



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 262

2 AMENDMENT NO. _____. Amend Senate Bill 262 by replacing
3 everything after the enacting clause with the following:

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

6 (15 ILCS 405/23.9)

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

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

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

26 The Comptroller shall annually prepare and submit a report

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

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

1 the fee into the Comptroller's Administrative Fund. Contracts
2 administered for statewide orders placed by agencies (commonly
3 referred to as "statewide master contracts") are exempt from
4 this fee.

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

6 (20 ILCS 605/605-525 rep.)

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

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

12 (20 ILCS 1605/9.1)

13 Sec. 9.1. Private manager and management agreement.

14 (a) As used in this Section:

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

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

20 (1) Statements of qualifications.

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

1 offeror in performing its obligations under the management
2 agreement.

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

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

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

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

1 during the transition. To that end, the Department shall do the
2 following:

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

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

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

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

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

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

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

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

17 (2) A provision specifying that the Department:

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

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

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

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

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

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

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

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

24 (6) (Blank).

25 (7) A provision requiring the deposit of all Lottery
26 proceeds to be deposited into the State Lottery Fund except

1 as otherwise provided in Section 20 of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (15) Cash reserves requirements.

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

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

16 (18) Procedures for amendment of the agreement.

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

26 (20) The transition of rights and obligations,

1 including any associated equipment or other assets used in
2 the operation of the Lottery, from the manager to any
3 successor manager of the lottery, including the
4 Department, following the termination of or foreclosure
5 upon the management agreement.

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

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

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

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

25 (2) the offeror's ability to address the State's
26 concern with the social effects of gambling on those who

1 can least afford to do so;

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

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

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

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

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

1 of the following:

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

3 (2) The subject matter of the hearing.

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

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

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

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

1 objectives of this Section. The Governor shall also sign the
2 management agreement with the private manager.

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

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

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

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

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

26 (n) The private manager shall be subject to a complete

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

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

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

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

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

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

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

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

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

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

1 fiscal year.

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

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

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

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

22 (Source: P.A. 98-463, eff. 8-16-13; 98-649, eff. 6-16-14;
23 99-933, eff. 1-27-17.)

24 Section 20. The Department of Transportation Law of the
25 Civil Administrative Code of Illinois is amended by changing

1 Sections 2705-585 and 2705-600 as follows:

2 (20 ILCS 2705/2705-585)

3 Sec. 2705-585. Diversity goals.

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

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

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

23 (20 ILCS 2705/2705-600)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 This Section is repealed on June 30, 2017.

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

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

5 (20 ILCS 3105/16) (from Ch. 127, par. 783b)

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

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

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

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

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

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

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

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

20 (20 ILCS 3860/20)

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

22 Sec. 20. Powers and duties of the Illinois Health
23 Information Exchange Authority. The Authority has the
24 following powers, together with all powers incidental or

1 necessary to accomplish the purposes of this Act:

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

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

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

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

1 The Authority shall make the results of the research
2 available on its website.

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

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

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

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

1 this Act.

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

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

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

1 and confidential in accordance with Sections 8-2101,
2 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
3 Procedure.

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

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

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

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

4 (20 ILCS 3948/20)

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

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

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

1 Governor for the remainder of the vacated term.

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

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

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

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

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

24 Section 40. The State Finance Act is amended by changing
25 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

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

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

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

25 Section 45. The General Obligation Bond Act is amended by

1 changing Sections 8 and 15.5 as follows:

2 (30 ILCS 330/8) (from Ch. 127, par. 658)

3 Sec. 8. Bond sale expenses.

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

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

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

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

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

17 (30 ILCS 330/15.5)

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

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

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

3 (30 ILCS 425/5) (from Ch. 127, par. 2805)

4 Sec. 5. Bond Sale Expenses.

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

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

1 filing a second or subsequent copy of the same contract, the
2 Governor's Office of Management and Budget may file a statement
3 that specified costs are paid under specified contracts filed
4 earlier with the Commission.

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

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

1 Sec. 8.3. Compliance with the Business Enterprise for
2 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
3 Notwithstanding any other provision of law, the Governor's
4 Office of Management and Budget shall comply with the Business
5 Enterprise for Minorities, Women ~~Females~~, and Persons with
6 Disabilities Act.

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

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

11 (30 ILCS 500/15-25)

12 Sec. 15-25. Bulletin content.

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

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

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

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

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

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

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

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

1 hearing to extend an emergency contract must be posted in the
2 online electronic Procurement Bulletin no later than 14
3 calendar days prior to the hearing.

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

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

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

1 before the hearing required by Section 20-25.

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

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

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

15 (Source: P.A. 97-895, eff. 8-3-12; 98-1038, eff. 8-25-14;
16 98-1076, eff. 1-1-15.)

17 (30 ILCS 500/30-30)

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

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

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

25 (1) plumbing;

1 (2) heating, piping, refrigeration, and automatic
2 temperature control systems, including the testing and
3 balancing of those systems;

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

7 (4) electric wiring; and

8 (5) general contract work.

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

21 Beginning on the effective date of this amendatory Act of
22 the 99th General Assembly and through December 31, 2019, for
23 single prime projects: (i) the bid of the successful low bidder
24 shall identify the name of the subcontractor, if any, and the
25 bid proposal costs for each of the 5 subdivisions of work set
26 forth in this Section; (ii) the contract entered into with the

1 successful bidder shall provide that no identified
2 subcontractor may be terminated without the written consent of
3 the Capital Development Board; (iii) the contract shall comply
4 with the disadvantaged business practices of the Business
5 Enterprise for Minorities, Women ~~Females~~, and Persons with
6 Disabilities Act and the equal employment practices of Section
7 2-105 of the Illinois Human Rights Act; (iv) the Capital
8 Development Board shall submit a quarterly report to the
9 Procurement Policy Board with information on the general scope,
10 project budget, and established Business Enterprise Program
11 goals for any single prime procurement bid in the previous 3
12 months with a total construction cost valued at \$10,000,000 or
13 less; and (v) the Capital Development Board shall submit an
14 annual report to the General Assembly and Governor on the
15 bidding, award, and performance of all single prime projects.

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

24 Beginning on the effective date of this amendatory Act of
25 the 99th General Assembly and through December 31, 2017, the
26 Capital Development Board shall, on a weekly basis: review the

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

26 (b) The provisions of this subsection are operative on and

1 after January 1, 2020. For building construction contracts in
2 excess of \$250,000, separate specifications shall be prepared
3 for all equipment, labor, and materials in connection with the
4 following 5 subdivisions of the work to be performed:

5 (1) plumbing;

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

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

12 (4) electric wiring; and

13 (5) general contract work.

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

1 (Source: P.A. 98-431, eff. 8-16-13; 98-1076, eff. 1-1-15;
2 99-257, eff. 8-4-15.)

3 (30 ILCS 500/45-45)

4 Sec. 45-45. Small businesses.

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

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

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

4 (2) No retail business or business selling services is
5 a small business if its annual sales and receipts exceed
6 \$8,000,000.

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

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

11 (c) Fair proportion. For the purpose of subsection (a), for
12 State agencies of the executive branch, a fair proportion of
13 construction contracts shall be no less than 25% nor more than
14 40% of the annual total contracts for construction.

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

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

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

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

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

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

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

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

1 disabilities, as defined in the Business Enterprise for
2 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
3 in the preceding fiscal year under the designation of small
4 business set-aside.

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

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

9 (30 ILCS 500/45-57)

10 Sec. 45-57. Veterans.

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

1 (b) Fiscal year reports. By each September 1, each chief
2 procurement officer shall report to the Department of Central
3 Management Services on all of the following for the immediately
4 preceding fiscal year, and by each March 1 the Department of
5 Central Management Services shall compile and report that
6 information to the General Assembly:

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

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

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

25 (d) Governor's recommendations. To assist the State in
26 reaching the goal described in subsection (a), the Governor

1 shall recommend to the General Assembly changes in programs to
2 assist businesses owned by qualified veterans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (g) Penalties.

25 (1) Administrative penalties. The chief procurement
26 officers appointed pursuant to Section 10-20 shall suspend

1 any person who commits a violation of Section 17-10.3 or
2 subsection (d) of Section 33E-6 of the Criminal Code of
3 2012 relating to this Section from bidding on, or
4 participating as a contractor, subcontractor, or supplier
5 in, any State contract or project for a period of not less
6 than 3 years, and, if the person is certified as a
7 service-disabled veteran-owned small business or a
8 veteran-owned small business, then the Department shall
9 revoke the business's certification for a period of not
10 less than 3 years. An additional or subsequent violation
11 shall extend the periods of suspension and revocation for a
12 period of not less than 5 years. The suspension and
13 revocation shall apply to the principals of the business
14 and any subsequent business formed or financed by, or
15 affiliated with, those principals.

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

25 (3) List of suspended persons. The chief procurement
26 officers appointed pursuant to Section 10-20 shall monitor

1 the status of all reported violations of Section 17-10.3 or
2 subsection (d) of Section 33E-6 of the Criminal Code of
3 1961 or the Criminal Code of 2012 relating to this Section
4 and shall maintain and make available to all State agencies
5 a central listing of all persons that committed violations
6 resulting in suspension.

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

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

20 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;
21 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

22 (30 ILCS 500/45-65)

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

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

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

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

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

10 (30 ILCS 537/5)

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

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

13 General Assembly that the Capital Development Board be allowed

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

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

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

17 Development Board in the procurement of design-build services

18 to publicly announce all requirements for design-build

19 services and to procure these services on the basis of

20 demonstrated competence and qualifications and with due regard

21 for the principles of competitive selection.

22 The Capital Development Board shall, prior to issuing

23 requests for proposals, promulgate and publish procedures for

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

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

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

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

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

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

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

1 determination for 5 years.

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

3 (30 ILCS 537/15)

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

5 Sec. 15. Solicitation of proposals.

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

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

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

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

24 (3) The proposed budget for the project, the source of
25 funds, and the currently available funds at the time the

1 request for proposal is submitted.

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

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

17 (6) The performance criteria.

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

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

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

26 (d) The date that proposals are due must be at least 21

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

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

10 (30 ILCS 537/30)

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

12 Sec. 30. Procedures for Selection.

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

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

1 maintain a record of the evaluation scoring to be disclosed in
2 event of a protest regarding the solicitation.

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

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

18 The State construction agency may not consider any
19 design-build entity for evaluation or award if the entity has
20 any pecuniary interest in the project or has other
21 relationships or circumstances, including but not limited to,
22 long-term leasehold, mutual performance, or development
23 contracts with the State construction agency, that may give the
24 design-build entity a financial or tangible advantage over
25 other design-build entities in the preparation, evaluation, or
26 performance of the design-build contract or that create the

1 appearance of impropriety. No proposal shall be considered that
2 does not include an entity's plan to comply with the
3 requirements established in the Business Enterprise for
4 Minorities, Women ~~Females~~, and Persons with Disabilities Act,
5 for both the design and construction areas of performance, and
6 with Section 2-105 of the Illinois Human Rights Act.

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

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

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

1 importance assigned to each evaluation factor and subfactor,
2 including any weighting of criteria to be employed by the State
3 construction agency. The State construction agency must
4 maintain a record of the evaluation scoring to be disclosed in
5 event of a protest regarding the solicitation.

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

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

24 The State construction agency shall directly employ or
25 retain a licensed design professional to evaluate the technical
26 and cost submissions to determine if the technical submissions

1 are in accordance with generally accepted industry standards.

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

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

7 (30 ILCS 537/46)

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

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

1 ~~Females~~, and Persons with Disabilities Act and the provisions
2 of Section 2-105 of the Illinois Human Rights Act.

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

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

6 (30 ILCS 571/25)

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

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

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

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

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

24 (e) Permit the selection of the lowest qualified

1 responsible bidder, without regard to union or non-union
2 status at other construction sites.

