from the Illinois Power Agency, the
4 Commission shall approve the rate of return for the
5 clean coal brownfield facility. Within 30 days after
6 obtaining debt financing for the clean coal SNG
7 brownfield facility, the clean coal SNG brownfield
8 facility shall file a notice with the Commission
9 identifying the actual cost of debt.

10 (2) Operations and maintenance costs approved by the
11 Commission shall be recoverable by the clean coal SNG
12 brownfield facility under the sourcing agreement. The
13 operations and maintenance costs mean costs that have been
14 incurred for the administration, supervision, operation,
15 maintenance, preservation, and protection of the clean
16 coal SNG brownfield facility's physical plant.

17 The Capital Development Board shall calculate a range
18 of operations and maintenance costs that it believes would
19 be reasonable for the clean coal SNG brownfield facility to
20 recover under the sourcing agreement, incorporating an
21 inflation index or combination of inflation indices to most
22 accurately reflect the actual costs of operating the clean
23 coal SNG brownfield facility. In making this
24 determination, the Capital Development Board shall review
25 the facility cost report, if any, of the clean coal SNG
26 brownfield facility, adjusting the results for inflation

1 based on the change in the Annual Consumer Price Index for
2 All Urban Consumers for the Midwest Region as published in
3 April by the United States Department of Labor, Bureau of
4 Labor Statistics, the final draft of the sourcing
5 agreement, and the rate of return approved by the
6 Commission. In addition, the Capital Development Board may
7 consult as much as it deems necessary with the clean coal
8 SNG brownfield facility and conduct whatever research and
9 investigation it deems necessary. As set forth in
10 subparagraph (A) of paragraph (1) of this subsection (h-3),
11 the Capital Development Board shall retain an independent
12 engineering expert to assist in determining both the range
13 of operations and maintenance costs that it believes would
14 be reasonable for the clean coal SNG brownfield facility to
15 recover under the sourcing agreement. The clean coal SNG
16 brownfield facility and the Illinois Power Agency shall
17 cooperate with the Capital Development Board in any
18 investigation it deems necessary. The Capital Development
19 Board shall make its final determination of the range of
20 operations and maintenance costs confidentially and shall
21 submit that range to the Commission in a confidential
22 filing within 120 days after July 13, 2011.

23 The clean coal SNG brownfield facility shall submit to
24 the Commission its estimate of the operations and
25 maintenance costs to be recovered under the sourcing
26 agreement. Only after the clean coal SNG brownfield

1 facility has submitted this estimate shall the Commission
2 publicly announce the range of operations and maintenance
3 costs submitted by the Capital Development Board. In the
4 event that the estimate submitted by the clean coal SNG
5 brownfield facility is within or below the range submitted
6 by the Capital Development Board, the clean coal SNG
7 brownfield facility's estimate shall be approved by the
8 Commission as the amount of operations and maintenance
9 costs to be recovered under the sourcing agreement. In the
10 event that the estimate submitted by the clean coal SNG
11 brownfield facility is above the range submitted by the
12 Capital Development Board, the amount of operations and
13 maintenance costs at the lowest end of the range submitted
14 by the Capital Development Board shall be approved by the
15 Commission as the amount of operations and maintenance
16 costs to be recovered under the sourcing agreement. Within
17 15 days after the Capital Development Board has submitted
18 its range and the clean coal SNG brownfield facility has
19 submitted its estimate, the Commission shall approve the
20 operations and maintenance costs for the clean coal SNG
21 brownfield facility.

22 The clean coal SNG brownfield facility shall pay for
23 the independent engineering expert's reasonable fees and
24 such costs shall not be passed through to a utility or its
25 customers. The clean coal SNG brownfield facility shall pay
26 a reasonable fee as required by the Capital Development

1 Board for the Capital Development Board's services under
2 this subsection (h-3) to be deposited into the Capital
3 Development Board Revolving Fund, and such fee shall not be
4 passed through to a utility or its customers.

5 (3) Sequestration costs approved by the Commission
6 shall be recoverable by the clean coal SNG brownfield
7 facility. "Sequestration costs" means costs to be incurred
8 by the clean coal SNG brownfield facility in accordance
9 with its Commission-approved carbon capture and
10 sequestration plan to:

11 (A) capture carbon dioxide;

12 (B) build, operate, and maintain a sequestration
13 site in which carbon dioxide may be injected;

14 (C) build, operate, and maintain a carbon dioxide
15 pipeline; and

16 (D) transport the carbon dioxide to the
17 sequestration site or a pipeline.

18 The Commission shall assess the prudence of the
19 sequestration costs for the clean coal SNG brownfield
20 facility before construction commences at the
21 sequestration site or pipeline. Any revenues the clean coal
22 SNG brownfield facility receives as a result of the
23 capture, transportation, or sequestration of carbon
24 dioxide shall be first credited against all sequestration
25 costs, with the positive balance, if any, treated as
26 additional net revenue.

1 The Commission may, in its discretion, retain an expert
2 to assist in its review of sequestration costs. The clean
3 coal SNG brownfield facility shall pay for the expert's
4 reasonable fees if an expert is retained by the Commission,
5 and such costs shall not be passed through to a utility or
6 its customers. Once made, the Commission's determination
7 of the amount of recoverable sequestration costs shall not
8 be increased unless the clean coal SNG brownfield facility
9 can show by clear and convincing evidence that (i) the
10 costs were not reasonably foreseeable; (ii) the costs were
11 due to circumstances beyond the clean coal SNG brownfield
12 facility's control; and (iii) the clean coal SNG brownfield
13 facility took all reasonable steps to mitigate the costs.
14 If the Commission determines that sequestration costs may
15 be increased, the Commission shall provide for notice and a
16 public hearing for approval of the increased sequestration
17 costs.

18 (4) Actual delivered and processed fuel costs shall be
19 set by the Illinois Power Agency through a SNG feedstock
20 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
21 the Illinois Power Agency Act, to be performed at least
22 every 5 years and purchased by the clean coal SNG
23 brownfield facility pursuant to feedstock procurement
24 contracts developed by the Illinois Power Agency, with coal
25 comprising at least 50% of the total feedstock over the
26 term of the sourcing agreement and petroleum coke

1 comprising the remainder of the SNG feedstock. If the
2 Commission fails to approve a feedstock procurement plan or
3 fails to approve the results of a feedstock procurement
4 event, then the fuel shall be purchased by the company
5 month-by-month on the spot market and those actual
6 delivered and processed fuel costs shall be recoverable
7 under the sourcing agreement. If a supplier defaults under
8 the terms of a procurement contract, then the Illinois
9 Power Agency shall immediately initiate a feedstock
10 procurement process to obtain a replacement supply, and,
11 prior to the conclusion of that process, fuel shall be
12 purchased by the company month-by-month on the spot market
13 and those actual delivered and processed fuel costs shall
14 be recoverable under the sourcing agreement.

15 (5) Taxes and fees imposed by the federal government,
16 the State, or any unit of local government applicable to
17 the clean coal SNG brownfield facility, excluding income
18 tax, shall be recoverable by the clean coal SNG brownfield
19 facility under the sourcing agreement to the extent such
20 taxes and fees were not applicable to the facility on July
21 13, 2011.

22 (6) The actual transportation costs, in accordance
23 with the applicable utility's tariffs, and third-party
24 marketer costs incurred by the company, if any, associated
25 with transporting the SNG from the clean coal SNG
26 brownfield facility to the Chicago City-gate to sell such

1 SNG into the natural gas markets shall be recoverable under
2 the sourcing agreement.

3 (7) Unless otherwise provided, within 30 days after a
4 decision of the Commission on recoverable costs under this
5 Section, any interested party to the Commission's decision
6 may apply for a rehearing with respect to the decision. The
7 Commission shall receive and consider the application for
8 rehearing and shall grant or deny the application in whole
9 or in part within 20 days after the date of the receipt of
10 the application by the Commission. If no rehearing is
11 applied for within the required 30 days or an application
12 for rehearing is denied, then the Commission decision shall
13 be final. If an application for rehearing is granted, then
14 the Commission shall hold a rehearing within 30 days after
15 granting the application. The decision of the Commission
16 upon rehearing shall be final.

17 Any person affected by a decision of the Commission
18 under this subsection (h-3) may have the decision reviewed
19 only under and in accordance with the Administrative Review
20 Law. Unless otherwise provided, the provisions of the
21 Administrative Review Law, all amendments and
22 modifications to that Law, and the rules adopted pursuant
23 to that Law shall apply to and govern all proceedings for
24 the judicial review of final administrative decisions of
25 the Commission under this subsection (h-3). The term
26 "administrative decision" is defined as in Section 3-101 of

1 the Code of Civil Procedure.

2 (8) The Capital Development Board shall adopt and make
3 public a policy detailing the process for retaining experts
4 under this Section. Any experts retained to assist with
5 calculating the range of capital costs or operations and
6 maintenance costs shall be retained no later than 45 days
7 after July 13, 2011.

8 (h-4) No later than 90 days after the Illinois Power Agency
9 submits the final draft sourcing agreement pursuant to
10 subsection (h-1), the Commission shall approve a sourcing
11 agreement containing (i) the capital costs, rate of return, and
12 operations and maintenance costs established pursuant to
13 subsection (h-3) and (ii) all other terms and conditions,
14 rights, provisions, exceptions, and limitations contained in
15 the final draft sourcing agreement; provided, however, the
16 Commission shall correct typographical and scrivener's errors
17 and modify the contract only as necessary to provide that the
18 gas utility does not have the right to terminate the sourcing
19 agreement due to any future events that may occur other than
20 the clean coal SNG brownfield facility's failure to timely meet
21 milestones, uncured default, extended force majeure, or
22 abandonment. Once the sourcing agreement is approved, then the
23 gas utility subject to that sourcing agreement shall have 45
24 days after the date of the Commission's approval to enter into
25 the sourcing agreement.

26 (h-5) Sequestration enforcement.

1 (A) All contracts entered into under subsection (h) of
2 this Section and all sourcing agreements under subsection
3 (h-1) of this Section, regardless of duration, shall
4 require the owner of any facility supplying SNG under the
5 contract or sourcing agreement to provide certified
6 documentation to the Commission each year, starting in the
7 facility's first year of commercial operation, accurately
8 reporting the quantity of carbon dioxide emissions from the
9 facility that have been captured and sequestered and
10 reporting any quantities of carbon dioxide released from
11 the site or sites at which carbon dioxide emissions were
12 sequestered in prior years, based on continuous monitoring
13 of those sites.

14 (B) If, in any year, the owner of the clean coal SNG
15 facility fails to demonstrate that the SNG facility
16 captured and sequestered at least 90% of the total carbon
17 dioxide emissions that the facility would otherwise emit or
18 that sequestration of emissions from prior years has
19 failed, resulting in the release of carbon dioxide into the
20 atmosphere, then the owner of the clean coal SNG facility
21 must pay a penalty of \$20 per ton of excess carbon dioxide
22 emissions not to exceed \$40,000,000, in any given year
23 which shall be deposited into the Energy Efficiency Trust
24 Fund and distributed pursuant to subsection (b) of Section
25 6-6 of the Renewable Energy, Energy Efficiency, and Coal
26 Resources Development Law of 1997. On or before the 5-year

1 anniversary of the execution of the contract and every 5
2 years thereafter, an expert hired by the owner of the
3 facility with the approval of the Attorney General shall
4 conduct an analysis to determine the cost of sequestration
5 of at least 90% of the total carbon dioxide emissions the
6 plant would otherwise emit. If the analysis shows that the
7 actual annual cost is greater than the penalty, then the
8 penalty shall be increased to equal the actual cost.
9 Provided, however, to the extent that the owner of the
10 facility described in subsection (h) of this Section can
11 demonstrate that the failure was as a result of acts of God
12 (including fire, flood, earthquake, tornado, lightning,
13 hurricane, or other natural disaster); any amendment,
14 modification, or abrogation of any applicable law or
15 regulation that would prevent performance; war; invasion;
16 act of foreign enemies; hostilities (regardless of whether
17 war is declared); civil war; rebellion; revolution;
18 insurrection; military or usurped power or confiscation;
19 terrorist activities; civil disturbance; riots;
20 nationalization; sabotage; blockage; or embargo, the owner
21 of the facility described in subsection (h) of this Section
22 shall not be subject to a penalty if and only if (i) it
23 promptly provides notice of its failure to the Commission;
24 (ii) as soon as practicable and consistent with any order
25 or direction from the Commission, it submits to the
26 Commission proposed modifications to its carbon capture

1 and sequestration plan; and (iii) it carries out its
2 proposed modifications in the manner and time directed by
3 the Commission.