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

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

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

9 (30 ILCS 571/37)

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

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

23 Section 70. The Business Enterprise for Minorities,
24 Females, and Persons with Disabilities Act is amended by

1 changing Sections 0.01, 1, 2, 4, 4f, 5, 6, 6a, 7, 8, 8a, 8b, and
2 8f and by adding Sections 8g, 8h, and 8i as follows:

3 (30 ILCS 575/0.01) (from Ch. 127, par. 132.600)

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

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

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

9 (30 ILCS 575/1) (from Ch. 127, par. 132.601)

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

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

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

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

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

17 (30 ILCS 575/2)

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

19 Sec. 2. Definitions.

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

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

25 (a) American Indian or Alaska Native (a person

1 having origins in any of the original peoples of North
2 and South America, including Central America, and who
3 maintains tribal affiliation or community attachment).

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

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

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

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

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

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

1 (2.1) "Person with a disability" means a person with a
2 severe physical or mental disability that:

3 (a) results from:

4 amputation,

5 arthritis,

6 autism,

7 blindness,

8 burn injury,

9 cancer,

10 cerebral palsy,

11 Crohn's disease,

12 cystic fibrosis,

13 deafness,

14 head injury,

15 heart disease,

16 hemiplegia,

17 hemophilia,

18 respiratory or pulmonary dysfunction,

19 an intellectual disability,

20 mental illness,

21 multiple sclerosis,

22 muscular dystrophy,

23 musculoskeletal disorders,

24 neurological disorders, including stroke and

25 epilepsy,

26 paraplegia,

1 quadriplegia and other spinal cord conditions,
2 sickle cell anemia,
3 ulcerative colitis,
4 specific learning disabilities, or
5 end stage renal failure disease; and

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

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

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

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

1 are controlled by one or more of the women ~~females~~ who own
2 it.

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

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

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

26 "State construction contracts" means all State

1 contracts entered into by a State agency or public
2 institution of higher education for the repair,
3 remodeling, renovation or construction of a building or
4 structure, or for the construction or maintenance of a
5 highway defined in Article 2 of the Illinois Highway Code.

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

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

1 universities, colleges, and community colleges now or
2 hereafter established or authorized by the General
3 Assembly.

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

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

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

6 (10) "Business" means a business that has annual gross
7 sales of less than \$75,000,000 as evidenced by the federal
8 income tax return of the business. A firm with gross sales
9 in excess of this cap may apply to the Council for
10 certification for a particular contract if the firm can
11 demonstrate that the contract would have significant
12 impact on businesses owned by minorities, women ~~females~~, or
13 persons with disabilities as suppliers or subcontractors
14 or in employment of minorities, women ~~females~~, or persons
15 with disabilities.

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

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

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

10 (Source: P.A. 98-95, eff. 7-17-13; 99-143, eff. 7-27-15;
11 99-462, eff. 8-25-15; 99-642, eff. 7-28-16.)

12 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

14 Sec. 4. Award of State contracts.

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

1 ~~female-owned~~ businesses, and contracts representing at least
2 2% shall be awarded to businesses owned by persons with
3 disabilities.

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

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

24 (c) In the case of all work undertaken by the University of
25 Illinois related to the planning, organization, and staging of
26 the games, the University of Illinois shall establish a goal of

1 awarding not less than 25% of the annual dollar value of all
2 contracts, purchase orders, and other agreements (collectively
3 referred to as "the contracts") to minority-owned businesses or
4 businesses owned by a person with a disability and 5% of the
5 annual dollar value the contracts to women-owned ~~female-owned~~
6 businesses. For purposes of this subsection, the term "games"
7 has the meaning set forth in the Olympic Games and Paralympic
8 Games (2016) Law.

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

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

1 to exceed 5 ~~10~~ days from the date of notification to cure that
2 deficiency in the bid or proposal. The deficiency in the bid or
3 proposal may only be cured by contracting with additional
4 subcontractors who are owned by minorities or women ~~females~~,
5 but in no case shall an identified subcontractor with a
6 certification made pursuant to this Act be terminated from the
7 contract without the written consent of the State agency or
8 public institution of higher education entering into the
9 contract.

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

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

18 (30 ILCS 575/4f)

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

20 Sec. 4f. Award of State contracts.

21 (1) It is hereby declared to be the public policy of the
22 State of Illinois to promote and encourage each State agency
23 and public institution of higher education to use businesses
24 owned by minorities, women ~~females~~, and persons with
25 disabilities in the area of goods and services, including, but

1 not limited to, insurance services, investment management
2 services, information technology services, accounting
3 services, architectural and engineering services, and legal
4 services. Furthermore, each State agency and public
5 institution of higher education shall utilize such firms to the
6 greatest extent feasible within the bounds of financial and
7 fiduciary prudence, and take affirmative steps to remove any
8 barriers to the full participation of such firms in the
9 procurement and contracting opportunities afforded.

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

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

1 asset managers of the State funds be minorities, women
2 ~~females~~, and persons with disabilities.

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

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

1 businesses owned by minorities, women ~~females~~, or persons
2 with disabilities for the purposes of this Section.

3 (2) As used in this Section:

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

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

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

26 "Information technology services" means, but is not

1 limited to, specialized technology-oriented solutions by
2 combining the processes and functions of software,
3 hardware, networks, telecommunications, web designers,
4 cloud developing resellers, and electronics.

5 "Insurance broker" means an insurance brokerage firm,
6 claims administrator, or both, that procures, places all
7 lines of insurance, or administers claims with annual
8 premiums or fees of at least \$5,000,000 but not more than
9 \$10,000,000.

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

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

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

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

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

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

1 minorities, women ~~females~~, and persons with disabilities,
2 including the total and percentage of total commissions,
3 fees paid, or both by each State agency and public
4 institution of higher education.

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

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

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

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

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

24 (6) The status of the utilization of services shall be
25 discussed at each of the regularly scheduled Business
26 Enterprise Council meetings. Time shall be allotted for the

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

15 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

17 Sec. 5. Business Enterprise Council.

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

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

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

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

1 documents necessary under this Act.

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

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

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

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

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

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

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

1 (g) Establish a toll free telephone number to
2 facilitate information requests concerning the
3 certification process and pending contracts.

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

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

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

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

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

25 (c) To establish an enforcement procedure whereby the
26 Council may recommend to the appropriate State legal

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

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

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

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

1 parties, except that forms necessary to become eligible for
2 the program shall be provided free of charge to a business
3 or individual applying for the program.

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

5 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

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

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

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

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

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

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

1 to date for the then current fiscal year. The reports shall
2 include a self-evaluation of the efforts of the State agency or
3 public institution of higher education to meet its goals under
4 the Act.

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

1 compliance plan, shall be deemed approved under this Act.

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

3 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

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

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

1 totaling ~~totalling~~ in the aggregate \$40,000,000 or more during
2 the preceding fiscal year.

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

4 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

6 Sec. 7. Exemptions; ~~and~~ waivers; publication of 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 prohibited from bidding, offering,
14 or entering into a contract with the State of Illinois as a
15 result of violations of this Act.

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

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

2 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

4 Sec. 8. Enforcement.

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

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

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

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

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

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

26 (iv) identification of specific proposed contracts

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

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

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

24 (3) A vendor shall be in breach of the contract and may be
25 subject to penalties for failure to meet contract goals
26 established under this Act, unless the vendor can show that it

1 made good faith efforts to meet the contract goals.

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

3 (30 ILCS 575/8a) (from Ch. 127, par. 132.608a)

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

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

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

14 (30 ILCS 575/8b) (from Ch. 127, par. 132.608b)

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

16 Sec. 8b. Scheduled council meetings; sheltered market. The
17 Council shall conduct regular meetings to carry out its
18 responsibilities under this Act. At each of the regularly
19 scheduled meetings, time shall be allocated for the Council to
20 receive, review and discuss any evidence regarding past or
21 present racial, ethnic or gender based discrimination which
22 directly impacts State contracting with businesses owned by
23 minorities, women ~~females~~, and persons with disabilities. If
24 after reviewing such evidence the Council finds that there is

1 or has been such discrimination against a specific group, race
2 or sex, the Council shall establish sheltered markets or adjust
3 existing sheltered markets tailored to address the Council's
4 specific findings.

5 "Sheltered market" shall mean a procurement procedure
6 whereby certain contracts are selected and specifically set
7 aside for businesses owned by minorities, women ~~females~~, and
8 persons with disabilities on a competitive bid or negotiated
9 basis.

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

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

15 (30 ILCS 575/8f)

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

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

22 (1) a summary detailing expenditures subject to the
23 goals, the actual goals specified, and the goals attained
24 by each State agency and public institution of higher
25 education;

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

4 (3) an analysis of the level of overall goal
5 achievement concerning purchases from minority-owned
6 ~~minority~~ businesses, women-owned ~~female-owned~~ businesses,
7 and businesses owned by persons with disabilities;

8 (4) an analysis of the number of businesses owned by
9 minorities, women ~~females~~, and persons with disabilities
10 that are certified under the program as well as the number
11 of those businesses that received State procurement
12 contracts; and

13 (5) a summary of the number of contracts awarded to
14 businesses with annual gross sales of less than \$1,000,000;
15 of \$1,000,000 or more, but less than \$5,000,000; of
16 \$5,000,000 or more, but less than \$10,000,000; and of
17 \$10,000,000 or more.

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

19 (30 ILCS 575/8g new)

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

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

1 (b) The Department of Central Management Services shall
2 provide a report to the Council all State agency
3 non-construction contracts that exceed \$20,000,000 prior to
4 award. The report shall contain the following: (i) the name of
5 the proposed awardee, (ii) the total bid amount, (iii) the
6 established Business Enterprise Program goal, (iv) the dollar
7 amount and percentage of participation by businesses owned by
8 minorities, women, and persons with disabilities, and (v) the
9 names of the certified firms identified in the utilization
10 plan.

11 (30 ILCS 575/8h new)

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

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

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

18 (ii) cable and video providers, as defined in Section
19 21-201 of the Public Utilities Act;

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

22 (iv) wireless service providers;

23 (v) broadband internet access services providers; and

24 (vi) any other entity that provides messaging, voice,
25 or video services via the Internet or a social media

1 platform.

2 (2) Each entity listed in subsection (1) of this Section
3 may submit to the Illinois Commerce Commission and the Business
4 Enterprise Council an annual report by April 15, 2018, and
5 every April 15 thereafter, which provides, for the previous
6 calendar year, information and data on diversity goals, and
7 progress toward achieving those goals, by businesses owned by
8 minorities, women, persons with disabilities, and veterans.
9 The report shall include a narrative description of the
10 entity's supplier diversity goals and plans for meeting those
11 goals. The report shall include the entity's best estimate of
12 its annual spending in professional services and spending with
13 certified businesses owned by minorities, women, persons with
14 disabilities, and veterans, including, but not limited to, the
15 following professional services categories: accounting,
16 architecture and engineering, information technology,
17 insurance, financial, legal, and marketing services. The
18 report shall include the entity's overall annual spending in
19 the listed professional service categories. The report shall
20 also include the total number and percentage of women and
21 minorities that provided services for each construction and
22 professional services project in the State.

23 An entity subject to this Section which is part of an
24 affiliated group of entities may provide information for the
25 affiliated group as a whole.

26 (3) Any entity that is subject to this Section that fails

1 to comply with the reporting requirements shall be reported by
2 the Business Enterprise Council Secretary to each chief
3 procurement officer. Upon receiving a report from the Business
4 Enterprise Council Secretary, the chief procurement officer
5 shall prohibit any non-compliant entities from bidding on State
6 contracts for a period of one year beginning the first day of
7 the following fiscal year and post on its respective bulletin
8 the names of all entities that fail to comply with the
9 provisions of this Section.

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

14 (30 ILCS 575/8i new)

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

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

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

24 (c) review existing contracts with no contract goal to
25 determine if a goal can be established; if it is determined

1 that a diversity goal can be established, the State agency
2 or public institution of higher education shall encourage
3 the prime vendor to amend the contract to include the
4 contract goal; prime contractors shall be required to
5 complete a utilization plan to demonstrate how it intends
6 to meet the diversity goal; and

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

11 All renewals shall be subject to any amendments made to
12 this Act, or amendments made to any administrative rules
13 adopted under this Act, that become effective prior to the date
14 of renewal.

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

17 The Section is operative on and after January 1, 2018.

18 Section 75. The Film Production Services Tax Credit Act of
19 2008 is amended by changing Sections 30 and 45 as follows:

20 (35 ILCS 16/30)

21 Sec. 30. Review of application for accredited production
22 certificate.

23 (a) In determining whether to issue an accredited
24 production certificate, the Department must determine that a

1 preponderance of the following conditions exist:

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

4 (2) The applicant's production is economically sound
5 and will benefit the people of the State of Illinois by
6 increasing opportunities for employment and strengthen the
7 economy of Illinois.

8 (3) The applicant has filed a diversity plan with the
9 Department outlining specific goals (i) for hiring
10 minority persons and women ~~females~~, as defined in the
11 Business Enterprise for Minorities, Women ~~Females~~, and
12 Persons with Disabilities Act, and (ii) for using vendors
13 receiving certification under the Business Enterprise for
14 Minorities, Women ~~Females~~, and Persons with Disabilities
15 Act; the Department has approved the plan as meeting the
16 requirements established by the Department; and the
17 Department has verified that the applicant has met or made
18 good-faith efforts in achieving those goals. The
19 Department must adopt any rules that are necessary to
20 ensure compliance with the provisions of this item (3) and
21 that are necessary to require that the applicant's plan
22 reflects the diversity of this State.

23 (4) The applicant's production application indicates
24 whether the applicant intends to participate in training,
25 education, and recruitment programs that are organized in
26 cooperation with Illinois colleges and universities, labor

1 organizations, and the motion picture industry and are
2 designed to promote and encourage the training and hiring
3 of Illinois residents who represent the diversity of the
4 Illinois population.

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

18 (6) Awarding the credit 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 (Source: P.A. 95-720, eff. 5-27-08.)

1 (35 ILCS 16/45)

2 Sec. 45. Evaluation of tax credit program; reports to the
3 General Assembly.

4 (a) The Department shall evaluate the tax credit program.
5 The evaluation must include an assessment of the effectiveness
6 of the program in creating and retaining new jobs in Illinois
7 and of the revenue impact of the program, and may include a
8 review of the practices and experiences of other states or
9 nations with similar programs. Upon completion of this
10 evaluation, the Department shall determine the overall success
11 of the program, and may make a recommendation to extend,
12 modify, or not extend the program based on this evaluation.

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

16 (1) the economic impact of the tax credit program,
17 including the number of jobs created and retained,
18 including whether the job positions are entry level,
19 management, talent-related, vendor-related, or
20 production-related;

21 (2) the amount of film production spending brought to
22 Illinois, including the amount of spending and type of
23 Illinois vendors hired in connection with an accredited
24 production; and

25 (3) an overall picture of whether the human
26 infrastructure of the motion picture industry in Illinois

1 reflects the geographical, racial and ethnic, gender, and
2 income-level diversity of the State of Illinois.

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

6 (1) an identification of each vendor that provided
7 goods or services that were included in an accredited
8 production's Illinois production spending;

9 (2) the amount paid to each identified vendor by the
10 accredited production;

11 (3) for each identified vendor, a statement as to
12 whether the vendor is a minority-owned ~~minority-owned~~
13 business or a women-owned ~~female-owned~~ business, as defined
14 under Section 2 of the Business Enterprise for Minorities,
15 Women ~~Females~~, and Persons with Disabilities Act; and

16 (4) a description of any steps taken by the Department
17 to encourage accredited productions to use vendors who are
18 a minority-owned ~~minority-owned~~ business or a women-owned
19 ~~female-owned~~ business.

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

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

23 (35 ILCS 17/10-30)

24 Sec. 10-30. Review of application for accredited theater

1 production certificate.

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

5 (1) the applicant intends to make the expenditure in
6 the State required for certification of the accredited
7 theater production;

8 (2) the applicant's accredited theater production is
9 economically sound and will benefit the people of the State
10 of Illinois by increasing opportunities for employment and
11 will strengthen the economy of Illinois;

12 (3) the following requirements related to the
13 implementation of a diversity plan have been met: (i) the
14 applicant has filed with the Department a diversity plan
15 outlining specific goals for hiring Illinois labor
16 expenditure eligible minority persons and women ~~females~~,
17 as defined in the Business Enterprise for Minorities, Women
18 ~~Females~~, and Persons with Disabilities Act, and for using
19 vendors receiving certification under the Business
20 Enterprise for Minorities, Women ~~Females~~, and Persons with
21 Disabilities Act; (ii) the Department has approved the plan
22 as meeting the requirements established by the Department
23 and verified that the applicant has met or made good faith
24 efforts in achieving those goals; and (iii) the Department
25 has adopted any rules that are necessary to ensure
26 compliance with the provisions set forth in this paragraph

1 and necessary to require that the applicant's plan reflects
2 the diversity of the population of this State;

3 (4) the applicant's accredited theater production
4 application indicates whether the applicant intends to
5 participate in training, education, and recruitment
6 programs that are organized in cooperation with Illinois
7 colleges and universities, labor organizations, and the
8 holders of accredited theater production certificates and
9 are designed to promote and encourage the training and
10 hiring of Illinois residents who represent the diversity of
11 Illinois;

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

1 applicant's decision to create or retain new jobs in the
2 State; and

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

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

10 (c) The Department shall act expeditiously regarding
11 approval of applications for accredited theater production
12 certificates so as to accommodate the pre-production work,
13 booking, commencement of ticket sales, determination of
14 performance dates, load in, and other matters relating to the
15 live theater productions for which approval is sought.

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

17 (35 ILCS 17/10-50)

18 Sec. 10-50. Live theater tax credit award program
19 evaluation and reports.

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

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

24 (ii) an assessment of the revenue impact of the
25 program;

1 (iii) in the discretion of the Department, a review of
2 the practices and experiences of other states or nations
3 with similar programs; and

4 (iv) an assessment of the overall success of the
5 program. The Department may make a recommendation to
6 extend, modify, or not extend the program based on the
7 evaluation.

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

11 (i) an assessment of the economic impact of the
12 program, including the number of jobs created and retained,
13 and whether the job positions are entry level, management,
14 vendor, or production related;

15 (ii) the amount of accredited theater production
16 spending brought to Illinois, including the amount of
17 spending and type of Illinois vendors hired in connection
18 with an accredited theater production; and

19 (iii) a determination of whether those receiving
20 qualifying Illinois labor expenditure salaries or wages
21 reflect the geographical, racial and ethnic, gender, and
22 income level diversity of the State of Illinois.

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

26 (i) the identification of each vendor that provided

1 goods or services that were included in an accredited
2 theater production's Illinois production spending;

3 (ii) a statement of the amount paid to each identified
4 vendor by the accredited theater production and whether the
5 vendor is a minority-owned ~~minority~~ or women-owned ~~female~~
6 ~~owned~~ business as defined in Section 2 of the Business
7 Enterprise for Minorities, Women ~~Females~~, and Persons with
8 Disabilities Act; and

9 (iii) a description of the steps taken by the
10 Department to encourage accredited theater productions to
11 use vendors who are minority-owned ~~minority~~ or women-owned
12 ~~female-owned~~ businesses.

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

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

16 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

17 Sec. 1-109.1. Allocation and delegation of fiduciary
18 duties.

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

23 (a) Appoint one or more investment managers as
24 fiduciaries to manage (including the power to acquire and

1 dispose of) any assets of the retirement system or pension
2 fund; and

3 (b) Allocate duties among themselves and designate
4 others as fiduciaries to carry out specific fiduciary
5 activities other than the management of the assets of the
6 retirement system or pension fund.

7 (2) The board of trustees of a pension fund established
8 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
9 transfer its investment authority, nor transfer the assets of
10 the fund to any other person or entity for the purpose of
11 consolidating or merging its assets and management with any
12 other pension fund or public investment authority, unless the
13 board resolution authorizing such transfer is submitted for
14 approval to the contributors and pensioners of the fund at
15 elections held not less than 30 days after the adoption of such
16 resolution by the board, and such resolution is approved by a
17 majority of the votes cast on the question in both the
18 contributors election and the pensioners election. The
19 election procedures and qualifications governing the election
20 of trustees shall govern the submission of resolutions for
21 approval under this paragraph, insofar as they may be made
22 applicable.

23 (3) Pursuant to subsections (h) and (i) of Section 6 of
24 Article VII of the Illinois Constitution, the investment
25 authority of boards of trustees of retirement systems and
26 pension funds established under this Code is declared to be a

1 subject of exclusive State jurisdiction, and the concurrent
2 exercise by a home rule unit of any power affecting such
3 investment authority is hereby specifically denied and
4 preempted.

5 (4) For the purposes of this Code, "emerging investment
6 manager" means a qualified investment adviser that manages an
7 investment portfolio of at least \$10,000,000 but less than
8 \$10,000,000,000 and is a "minority-owned ~~minority-owned~~
9 business", "women-owned ~~female-owned~~ business" or "business
10 owned by a person with a disability" as those terms are defined
11 in the Business Enterprise for Minorities, Women ~~Females~~, and
12 Persons with Disabilities Act.

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

24 On or before January 1, 2010, a retirement system, pension
25 fund, or investment board subject to this Code, except those
26 whose investments are restricted by Section 1-113.2 of this

1 Code, shall adopt a policy that sets forth goals for
2 utilization of emerging investment managers. This policy shall
3 include quantifiable goals for the management of assets in
4 specific asset classes by emerging investment managers. The
5 retirement system, pension fund, or investment board shall
6 establish 3 separate goals for: (i) emerging investment
7 managers that are minority-owned ~~minority-owned~~ businesses;
8 (ii) emerging investment managers that are women-owned ~~female~~
9 ~~owned~~ businesses; and (iii) emerging investment managers that
10 are businesses owned by a person with a disability. The goals
11 established shall be based on the percentage of total dollar
12 amount of investment service contracts let to minority-owned
13 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
14 businesses, and businesses owned by a person with a disability,
15 as those terms are defined in the Business Enterprise for
16 Minorities, Women ~~Females~~, and Persons with Disabilities Act.
17 The retirement system, pension fund, or investment board shall
18 annually review the goals established under this subsection.

19 If in any case an emerging investment manager meets the
20 criteria established by a board for a specific search and meets
21 the criteria established by a consultant for that search, then
22 that emerging investment manager shall receive an invitation by
23 the board of trustees, or an investment committee of the board
24 of trustees, to present his or her firm for final consideration
25 of a contract. In the case where multiple emerging investment
26 managers meet the criteria of this Section, the staff may

1 choose the most qualified firm or firms to present to the
2 board.

3 The use of an emerging investment manager does not
4 constitute a transfer of investment authority for the purposes
5 of subsection (2) of this Section.

6 (5) Each retirement system, pension fund, or investment
7 board subject to this Code, except those whose investments are
8 restricted by Section 1-113.2 of this Code, shall establish a
9 policy that sets forth goals for increasing the racial, ethnic,
10 and gender diversity of its fiduciaries, including its
11 consultants and senior staff. Each system, fund, and investment
12 board shall annually review the goals established under this
13 subsection.

14 (6) On or before January 1, 2010, a retirement system,
15 pension fund, or investment board subject to this Code, except
16 those whose investments are restricted by Section 1-113.2 of
17 this Code, shall adopt a policy that sets forth goals for
18 utilization of businesses owned by minorities, women ~~females~~,
19 and persons with disabilities for all contracts and services.
20 The goals established shall be based on the percentage of total
21 dollar amount of all contracts let to minority-owned ~~minority~~
22 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
23 businesses owned by a person with a disability, as those terms
24 are defined in the Business Enterprise for Minorities, Women
25 ~~Females~~, and Persons with Disabilities Act. The retirement
26 system, pension fund, or investment board shall annually review

1 the goals established under this subsection.

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

16 (8) Each retirement system, pension fund, and investment
17 board subject to this Code, except those whose investments are
18 restricted by Section 1-113.2 of this Code, shall submit a
19 report to the Governor and the General Assembly by January 1 of
20 each year that includes the following: (i) the policy adopted
21 under subsection (4) of this Section, including the names and
22 addresses of the emerging investment managers used, percentage
23 of the assets under the investment control of emerging
24 investment managers for the 3 separate goals, and the actions
25 it has undertaken to increase the use of emerging investment
26 managers, including encouraging other investment managers to

1 use emerging investment managers as subcontractors when the
2 opportunity arises; (ii) the policy adopted under subsection
3 (5) of this Section; (iii) the policy adopted under subsection
4 (6) of this Section; (iv) the policy adopted under subsection
5 (7) of this Section, including specific actions undertaken to
6 increase the use of minority broker-dealers; and (v) the policy
7 adopted under subsection (9) of this Section.