4 If the Commission finds that the facility has not
5 satisfied each of these requirements, then the facility
6 shall be subject to the penalty. If the owner of the clean
7 coal SNG facility captured and sequestered more than 90% of
8 the total carbon dioxide emissions that the facility would
9 otherwise emit, then the owner of the facility may credit
10 such additional amounts to reduce the amount of any future
11 penalty to be paid. The penalty resulting from the failure
12 to capture and sequester at least the minimum amount of
13 carbon dioxide shall not be passed on to a utility or its
14 customers.

15 If the clean coal SNG facility fails to meet the
16 requirements specified in this subsection (h-5), then the
17 Attorney General, on behalf of the People of the State of
18 Illinois, shall bring an action to enforce the obligations
19 related to the facility set forth in this subsection (h-5),
20 including any penalty payments owed, but not including the
21 physical obligation to capture and sequester at least 90%
22 of the total carbon dioxide emissions that the facility
23 would otherwise emit. Such action may be filed in any
24 circuit court in Illinois. By entering into a contract
25 pursuant to subsection (h) of this Section, the clean coal
26 SNG facility agrees to waive any objections to venue or to

1 the jurisdiction of the court with regard to the Attorney
2 General's action under this subsection (h-5).

3 Compliance with the sequestration requirements and any
4 penalty requirements specified in this subsection (h-5)
5 for the clean coal SNG facility shall be assessed annually
6 by the Commission, which may in its discretion retain an
7 expert to facilitate its assessment. If any expert is
8 retained by the Commission, then the clean coal SNG
9 facility shall pay for the expert's reasonable fees, and
10 such costs shall not be passed through to the utility or
11 its customers.

12 In addition, carbon dioxide emission credits received
13 by the clean coal SNG facility in connection with
14 sequestration of carbon dioxide from the facility must be
15 sold in a timely fashion with any revenue, less applicable
16 fees and expenses and any expenses required to be paid by
17 facility for carbon dioxide transportation or
18 sequestration, deposited into the reconciliation account
19 within 30 days after receipt of such funds by the owner of
20 the clean coal SNG facility.

21 The clean coal SNG facility is prohibited from
22 transporting or sequestering carbon dioxide unless the
23 owner of the carbon dioxide pipeline that transfers the
24 carbon dioxide from the facility and the owner of the
25 sequestration site where the carbon dioxide captured by the
26 facility is stored has acquired all applicable permits

1 under applicable State and federal laws, statutes, rules,
2 or regulations prior to the transfer or sequestration of
3 carbon dioxide. The responsibility for compliance with the
4 sequestration requirements specified in this subsection
5 (h-5) for the clean coal SNG facility shall reside solely
6 with the clean coal SNG facility, regardless of whether the
7 facility has contracted with another party to capture,
8 transport, or sequester carbon dioxide.

9 (C) If, in any year, the owner of a clean coal SNG
10 brownfield facility fails to demonstrate that the clean
11 coal SNG brownfield facility captured and sequestered at
12 least 85% of the total carbon dioxide emissions that the
13 facility would otherwise emit, then the owner of the clean
14 coal SNG brownfield facility must pay a penalty of \$20 per
15 ton of excess carbon emissions up to \$20,000,000, which
16 shall be deposited into the Energy Efficiency Trust Fund
17 and distributed pursuant to subsection (b) of Section 6-6
18 of the Renewable Energy, Energy Efficiency, and Coal
19 Resources Development Law of 1997. Provided, however, to
20 the extent that the owner of the clean coal SNG brownfield
21 facility can demonstrate that the failure was as a result
22 of acts of God (including fire, flood, earthquake, tornado,
23 lightning, hurricane, or other natural disaster); any
24 amendment, modification, or abrogation of any applicable
25 law or regulation that would prevent performance; war;
26 invasion; act of foreign enemies; hostilities (regardless

1 of whether war is declared); civil war; rebellion;
2 revolution; insurrection; military or usurped power or
3 confiscation; terrorist activities; civil disturbances;
4 riots; nationalization; sabotage; blockage; or embargo,
5 the owner of the clean coal SNG brownfield facility shall
6 not be subject to a penalty if and only if (i) it promptly
7 provides notice of its failure to the Commission; (ii) as
8 soon as practicable and consistent with any order or
9 direction from the Commission, it submits to the Commission
10 proposed modifications to its carbon capture and
11 sequestration plan; and (iii) it carries out its proposed
12 modifications in the manner and time directed by the
13 Commission. If the Commission finds that the facility has
14 not satisfied each of these requirements, then the facility
15 shall be subject to the penalty. If the owner of a clean
16 coal SNG brownfield facility demonstrates that the clean
17 coal SNG brownfield facility captured and sequestered more
18 than 85% of the total carbon emissions that the facility
19 would otherwise emit, the owner of the clean coal SNG
20 brownfield facility may credit such additional amounts to
21 reduce the amount of any future penalty to be paid. The
22 penalty resulting from the failure to capture and sequester
23 at least the minimum amount of carbon dioxide shall not be
24 passed on to a utility or its customers.

25 In addition to any penalty for the clean coal SNG
26 brownfield facility's failure to capture and sequester at

1 least its minimum sequestration requirement, the Attorney
2 General, on behalf of the People of the State of Illinois,
3 shall bring an action for specific performance of this
4 subsection (h-5). Such action may be filed in any circuit
5 court in Illinois. By entering into a sourcing agreement
6 pursuant to subsection (h-1) of this Section, the clean
7 coal SNG brownfield facility agrees to waive any objections
8 to venue or to the jurisdiction of the court with regard to
9 the Attorney General's action for specific performance
10 under this subsection (h-5).

11 Compliance with the sequestration requirements and
12 penalty requirements specified in this subsection (h-5)
13 for the clean coal SNG brownfield facility shall be
14 assessed annually by the Commission, which may in its
15 discretion retain an expert to facilitate its assessment.
16 If an expert is retained by the Commission, then the clean
17 coal SNG brownfield facility shall pay for the expert's
18 reasonable fees, and such costs shall not be passed through
19 to a utility or its customers. A SNG facility operating
20 pursuant to this subsection (h-5) shall not forfeit its
21 designation as a clean coal SNG facility or a clean coal
22 SNG brownfield facility if the facility fails to fully
23 comply with the applicable carbon sequestration
24 requirements in any given year, provided the requisite
25 offsets are purchased or requisite penalties are paid.

26 Responsibility for compliance with the sequestration

1 requirements specified in this subsection (h-5) for the
2 clean coal SNG brownfield facility shall reside solely with
3 the clean coal SNG brownfield facility regardless of
4 whether the facility has contracted with another party to
5 capture, transport, or sequester carbon dioxide.

6 (h-7) Sequestration permitting, oversight, and
7 investigations.

8 (1) No clean coal facility or clean coal SNG brownfield
9 facility may transport or sequester carbon dioxide unless
10 the Commission approves the method of carbon dioxide
11 transportation or sequestration. Such approval shall be
12 required regardless of whether the facility has contracted
13 with another to transport or sequester the carbon dioxide.
14 Nothing in this subsection (h-7) shall release the owner or
15 operator of a carbon dioxide sequestration site or carbon
16 dioxide pipeline from any other permitting requirements
17 under applicable State and federal laws, statutes, rules,
18 or regulations.

19 (2) The Commission shall review carbon dioxide
20 transportation and sequestration methods proposed by a
21 clean coal facility or a clean coal SNG brownfield facility
22 and shall approve those methods it deems reasonable and
23 cost-effective. For purposes of this review,
24 "cost-effective" means a commercially reasonable price for
25 similar carbon dioxide transportation or sequestration
26 techniques. In determining whether sequestration is

1 reasonable and cost-effective, the Commission may consult
2 with the Illinois State Geological Survey and retain third
3 parties to assist in its determination, provided that such
4 third parties shall not own or control any direct or
5 indirect interest in the facility that is proposing the
6 carbon dioxide transportation or the carbon dioxide
7 sequestration method and shall have no contractual
8 relationship with that facility. If a third party is
9 retained by the Commission, then the facility proposing the
10 carbon dioxide transportation or sequestration method
11 shall pay for the expert's reasonable fees, and these costs
12 shall not be passed through to a utility or its customers.

13 No later than 6 months prior to the date upon which the
14 owner intends to commence construction of a clean coal
15 facility or the clean coal SNG brownfield facility, the
16 owner of the facility shall file with the Commission a
17 carbon dioxide transportation or sequestration plan. The
18 Commission shall hold a public hearing within 30 days after
19 receipt of the facility's carbon dioxide transportation or
20 sequestration plan. The Commission shall post notice of the
21 review on its website upon submission of a carbon dioxide
22 transportation or sequestration method and shall accept
23 written public comments. The Commission shall take the
24 comments into account when making its decision.

25 The Commission may not approve a carbon dioxide
26 sequestration method if the owner or operator of the

1 sequestration site has not received (i) an Underground
2 Injection Control permit from the United States
3 Environmental Protection Agency, or from the Illinois
4 Environmental Protection Agency pursuant to the
5 Environmental Protection Act; (ii) an Underground
6 Injection Control permit from the Illinois Department of
7 Natural Resources pursuant to the Illinois Oil and Gas Act;
8 or (iii) an Underground Injection Control permit from the
9 United States Environmental Protection Agency or a permit
10 similar to items (i) or (ii) from the state in which the
11 sequestration site is located if the sequestration will
12 take place outside of Illinois. The Commission shall
13 approve or deny the carbon dioxide transportation or
14 sequestration method within 90 days after the receipt of
15 all required information.

16 (3) At least annually, the Illinois Environmental
17 Protection Agency shall inspect all carbon dioxide
18 sequestration sites in Illinois. The Illinois
19 Environmental Protection Agency may, as often as deemed
20 necessary, monitor and conduct investigations of those
21 sites. The owner or operator of the sequestration site must
22 cooperate with the Illinois Environmental Protection
23 Agency investigations of carbon dioxide sequestration
24 sites.

25 If the Illinois Environmental Protection Agency
26 determines at any time a site creates conditions that

1 warrant the issuance of a seal order under Section 34 of
2 the Environmental Protection Act, then the Illinois
3 Environmental Protection Agency shall seal the site
4 pursuant to the Environmental Protection Act. If the
5 Illinois Environmental Protection Agency determines at any
6 time a carbon dioxide sequestration site creates
7 conditions that warrant the institution of a civil action
8 for an injunction under Section 43 of the Environmental
9 Protection Act, then the Illinois Environmental Protection
10 Agency shall request the State's Attorney or the Attorney
11 General institute such action. The Illinois Environmental
12 Protection Agency shall provide notice of any such actions
13 as soon as possible on its website. The SNG facility shall
14 incur all reasonable costs associated with any such
15 inspection or monitoring of the sequestration sites, and
16 these costs shall not be recoverable from utilities or
17 their customers.

18 (4) (Blank).

19 (h-9) The clean coal SNG brownfield facility shall have the
20 right to recover prudently incurred increased costs or reduced
21 revenue resulting from any new or amendatory legislation or
22 other action. The State of Illinois pledges that the State will
23 not enact any law or take any action to:

24 (1) break, or repeal the authority for, sourcing
25 agreements approved by the Commission and entered into
26 between public utilities and the clean coal SNG brownfield

1 facility;

2 (2) deny public utilities full cost recovery for their
3 costs incurred under those sourcing agreements; or

4 (3) deny the clean coal SNG brownfield facility full
5 cost and revenue recovery as provided under those sourcing
6 agreements that are recoverable pursuant to subsection
7 (h-3) of this Section.

8 These pledges are for the benefit of the parties to those
9 sourcing agreements and the issuers and holders of bonds or
10 other obligations issued or incurred to finance or refinance
11 the clean coal SNG brownfield facility. The clean coal SNG
12 brownfield facility is authorized to include and refer to these
13 pledges in any financing agreement into which it may enter in
14 regard to those sourcing agreements.