8 (9) On or before February 1, 2015, a retirement system,
9 pension fund, or investment board subject to this Code, except
10 those whose investments are restricted by Section 1-113.2 of
11 this Code, shall adopt a policy that sets forth goals for
12 increasing the utilization of minority investment managers.
13 For the purposes of this Code, "minority investment manager"
14 means a qualified investment manager that manages an investment
15 portfolio and meets the definition of "minority-owned ~~minority~~
16 ~~owned~~ business", "women-owned ~~female-owned~~ business", or
17 "business owned by a person with a disability", as those terms
18 are defined in the Business Enterprise for Minorities, Women
19 ~~Females~~, and Persons with Disabilities Act.

20 It is hereby declared to be the public policy of the State
21 of Illinois to encourage the trustees of public employee
22 retirement systems, pension funds, and investment boards to use
23 minority investment managers in managing their systems'
24 assets, encompassing all asset classes, and to increase the
25 racial, ethnic, and gender diversity of their fiduciaries, to
26 the greatest extent feasible within the bounds of financial and

1 fiduciary prudence, and to take affirmative steps to remove any
2 barriers to the full participation in investment opportunities
3 afforded by those retirement systems, pension funds, and
4 investment boards.

5 The retirement system, pension fund, or investment board
6 shall establish 3 separate goals for: (i) minority investment
7 managers that are minority-owned ~~minority-owned~~ businesses;
8 (ii) minority investment managers that are women-owned ~~female~~
9 ~~owned~~ businesses; and (iii) minority investment managers that
10 are businesses owned by a person with a disability. The
11 retirement system, pension fund, or investment board shall
12 annually review the goals established under this Section.

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

23 The use of a minority investment manager does not
24 constitute a transfer of investment authority for the purposes
25 of subsection (2) of this Section.

26 (10) Beginning January 1, 2016, it shall be the

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

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

16 (40 ILCS 5/1-113.21)

17 Sec. 1-113.21. Contracts for services.

18 (a) Beginning January 1, 2015, no contract, oral or
19 written, for investment services, consulting services, or
20 commitment to a private market fund shall be awarded by a
21 retirement system, pension fund, or investment board
22 established under this Code unless the investment advisor,
23 consultant, or private market fund first discloses:

24 (1) the number of its investment and senior staff and
25 the percentage of its investment and senior staff who are

1 (i) a minority person, (ii) a woman ~~female~~, and (iii) a
2 person with a disability; and

3 (2) the number of contracts, oral or written, for
4 investment services, consulting services, and professional
5 and artistic services that the investment advisor,
6 consultant, or private market fund has with (i) a
7 minority-owned ~~minority-owned~~ business, (ii) a women-owned
8 ~~female-owned~~ business, or (iii) a business owned by a
9 person with a disability; and

10 (3) the number of contracts, oral or written, for
11 investment services, consulting services, and professional
12 and artistic services the investment advisor, consultant,
13 or private market fund has with a business other than (i) a
14 minority-owned ~~minority-owned~~ business, (ii) a women-owned
15 ~~female-owned~~ business or (iii) a business owned by a person
16 with a disability, if more than 50% of services performed
17 pursuant to the contract are performed by (i) a minority
18 person, (ii) a woman ~~female~~, and (iii) a person with a
19 disability.

20 (b) The disclosures required by this Section shall be
21 considered, within the bounds of financial and fiduciary
22 prudence, prior to the awarding of a contract, oral or written,
23 for investment services, consulting services, or commitment to
24 a private market fund.

25 (c) For the purposes of this Section, the terms "minority
26 person", "woman ~~female~~", "person with a disability",

1 "minority-owned ~~minority-owned~~ business", "women-owned ~~female~~
2 ~~owned~~ business", and "business owned by a person with a
3 disability" have the same meaning as those terms have in the
4 Business Enterprise for Minorities, Women ~~Females~~, and Persons
5 with Disabilities Act.

6 (d) For purposes of this Section, the term "private market
7 fund" means any private equity fund, private equity fund of
8 funds, venture capital fund, hedge fund, hedge fund of funds,
9 real estate fund, or other investment vehicle that is not
10 publicly traded.

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

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

14 (55 ILCS 5/5-1134)

15 Sec. 5-1134. Project labor agreements.

16 (a) Any sports, arts, or entertainment facilities that
17 receive revenue from a tax imposed under subsection (b) of
18 Section 5-1030 of this Code shall be considered to be public
19 works within the meaning of the Prevailing Wage Act. The county
20 authorities responsible for the construction, renovation,
21 modification, or alteration of the sports, arts, or
22 entertainment facilities shall enter into project labor
23 agreements with labor organizations as defined in the National
24 Labor Relations Act to assure that no labor dispute interrupts

1 or interferes with the construction, renovation, modification,
2 or alteration of the projects.

3 (b) The project labor agreements must include the
4 following:

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

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

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

11 The county, taxing bodies, municipalities, and the labor
12 organizations shall have the authority to include other terms
13 and conditions as they deem necessary.

14 (c) The project labor agreement shall be filed with the
15 Director of the Illinois Department of Labor in accordance with
16 procedures established by the Department. At a minimum, the
17 project labor agreement must provide the names, addresses, and
18 occupations of the owner of the facilities and the individuals
19 representing the labor organization employees participating in
20 the project labor agreement. The agreement must also specify
21 the terms and conditions required in subsection (b) of this
22 Section.

23 (d) In any agreement for the construction or rehabilitation
24 of a facility using revenue generated under subsection (b) of
25 Section 5-1030 of this Code, in connection with the
26 prequalification of general contractors for construction or

1 rehabilitation of the facility, it shall be required that a
2 commitment will be submitted detailing how the general
3 contractor will expend 15% or more of the aggregate dollar
4 value of the project as a whole with one or more minority-owned
5 businesses, women-owned ~~female-owned~~ businesses, or businesses
6 owned by a person with a disability, as these terms are defined
7 in Section 2 of the Business Enterprise for Minorities, Women
8 ~~Females~~, and Persons with Disabilities Act.

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

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

12 (65 ILCS 115/10-5.3)

13 Sec. 10-5.3. Certification of River Edge Redevelopment
14 Zones.

15 (a) Approval of designated River Edge Redevelopment Zones
16 shall be made by the Department by certification of the
17 designating ordinance. The Department shall promptly issue a
18 certificate for each zone upon its approval. The certificate
19 shall be signed by the Director of the Department, shall make
20 specific reference to the designating ordinance, which shall be
21 attached thereto, and shall be filed in the office of the
22 Secretary of State. A certified copy of the River Edge
23 Redevelopment Zone Certificate, or a duplicate original
24 thereof, shall be recorded in the office of the recorder of

1 deeds of the county in which the River Edge Redevelopment Zone
2 lies.

3 (b) A River Edge Redevelopment Zone shall be effective upon
4 its certification. The Department shall transmit a copy of the
5 certification to the Department of Revenue, and to the
6 designating municipality. Upon certification of a River Edge
7 Redevelopment Zone, the terms and provisions of the designating
8 ordinance shall be in effect, and may not be amended or
9 repealed except in accordance with Section 10-5.4.

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

15 (d) In calendar years 2006 and 2007, the Department may
16 certify one pilot River Edge Redevelopment Zone in the City of
17 East St. Louis, one pilot River Edge Redevelopment Zone in the
18 City of Rockford, and one pilot River Edge Redevelopment Zone
19 in the City of Aurora.

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

22 On or after the effective date of this amendatory Act of
23 the 97th General Assembly, the Department may certify one
24 additional pilot River Edge Redevelopment Zone in the City of
25 Peoria.

26 Thereafter the Department may not certify any additional

1 River Edge Redevelopment Zones, but may amend and rescind
2 certifications of existing River Edge Redevelopment Zones in
3 accordance with Section 10-5.4, except that no River Edge
4 Redevelopment Zone may be extended on or after the effective
5 date of this amendatory Act of the 97th General Assembly. Each
6 River Edge Redevelopment Zone in existence on the effective
7 date of this amendatory Act of the 97th General Assembly shall
8 continue until its scheduled termination under this Act, unless
9 the Zone is decertified sooner. At the time of its term
10 expiration each River Edge Redevelopment Zone will become an
11 open enterprise zone, available for the previously designated
12 area or a different area to compete for designation as an
13 enterprise zone. No preference for designation as a Zone will
14 be given to the previously designated area.

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

1 (Source: P.A. 96-37, eff. 7-13-09; 97-203, eff. 7-28-11;
2 97-905, eff. 8-7-12.)

3 Section 100. The Metropolitan Pier and Exposition
4 Authority Act is amended by changing Sections 10.2 and 23.1 as
5 follows:

6 (70 ILCS 210/10.2)

7 Sec. 10.2. Bonding disclosure.

8 (a) Truth in borrowing disclosure. Within 60 business days
9 after the issuance of any bonds under this Act, the Authority
10 shall disclose the total principal and interest payments to be
11 paid on the bonds over the full stated term of the bonds. The
12 disclosure also shall include principal and interest payments
13 to be made by each fiscal year over the full stated term of the
14 bonds and total principal and interest payments to be made by
15 each fiscal year on all other outstanding bonds issued under
16 this Act over the full stated terms of those bonds. These
17 disclosures shall be calculated assuming bonds are not redeemed
18 or refunded prior to their stated maturities. Amounts included
19 in these disclosures as payment of interest on variable rate
20 bonds shall be computed at an interest rate equal to the rate
21 at which the variable rate bonds are first set upon issuance,
22 plus 2.5%, after taking into account any credits permitted in
23 the related indenture or other instrument against the amount of
24 such interest for each fiscal year.

1 (b) Bond sale expenses disclosure. Within 60 business days
2 after the issuance of any bonds under this Act, the Authority
3 shall disclose all costs of issuance on each sale of bonds
4 under this Act. The disclosure shall include, as applicable,
5 the respective percentages of participation and compensation
6 of each underwriter that is a member of the underwriting
7 syndicate, legal counsel, financial advisors, and other
8 professionals for the bond issue and an identification of all
9 costs of issuance paid to minority-owned ~~minority-owned~~
10 businesses, women-owned ~~female-owned~~ businesses, and
11 businesses owned by persons with disabilities. The terms
12 "minority-owned ~~minority-owned~~ businesses", "women-owned
13 ~~female-owned~~ businesses", and "business owned by a person with
14 a disability" have the meanings given to those terms in the
15 Business Enterprise for Minorities, Women ~~Females~~, and Persons
16 with Disabilities Act. In addition, the Authority shall provide
17 copies of all contracts under which any costs of issuance are
18 paid or to be paid to the Commission on Government Forecasting
19 and Accountability within 60 business days after the issuance
20 of bonds for which those costs are paid or to be paid. Instead
21 of filing a second or subsequent copy of the same contract, the
22 Authority may file a statement that specified costs are paid
23 under specified contracts filed earlier with the Commission.

24 (c) The disclosures required in this Section shall be
25 published by posting the disclosures for no less than 30 days
26 on the website of the Authority and shall be available to the

1 public upon request. The Authority shall also provide the
2 disclosures to the Governor's Office of Management and Budget,
3 the Commission on Government Forecasting and Accountability,
4 and the General Assembly.

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

6 (70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

7 Sec. 23.1. Affirmative action.

8 (a) The Authority shall, within 90 days after the effective
9 date of this amendatory Act of 1984, establish and maintain an
10 affirmative action program designed to promote equal
11 employment opportunity and eliminate the effects of past
12 discrimination. Such program shall include a plan, including
13 timetables where appropriate, which shall specify goals and
14 methods for increasing participation by women and minorities in
15 employment, including employment related to the planning,
16 organization, and staging of the games, by the Authority and by
17 parties which contract with the Authority. The Authority shall
18 submit a detailed plan with the General Assembly prior to
19 September 1 of each year. Such program shall also establish
20 procedures and sanctions ~~(including debarment)~~, which the
21 Authority shall enforce to ensure compliance with the plan
22 established pursuant to this Section and with State and federal
23 laws and regulations relating to the employment of women and
24 minorities. A determination by the Authority as to whether a
25 party to a contract with the Authority has achieved the goals

1 or employed the methods for increasing participation by women
2 and minorities shall be determined in accordance with the terms
3 of such contracts or the applicable provisions of rules and
4 regulations of the Authority existing at the time such contract
5 was executed, including any provisions for consideration of
6 good faith efforts at compliance which the Authority may
7 reasonably adopt.

8 (b) The Authority shall adopt and maintain minority-owned
9 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
10 procurement programs under the affirmative action program
11 described in subsection (a) for any and all work, including all
12 contracting related to the planning, organization, and staging
13 of the games, undertaken by the Authority. That work shall
14 include, but is not limited to, the purchase of professional
15 services, construction services, supplies, materials, and
16 equipment. The programs shall establish goals of awarding not
17 less than 25% of the annual dollar value of all contracts,
18 purchase orders, or other agreements (collectively referred to
19 as "contracts") to minority-owned ~~minority-owned~~ businesses
20 and 5% of the annual dollar value of all contracts to
21 women-owned ~~female-owned~~ businesses. Without limiting the
22 generality of the foregoing, the programs shall require in
23 connection with the prequalification or consideration of
24 vendors for professional service contracts, construction
25 contracts, and contracts for supplies, materials, equipment,
26 and services that each proposer or bidder submit as part of his

1 or her proposal or bid a commitment detailing how he or she
2 will expend 25% or more of the dollar value of his or her
3 contracts with one or more minority-owned ~~minority-owned~~
4 businesses and 5% or more of the dollar value with one or more
5 women-owned ~~female-owned~~ businesses. Bids or proposals that do
6 not include such detailed commitments are not responsive and
7 shall be rejected unless the Authority deems it appropriate to
8 grant a waiver of these requirements. In addition the Authority
9 may, in connection with the selection of providers of
10 professional services, reserve the right to select a
11 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business
12 or businesses to fulfill the commitment to minority and woman
13 ~~female~~ business participation. The commitment to minority and
14 woman ~~female~~ business participation may be met by the
15 contractor or professional service provider's status as a
16 minority-owned ~~minority~~ or women-owned ~~female-owned~~ business,
17 by joint venture or by subcontracting a portion of the work
18 with or purchasing materials for the work from one or more such
19 businesses, or by any combination thereof. Each contract shall
20 require the contractor or provider to submit a certified
21 monthly report detailing the status of that contractor or
22 provider's compliance with the Authority's minority-owned
23 ~~minority~~ and women-owned ~~female-owned~~ business enterprise
24 procurement program. The Authority, after reviewing the
25 monthly reports of the contractors and providers, shall compile
26 a comprehensive report regarding compliance with this

1 procurement program and file it quarterly with the General
2 Assembly. If, in connection with a particular contract, the
3 Authority determines that it is impracticable or excessively
4 costly to obtain minority-owned ~~minority~~ or women-owned ~~female~~
5 ~~owned~~ businesses to perform sufficient work to fulfill the
6 commitment required by this subsection, the Authority shall
7 reduce or waive the commitment in the contract, as may be
8 appropriate. The Authority shall establish rules and
9 regulations setting forth the standards to be used in
10 determining whether or not a reduction or waiver is
11 appropriate. The terms "minority-owned ~~minority-owned~~
12 business" and "women-owned ~~female-owned~~ business" have the
13 meanings given to those terms in the Business Enterprise for
14 Minorities, Women ~~Females~~, and Persons with Disabilities Act.

15 (c) The Authority shall adopt and maintain an affirmative
16 action program in connection with the hiring of minorities and
17 women on the Expansion Project and on any and all construction
18 projects, including all contracting related to the planning,
19 organization, and staging of the games, undertaken by the
20 Authority. The program shall be designed to promote equal
21 employment opportunity and shall specify the goals and methods
22 for increasing the participation of minorities and women in a
23 representative mix of job classifications required to perform
24 the respective contracts awarded by the Authority.

25 (d) In connection with the Expansion Project, the Authority
26 shall incorporate the following elements into its

1 minority-owned ~~minority~~ and women-owned ~~female-owned~~ business
2 procurement programs to the extent feasible: (1) a major
3 contractors program that permits minority-owned ~~minority-owned~~
4 businesses and women-owned ~~female-owned~~ businesses to bear
5 significant responsibility and risk for a portion of the
6 project; (2) a mentor/protege program that provides financial,
7 technical, managerial, equipment, and personnel support to
8 minority-owned ~~minority-owned~~ businesses and women-owned
9 ~~female-owned~~ businesses; (3) an emerging firms program that
10 includes minority-owned ~~minority-owned~~ businesses and
11 women-owned ~~female-owned~~ businesses that would not otherwise
12 qualify for the project due to inexperience or limited
13 resources; (4) a small projects program that includes
14 participation by smaller minority-owned ~~minority-owned~~
15 businesses and women-owned ~~female-owned~~ businesses on jobs
16 where the total dollar value is \$5,000,000 or less; and (5) a
17 set-aside program that will identify contracts requiring the
18 expenditure of funds less than \$50,000 for bids to be submitted
19 solely by minority-owned ~~minority-owned~~ businesses and
20 women-owned ~~female-owned~~ businesses.

21 (e) The Authority is authorized to enter into agreements
22 with contractors' associations, labor unions, and the
23 contractors working on the Expansion Project to establish an
24 Apprenticeship Preparedness Training Program to provide for an
25 increase in the number of minority and women ~~female~~ journeymen
26 and apprentices in the building trades and to enter into

1 agreements with Community College District 508 to provide
2 readiness training. The Authority is further authorized to
3 enter into contracts with public and private educational
4 institutions and persons in the hospitality industry to provide
5 training for employment in the hospitality industry.

6 (f) McCormick Place Advisory Board. There is created a
7 McCormick Place Advisory Board composed as follows: 2 members
8 shall be appointed by the Mayor of Chicago; 2 members shall be
9 appointed by the Governor; 2 members shall be State Senators
10 appointed by the President of the Senate; 2 members shall be
11 State Senators appointed by the Minority Leader of the Senate;
12 2 members shall be State Representatives appointed by the
13 Speaker of the House of Representatives; and 2 members shall be
14 State Representatives appointed by the Minority Leader of the
15 House of Representatives. The terms of all previously appointed
16 members of the Advisory Board expire on the effective date of
17 this amendatory Act of the 92nd General Assembly. A State
18 Senator or State Representative member may appoint a designee
19 to serve on the McCormick Place Advisory Board in his or her
20 absence.

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

24 (1) American Indian or Alaska Native (a person having
25 origins in any of the original peoples of North and South
26 America, including Central America, and who maintains

1 tribal affiliation or community attachment).

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

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

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

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

17 Members of the McCormick Place Advisory Board shall serve
18 2-year terms and until their successors are appointed, except
19 members who serve as a result of their elected position whose
20 terms shall continue as long as they hold their designated
21 elected positions. Vacancies shall be filled by appointment for
22 the unexpired term in the same manner as original appointments
23 are made. The McCormick Place Advisory Board shall elect its
24 own chairperson.

25 Members of the McCormick Place Advisory Board shall serve
26 without compensation but, at the Authority's discretion, shall

1 be reimbursed for necessary expenses in connection with the
2 performance of their duties.

3 The McCormick Place Advisory Board shall meet quarterly, or
4 as needed, shall produce any reports it deems necessary, and
5 shall:

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

8 (2) Work with the Authority regarding potential means
9 for providing increased economic opportunities to
10 minorities and women produced indirectly or directly from
11 the construction and operation of the Expansion Project;

12 (3) Work with the Authority to minimize any potential
13 impact on the area surrounding the McCormick Place
14 Expansion Project, including any impact on minority-owned
15 ~~minority~~ or women-owned ~~female-owned~~ businesses, resulting
16 from the construction and operation of the Expansion
17 Project;

18 (4) Work with the Authority to find candidates for
19 building trades apprenticeships, for employment in the
20 hospitality industry, and to identify job training
21 programs;

22 (5) Work with the Authority to implement the provisions
23 of subsections (a) through (e) of this Section in the
24 construction of the Expansion Project, including the
25 Authority's goal of awarding not less than 25% and 5% of
26 the annual dollar value of contracts to minority-owned

1 ~~minority~~ and women-owned ~~female-owned~~ businesses, the
2 outreach program for minorities and women, and the
3 mentor/protege program for providing assistance to
4 minority-owned ~~minority~~ and women-owned ~~female-owned~~
5 businesses.

6 (g) The Authority shall comply with subsection (e) of
7 Section 5-42 of the Olympic Games and Paralympic Games (2016)
8 Law. For purposes of this Section, the term "games" has the
9 meaning set forth in the Olympic Games and Paralympic Games
10 (2016) Law.

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

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

14 (70 ILCS 3205/9) (from Ch. 85, par. 6009)

15 Sec. 9. Duties. In addition to the powers set forth
16 elsewhere in this Act, subject to the terms of any agreements
17 with the holders of the Authority's bonds or notes, the
18 Authority shall:

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

23 (2) With respect to a facility owned or to be owned by
24 the Authority, enter or have entered into a management

1 agreement with a tenant of the Authority to operate the
2 facility that requires the tenant to operate the facility
3 for a period at least as long as the term of any bonds
4 issued to finance the development, establishment,
5 construction, erection, acquisition, repair,
6 reconstruction, remodeling, adding to, extension,
7 improvement, equipping, operation, and maintenance of the
8 facility. Such agreement shall contain appropriate and
9 reasonable provisions with respect to termination, default
10 and legal remedies.

11 (3) With respect to a facility owned or to be owned by
12 a governmental owner other than the Authority, enter into
13 an assistance agreement with either a governmental owner of
14 a facility or its tenant, or both, that requires the
15 tenant, or if the tenant is not a party to the assistance
16 agreement requires the governmental owner to enter into an
17 agreement with the tenant that requires the tenant to use
18 the facility for a period at least as long as the term of
19 any bonds issued to finance the reconstruction,
20 renovation, remodeling, extension or improvement of all or
21 substantially all of the facility.

22 (4) Create and maintain a separate financial reserve
23 for repair and replacement of capital assets of any
24 facility owned by the Authority or for which the Authority
25 provides financial assistance and deposit into this
26 reserve not less than \$1,000,000 per year for each such

1 facility beginning at such time as the Authority and the
2 tenant, or the Authority and a governmental owner of a
3 facility, as applicable, shall agree.

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

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

21 (6) Provide for the construction of any new facility
22 pursuant to one or more contracts which require delivery of
23 a completed facility at a fixed maximum price to be insured
24 or guaranteed by a third party determined by the Authority
25 to be financially capable of causing completion of such
26 construction of the new facility.

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

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

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

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

1 (70 ILCS 3210/40)

2 Sec. 40. Duties.

3 (a) In addition to the powers set forth elsewhere in this
4 Act, subject to the terms of any agreements with the holders of
5 the Authority's evidences of indebtedness, the Authority shall
6 do the following:

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

11 (2) Enter into a loan agreement with an owner of a
12 facility to finance the acquisition, construction,
13 maintenance, or rehabilitation of the facility. The
14 agreement shall contain appropriate and reasonable
15 provisions with respect to termination, default, and legal
16 remedies. The loan may be at below-market interest rates.

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

19 (b) In a loan agreement for the construction of a new
20 facility, in connection with prequalification of general
21 contractors for construction of the facility, the Authority
22 shall require that the owner of the facility require submission
23 of a commitment detailing how the general contractor will
24 expend 25% or more of the dollar value of the general contract
25 with one or more minority-owned businesses ~~minority business~~
26 ~~enterprises~~ and 5% or more of the dollar value with one or more

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

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

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

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

15 (70 ILCS 3605/12c)

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

17 (a) In addition to all other bonds or notes that it is
18 authorized to issue, the Authority is authorized to issue its
19 bonds or notes for the purposes of providing funds for the
20 Authority to make the deposits described in Section 12c(b)(1)
21 and (2), for refunding any bonds authorized to be issued under
22 this Section, as well as for the purposes of paying costs of
23 issuance, obtaining bond insurance or other credit enhancement
24 or liquidity facilities, paying costs of obtaining related

1 swaps as authorized in the Bond Authorization Act ("Swaps"),
2 providing a debt service reserve fund, paying Debt Service (as
3 defined in paragraph (i) of this Section 12c), and paying all
4 other costs related to any such bonds or notes.