15 The State of Illinois retains and reserves all other rights
16 to enact new or amendatory legislation or take any other
17 action, without impairment of the right of the clean coal SNG
18 brownfield facility to recover prudently incurred increased
19 costs or reduced revenue resulting from the new or amendatory
20 legislation or other action, including, but not limited to,
21 such legislation or other action that would (i) directly or
22 indirectly raise the costs the clean coal SNG brownfield
23 facility must incur; (ii) directly or indirectly place
24 additional restrictions, regulations, or requirements on the
25 clean coal SNG brownfield facility; (iii) prohibit
26 sequestration in general or prohibit a specific sequestration

1 method or project; or (iv) increase minimum sequestration
2 requirements for the clean coal SNG brownfield facility to the
3 extent technically feasible. The clean coal SNG brownfield
4 facility shall have the right to recover prudently incurred
5 increased costs or reduced revenue resulting from the new or
6 amendatory legislation or other action as described in this
7 subsection (h-9).

8 (h-10) Contract costs for SNG incurred by an Illinois gas
9 utility are reasonable and prudent and recoverable through the
10 purchased gas adjustment clause and are not subject to review
11 or disallowance by the Commission. Contract costs are costs
12 incurred by the utility under the terms of a contract that
13 incorporates the terms stated in subsection (h) of this Section
14 as confirmed in writing by the Illinois Power Agency as set
15 forth in subsection (h) of this Section, which confirmation
16 shall be deemed conclusive, or as a consequence of or condition
17 to its performance under the contract, including (i) amounts
18 paid for SNG under the SNG contract and (ii) costs of
19 transportation and storage services of SNG purchased from
20 interstate pipelines under federally approved tariffs. The
21 Illinois gas utility shall initiate a clean coal SNG facility
22 rider mechanism that (A) shall be applicable to all customers
23 who receive transportation service from the utility, (B) shall
24 be designed to have an equal percentage impact on the
25 transportation services rates of each class of the utility's
26 total customers, and (C) shall accurately reflect the net

1 customer savings, if any, and above market costs, if any, under
2 the SNG contract. Any contract, the terms of which have been
3 confirmed in writing by the Illinois Power Agency as set forth
4 in subsection (h) of this Section and the performance of the
5 parties under such contract cannot be grounds for challenging
6 prudence or cost recovery by the utility through the purchased
7 gas adjustment clause, and in such cases, the Commission is
8 directed not to consider, and has no authority to consider, any
9 attempted challenges.

10 The contracts entered into by Illinois gas utilities
11 pursuant to subsection (h) of this Section shall provide that
12 the utility retains the right to terminate the contract without
13 further obligation or liability to any party if the contract
14 has been impaired as a result of any legislative,
15 administrative, judicial, or other governmental action that is
16 taken that eliminates all or part of the prudence protection of
17 this subsection (h-10) or denies the recoverability of all or
18 part of the contract costs through the purchased gas adjustment
19 clause. Should any Illinois gas utility exercise its right
20 under this subsection (h-10) to terminate the contract, all
21 contract costs incurred prior to termination are and will be
22 deemed reasonable, prudent, and recoverable as and when
23 incurred and not subject to review or disallowance by the
24 Commission. Any order, issued by the State requiring or
25 authorizing the discontinuation of the merchant function,
26 defined as the purchase and sale of natural gas by an Illinois

1 gas utility for the ultimate consumer in its service territory
2 shall include provisions necessary to prevent the impairment of
3 the value of any contract hereunder over its full term.

4 (h-11) All costs incurred by an Illinois gas utility in
5 procuring SNG from a clean coal SNG brownfield facility
6 pursuant to subsection (h-1) or a third-party marketer pursuant
7 to subsection (h-1) are reasonable and prudent and recoverable
8 through the purchased gas adjustment clause in conjunction with
9 a SNG brownfield facility rider mechanism and are not subject
10 to review or disallowance by the Commission; provided that if a
11 utility is required by law or otherwise elects to connect the
12 clean coal SNG brownfield facility to an interstate pipeline,
13 then the utility shall be entitled to recover pursuant to its
14 tariffs all just and reasonable costs that are prudently
15 incurred. Sourcing agreement costs are costs incurred by the
16 utility under the terms of a sourcing agreement that
17 incorporates the terms stated in subsection (h-1) of this
18 Section as approved by the Commission as set forth in
19 subsection (h-4) of this Section, which approval shall be
20 deemed conclusive, or as a consequence of or condition to its
21 performance under the contract, including (i) amounts paid for
22 SNG under the SNG contract and (ii) costs of transportation and
23 storage services of SNG purchased from interstate pipelines
24 under federally approved tariffs. Any sourcing agreement, the
25 terms of which have been approved by the Commission as set
26 forth in subsection (h-4) of this Section, and the performance

1 of the parties under the sourcing agreement cannot be grounds
2 for challenging prudence or cost recovery by the utility, and
3 in these cases, the Commission is directed not to consider, and
4 has no authority to consider, any attempted challenges.

5 (h-15) Reconciliation account. The clean coal SNG facility
6 shall establish a reconciliation account for the benefit of the
7 retail customers of the utilities that have entered into
8 contracts with the clean coal SNG facility pursuant to
9 subsection (h). The reconciliation account shall be maintained
10 and administered by an independent trustee that is mutually
11 agreed upon by the owners of the clean coal SNG facility, the
12 utilities, and the Commission in an interest-bearing account in
13 accordance with the following:

14 (1) The clean coal SNG facility shall conduct an
15 analysis annually within 60 days after receiving the
16 necessary cost information, which shall be provided by the
17 gas utility within 6 months after the end of the preceding
18 calendar year, to determine (i) the average annual contract
19 SNG cost, which shall be calculated as the total amount
20 paid for SNG purchased from the clean coal SNG facility
21 over the preceding 12 months, plus the cost to the utility
22 of the required transportation and storage services of SNG,
23 divided by the total number of MMBtus of SNG actually
24 purchased from the clean coal SNG facility in the preceding
25 12 months under the utility contract; (ii) the average
26 annual natural gas purchase cost, which shall be calculated

1 as the total annual supply costs paid for baseload natural
2 gas (excluding any SNG) purchased by such utility over the
3 preceding 12 months plus the costs of transportation and
4 storage services of such natural gas (excluding such costs
5 for SNG), divided by the total number of MMBtus of baseload
6 natural gas (excluding SNG) actually purchased by the
7 utility during the year; (iii) the cost differential, which
8 shall be the difference between the average annual contract
9 SNG cost and the average annual natural gas purchase cost;
10 and (iv) the revenue share target which shall be the cost
11 differential multiplied by the total amount of SNG
12 purchased over the preceding 12 months under such utility
13 contract.

14 (A) To the extent the annual average contract SNG
15 cost is less than the annual average natural gas
16 purchase cost, the utility shall credit an amount equal
17 to the revenue share target to the reconciliation
18 account. Such credit payment shall be made monthly
19 starting within 30 days after the completed analysis in
20 this subsection (h-15) and based on collections from
21 all customers via a line item charge in all customer
22 bills designed to have an equal percentage impact on
23 the transportation services of each class of
24 customers. Credit payments made pursuant to this
25 subparagraph (A) shall be deemed prudent and
26 reasonable and not subject to Commission prudence

1 review.

2 (B) To the extent the annual average contract SNG
3 cost is greater than the annual average natural gas
4 purchase cost, the reconciliation account shall be
5 used to provide a credit equal to the revenue share
6 target to the utilities to be used to reduce the
7 utility's natural gas costs through the purchased gas
8 adjustment clause. Such payment shall be made within 30
9 days after the completed analysis pursuant to this
10 subsection (h-15), but only to the extent that the
11 reconciliation account has a positive balance.

12 (2) At the conclusion of the term of the SNG contracts
13 pursuant to subsection (h) and the completion of the final
14 annual analysis pursuant to this subsection (h-15), to the
15 extent the facility owes any amount to retail customers,
16 amounts in the account shall be credited to retail
17 customers to the extent the owed amount is repaid; 50% of
18 any additional amount in the reconciliation account shall
19 be distributed to the utilities to be used to reduce the
20 utilities' natural gas costs through the purchase gas
21 adjustment clause with the remaining amount distributed to
22 the clean coal SNG facility. Such payment shall be made
23 within 30 days after the last completed analysis pursuant
24 to this subsection (h-15). If the facility has repaid all
25 owed amounts, if any, to retail customers and has
26 distributed 50% of any additional amount in the account to

1 the utilities, then the owners of the clean coal SNG
2 facility shall have no further obligation to the utility or
3 the retail customers.

4 If, at the conclusion of the term of the contracts
5 pursuant to subsection (h) and the completion of the final
6 annual analysis pursuant to this subsection (h-15), the
7 facility owes any amount to retail customers and the
8 account has been depleted, then the clean coal SNG facility
9 shall be liable for any remaining amount owed to the retail
10 customers. The clean coal SNG facility shall market the
11 daily production of SNG and distribute on a monthly basis
12 5% of the amounts collected with respect to such future
13 sales to the utilities in proportion to each utility's SNG
14 contract to be used to reduce the utility's natural gas
15 costs through the purchase gas adjustment clause; such
16 payments to the utility shall continue until either 15
17 years after the conclusion of the contract or such time as
18 the sum of such payments equals the remaining amount owed
19 to the retail customers at the end of the contract,
20 whichever is earlier. If the debt to the retail customers
21 is not repaid within 15 years after the conclusion of the
22 contract, then the owner of the clean coal SNG facility
23 must sell the facility, and all proceeds from that sale
24 must be used to repay any amount owed to the retail
25 customers under this subsection (h-15).

26 The retail customers shall have first priority in

1 recovering that debt above any creditors, except the
2 secured lenders to the extent that the secured lenders have
3 any secured debt outstanding, including any parent
4 companies or affiliates of the clean coal SNG facility.

5 (3) 50% of all additional net revenue, defined as
6 miscellaneous net revenue after cost allowance and above
7 the budgeted estimate established for revenue pursuant to
8 subsection (h), including sale of substitute natural gas
9 derived from the clean coal SNG facility above the
10 nameplate capacity of the facility and other by-products
11 produced by the facility, shall be credited to the
12 reconciliation account on an annual basis with such payment
13 made within 30 days after the end of each calendar year
14 during the term of the contract.

15 (4) The clean coal SNG facility shall each year,
16 starting in the facility's first year of commercial
17 operation, file with the Commission, in such form as the
18 Commission shall require, a report as to the reconciliation
19 account. The annual report must contain the following
20 information:

21 (A) the revenue share target amount;

22 (B) the amount credited or debited to the
23 reconciliation account during the year;

24 (C) the amount credited to the utilities to be used
25 to reduce the utilities natural gas costs though the
26 purchase gas adjustment clause;

1 (D) the total amount of reconciliation account at
2 the beginning and end of the year;

3 (E) the total amount of consumer savings to date;
4 and

5 (F) any additional information the Commission may
6 require.

7 When any report is erroneous or defective or appears to the
8 Commission to be erroneous or defective, the Commission may
9 notify the clean coal SNG facility to amend the report within
10 30 days; before or after the termination of the 30-day period,
11 the Commission may examine the trustee of the reconciliation
12 account or the officers, agents, employees, books, records, or
13 accounts of the clean coal SNG facility and correct such items
14 in the report as upon such examination the Commission may find
15 defective or erroneous. All reports shall be under oath.

16 All reports made to the Commission by the clean coal SNG
17 facility and the contents of the reports shall be open to
18 public inspection and shall be deemed a public record under the
19 Freedom of Information Act. Such reports shall be preserved in
20 the office of the Commission. The Commission shall publish an
21 annual summary of the reports prior to February 1 of the
22 following year. The annual summary shall be made available to
23 the public on the Commission's website and shall be submitted
24 to the General Assembly.

25 Any facility that fails to file the report required under
26 this paragraph (4) to the Commission within the time specified

1 or to make specific answer to any question propounded by the
2 Commission within 30 days after the time it is lawfully
3 required to do so, or within such further time not to exceed 90
4 days as may be allowed by the Commission in its discretion,
5 shall pay a penalty of \$500 to the Commission for each day it
6 is in default.