5 (b) (1) After its receipt of a certified copy of a report of
6 the Auditor General of the State of Illinois meeting the
7 requirements of Section 3-2.3 of the Illinois State Auditing
8 Act, the Authority may issue \$1,348,550,000 aggregate original
9 principal amount of bonds and notes. After payment of the costs
10 of issuance and necessary deposits to funds and accounts
11 established with respect to debt service, the net proceeds of
12 such bonds or notes shall be deposited only in the Retirement
13 Plan for Chicago Transit Authority Employees and used only for
14 the purposes required by Section 22-101 of the Illinois Pension
15 Code. Provided that no less than \$1,110,500,000 has been
16 deposited in the Retirement Plan, remaining proceeds of bonds
17 issued under this subparagraph (b) (1) may be used to pay costs
18 of issuance and make necessary deposits to funds and accounts
19 with respect to debt service for bonds and notes issued under
20 this subparagraph or subparagraph (b) (2).

21 (2) After its receipt of a certified copy of a report of
22 the Auditor General of the State of Illinois meeting the
23 requirements of Section 3-2.3 of the Illinois State Auditing
24 Act, the Authority may issue \$639,680,000 aggregate original
25 principal amount of bonds and notes. After payment of the costs
26 of issuance and necessary deposits to funds and accounts

1 established with respect to debt service, the net proceeds of
2 such bonds or notes shall be deposited only in the Retiree
3 Health Care Trust and used only for the purposes required by
4 Section 22-101B of the Illinois Pension Code. Provided that no
5 less than \$528,800,000 has been deposited in the Retiree Health
6 Care Trust, remaining proceeds of bonds issued under this
7 subparagraph (b) (2) may be used to pay costs of issuance and
8 make necessary deposits to funds and accounts with respect to
9 debt service for bonds and notes issued under this subparagraph
10 or subparagraph (b) (1).

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

14 (4) The bonds or notes issued under 12c(b) (1) shall be
15 issued as soon as practicable after the Auditor General issues
16 the report provided in Section 3-2.3(b) of the Illinois State
17 Auditing Act. The bonds or notes issued under 12c(b) (2) shall
18 be issued as soon as practicable after the Auditor General
19 issues the report provided in Section 3-2.3(c) of the Illinois
20 State Auditing Act.

21 (5) With respect to bonds and notes issued under
22 subparagraph (b), scheduled aggregate annual payments of
23 interest or deposits into funds and accounts established for
24 the purpose of such payment shall commence within one year
25 after the bonds and notes are issued. With respect to principal
26 and interest, scheduled aggregate annual payments of principal

1 and interest or deposits into funds and accounts established
2 for the purpose of such payment shall be not less than 70% in
3 2009, 80% in 2010, and 90% in 2011, respectively, of scheduled
4 payments or deposits of principal and interest in 2012 and
5 shall be substantially equal beginning in 2012 and each year
6 thereafter. For purposes of this subparagraph (b),
7 "substantially equal" means that debt service in any full year
8 after calendar year 2011 is not more than 115% of debt service
9 in any other full year after calendar year 2011 during the term
10 of the bonds or notes. For the purposes of this subsection (b),
11 with respect to bonds and notes that bear interest at a
12 variable rate, interest shall be assumed at a rate equal to the
13 rate for United States Treasury Securities - State and Local
14 Government Series for the same maturity, plus 75 basis points.
15 If the Authority enters into a Swap with a counterparty
16 requiring the Authority to pay a fixed interest rate on a
17 notional amount, and the Authority has made a determination
18 that such Swap was entered into for the purpose of providing
19 substitute interest payments for variable interest rate bonds
20 or notes of a particular maturity or maturities in a principal
21 amount equal to the notional amount of the Swap, then during
22 the term of the Swap for purposes of any calculation of
23 interest payable on such bonds or notes, the interest rate on
24 the bonds or notes of such maturity or maturities shall be
25 determined as if such bonds or notes bore interest at the fixed
26 interest rate payable by the Authority under such Swap.

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

3 (c) The Chicago Transit Board shall provide for the
4 issuance of bonds or notes as authorized in this Section 12c by
5 the adoption of an ordinance. The ordinance, together with the
6 bonds or notes, shall constitute a contract among the
7 Authority, the owners from time to time of the bonds or notes,
8 any bond trustee with respect to the bonds or notes, any
9 related credit enhancer and any provider of any related Swaps.

10 (d) The Authority is authorized to cause the proceeds of
11 the bonds or notes, and any interest or investment earnings on
12 the bonds or notes, and of any Swaps, to be invested until the
13 proceeds and any interest or investment earnings have been
14 deposited with the Retirement Plan or the Retiree Health Care
15 Trust.

16 (e) Bonds or notes issued pursuant to this Section 12c may
17 be general obligations of the Authority, to which shall be
18 pledged the full faith and credit of the Authority, or may be
19 obligations payable solely from particular sources of funds all
20 as may be provided in the authorizing ordinance. The
21 authorizing ordinance for the bonds and notes, whether or not
22 general obligations of the Authority, may provide for the Debt
23 Service (as defined in paragraph (i) of this Section 12c) to
24 have a claim for payment from particular sources of funds,
25 including, without limitation, amounts to be paid to the
26 Authority or a bond trustee. The authorizing ordinance may

1 provide for the means by which the bonds or notes (and any
2 related Swaps) may be secured, which may include, a pledge of
3 any revenues or funds of the Authority from whatever source
4 which may by law be utilized for paying Debt Service. In
5 addition to any other security, upon the written approval of
6 the Regional Transportation Authority by the affirmative vote
7 of 12 of its then Directors, the ordinance may provide a
8 specific pledge or assignment of and lien on or security
9 interest in amounts to be paid to the Authority by the Regional
10 Transportation Authority and direct payment thereof to the bond
11 trustee for payment of Debt Service with respect to the bonds
12 or notes, subject to the provisions of existing lease
13 agreements of the Authority with any public building
14 commission. The authorizing ordinance may also provide a
15 specific pledge or assignment of and lien on or security
16 interest in and direct payment to the trustee of all or a
17 portion of the moneys otherwise payable to the Authority from
18 the City of Chicago pursuant to an intergovernmental agreement
19 with the Authority to provide financial assistance to the
20 Authority. Any such pledge, assignment, lien or security
21 interest for the benefit of owners of bonds or notes shall be
22 valid and binding from the time the bonds or notes are issued,
23 without any physical delivery or further act, and shall be
24 valid and binding as against and prior to the claims of all
25 other parties having claims of any kind against the Authority
26 or any other person, irrespective of whether such other parties

1 have notice of such pledge, assignment, lien or security
2 interest, all as provided in the Local Government Debt Reform
3 Act, as it may be amended from time to time. The bonds or notes
4 of the Authority issued pursuant to this Section 12c shall have
5 such priority of payment and as to their claim for payment from
6 particular sources of funds, including their priority with
7 respect to obligations of the Authority issued under other
8 Sections of this Act, all as shall be provided in the
9 ordinances authorizing the issuance of the bonds or notes. The
10 ordinance authorizing the issuance of any bonds or notes under
11 this Section may provide for the creation of, deposits in, and
12 regulation and disposition of sinking fund or reserve accounts
13 relating to those bonds or notes and related agreements. The
14 ordinance authorizing the issuance of any such bonds or notes
15 authorized under this Section 12c may contain provisions for
16 the creation of a separate fund to provide for the payment of
17 principal of and interest on those bonds or notes and related
18 agreements. The ordinance may also provide limitations on the
19 issuance of additional bonds or notes of the Authority.

20 (f) Bonds or notes issued under this Section 12c shall not
21 constitute an indebtedness of the Regional Transportation
22 Authority, the State of Illinois, or of any other political
23 subdivision of or municipality within the State, except the
24 Authority.

25 (g) The ordinance of the Chicago Transit Board authorizing
26 the issuance of bonds or notes pursuant to this Section 12c may

1 provide for the appointment of a corporate trustee (which may
2 be any trust company or bank having the powers of a trust
3 company within Illinois) with respect to bonds or notes issued
4 pursuant to this Section 12c. The ordinance shall prescribe the
5 rights, duties, and powers of the trustee to be exercised for
6 the benefit of the Authority and the protection of the owners
7 of bonds or notes issued pursuant to this Section 12c. The
8 ordinance may provide for the trustee to hold in trust, invest
9 and use amounts in funds and accounts created as provided by
10 the ordinance with respect to the bonds or notes in accordance
11 with this Section 12c. The Authority may apply, as it shall
12 determine, any amounts received upon the sale of the bonds or
13 notes to pay any Debt Service on the bonds or notes. The
14 ordinance may provide for a trust indenture to set forth terms
15 of, sources of payment for and security for the bonds and
16 notes.

17 (h) The State of Illinois pledges to and agrees with the
18 owners of the bonds or notes issued pursuant to Section 12c
19 that the State of Illinois will not limit the powers vested in
20 the Authority by this Act to pledge and assign its revenues and
21 funds as security for the payment of the bonds or notes, or
22 vested in the Regional Transportation Authority by the Regional
23 Transportation Authority Act or this Act, so as to materially
24 impair the payment obligations of the Authority under the terms
25 of any contract made by the Authority with those owners or to
26 materially impair the rights and remedies of those owners until

1 those bonds or notes, together with interest and any redemption
2 premium, and all costs and expenses in connection with any
3 action or proceedings by or on behalf of such owners are fully
4 met and discharged. The Authority is authorized to include
5 these pledges and agreements of the State of Illinois in any
6 contract with owners of bonds or notes issued pursuant to this
7 Section 12c.

8 (i) For purposes of this Section, "Debt Service" with
9 respect to bonds or notes includes, without limitation,
10 principal (at maturity or upon mandatory redemption),
11 redemption premium, interest, periodic, upfront, and
12 termination payments on Swaps, fees for bond insurance or other
13 credit enhancement, liquidity facilities, the funding of bond
14 or note reserves, bond trustee fees, and all other costs of
15 providing for the security or payment of the bonds or notes.

16 (j) The Authority shall adopt a procurement program with
17 respect to contracts relating to the following service
18 providers in connection with the issuance of debt for the
19 benefit of the Retirement Plan for Chicago Transit Authority
20 Employees: underwriters, bond counsel, financial advisors, and
21 accountants. The program shall include goals for the payment of
22 not less than 30% of the total dollar value of the fees from
23 these contracts to minority-owned ~~minority-owned~~ businesses
24 and women-owned ~~female-owned~~ businesses as defined in the
25 Business Enterprise for Minorities, Women ~~Females~~, and Persons
26 with Disabilities Act. The Authority shall conduct outreach to

1 minority-owned ~~minority-owned~~ businesses and women-owned
2 ~~female-owned~~ businesses. Outreach shall include, but is not
3 limited to, advertisements in periodicals and newspapers,
4 mailings, and other appropriate media. The Authority shall
5 submit to the General Assembly a comprehensive report that
6 shall include, at a minimum, the details of the procurement
7 plan, outreach efforts, and the results of the efforts to
8 achieve goals for the payment of fees. The service providers
9 selected by the Authority pursuant to such program shall not be
10 subject to approval by the Regional Transportation Authority,
11 and the Regional Transportation Authority's approval pursuant
12 to subsection (e) of this Section 12c related to the issuance
13 of debt shall not be based in any way on the service providers
14 selected by the Authority pursuant to this Section.

15 (k) No person holding an elective office in this State,
16 holding a seat in the General Assembly, serving as a director,
17 trustee, officer, or employee of the Regional Transportation
18 Authority or the Chicago Transit Authority, including the
19 spouse or minor child of that person, may receive a legal,
20 banking, consulting, or other fee related to the issuance of
21 any bond issued by the Chicago Transit Authority pursuant to
22 this Section.

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

24 Section 120. The School Code is amended by changing Section
25 10-20.44 as follows:

1 (105 ILCS 5/10-20.44)

2 Sec. 10-20.44. Report on contracts.

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

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

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

16 (1) the total number of all contracts awarded by the
17 school district;

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

19 (3) the number of contracts awarded to minority-owned
20 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
21 businesses, and businesses owned by persons with
22 disabilities, as defined in the Business Enterprise for
23 Minorities, Women, ~~Females~~ and Persons with Disabilities
24 Act, and locally owned businesses; and

25 (4) the total value of contracts awarded to

1 minority-owned ~~minority-owned~~ businesses, women-owned
2 ~~female-owned~~ businesses, and businesses owned by persons
3 with disabilities, as defined in the Business Enterprise
4 for Minorities, Women, ~~Females~~ and Persons with
5 Disabilities Act, and locally owned businesses.

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

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

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

11 (110 ILCS 62/3)

12 Sec. 3. Applicable laws. Other State laws and related
13 administrative requirements apply to this Act, including, but
14 not limited to, the following laws and related administrative
15 requirements: the Illinois Human Rights Act, the Prevailing
16 Wage Act, the Public Construction Bond Act, the Public Works
17 Preference Act (repealed on June 16, 2010 by Public Act
18 96-929), the Employment of Illinois Workers on Public Works
19 Act, the Freedom of Information Act, the Open Meetings Act, the
20 Illinois Architecture Practice Act of 1989, the Professional
21 Engineering Practice Act of 1989, the Structural Engineering
22 Practice Act of 1989, the Architectural, Engineering, and Land
23 Surveying Qualifications Based Selection Act, the Public
24 Contract Fraud Act, the Business Enterprise for Minorities,

1 Women ~~Females~~, and Persons with Disabilities Act, and the
2 Public Works Employment Discrimination Act.

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

4 (110 ILCS 62/5-10)

5 Sec. 5-10. Energy conservation measure.

6 (a) "Energy conservation measure" means any improvement,
7 repair, alteration, or betterment of any building or facility,
8 subject to all applicable building codes, owned or operated by
9 a public university or any equipment, fixture, or furnishing to
10 be added to or used in any such building or facility that is
11 designed to reduce energy consumption or operating costs, and
12 may include, without limitation, one or more of the following:

13 (1) Insulation of the building structure or systems
14 within the building.

15 (2) Storm windows or doors, caulking or
16 weatherstripping, multiglazed windows or doors, heat
17 absorbing or heat reflective glazed and coated window or
18 door systems, additional glazing, reductions in glass
19 area, or other window and door system modifications that
20 reduce energy consumption.

21 (3) Automated or computerized energy control systems.

22 (4) Heating, ventilating, or air conditioning system
23 modifications or replacements.

24 (5) Replacement or modification of lighting fixtures
25 to increase the energy efficiency of the lighting system

1 without increasing the overall illumination of a facility,
2 unless an increase in illumination is necessary to conform
3 to the applicable State or local building code for the
4 lighting system after the proposed modifications are made.

5 (6) Energy recovery systems.

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

8 (b) From the effective date of this amendatory Act of the
9 96th General Assembly until January 1, 2015, "energy
10 conservation measure" includes a renewable energy center pilot
11 project at Eastern Illinois University, provided that:

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

15 (2) the University has responsibility for the
16 qualified provider's actions with regard to applicable
17 laws;

18 (3) the University obtains a performance bond in
19 accordance with this Act;

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

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

1 (6) the University provides monthly progress reports
2 to the Procurement Policy Board, and the University allows
3 a representative from CDB to monitor the project, provided
4 that such involvement is at no cost to the University;

5 (7) the University requires the qualified provider to
6 follow the provisions of the Business Enterprise for
7 Minorities, Women ~~Females~~, and Persons with Disabilities
8 Act and the Public Works Employment Discrimination Act as
9 provided in this Act;

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

13 (9) the University includes in its contract with the
14 qualified provider a requirement that the qualified
15 provider name the sub-contractors that it will use, and the
16 qualified provider may not change these without the
17 University's written approval;

18 (10) the University follows, to the extent possible,
19 the Design-Build Procurement Act for construction of the
20 project, taking into consideration the current status of
21 the project; for purposes of this Act, the definition of
22 "State construction agency" in the Design-Build
23 Procurement Act means Eastern Illinois University for the
24 purpose of this project;

25 (11) the University follows, to the extent possible,
26 the Architectural, Engineering, and Land Surveying

1 Qualifications Based Selection Act;

2 (12) the University requires all engineering,
3 architecture, and design work related to the installation
4 or modification of facilities be performed by design
5 professionals licensed by the State of Illinois and
6 professional design firms registered in the State of
7 Illinois; and

8 (13) the University produces annual reports and a final
9 report describing the project upon completion and files the
10 reports with the Procurement Policy Board, CDB, and the
11 General Assembly.

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

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

15 (110 ILCS 320/1.1 rep.)

16 Section 130. The University of Illinois at Chicago Act is
17 amended by repealing Section 1.1.

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

20 (110 ILCS 675/20-115)

21 Sec. 20-115. Illinois Institute for Entrepreneurship
22 Education.

23 (a) There is created, effective July 1, 1997, within the

1 State at Illinois State University, the Illinois Institute for
2 Entrepreneurship Education, hereinafter referred to as the
3 Institute.

4 (b) The Institute created under this Section shall commence
5 its operations on July 1, 1997 and shall have a board composed
6 of 15 members representative of education, commerce and
7 industry, government, or labor, appointed as follows: 2 members
8 shall be appointees of the Governor, one of whom shall be a
9 minority or woman ~~female~~ person as defined in Section 2 of the
10 Business Enterprise for Minorities, Women ~~Females~~, and Persons
11 with Disabilities Act; one member shall be an appointee of the
12 President of the Senate; one member shall be an appointee of
13 the Minority Leader of the Senate; one member shall be an
14 appointee of the Speaker of the House of Representatives; one
15 member shall be an appointee of the Minority Leader of the
16 House of Representatives; 2 members shall be appointees of
17 Illinois State University; one member shall be an appointee of
18 the Board of Higher Education; one member shall be an appointee
19 of the State Board of Education; one member shall be an
20 appointee of the Department of Commerce and Economic
21 Opportunity; one member shall be an appointee of the Illinois
22 chapter of Economics America; and 3 members shall be appointed
23 by majority vote of the other 12 appointed members to represent
24 business owner-entrepreneurs. Each member shall have expertise
25 and experience in the area of entrepreneurship education,
26 including small business and entrepreneurship. The majority of

1 voting members must be from the private sector. The members
2 initially appointed to the board of the Institute created under
3 this Section shall be appointed to take office on July 1, 1997
4 and shall by lot determine the length of their respective terms
5 as follows: 5 members shall be selected by lot to serve terms
6 of one year, 5 members shall be selected by lot to serve terms
7 of 2 years, and 5 members shall be selected by lot to serve
8 terms of 3 years. Subsequent appointees shall each serve terms
9 of 3 years. The board shall annually select a chairperson from
10 among its members. Each board member shall serve without
11 compensation but shall be reimbursed for expenses incurred in
12 the performance of his or her duties.

13 (c) The purpose of the Institute shall be to foster the
14 growth and development of entrepreneurship education in the
15 State of Illinois. The Institute shall help remedy the
16 deficiencies in the preparation of entrepreneurship education
17 teachers, increase the quality and quantity of
18 entrepreneurship education programs, improve instructional
19 materials, and prepare personnel to serve as leaders and
20 consultants in the field of entrepreneurship education and
21 economic development. The Institute shall promote
22 entrepreneurship as a career option, promote and support the
23 development of innovative entrepreneurship education materials
24 and delivery systems, promote business, industry, and
25 education partnerships, promote collaboration and involvement
26 in entrepreneurship education programs, encourage and support

1 in-service and preservice teacher education programs within
2 various educational systems, and develop and distribute
3 relevant materials. The Institute shall provide a framework
4 under which the public and private sectors may work together
5 toward entrepreneurship education goals. These goals shall be
6 achieved by bringing together programs that have an impact on
7 entrepreneurship education to achieve coordination among
8 agencies and greater efficiency in the expenditure of funds.

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

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

14 (2) To own property and expend and receive funds and
15 generate funds;

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

18 (4) To request and receive the cooperation and
19 assistance of all State departments and agencies in the
20 furtherance of its purpose.

21 (e) The board of the Institute shall be a policy making
22 body with the responsibility for planning and developing
23 Institute programs. The Institute, through the Board of
24 Trustees of Illinois State University, shall annually report to
25 the Governor and General Assembly by January 31 as to its
26 activities and operations, including its findings and

1 recommendations.

2 (f) Beginning on July 1, 1997, the Institute created under
3 this Section shall be deemed designated by law as the successor
4 to the Illinois Institute for Entrepreneurship Education,
5 previously created and existing under Section 2-11.5 of the
6 Public Community College Act until its abolition on July 1,
7 1997 as provided in that Section. On July 1, 1997, all
8 financial and other records of the Institute so abolished and
9 all of its property, whether real or personal, including but
10 not limited to all inventory and equipment, shall be deemed
11 transferred by operation of law to the Illinois Institute for
12 Entrepreneurship Education created under this Section 20-115.
13 The Illinois Institute for Entrepreneurship Education created
14 under this Section 20-115 shall have, with respect to the
15 predecessor Institute so abolished, all authority, powers, and
16 duties of a successor agency under Section 10-15 of the
17 Successor Agency Act.

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

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

21 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

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

23 (a) Notwithstanding the provisions of Section 9-201, the
24 Commission may authorize the increase or decrease of rates and

1 charges based upon changes in the cost of fuel used in the
2 generation or production of electric power, changes in the cost
3 of purchased power, or changes in the cost of purchased gas
4 through the application of fuel adjustment clauses or purchased
5 gas adjustment clauses. The Commission may also authorize the
6 increase or decrease of rates and charges based upon
7 expenditures or revenues resulting from the purchase or sale of
8 emission allowances created under the federal Clean Air Act
9 Amendments of 1990, through such fuel adjustment clauses, as a
10 cost of fuel. For the purposes of this paragraph, cost of fuel
11 used in the generation or production of electric power shall
12 include the amount of any fees paid by the utility for the
13 implementation and operation of a process for the
14 desulfurization of the flue gas when burning high sulfur coal
15 at any location within the State of Illinois irrespective of
16 the attainment status designation of such location; but shall
17 not include transportation costs of coal (i) except to the
18 extent that for contracts entered into on and after the
19 effective date of this amendatory Act of 1997, the cost of the
20 coal, including transportation costs, constitutes the lowest
21 cost for adequate and reliable fuel supply reasonably available
22 to the public utility in comparison to the cost, including
23 transportation costs, of other adequate and reliable sources of
24 fuel supply reasonably available to the public utility, or (ii)
25 except as otherwise provided in the next 3 sentences of this
26 paragraph. Such costs of fuel shall, when requested by a

1 utility or at the conclusion of the utility's next general
2 electric rate proceeding, whichever shall first occur, include
3 transportation costs of coal purchased under existing coal
4 purchase contracts. For purposes of this paragraph "existing
5 coal purchase contracts" means contracts for the purchase of
6 coal in effect on the effective date of this amendatory Act of
7 1991, as such contracts may thereafter be amended, but only to
8 the extent that any such amendment does not increase the
9 aggregate quantity of coal to be purchased under such contract.
10 Nothing herein shall authorize an electric utility to recover
11 through its fuel adjustment clause any amounts of
12 transportation costs of coal that were included in the revenue
13 requirement used to set base rates in its most recent general
14 rate proceeding. Cost shall be based upon uniformly applied
15 accounting principles. Annually, the Commission shall initiate
16 public hearings to determine whether the clauses reflect actual
17 costs of fuel, gas, power, or coal transportation purchased to
18 determine whether such purchases were prudent, and to reconcile
19 any amounts collected with the actual costs of fuel, power,
20 gas, or coal transportation prudently purchased. In each such
21 proceeding, the burden of proof shall be upon the utility to
22 establish the prudence of its cost of fuel, power, gas, or coal
23 transportation purchases and costs. The Commission shall issue
24 its final order in each such annual proceeding for an electric
25 utility by December 31 of the year immediately following the
26 year to which the proceeding pertains, provided, that the

1 Commission shall issue its final order with respect to such
2 annual proceeding for the years 1996 and earlier by December
3 31, 1998.