7 Any person who willfully makes any false report to the
8 Commission or to any member, officer, or employee thereof, any
9 person who willfully in a report withholds or fails to provide
10 material information to which the Commission is entitled under
11 this paragraph (4) and which information is either required to
12 be filed by statute, rule, regulation, order, or decision of
13 the Commission or has been requested by the Commission, and any
14 person who willfully aids or abets such person shall be guilty
15 of a Class A misdemeanor.

16 (h-20) The General Assembly authorizes the Illinois
17 Finance Authority to issue bonds to the maximum extent
18 permitted to finance coal gasification facilities described in
19 this Section, which constitute both "industrial projects"
20 under Article 801 of the Illinois Finance Authority Act and
21 "clean coal and energy projects" under Sections 825-65 through
22 825-75 of the Illinois Finance Authority Act.

23 Administrative costs incurred by the Illinois Finance
24 Authority in performance of this subsection (h-20) shall be
25 subject to reimbursement by the clean coal SNG facility on
26 terms as the Illinois Finance Authority and the clean coal SNG

1 facility may agree. The utility and its customers shall have no
2 obligation to reimburse the clean coal SNG facility or the
3 Illinois Finance Authority for any such costs.

4 (h-25) The State of Illinois pledges that the State may not
5 enact any law or take any action to (1) break or repeal the
6 authority for SNG purchase contracts entered into between
7 public gas utilities and the clean coal SNG facility pursuant
8 to subsection (h) of this Section or (2) deny public gas
9 utilities their full cost recovery for contract costs, as
10 defined in subsection (h-10), that are incurred under such SNG
11 purchase contracts. These pledges are for the benefit of the
12 parties to such SNG purchase contracts and the issuers and
13 holders of bonds or other obligations issued or incurred to
14 finance or refinance the clean coal SNG facility. The
15 beneficiaries are authorized to include and refer to these
16 pledges in any finance agreement into which they may enter in
17 regard to such contracts.

18 (h-30) The State of Illinois retains and reserves all other
19 rights to enact new or amendatory legislation or take any other
20 action, including, but not limited to, such legislation or
21 other action that would (1) directly or indirectly raise the
22 costs that the clean coal SNG facility must incur; (2) directly
23 or indirectly place additional restrictions, regulations, or
24 requirements on the clean coal SNG facility; (3) prohibit
25 sequestration in general or prohibit a specific sequestration
26 method or project; or (4) increase minimum sequestration

1 requirements.

2 (i) If a gas utility or an affiliate of a gas utility has
3 an ownership interest in any entity that produces or sells
4 synthetic natural gas, Article VII of this Act shall apply.

5 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,
6 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;
7 98-463, eff. 8-16-13.)

8 Section 145. The Illinois Horse Racing Act of 1975 is
9 amended by changing Sections 12.1 and 12.2 as follows:

10 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

11 Sec. 12.1. (a) The General Assembly finds that the Illinois
12 Racing Industry does not include a fair proportion of minority
13 or female workers.

14 Therefore, the General Assembly urges that the job training
15 institutes, trade associations and employers involved in the
16 Illinois Horse Racing Industry take affirmative action to
17 encourage equal employment opportunity to all workers
18 regardless of race, color, creed or sex.

19 Before an organization license, inter-track wagering
20 license or inter-track wagering location license can be
21 granted, the applicant for any such license shall execute and
22 file with the Board a good faith affirmative action plan to
23 recruit, train and upgrade minorities and females in all
24 classifications with the applicant for license. One year after

1 issuance of any such license, and each year thereafter, the
2 licensee shall file a report with the Board evidencing and
3 certifying compliance with the originally filed affirmative
4 action plan.

5 (b) At least 10% of the total amount of all State contracts
6 for the infrastructure improvement of any race track grounds in
7 this State shall be let to minority-owned ~~minority-owned~~
8 businesses or women-owned ~~female-owned~~ businesses. "State
9 contract", "minority-owned ~~minority-owned~~ business" and
10 "women-owned ~~female-owned~~ business" shall have the meanings
11 ascribed to them under the Business Enterprise for Minorities,
12 Women ~~Females~~, and Persons with Disabilities Act.

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

14 (230 ILCS 5/12.2)

15 Sec. 12.2. Business enterprise program.

16 (a) For the purposes of this Section, the terms "minority",
17 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",
18 "women-owned ~~female-owned~~ business", "person with a
19 disability", and "business owned by a person with a disability"
20 have the meanings ascribed to them in the Business Enterprise
21 for Minorities, Women ~~Females~~, and Persons with Disabilities
22 Act.

23 (b) The Board shall, by rule, establish goals for the award
24 of contracts by each organization licensee or inter-track
25 wagering licensee to businesses owned by minorities, women

1 ~~females~~, and persons with disabilities, expressed as
2 percentages of an organization licensee's or inter-track
3 wagering licensee's total dollar amount of contracts awarded
4 during each calendar year. Each organization licensee or
5 inter-track wagering licensee must make every effort to meet
6 the goals established by the Board pursuant to this Section.
7 When setting the goals for the award of contracts, the Board
8 shall not include contracts where: (1) licensees are purchasing
9 goods or services from vendors or suppliers or in markets where
10 there are no or a limited number of minority-owned ~~minority~~
11 ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or
12 businesses owned by persons with disabilities that would be
13 sufficient to satisfy the goal; (2) there are no or a limited
14 number of suppliers licensed by the Board; (3) the licensee or
15 its parent company owns a company that provides the goods or
16 services; or (4) the goods or services are provided to the
17 licensee by a publicly traded company.

18 (c) Each organization licensee or inter-track wagering
19 licensee shall file with the Board an annual report of its
20 utilization of minority-owned ~~minority-owned~~ businesses,
21 women-owned ~~female-owned~~ businesses, and businesses owned by
22 persons with disabilities during the preceding calendar year.
23 The reports shall include a self-evaluation of the efforts of
24 the organization licensee or inter-track wagering licensee to
25 meet its goals under this Section.

26 (d) The organization licensee or inter-track wagering

1 licensee shall have the right to request a waiver from the
2 requirements of this Section. The Board shall grant the waiver
3 where the organization licensee or inter-track wagering
4 licensee demonstrates that there has been made a good faith
5 effort to comply with the goals for participation by
6 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~
7 ~~owned~~ businesses, and businesses owned by persons with
8 disabilities.

9 (e) If the Board determines that its goals and policies are
10 not being met by any organization licensee or inter-track
11 wagering licensee, then the Board may:

12 (1) adopt remedies for such violations; and

13 (2) recommend that the organization licensee or
14 inter-track wagering licensee provide additional
15 opportunities for participation by minority-owned ~~minority~~
16 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
17 businesses owned by persons with disabilities; such
18 recommendations may include, but shall not be limited to:

19 (A) assurances of stronger and better focused
20 solicitation efforts to obtain more minority-owned
21 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
22 businesses, and businesses owned by persons with
23 disabilities as potential sources of supply;

24 (B) division of job or project requirements, when
25 economically feasible, into tasks or quantities to
26 permit participation of minority-owned ~~minority-owned~~

1 businesses, women-owned ~~female-owned~~ businesses, and
2 businesses owned by persons with disabilities;

3 (C) elimination of extended experience or
4 capitalization requirements, when programmatically
5 feasible, to permit participation of minority-owned
6 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
7 businesses, and businesses owned by persons with
8 disabilities;

9 (D) identification of specific proposed contracts
10 as particularly attractive or appropriate for
11 participation by minority-owned ~~minority-owned~~
12 businesses, women-owned ~~female-owned~~ businesses, and
13 businesses owned by persons with disabilities, such
14 identification to result from and be coupled with the
15 efforts of items (A) through (C); and

16 (E) implementation of regulations established for
17 the use of the sheltered market process.

18 (f) The Board shall file, no later than March 1 of each
19 year, an annual report that shall detail the level of
20 achievement toward the goals specified in this Section over the
21 3 most recent fiscal years. The annual report shall include,
22 but need not be limited to:

23 (1) a summary detailing expenditures subject to the
24 goals, the actual goals specified, and the goals attained
25 by each organization licensee or inter-track wagering
26 licensee;

1 (2) a summary of the number of contracts awarded and
2 the average contract amount by each organization licensee
3 or inter-track wagering licensee;

4 (3) an analysis of the level of overall goal
5 achievement concerning purchases from minority-owned
6 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
7 businesses, and businesses owned by persons with
8 disabilities;

9 (4) an analysis of the number of minority-owned
10 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
11 businesses, and businesses owned by persons with
12 disabilities that are certified under the program as well
13 as the number of those businesses that received State
14 procurement contracts; and

15 (5) (blank).

16 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;
17 99-891, eff. 1-1-17.)

18 Section 150. The Riverboat Gambling Act is amended by
19 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

20 (230 ILCS 10/4) (from Ch. 120, par. 2404)

21 Sec. 4. Definitions. As used in this Act:

22 (a) "Board" means the Illinois Gaming Board.

23 (b) "Occupational license" means a license issued by the
24 Board to a person or entity to perform an occupation which the

1 Board has identified as requiring a license to engage in
2 riverboat gambling in Illinois.

3 (c) "Gambling game" includes, but is not limited to,
4 baccarat, twenty-one, poker, craps, slot machine, video game of
5 chance, roulette wheel, klondike table, punchboard, faro
6 layout, keno layout, numbers ticket, push card, jar ticket, or
7 pull tab which is authorized by the Board as a wagering device
8 under this Act.

9 (d) "Riverboat" means a self-propelled excursion boat, a
10 permanently moored barge, or permanently moored barges that are
11 permanently fixed together to operate as one vessel, on which
12 lawful gambling is authorized and licensed as provided in this
13 Act.

14 (e) "Managers license" means a license issued by the Board
15 to a person or entity to manage gambling operations conducted
16 by the State pursuant to Section 7.3.

17 (f) "Dock" means the location where a riverboat moors for
18 the purpose of embarking passengers for and disembarking
19 passengers from the riverboat.

20 (g) "Gross receipts" means the total amount of money
21 exchanged for the purchase of chips, tokens or electronic cards
22 by riverboat patrons.

23 (h) "Adjusted gross receipts" means the gross receipts less
24 winnings paid to wagerers.

25 (i) "Cheat" means to alter the selection of criteria which
26 determine the result of a gambling game or the amount or

1 frequency of payment in a gambling game.

2 (j) (Blank).

3 (k) "Gambling operation" means the conduct of authorized
4 gambling games upon a riverboat.

5 (l) "License bid" means the lump sum amount of money that
6 an applicant bids and agrees to pay the State in return for an
7 owners license that is re-issued on or after July 1, 2003.

8 (m) The terms "minority person", "woman ~~female~~", and
9 "person with a disability" shall have the same meaning as
10 defined in Section 2 of the Business Enterprise for Minorities,
11 Women ~~Females~~, and Persons with Disabilities Act.

12 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

13 (230 ILCS 10/7) (from Ch. 120, par. 2407)

14 Sec. 7. Owners Licenses.

15 (a) The Board shall issue owners licenses to persons, firms
16 or corporations which apply for such licenses upon payment to
17 the Board of the non-refundable license fee set by the Board,
18 upon payment of a \$25,000 license fee for the first year of
19 operation and a \$5,000 license fee for each succeeding year and
20 upon a determination by the Board that the applicant is
21 eligible for an owners license pursuant to this Act and the
22 rules of the Board. From the effective date of this amendatory
23 Act of the 95th General Assembly until (i) 3 years after the
24 effective date of this amendatory Act of the 95th General
25 Assembly, (ii) the date any organization licensee begins to

1 operate a slot machine or video game of chance under the
2 Illinois Horse Racing Act of 1975 or this Act, (iii) the date
3 that payments begin under subsection (c-5) of Section 13 of the
4 Act, or (iv) the wagering tax imposed under Section 13 of this
5 Act is increased by law to reflect a tax rate that is at least
6 as stringent or more stringent than the tax rate contained in
7 subsection (a-3) of Section 13, whichever occurs first, as a
8 condition of licensure and as an alternative source of payment
9 for those funds payable under subsection (c-5) of Section 13 of
10 the Riverboat Gambling Act, any owners licensee that holds or
11 receives its owners license on or after the effective date of
12 this amendatory Act of the 94th General Assembly, other than an
13 owners licensee operating a riverboat with adjusted gross
14 receipts in calendar year 2004 of less than \$200,000,000, must
15 pay into the Horse Racing Equity Trust Fund, in addition to any
16 other payments required under this Act, an amount equal to 3%
17 of the adjusted gross receipts received by the owners licensee.
18 The payments required under this Section shall be made by the
19 owners licensee to the State Treasurer no later than 3:00
20 o'clock p.m. of the day after the day when the adjusted gross
21 receipts were received by the owners licensee. A person, firm
22 or corporation is ineligible to receive an owners license if:

23 (1) the person has been convicted of a felony under the
24 laws of this State, any other state, or the United States;

25 (2) the person has been convicted of any violation of
26 Article 28 of the Criminal Code of 1961 or the Criminal

1 Code of 2012, or substantially similar laws of any other
2 jurisdiction;

3 (3) the person has submitted an application for a
4 license under this Act which contains false information;

5 (4) the person is a member of the Board;

6 (5) a person defined in (1), (2), (3) or (4) is an
7 officer, director or managerial employee of the firm or
8 corporation;

9 (6) the firm or corporation employs a person defined in
10 (1), (2), (3) or (4) who participates in the management or
11 operation of gambling operations authorized under this
12 Act;

13 (7) (blank); or

14 (8) a license of the person, firm or corporation issued
15 under this Act, or a license to own or operate gambling
16 facilities in any other jurisdiction, has been revoked.

17 The Board is expressly prohibited from making changes to
18 the requirement that licensees make payment into the Horse
19 Racing Equity Trust Fund without the express authority of the
20 Illinois General Assembly and making any other rule to
21 implement or interpret this amendatory Act of the 95th General
22 Assembly. For the purposes of this paragraph, "rules" is given
23 the meaning given to that term in Section 1-70 of the Illinois
24 Administrative Procedure Act.

25 (b) In determining whether to grant an owners license to an
26 applicant, the Board shall consider:

1 (1) the character, reputation, experience and
2 financial integrity of the applicants and of any other or
3 separate person that either:

4 (A) controls, directly or indirectly, such
5 applicant, or

6 (B) is controlled, directly or indirectly, by such
7 applicant or by a person which controls, directly or
8 indirectly, such applicant;

9 (2) the facilities or proposed facilities for the
10 conduct of riverboat gambling;

11 (3) the highest prospective total revenue to be derived
12 by the State from the conduct of riverboat gambling;

13 (4) the extent to which the ownership of the applicant
14 reflects the diversity of the State by including minority
15 persons, women ~~females~~, and persons with a disability and
16 the good faith affirmative action plan of each applicant to
17 recruit, train and upgrade minority persons, women
18 ~~females~~, and persons with a disability in all employment
19 classifications;

20 (5) the financial ability of the applicant to purchase
21 and maintain adequate liability and casualty insurance;

22 (6) whether the applicant has adequate capitalization
23 to provide and maintain, for the duration of a license, a
24 riverboat;

25 (7) the extent to which the applicant exceeds or meets
26 other standards for the issuance of an owners license which

1 the Board may adopt by rule; and

2 (8) The amount of the applicant's license bid.

3 (c) Each owners license shall specify the place where
4 riverboats shall operate and dock.

5 (d) Each applicant shall submit with his application, on
6 forms provided by the Board, 2 sets of his fingerprints.

7 (e) The Board may issue up to 10 licenses authorizing the
8 holders of such licenses to own riverboats. In the application
9 for an owners license, the applicant shall state the dock at
10 which the riverboat is based and the water on which the
11 riverboat will be located. The Board shall issue 5 licenses to
12 become effective not earlier than January 1, 1991. Three of
13 such licenses shall authorize riverboat gambling on the
14 Mississippi River, or, with approval by the municipality in
15 which the riverboat was docked on August 7, 2003 and with Board
16 approval, be authorized to relocate to a new location, in a
17 municipality that (1) borders on the Mississippi River or is
18 within 5 miles of the city limits of a municipality that
19 borders on the Mississippi River and (2), on August 7, 2003,
20 had a riverboat conducting riverboat gambling operations
21 pursuant to a license issued under this Act; one of which shall
22 authorize riverboat gambling from a home dock in the city of
23 East St. Louis. One other license shall authorize riverboat
24 gambling on the Illinois River south of Marshall County. The
25 Board shall issue one additional license to become effective
26 not earlier than March 1, 1992, which shall authorize riverboat

1 gambling on the Des Plaines River in Will County. The Board may
2 issue 4 additional licenses to become effective not earlier
3 than March 1, 1992. In determining the water upon which
4 riverboats will operate, the Board shall consider the economic
5 benefit which riverboat gambling confers on the State, and
6 shall seek to assure that all regions of the State share in the
7 economic benefits of riverboat gambling.

8 In granting all licenses, the Board may give favorable
9 consideration to economically depressed areas of the State, to
10 applicants presenting plans which provide for significant
11 economic development over a large geographic area, and to
12 applicants who currently operate non-gambling riverboats in
13 Illinois. The Board shall review all applications for owners
14 licenses, and shall inform each applicant of the Board's
15 decision. The Board may grant an owners license to an applicant
16 that has not submitted the highest license bid, but if it does
17 not select the highest bidder, the Board shall issue a written
18 decision explaining why another applicant was selected and
19 identifying the factors set forth in this Section that favored
20 the winning bidder.

21 In addition to any other revocation powers granted to the
22 Board under this Act, the Board may revoke the owners license
23 of a licensee which fails to begin conducting gambling within
24 15 months of receipt of the Board's approval of the application
25 if the Board determines that license revocation is in the best
26 interests of the State.

1 (f) The first 10 owners licenses issued under this Act
2 shall permit the holder to own up to 2 riverboats and equipment
3 thereon for a period of 3 years after the effective date of the
4 license. Holders of the first 10 owners licenses must pay the
5 annual license fee for each of the 3 years during which they
6 are authorized to own riverboats.

7 (g) Upon the termination, expiration, or revocation of each
8 of the first 10 licenses, which shall be issued for a 3 year
9 period, all licenses are renewable annually upon payment of the
10 fee and a determination by the Board that the licensee
11 continues to meet all of the requirements of this Act and the
12 Board's rules. However, for licenses renewed on or after May 1,
13 1998, renewal shall be for a period of 4 years, unless the
14 Board sets a shorter period.

15 (h) An owners license shall entitle the licensee to own up
16 to 2 riverboats. A licensee shall limit the number of gambling
17 participants to 1,200 for any such owners license. A licensee
18 may operate both of its riverboats concurrently, provided that
19 the total number of gambling participants on both riverboats
20 does not exceed 1,200. Riverboats licensed to operate on the
21 Mississippi River and the Illinois River south of Marshall
22 County shall have an authorized capacity of at least 500
23 persons. Any other riverboat licensed under this Act shall have
24 an authorized capacity of at least 400 persons.

25 (i) A licensed owner is authorized to apply to the Board
26 for and, if approved therefor, to receive all licenses from the

1 Board necessary for the operation of a riverboat, including a
2 liquor license, a license to prepare and serve food for human
3 consumption, and other necessary licenses. All use, occupation
4 and excise taxes which apply to the sale of food and beverages
5 in this State and all taxes imposed on the sale or use of
6 tangible personal property apply to such sales aboard the
7 riverboat.

8 (j) The Board may issue or re-issue a license authorizing a
9 riverboat to dock in a municipality or approve a relocation
10 under Section 11.2 only if, prior to the issuance or
11 re-issuance of the license or approval, the governing body of
12 the municipality in which the riverboat will dock has by a
13 majority vote approved the docking of riverboats in the
14 municipality. The Board may issue or re-issue a license
15 authorizing a riverboat to dock in areas of a county outside
16 any municipality or approve a relocation under Section 11.2
17 only if, prior to the issuance or re-issuance of the license or
18 approval, the governing body of the county has by a majority
19 vote approved of the docking of riverboats within such areas.

20 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

21 (230 ILCS 10/7.1)

22 Sec. 7.1. Re-issuance of revoked or non-renewed owners
23 licenses.

24 (a) If an owners license terminates or expires without
25 renewal or the Board revokes or determines not to renew an

1 owners license (including, without limitation, an owners
2 license for a licensee that was not conducting riverboat
3 gambling operations on January 1, 1998) and that revocation or
4 determination is final, the Board may re-issue such license to
5 a qualified applicant pursuant to an open and competitive
6 bidding process, as set forth in Section 7.5, and subject to
7 the maximum number of authorized licenses set forth in Section
8 7(e).

9 (b) To be a qualified applicant, a person, firm, or
10 corporation cannot be ineligible to receive an owners license
11 under Section 7(a) and must submit an application for an owners
12 license that complies with Section 6. Each such applicant must
13 also submit evidence to the Board that minority persons and
14 women ~~females~~ hold ownership interests in the applicant of at
15 least 16% and 4% respectively.

16 (c) Notwithstanding anything to the contrary in Section
17 7(e), an applicant may apply to the Board for approval of
18 relocation of a re-issued license to a new home dock location
19 authorized under Section 3(c) upon receipt of the approval from
20 the municipality or county, as the case may be, pursuant to
21 Section 7(j).

22 (d) In determining whether to grant a re-issued owners
23 license to an applicant, the Board shall consider all of the
24 factors set forth in Sections 7(b) and (e) as well as the
25 amount of the applicant's license bid. The Board may grant the
26 re-issued owners license to an applicant that has not submitted

1 the highest license bid, but if it does not select the highest
2 bidder, the Board shall issue a written decision explaining why
3 another applicant was selected and identifying the factors set
4 forth in Sections 7(b) and (e) that favored the winning bidder.

5 (e) Re-issued owners licenses shall be subject to annual
6 license fees as provided for in Section 7(a) and shall be
7 governed by the provisions of Sections 7(f), (g), (h), and (i).

8 (Source: P.A. 93-28, eff. 6-20-03.)

9 (230 ILCS 10/7.4)

10 Sec. 7.4. Managers licenses.

11 (a) A qualified person may apply to the Board for a
12 managers license to operate and manage any gambling operation
13 conducted by the State. The application shall be made on forms
14 provided by the Board and shall contain such information as the
15 Board prescribes, including but not limited to information
16 required in Sections 6(a), (b), and (c) and information
17 relating to the applicant's proposed price to manage State
18 gambling operations and to provide the riverboat, gambling
19 equipment, and supplies necessary to conduct State gambling
20 operations.

21 (b) Each applicant must submit evidence to the Board that
22 minority persons and women ~~females~~ hold ownership interests in
23 the applicant of at least 16% and 4%, respectively.

24 (c) A person, firm, or corporation is ineligible to receive
25 a managers license if:

1 (1) the person has been convicted of a felony under the
2 laws of this State, any other state, or the United States;

3 (2) the person has been convicted of any violation of
4 Article 28 of the Criminal Code of 1961 or the Criminal
5 Code of 2012, or substantially similar laws of any other
6 jurisdiction;

7 (3) the person has submitted an application for a
8 license under this Act which contains false information;

9 (4) the person is a member of the Board;

10 (5) a person defined in (1), (2), (3), or (4) is an
11 officer, director, or managerial employee of the firm or
12 corporation;

13 (6) the firm or corporation employs a person defined in
14 (1), (2), (3), or (4) who participates in the management or
15 operation of gambling operations authorized under this
16 Act; or

17 (7) a license of the person, firm, or corporation
18 issued under this Act, or a license to own or operate
19 gambling facilities in any other jurisdiction, has been
20 revoked.

21 (d) Each applicant shall submit with his or her
22 application, on forms prescribed by the Board, 2 sets of his or
23 her fingerprints.

24 (e) The Board shall charge each applicant a fee, set by the
25 Board, to defray the costs associated with the background
26 investigation conducted by the Board.

1 (f) A person who knowingly makes a false statement on an
2 application is guilty of a Class A misdemeanor.

3 (g) The managers license shall be for a term not to exceed
4 10 years, shall be renewable at the Board's option, and shall
5 contain such terms and provisions as the Board deems necessary
6 to protect or enhance the credibility and integrity of State
7 gambling operations, achieve the highest prospective total
8 revenue to the State, and otherwise serve the interests of the
9 citizens of Illinois.

10 (h) Issuance of a managers license shall be subject to an
11 open and competitive bidding process. The Board may select an
12 applicant other than the lowest bidder by price. If it does not
13 select the lowest bidder, the Board shall issue a notice of who
14 the lowest bidder was and a written decision as to why another
15 bidder was selected.

16 (Source: P.A. 97-1150, eff. 1-25-13.)

17 (230 ILCS 10/7.6)

18 Sec. 7.6. Business enterprise program.

19 (a) For the purposes of this Section, the terms "minority",
20 "minority-owned ~~minority-owned~~ business", "woman ~~female~~", "
21 women-owned ~~female-owned~~ business", "person with a
22 disability", and "business owned by a person with a disability"
23 have the meanings ascribed to them in the Business Enterprise
24 for Minorities, Women ~~Females~~, and Persons with Disabilities
25 Act.

1 (b) The Board shall, by rule, establish goals for the award
2 of contracts by each owners licensee to businesses owned by
3 minorities, women ~~females~~, and persons with disabilities,
4 expressed as percentages of an owners licensee's total dollar
5 amount of contracts awarded during each calendar year. Each
6 owners licensee must make every effort to meet the goals
7 established by the Board pursuant to this Section. When setting
8 the goals for the award of contracts, the Board shall not
9 include contracts where: (1) any purchasing mandates would be
10 dependent upon the availability of minority-owned ~~minority~~
11 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
12 businesses owned by persons with disabilities ready, willing,
13 and able with capacity to provide quality goods and services to
14 a gaming operation at reasonable prices; (2) there are no or a
15 limited number of licensed suppliers as defined by this Act for
16 the goods or services provided to the licensee; (3) the
17 licensee or its parent company owns a company that provides the
18 goods or services; or (4) the goods or services are provided to
19 the licensee by a publicly traded company.

20 (c) Each owners licensee shall file with the Board an
21 annual report of its utilization of minority-owned ~~minority~~
22 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
23 businesses owned by persons with disabilities during the
24 preceding calendar year. The reports shall include a
25 self-evaluation of the efforts of the owners licensee to meet
26 its goals under this Section.

1 (d) The owners licensee shall have the right to request a
2 waiver from the requirements of this Section. The Board shall
3 grant the waiver where the owners licensee demonstrates that
4 there has been made a good faith effort to comply with the
5 goals for participation by minority-owned ~~minority-owned~~
6 businesses, women-owned ~~female-owned~~ businesses, and
7 businesses owned by persons with disabilities.

8 (e) If the Board determines that its goals and policies are
9 not being met by any owners licensee, then the Board may:

10 (1) adopt remedies for such violations; and

11 (2) recommend that the owners licensee provide
12 additional opportunities for participation by
13 minority-owned ~~minority-owned~~ businesses, women-owned
14 ~~female-owned~~ businesses, and businesses owned by persons
15 with disabilities; such recommendations may include, but
16 shall not be limited to:

17 (A) assurances of stronger and better focused
18 solicitation efforts to obtain more minority-owned
19 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
20 businesses, and businesses owned by persons with
21 disabilities as potential sources of supply;

22 (B) division of job or project requirements, when
23 economically feasible, into tasks or quantities to
24 permit participation of minority-owned ~~minority-owned~~
25 businesses, women-owned ~~female-owned~~ businesses, and
26 businesses owned by persons with disabilities;

1 (C) elimination of extended experience or
2 capitalization requirements, when programmatically
3 feasible, to permit participation of minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities;

7 (D) identification of specific proposed contracts
8 as particularly attractive or appropriate for
9 participation by minority-owned ~~minority-owned~~
10 businesses, women-owned ~~female-owned~~ businesses, and
11 businesses owned by persons with disabilities, such
12 identification to result from and be coupled with the
13 efforts of items (A) through (C); and

14 (E) implementation of regulations established for
15 the use of the sheltered market process.

16 (f) The Board shall file, no later than March 1 of each
17 year, an annual report that shall detail the level of
18 achievement toward the goals specified in this Section over the
19 3 most recent fiscal years. The annual report shall include,
20 but need not be limited to:

21 (1) a summary detailing expenditures subject to the
22 goals, the actual goals specified, and the goals attained
23 by each owners licensee; and

24 (2) 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 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

4 (230 ILCS 10/11.2)

5 Sec. 11.2. Relocation of riverboat home dock.

6 (a) A licensee that was not conducting riverboat gambling
7 on January 1, 1998 may apply to the Board for renewal and
8 approval of relocation to a new home dock location authorized
9 under Section 3(c) and the Board shall grant the application
10 and approval upon receipt by the licensee of approval from the
11 new municipality or county, as the case may be, in which the
12 licensee wishes to relocate pursuant to Section 7(j).

13 (b) Any licensee that relocates its home dock pursuant to
14 this Section shall attain a level of at least 20% minority
15 person and woman ~~female~~ ownership, at least 16% and 4%
16 respectively, within a time period prescribed by the Board, but
17 not to exceed 12 months from the date the licensee begins
18 conducting gambling at the new home dock location. The 12-month
19 period shall be extended by the amount of time necessary to
20 conduct a background investigation pursuant to Section 6. For
21 the purposes of this Section, the terms "woman ~~female~~" and
22 "minority person" have the meanings provided in Section 2 of
23 the Business Enterprise for Minorities, Women ~~Females~~, and
24 Persons with Disabilities Act.

25 (Source: P.A. 91-40, eff. 6-25-99.)

1 Section 155. The Environmental Protection Act is amended by
2 changing Section 14.7 as follows:

3 (415 ILCS 5/14.7)

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

6 Sec. 14.7. Preservation of community water supplies.

7 (a) The Agency shall adopt rules governing certain
8 corrosion prevention projects carried out on community water
9 supplies. Those rules shall not apply to buried pipelines
10 including, but not limited to, pipes, mains, and joints. The
11 rules shall exclude routine maintenance activities of
12 community water supplies including, but not limited to, the use
13 of protective coatings applied by the owner's utility personnel
14 during the course of performing routine maintenance
15 activities. The activities may include, but not be limited to,
16 the painting of fire hydrants; routine over-coat painting of
17 interior and exterior building surfaces such as floors, doors,
18 windows, and ceilings; and routine touch-up and over-coat
19 application of protective coatings typically found on water
20 utility pumps, pipes, tanks, and other water treatment plant
21 appurtenances and utility owned structures. Those rules shall
22 include:

23 (1) standards for ensuring that community water
24 supplies carry out corrosion prevention and mitigation

1 methods according to corrosion prevention industry
2 standards adopted by the Agency;

3 (2) requirements that community water supplies use:

4 (A) protective coatings personnel to carry out
5 corrosion prevention and mitigation methods on exposed
6 water treatment tanks, exposed non-concrete water
7 treatment structures, exposed water treatment pipe
8 galleys; exposed pumps; and generators; the Agency
9 shall not limit to protective coatings personnel any
10 other work relating to prevention and mitigation
11 methods on any other water treatment appurtenances
12 where protective coatings are utilized for corrosion
13 control and prevention to prolong the life of the water
14 utility asset; and

15 (B) inspectors to ensure that best practices and
16 standards are adhered to on each corrosion prevention
17 project; and

18 (3) standards to prevent environmental degradation
19 that might occur as a result of carrying out corrosion
20 prevention and mitigation methods including, but not
21 limited to, standards to prevent the improper handling and
22 containment of hazardous materials, especially lead paint,
23 removed from the exterior of a community water supply.

24 In adopting rules under this subsection (a), the Agency
25 shall obtain input from corrosion industry experts
26 specializing in the training of personnel to carry out

1 corrosion prevention and mitigation methods.

2 (b) As used in this Section:

3 "Community water supply" has the meaning ascribed to that
4 term in Section 3.145 of this Act.

5 "Corrosion" means a naturally occurring phenomenon
6 commonly defined as the deterioration of a metal that results
7 from a chemical or electrochemical reaction with its
8 environment.

9 "Corrosion prevention and mitigation methods" means the
10 preparation, application, installation, removal, or general
11 maintenance as necessary of a protective coating system,
12 including any or more of the following:

13 (A) surface preparation and coating application on
14 the exterior or interior of a community water supply;
15 or

16 (B) shop painting of structural steel fabricated
17 for installation as part of a community water supply.

18 "Corrosion prevention project" means carrying out
19 corrosion prevention and mitigation methods. "Corrosion
20 prevention project" does not include clean-up related to
21 surface preparation.

22 "Protective coatings personnel" means personnel employed
23 or retained by a contractor providing services covered by this
24 Section to carry out corrosion prevention or mitigation methods
25 or inspections.

26 (c) This Section shall apply to only those projects

1 receiving 100% funding from the State.

2 (d) Each contract procured pursuant to the Illinois
3 Procurement Code for the provision of services covered by this
4 Section (1) shall comply with applicable provisions of the
5 Illinois Procurement Code and (2) shall include provisions for
6 reporting participation by minority persons, as defined by
7 Section 2 of the Business Enterprise for Minorities, Women
8 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as
9 defined by Section 2 of the Business Enterprise for Minorities,
10 Women ~~Females~~, and Persons with Disabilities Act; and veterans,
11 as defined by Section 45-57 of the Illinois Procurement Code,
12 in apprenticeship and training programs in which the contractor
13 or his or her subcontractors participate. The requirements of
14 this Section do not apply to an individual licensed under the
15 Professional Engineering Practice Act of 1989 or the Structural
16 Engineering Act of 1989.

17 (Source: P.A. 99-923, eff. 7-1-17.)

18 Section 160. The Public Private Agreements for the Illiana
19 Expressway Act is amended by changing Section 20 as follows:

20 (605 ILCS 130/20)

21 Sec. 20. Procurement; request for proposals process.

22 (a) Notwithstanding any provision of law to the contrary,
23 the Department on behalf of the State shall select a contractor
24 through a competitive request for proposals process governed by

1 the Illinois Procurement Code and rules adopted under that Code
2 and this Act.

3 (b) The competitive request for proposals process shall, at
4 a minimum, solicit statements of qualification and proposals
5 from offerors.

6 (c) The competitive request for proposals process shall, at
7 a minimum, take into account the following criteria:

8 (1) The offeror's plans for the Illiana Expressway
9 project;

10 (2) The offeror's current and past business practices;

11 (3) The offeror's poor or inadequate past performance
12 in developing, financing, constructing, managing, or
13 operating highways or other public assets;

14 (4) The offeror's ability to meet and past performance
15 in meeting or exhausting good faith efforts to meet the
16 utilization goals for business enterprises established in
17 the Business Enterprise for Minorities, Women ~~Females~~, and
18 Persons with Disabilities Act;

19 (5) The offeror's ability to comply with and past
20 performance in complying with Section 2-105 of the Illinois
21 Human Rights Act; and

22 (6) The offeror's plans to comply with the Business
23 Enterprise for Minorities, Women ~~Females~~, and Persons with
24 Disabilities Act and Section 2-105 of the Illinois Human
25 Rights Act.

26 (d) The Department shall retain the services of an advisor

1 or advisors with significant experience in the development,
2 financing, construction, management, or operation of public
3 assets to assist in the preparation of the request for
4 proposals.

5 (e) The Department shall not include terms in the request
6 for proposals that provide an advantage, whether directly or
7 indirectly, to any contractor presently providing goods,
8 services, or equipment to the Department.

9 (f) The Department shall select at least 2 offerors as
10 finalists. The Department shall submit the offerors'
11 statements of qualification and proposals to the Commission on
12 Government Forecasting and Accountability and the Procurement
13 Policy Board, which shall, within 30 days of the submission,
14 complete a review of the statements of qualification and
15 proposals and, jointly or separately, report on, at a minimum,
16 the satisfaction of the criteria contained in the request for
17 proposals, the qualifications of the offerors, and the value of
18 the proposals to the State. The Department shall not select an
19 offeror as the contractor for the Illiana Expressway project
20 until it has received and considered the findings of the
21 Commission on Government Forecasting and Accountability and
22 the Procurement Policy Board as set forth in their respective
23 reports.

24 (g) Before awarding a public private agreement to an
25 offeror, the Department shall schedule and hold a public
26 hearing or hearings on the proposed public private agreement

1 and publish notice of the hearing or hearings at least 7 days
2 before the hearing and in accordance with Section 4-219 of the
3 Illinois Highway Code. The notice must include the following:

4 (1) the date, time, and place of the hearing and the
5 address of the Department;

6 (2) the subject matter of the hearing;

7 (3) a description of the agreement that may be awarded;
8 and

9 (4) the recommendation that has been made to select an
10 offeror as the contractor for the Illiana Expressway
11 project.

12 At the hearing, the Department shall allow the public to be
13 heard on the subject of the hearing.

14 (h) After the procedures required in this Section have been
15 completed, the Department shall make a determination as to
16 whether the offeror should be designated as the contractor for
17 the Illiana Expressway project and shall submit the decision to
18 the Governor and to the Governor's Office of Management and
19 Budget. After review of the Department's determination, the
20 Governor may accept or reject the determination. If the
21 Governor accepts the determination of the Department, the
22 Governor shall designate the offeror for the Illiana Expressway
23 project.

24 (Source: P.A. 96-913, eff. 6-9-10.)

25 Section 165. The Public-Private Agreements for the South

1 Suburban Airport Act is amended by changing Section 2-30 as
2 follows:

3 (620 ILCS 75/2-30)

4 Sec. 2-30. Request for proposals process to enter into
5 public-private agreements.

6 (a) Notwithstanding any provisions of the Illinois
7 Procurement Code, the Department, on behalf of the State, shall
8 select a contractor through a competitive request for proposals
9 process governed by Section 2-30 of this Act. The Department
10 will consult with the chief procurement officer for
11 construction or construction-related activities designated
12 pursuant to clause (2) of Section 1-15.15 of the Illinois
13 Procurement Code on the competitive request for proposals
14 process, and the Secretary will determine, in consultation with
15 the chief procurement officer, which procedures to adopt and
16 apply to the competitive request for proposals process in order
17 to ensure an open, transparent, and efficient process that
18 accomplishes the purposes of this Act.

19 (b) The competitive request for proposals process shall, at
20 a minimum, solicit statements of qualification and proposals
21 from offerors.

22 (c) The competitive request for proposals process shall, at
23 a minimum, take into account the following criteria:

24 (1) the offeror's plans for the South Suburban Airport
25 project;

- 1 (2) the offeror's current and past business practices;
- 2 (3) the offeror's poor or inadequate past performance
3 in developing, financing, constructing, managing, or
4 operating airports or other public assets;
- 5 (4) the offeror's ability to meet the utilization goals
6 for business enterprises established in the Business
7 Enterprise for Minorities, Women ~~Females~~, and Persons with
8 Disabilities Act;
- 9 (5) the offeror's ability to comply with Section 2-105
10 of the Illinois Human Rights Act; and
- 11 (6) the offeror's plans to comply with the Business
12 Enterprise for Minorities, Women ~~Females~~, and Persons with
13 Disabilities Act and Section 2-105 of the Illinois Human
14 Rights Act.
- 15 (d) The Department shall retain the services of an advisor
16 or advisors with significant experience in the development,
17 financing, construction, management, or operation of public
18 assets to assist in the preparation of the request for
19 proposals.
- 20 (e) The Department shall not include terms in the request
21 for proposals that provide an advantage, whether directly or
22 indirectly, to any contractor presently providing goods,
23 services, or equipment to the Department.
- 24 (f) The Department shall select one or more offerors as
25 finalists. The Department shall submit the offeror's
26 statements of qualification and proposals to the Commission on

1 Government Forecasting and Accountability and the Procurement
2 Policy Board, which shall, within 30 days after the submission,
3 complete a review of the statements of qualification and
4 proposals and, jointly or separately, report on, at a minimum,
5 the satisfaction of the criteria contained in the request for
6 proposals, the qualifications of the offerors, and the value of
7 the proposals to the State. The Department shall not select an
8 offeror as the contractor for the South Suburban Airport
9 project until it has received and considered the findings of
10 the Commission on Government Forecasting and Accountability
11 and the Procurement Policy Board as set forth in their
12 respective reports.

13 (g) Before awarding a public-private agreement to an
14 offeror, the Department shall schedule and hold a public
15 hearing or hearings on the proposed public-private agreement
16 and publish notice of the hearing or hearings at least 7 days
17 before the hearing. The notice shall include the following:

18 (1) the date, time, and place of the hearing and the
19 address of the Department;

20 (2) the subject matter of the hearing;

21 (3) a description of the agreement that may be awarded;

22 and

23 (4) the recommendation that has been made to select an
24 offeror as the contractor for the South Suburban Airport
25 project.

26 At the hearing, the Department shall allow the public to be

1 heard on the subject of the hearing.

2 (h) After the procedures required in this Section have been
3 completed, the Department shall make a determination as to
4 whether the offeror should be designated as the contractor for
5 the South Suburban Airport project and shall submit the
6 decision to the Governor and to the Governor's Office of
7 Management and Budget. After review of the Department's
8 determination, the Governor may accept or reject the
9 determination. If the Governor accepts the determination of the
10 Department, the Governor shall designate the offeror for the
11 South Suburban Airport project.

12 (Source: P.A. 98-109, eff. 7-25-13.)

13 Section 170. The Public-Private Partnerships for
14 Transportation Act is amended by changing Section 25 as
15 follows:

16 (630 ILCS 5/25)

17 Sec. 25. Design-build procurement.

18 (a) This Section 25 shall apply only to transportation
19 projects for which the Department or the Authority intends to
20 execute a design-build agreement, in which case the Department
21 or the Authority shall abide by the requirements and procedures
22 of this Section 25 in addition to other applicable requirements
23 and procedures set forth in this Act.

24 (b) (1) The transportation agency must issue a notice of

1 intent to receive proposals for the project at least 14 days
2 before issuing the request for the qualifications. The
3 transportation agency must publish the advance notice in a
4 daily newspaper of general circulation in the county where the
5 transportation agency is located. The transportation agency is
6 encouraged to use publication of the notice in related
7 construction industry service publications. A brief
8 description of the proposed procurement must be included in the
9 notice. The transportation agency must provide a copy of the
10 request for qualifications to any party requesting a copy.

11 (2) The request for qualifications shall be prepared for
12 each project and must contain, without limitation, the
13 following information: (i) the name of the transportation
14 agency; (ii) a preliminary schedule for the completion of the
15 contract; (iii) the proposed budget for the project and the
16 source of funds, to the extent not already reflected in the
17 Department's Multi-Year Highway Improvement Program; (iv) the
18 shortlisting process for entities or groups of entities such as
19 unincorporated joint ventures wishing to submit proposals (the
20 transportation agency shall include, at a minimum, its normal
21 prequalification, licensing, registration, and other
22 requirements, but nothing contained herein precludes the use of
23 additional criteria by the transportation agency); (v) a
24 summary of anticipated material requirements of the contract,
25 including but not limited to, the proposed terms and
26 conditions, required performance and payment bonds, insurance,

1 and the utilization goals established by the transportation
2 agency for minority and women business enterprises and
3 compliance with Section 2-105 of the Illinois Human Rights Act;
4 and (vi) the anticipated number of entities that will be
5 shortlisted for the request for proposals phase.

6 (3) The transportation agency may include any other
7 relevant information in the request for qualifications that it
8 chooses to supply. The private entity shall be entitled to rely
9 upon the accuracy of this documentation in the development of
10 its statement of qualifications and its proposal only to the
11 extent expressly warranted by the transportation agency.

12 (4) The date that statements of qualifications are due must
13 be at least 21 calendar days after the date of the issuance of
14 the request for qualifications. In the event the cost of the
15 project is estimated to exceed \$12,000,000, then the statement
16 of qualifications due date must be at least 28 calendar days
17 after the date of the issuance of the request for
18 qualifications. The transportation agency shall include in the
19 request for proposals a minimum of 30 days to develop the
20 proposals after the selection of entities from the evaluation
21 of the statements of qualifications is completed.

22 (c)(1) The transportation agency shall develop, with the
23 assistance of a licensed design professional, the request for
24 qualifications and the request for proposals, which shall
25 include scope and performance criteria. The scope and
26 performance criteria must be in sufficient detail and contain

1 adequate information to reasonably apprise the private
2 entities of the transportation agency's overall programmatic
3 needs and goals, including criteria and preliminary design
4 plans, general budget parameters, schedule, and delivery
5 requirements.

6 (2) Each request for qualifications and request for
7 proposals shall also include a description of the level of
8 design to be provided in the proposals. This description must
9 include the scope and type of renderings, drawings, and
10 specifications that, at a minimum, will be required by the
11 transportation agency to be produced by the private entities.

12 (3) The scope and performance criteria shall be prepared by
13 a design professional who is an employee of the transportation
14 agency, or the transportation agency may contract with an
15 independent design professional selected under the
16 Architectural, Engineering, and Land Surveying Qualifications
17 Based Selection Act to provide these services.

18 (4) The design professional that prepares the scope and
19 performance criteria is prohibited from participating in any
20 private entity proposal for the project.

21 (d)(1) The transportation agency must use a two phase
22 procedure for the selection of the successful design-build
23 entity. The request for qualifications phase will evaluate and
24 shortlist the private entities based on qualifications, and the
25 request for proposals will evaluate the technical and cost
26 proposals.

1 (2) The transportation agency shall include in the request
2 for qualifications the evaluating factors to be used in the
3 request for qualifications phase. These factors are in addition
4 to any prequalification requirements of private entities that
5 the transportation agency has set forth. Each request for
6 qualifications shall establish the relative importance
7 assigned to each evaluation factor, including any weighting of
8 criteria to be employed by the transportation agency. The
9 transportation agency must maintain a record of the evaluation
10 scoring to be disclosed in event of a protest regarding the
11 solicitation.

12 The transportation agency shall include the following
13 criteria in every request for qualifications phase evaluation
14 of private entities: (i) experience of personnel; (ii)
15 successful experience with similar project types; (iii)
16 financial capability; (iv) timeliness of past performance; (v)
17 experience with similarly sized projects; (vi) successful
18 reference checks of the firm; (vii) commitment to assign
19 personnel for the duration of the project and qualifications of
20 the entity's consultants; and (viii) ability or past
21 performance in meeting or exhausting good faith efforts to meet
22 the utilization goals for business enterprises established in
23 the Business Enterprise for Minorities, Women ~~Females~~, and
24 Persons with Disabilities Act and in complying with Section
25 2-105 of the Illinois Human Rights Act. No proposal shall be
26 considered that does not include an entity's plan to comply

1 with the requirements regarding minority and women business
2 enterprises and economically disadvantaged firms established
3 by the transportation agency and with Section 2-105 of the
4 Illinois Human Rights Act. The transportation agency may
5 include any additional relevant criteria in the request for
6 qualifications phase that it deems necessary for a proper
7 qualification review.

8 Upon completion of the qualifications evaluation, the
9 transportation agency shall create a shortlist of the most
10 highly qualified private entities.

11 The transportation agency shall notify the entities
12 selected for the shortlist in writing. This notification shall
13 commence the period for the preparation of the request for
14 proposals phase technical and cost evaluations. The
15 transportation agency must allow sufficient time for the
16 shortlist entities to prepare their proposals considering the
17 scope and detail requested by the transportation agency.

18 (3) The transportation agency shall include in the request
19 for proposals the evaluating factors to be used in the
20 technical and cost submission components. Each request for
21 proposals shall establish, for both the technical and cost
22 submission components, the relative importance assigned to
23 each evaluation factor, including any weighting of criteria to
24 be employed by the transportation agency. The transportation
25 agency must maintain a record of the evaluation scoring to be
26 disclosed in event of a protest regarding the solicitation.

1 The transportation agency shall include the following
2 criteria in every request for proposals phase technical
3 evaluation of private entities: (i) compliance with objectives
4 of the project; (ii) compliance of proposed services to the
5 request for proposal requirements; (iii) compliance with the
6 request for proposal requirements of products or materials
7 proposed; (iv) quality of design parameters; and (v) design
8 concepts. The transportation agency may include any additional
9 relevant technical evaluation factors it deems necessary for
10 proper selection.

11 The transportation agency shall include the following
12 criteria in every request for proposals phase cost evaluation:
13 the total project cost and the time of completion. The
14 transportation agency may include any additional relevant
15 technical evaluation factors it deems necessary for proper
16 selection. The guaranteed maximum project cost criteria
17 weighing factor shall not exceed 30%.

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

22 (e) Statements of qualifications and proposals must be
23 properly identified and sealed. Statements of qualifications
24 and proposals may not be reviewed until after the deadline for
25 submission has passed as set forth in the request for
26 qualifications or the request for proposals. All private

1 entities submitting statements of qualifications or proposals
2 shall be disclosed after the deadline for submission, and all
3 private entities who are selected for request for proposals
4 phase evaluation shall also be disclosed at the time of that
5 determination.

6 Design-build proposals shall include a bid bond in the form
7 and security as designated in the request for proposals.
8 Proposals shall also contain a separate sealed envelope with
9 the cost information within the overall proposal submission.
10 Proposals shall include a list of all design professionals and
11 other entities to which any work identified in Section 30-30 of
12 the Illinois Procurement Code as a subdivision of construction
13 work may be subcontracted during the performance of the
14 contract to the extent known at the time of proposal. If the
15 information is not known at the time of proposal, then the
16 design-build agreement shall require the identification prior
17 to a previously unlisted subcontractor commencing work on the
18 transportation project.

19 Statements of qualifications and proposals must meet all
20 material requirements of the request for qualifications or
21 request for proposals, or else they may be rejected as
22 non-responsive. The transportation agency shall have the right
23 to reject any and all statements of qualifications and
24 proposals.

25 The private entity's proprietary intellectual property
26 contained in the drawings and specifications of any

1 unsuccessful statement of qualifications or proposal shall
2 remain the property of the private entity.

3 The transportation agency shall review the statements of
4 qualifications and the proposals for compliance with the
5 performance criteria and evaluation factors.

6 Statements of qualifications and proposals may be
7 withdrawn prior to the due date and time for submissions for
8 any cause. After evaluation begins by the transportation
9 agency, clear and convincing evidence of error is required for
10 withdrawal.

11 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

12 Section 175. The Criminal Code of 2012 is amended by
13 changing Sections 17-10.3 and 33E-2 as follows:

14 (720 ILCS 5/17-10.3)

15 Sec. 17-10.3. Deception relating to certification of
16 disadvantaged business enterprises.

17 (a) Fraudulently obtaining or retaining certification. A
18 person who, in the course of business, fraudulently obtains or
19 retains certification as a minority-owned ~~minority-owned~~
20 business, women-owned ~~female-owned~~ business, service-disabled
21 veteran-owned small business, or veteran-owned small business
22 commits a Class 2 felony.

23 (b) Willfully making a false statement. A person who, in
24 the course of business, willfully makes a false statement

1 whether by affidavit, report or other representation, to an
2 official or employee of a State agency or the ~~Minority and~~
3 ~~Female~~ Business Enterprise Council for Minorities, Women, and
4 Persons with Disabilities for the purpose of influencing the
5 certification or denial of certification of any business entity
6 as a minority-owned ~~minority-owned~~ business, women-owned
7 ~~female-owned~~ business, service-disabled veteran-owned small
8 business, or veteran-owned small business commits a Class 2
9 felony.

10 (c) Willfully obstructing or impeding an official or
11 employee of any agency in his or her investigation. Any person
12 who, in the course of business, willfully obstructs or impedes
13 an official or employee of any State agency or the ~~Minority and~~
14 ~~Female~~ Business Enterprise Council for Minorities, Women, and
15 Persons with Disabilities who is investigating the
16 qualifications of a business entity which has requested
17 certification as a minority-owned ~~minority-owned~~ business,
18 women-owned ~~female-owned~~ business, service-disabled
19 veteran-owned small business, or veteran-owned small business
20 commits a Class 2 felony.

21 (d) Fraudulently obtaining public moneys reserved for
22 disadvantaged business enterprises. Any person who, in the
23 course of business, fraudulently obtains public moneys
24 reserved for, or allocated or available to, minority-owned
25 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
26 businesses, service-disabled veteran-owned small businesses,

1 or veteran-owned small businesses commits a Class 2 felony.

2 (e) Definitions. As used in this Article, "minority-owned
3 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",
4 "State agency" with respect to minority-owned ~~minority-owned~~
5 businesses and women-owned ~~female-owned~~ businesses, and
6 "certification" with respect to minority-owned ~~minority-owned~~
7 businesses and women-owned ~~female-owned~~ businesses shall have
8 the meanings ascribed to them in Section 2 of the Business
9 Enterprise for Minorities, Women ~~Females~~, and Persons with
10 Disabilities Act. As used in this Article, "service-disabled
11 veteran-owned small business", "veteran-owned small business",
12 "State agency" with respect to service-disabled veteran-owned
13 small businesses and veteran-owned small businesses, and
14 "certification" with respect to service-disabled veteran-owned
15 small businesses and veteran-owned small businesses have the
16 same meanings as in Section 45-57 of the Illinois Procurement
17 Code.

18 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

19 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

20 Sec. 33E-2. Definitions. In this Act:

21 (a) "Public contract" means any contract for goods,
22 services or construction let to any person with or without bid
23 by any unit of State or local government.

24 (b) "Unit of State or local government" means the State,
25 any unit of state government or agency thereof, any county or

1 municipal government or committee or agency thereof, or any
2 other entity which is funded by or expends tax dollars or the
3 proceeds of publicly guaranteed bonds.

4 (c) "Change order" means a change in a contract term other
5 than as specifically provided for in the contract which
6 authorizes or necessitates any increase or decrease in the cost
7 of the contract or the time to completion.

8 (d) "Person" means any individual, firm, partnership,
9 corporation, joint venture or other entity, but does not
10 include a unit of State or local government.

11 (e) "Person employed by any unit of State or local
12 government" means any employee of a unit of State or local
13 government and any person defined in subsection (d) who is
14 authorized by such unit of State or local government to act on
15 its behalf in relation to any public contract.

16 (f) "Sheltered market" has the meaning ascribed to it in
17 Section 8b of the Business Enterprise for Minorities, Women
18 ~~Females~~, and Persons with Disabilities Act; except that, with
19 respect to State contracts set aside for award to
20 service-disabled veteran-owned small businesses and
21 veteran-owned small businesses pursuant to Section 45-57 of the
22 Illinois Procurement Code, "sheltered market" means
23 procurements pursuant to that Section.

24 (g) "Kickback" means any money, fee, commission, credit,
25 gift, gratuity, thing of value, or compensation of any kind
26 which is provided, directly or indirectly, to any prime

1 contractor, prime contractor employee, subcontractor, or
2 subcontractor employee for the purpose of improperly obtaining
3 or rewarding favorable treatment in connection with a prime
4 contract or in connection with a subcontract relating to a
5 prime contract.

6 (h) "Prime contractor" means any person who has entered
7 into a public contract.

8 (i) "Prime contractor employee" means any officer,
9 partner, employee, or agent of a prime contractor.

10 (i-5) "Stringing" means knowingly structuring a contract
11 or job order to avoid the contract or job order being subject
12 to competitive bidding requirements.

13 (j) "Subcontract" means a contract or contractual action
14 entered into by a prime contractor or subcontractor for the
15 purpose of obtaining goods or services of any kind under a
16 prime contract.

17 (k) "Subcontractor" (1) means any person, other than the
18 prime contractor, who offers to furnish or furnishes any goods
19 or services of any kind under a prime contract or a subcontract
20 entered into in connection with such prime contract; and (2)
21 includes any person who offers to furnish or furnishes goods or
22 services to the prime contractor or a higher tier
23 subcontractor.

24 (l) "Subcontractor employee" means any officer, partner,
25 employee, or agent of a subcontractor.

26 (Source: P.A. 97-260, eff. 8-5-11.)

1 Section 180. The Business Corporation Act of 1983 is
2 amended by changing Section 14.05 as follows:

3 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

4 Sec. 14.05. Annual report of domestic or foreign
5 corporation. Each domestic corporation organized under any
6 general law or special act of this State authorizing the
7 corporation to issue shares, other than homestead
8 associations, building and loan associations, banks and
9 insurance companies (which includes a syndicate or limited
10 syndicate regulated under Article V 1/2 of the Illinois
11 Insurance Code or member of a group of underwriters regulated
12 under Article V of that Code), and each foreign corporation
13 (except members of a group of underwriters regulated under
14 Article V of the Illinois Insurance Code) authorized to
15 transact business in this State, shall file, within the time
16 prescribed by this Act, an annual report setting forth:

17 (a) The name of the corporation.

18 (b) The address, including street and number, or rural
19 route number, of its registered office in this State, and
20 the name of its registered agent at that address.

21 (c) The address, including street and number, or rural
22 route number, of its principal office.

23 (d) The names and respective addresses, including
24 street and number, or rural route number, of its directors

1 and officers.

2 (e) A statement of the aggregate number of shares which
3 the corporation has authority to issue, itemized by classes
4 and series, if any, within a class.

5 (f) A statement of the aggregate number of issued
6 shares, itemized by classes, and series, if any, within a
7 class.

8 (g) A statement, expressed in dollars, of the amount of
9 paid-in capital of the corporation as defined in this Act.

10 (h) Either a statement that (1) all the property of the
11 corporation is located in this State and all of its
12 business is transacted at or from places of business in
13 this State, or the corporation elects to pay the annual
14 franchise tax on the basis of its entire paid-in capital,
15 or (2) a statement, expressed in dollars, of the value of
16 all the property owned by the corporation, wherever
17 located, and the value of the property located within this
18 State, and a statement, expressed in dollars, of the gross
19 amount of business transacted by the corporation and the
20 gross amount thereof transacted by the corporation at or
21 from places of business in this State as of the close of
22 its fiscal year on or immediately preceding the last day of
23 the third month prior to the anniversary month or in the
24 case of a corporation which has established an extended
25 filing month, as of the close of its fiscal year on or
26 immediately preceding the last day of the third month prior

1 to the extended filing month; however, in the case of a
2 domestic corporation that has not completed its first
3 fiscal year, the statement with respect to property owned
4 shall be as of the last day of the third month preceding
5 the anniversary month and the statement with respect to
6 business transacted shall be furnished for the period
7 between the date of incorporation and the last day of the
8 third month preceding the anniversary month. In the case of
9 a foreign corporation that has not been authorized to
10 transact business in this State for a period of 12 months
11 and has not commenced transacting business prior to
12 obtaining authority, the statement with respect to
13 property owned shall be as of the last day of the third
14 month preceding the anniversary month and the statement
15 with respect to business transacted shall be furnished for
16 the period between the date of its authorization to
17 transact business in this State and the last day of the
18 third month preceding the anniversary month. If the data
19 referenced in item (2) of this subsection is not completed,
20 the franchise tax provided for in this Act shall be
21 computed on the basis of the entire paid-in capital.

22 (i) A statement, including the basis therefor, of
23 status as a "minority-owned ~~minority-owned~~ business" or as
24 a "women-owned ~~female-owned~~ business" as those terms are
25 defined in the Business Enterprise for Minorities, Women
26 ~~Females~~, and Persons with Disabilities Act.

1 (j) Additional information as may be necessary or
2 appropriate in order to enable the Secretary of State to
3 administer this Act and to verify the proper amount of fees
4 and franchise taxes payable by the corporation.

5 The annual report shall be made on forms prescribed and
6 furnished by the Secretary of State, and the information
7 therein required by paragraphs (a) through (d), both inclusive,
8 of this Section, shall be given as of the date of the execution
9 of the annual report and the information therein required by
10 paragraphs (e), (f) and (g) of this Section shall be given as
11 of the last day of the third month preceding the anniversary
12 month, except that the information required by paragraphs (e),
13 (f) and (g) shall, in the case of a corporation which has
14 established an extended filing month, be given in its final
15 transition annual report and each subsequent annual report as
16 of the close of its fiscal year immediately preceding its
17 extended filing month. It shall be executed by the corporation
18 by its president, a vice-president, secretary, assistant
19 secretary, treasurer or other officer duly authorized by the
20 board of directors of the corporation to execute those reports,
21 and verified by him or her, or, if the corporation is in the
22 hands of a receiver or trustee, it shall be executed on behalf
23 of the corporation and verified by the receiver or trustee.

24 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,
25 7-1-03.)

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.".