4 (b) A public utility providing electric service, other than
5 a public utility described in subsections (e) or (f) of this
6 Section, may at any time during the mandatory transition period
7 file with the Commission proposed tariff sheets that eliminate
8 the public utility's fuel adjustment clause and adjust the
9 public utility's base rate tariffs by the amount necessary for
10 the base fuel component of the base rates to recover the public
11 utility's average fuel and power supply costs per kilowatt-hour
12 for the 2 most recent years for which the Commission has issued
13 final orders in annual proceedings pursuant to subsection (a),
14 where the average fuel and power supply costs per kilowatt-hour
15 shall be calculated as the sum of the public utility's prudent
16 and allowable fuel and power supply costs as found by the
17 Commission in the 2 proceedings divided by the public utility's
18 actual jurisdictional kilowatt-hour sales for those 2 years.
19 Notwithstanding any contrary or inconsistent provisions in
20 Section 9-201 of this Act, in subsection (a) of this Section or
21 in any rules or regulations promulgated by the Commission
22 pursuant to subsection (g) of this Section, the Commission
23 shall review and shall by order approve, or approve as
24 modified, the proposed tariff sheets within 60 days after the
25 date of the public utility's filing. The Commission may modify
26 the public utility's proposed tariff sheets only to the extent

1 the Commission finds necessary to achieve conformance to the
2 requirements of this subsection (b). During the 5 years
3 following the date of the Commission's order, but in any event
4 no earlier than January 1, 2007, a public utility whose fuel
5 adjustment clause has been eliminated pursuant to this
6 subsection shall not file proposed tariff sheets seeking, or
7 otherwise petition the Commission for, reinstatement of a fuel
8 adjustment clause.

9 (c) Notwithstanding any contrary or inconsistent
10 provisions in Section 9-201 of this Act, in subsection (a) of
11 this Section or in any rules or regulations promulgated by the
12 Commission pursuant to subsection (g) of this Section, a public
13 utility providing electric service, other than a public utility
14 described in subsection (e) or (f) of this Section, may at any
15 time during the mandatory transition period file with the
16 Commission proposed tariff sheets that establish the rate per
17 kilowatt-hour to be applied pursuant to the public utility's
18 fuel adjustment clause at the average value for such rate
19 during the preceding 24 months, provided that such average rate
20 results in a credit to customers' bills, without making any
21 revisions to the public utility's base rate tariffs. The
22 proposed tariff sheets shall establish the fuel adjustment rate
23 for a specific time period of at least 3 years but not more
24 than 5 years, provided that the terms and conditions for any
25 reinstatement earlier than 5 years shall be set forth in the
26 proposed tariff sheets and subject to modification or approval

1 by the Commission. The Commission shall review and shall by
2 order approve the proposed tariff sheets if it finds that the
3 requirements of this subsection are met. The Commission shall
4 not conduct the annual hearings specified in the last 3
5 sentences of subsection (a) of this Section for the utility for
6 the period that the factor established pursuant to this
7 subsection is in effect.

8 (d) A public utility providing electric service, or a
9 public utility providing gas service may file with the
10 Commission proposed tariff sheets that eliminate the public
11 utility's fuel or purchased gas adjustment clause and adjust
12 the public utility's base rate tariffs to provide for recovery
13 of power supply costs or gas supply costs that would have been
14 recovered through such clause; provided, that the provisions of
15 this subsection (d) shall not be available to a public utility
16 described in subsections (e) or (f) of this Section to
17 eliminate its fuel adjustment clause. Notwithstanding any
18 contrary or inconsistent provisions in Section 9-201 of this
19 Act, in subsection (a) of this Section, or in any rules or
20 regulations promulgated by the Commission pursuant to
21 subsection (g) of this Section, the Commission shall review and
22 shall by order approve, or approve as modified in the
23 Commission's order, the proposed tariff sheets within 240 days
24 after the date of the public utility's filing. The Commission's
25 order shall approve rates and charges that the Commission,
26 based on information in the public utility's filing or on the

1 record if a hearing is held by the Commission, finds will
2 recover the reasonable, prudent and necessary jurisdictional
3 power supply costs or gas supply costs incurred or to be
4 incurred by the public utility during a 12 month period found
5 by the Commission to be appropriate for these purposes,
6 provided, that such period shall be either (i) a 12 month
7 historical period occurring during the 15 months ending on the
8 date of the public utility's filing, or (ii) a 12 month future
9 period ending no later than 15 months following the date of the
10 public utility's filing. The public utility shall include with
11 its tariff filing information showing both (1) its actual
12 jurisdictional power supply costs or gas supply costs for a 12
13 month historical period conforming to (i) above and (2) its
14 projected jurisdictional power supply costs or gas supply costs
15 for a future 12 month period conforming to (ii) above. If the
16 Commission's order requires modifications in the tariff sheets
17 filed by the public utility, the public utility shall have 7
18 days following the date of the order to notify the Commission
19 whether the public utility will implement the modified tariffs
20 or elect to continue its fuel or purchased gas adjustment
21 clause in force as though no order had been entered. The
22 Commission's order shall provide for any reconciliation of
23 power supply costs or gas supply costs, as the case may be, and
24 associated revenues through the date that the public utility's
25 fuel or purchased gas adjustment clause is eliminated. During
26 the 5 years following the date of the Commission's order, a

1 public utility whose fuel or purchased gas adjustment clause
2 has been eliminated pursuant to this subsection shall not file
3 proposed tariff sheets seeking, or otherwise petition the
4 Commission for, reinstatement or adoption of a fuel or
5 purchased gas adjustment clause. Nothing in this subsection (d)
6 shall be construed as limiting the Commission's authority to
7 eliminate a public utility's fuel adjustment clause or
8 purchased gas adjustment clause in accordance with any other
9 applicable provisions of this Act.

10 (e) Notwithstanding any contrary or inconsistent
11 provisions in Section 9-201 of this Act, in subsection (a) of
12 this Section, or in any rules promulgated by the Commission
13 pursuant to subsection (g) of this Section, a public utility
14 providing electric service to more than 1,000,000 customers in
15 this State may, within the first 6 months after the effective
16 date of this amendatory Act of 1997, file with the Commission
17 proposed tariff sheets that eliminate, effective January 1,
18 1997, the public utility's fuel adjustment clause without
19 adjusting its base rates, and such tariff sheets shall be
20 effective upon filing. To the extent the application of the
21 fuel adjustment clause had resulted in net charges to customers
22 after January 1, 1997, the utility shall also file a tariff
23 sheet that provides for a refund stated on a per kilowatt-hour
24 basis of such charges over a period not to exceed 6 months;
25 provided however, that such refund shall not include the
26 proportional amounts of taxes paid under the Use Tax Act,

1 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
2 Occupation Tax Act on fuel used in generation. The Commission
3 shall issue an order within 45 days after the date of the
4 public utility's filing approving or approving as modified such
5 tariff sheet. If the fuel adjustment clause is eliminated
6 pursuant to this subsection, the Commission shall not conduct
7 the annual hearings specified in the last 3 sentences of
8 subsection (a) of this Section for the utility for any period
9 after December 31, 1996 and prior to any reinstatement of such
10 clause. A public utility whose fuel adjustment clause has been
11 eliminated pursuant to this subsection shall not file a
12 proposed tariff sheet seeking, or otherwise petition the
13 Commission for, reinstatement of the fuel adjustment clause
14 prior to January 1, 2007.

15 (f) Notwithstanding any contrary or inconsistent
16 provisions in Section 9-201 of this Act, in subsection (a) of
17 this Section, or in any rules or regulations promulgated by the
18 Commission pursuant to subsection (g) of this Section, a public
19 utility providing electric service to more than 500,000
20 customers but fewer than 1,000,000 customers in this State may,
21 within the first 6 months after the effective date of this
22 amendatory Act of 1997, file with the Commission proposed
23 tariff sheets that eliminate, effective January 1, 1997, the
24 public utility's fuel adjustment clause and adjust its base
25 rates by the amount necessary for the base fuel component of
26 the base rates to recover 91% of the public utility's average

1 fuel and power supply costs for the 2 most recent years for
2 which the Commission, as of January 1, 1997, has issued final
3 orders in annual proceedings pursuant to subsection (a), where
4 the average fuel and power supply costs per kilowatt-hour shall
5 be calculated as the sum of the public utility's prudent and
6 allowable fuel and power supply costs as found by the
7 Commission in the 2 proceedings divided by the public utility's
8 actual jurisdictional kilowatt-hour sales for those 2 years,
9 provided, that such tariff sheets shall be effective upon
10 filing. To the extent the application of the fuel adjustment
11 clause had resulted in net charges to customers after January
12 1, 1997, the utility shall also file a tariff sheet that
13 provides for a refund stated on a per kilowatt-hour basis of
14 such charges over a period not to exceed 6 months. Provided
15 however, that such refund shall not include the proportional
16 amounts of taxes paid under the Use Tax Act, Service Use Tax
17 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
18 Act on fuel used in generation. The Commission shall issue an
19 order within 45 days after the date of the public utility's
20 filing approving or approving as modified such tariff sheet. If
21 the fuel adjustment clause is eliminated pursuant to this
22 subsection, the Commission shall not conduct the annual
23 hearings specified in the last 3 sentences of subsection (a) of
24 this Section for the utility for any period after December 31,
25 1996 and prior to any reinstatement of such clause. A public
26 utility whose fuel adjustment clause has been eliminated

1 pursuant to this subsection shall not file a proposed tariff
2 sheet seeking, or otherwise petition the Commission for,
3 reinstatement of the fuel adjustment clause prior to January 1,
4 2007.

5 (g) The Commission shall have authority to promulgate rules
6 and regulations to carry out the provisions of this Section.

7 (h) Any Illinois gas utility may enter into a contract on
8 or before September 30, 2011 for up to 10 years of supply with
9 any company for the purchase of substitute natural gas (SNG)
10 produced from coal through the gasification process if the
11 company has commenced construction of a clean coal SNG facility
12 by July 1, 2012 and commencement of construction shall mean
13 that material physical site work has occurred, such as site
14 clearing and excavation, water runoff prevention, water
15 retention reservoir preparation, or foundation development.
16 The contract shall contain the following provisions: (i) at
17 least 90% of feedstock to be used in the gasification process
18 shall be coal with a high volatile bituminous rank and greater
19 than 1.7 pounds of sulfur per million Btu content; (ii) at the
20 time the contract term commences, the price per million Btu may
21 not exceed \$7.95 in 2008 dollars, adjusted annually based on
22 the change in the Annual Consumer Price Index for All Urban
23 Consumers for the Midwest Region as published in April by the
24 United States Department of Labor, Bureau of Labor Statistics
25 (or a suitable Consumer Price Index calculation if this
26 Consumer Price Index is not available) for the previous

1 calendar year; provided that the price per million Btu shall
2 not exceed \$9.95 at any time during the contract; (iii) the
3 utility's supply contract for the purchase of SNG does not
4 exceed 15% of the annual system supply requirements of the
5 utility as of 2008; and (iv) the contract costs pursuant to
6 subsection (h-10) of this Section shall not include any
7 lobbying expenses, charitable contributions, advertising,
8 organizational memberships, carbon dioxide pipeline or
9 sequestration expenses, or marketing expenses.

10 Any gas utility that is providing service to more than
11 150,000 customers on August 2, 2011 (the effective date of
12 Public Act 97-239) shall either elect to enter into a contract
13 on or before September 30, 2011 for 10 years of SNG supply with
14 the owner of a clean coal SNG facility or to file biennial rate
15 proceedings before the Commission in the years 2012, 2014, and
16 2016, with such filings made after August 2, 2011 and no later
17 than September 30 of the years 2012, 2014, and 2016 consistent
18 with all requirements of 83 Ill. Adm. Code 255 and 285 as
19 though the gas utility were filing for an increase in its
20 rates, without regard to whether such filing would produce an
21 increase, a decrease, or no change in the gas utility's rates,
22 and the Commission shall review the gas utility's filing and
23 shall issue its order in accordance with the provisions of
24 Section 9-201 of this Act.

25 Within 7 days after August 2, 2011, the owner of the clean
26 coal SNG facility shall submit to the Illinois Power Agency and

1 each gas utility that is providing service to more than 150,000
2 customers on August 2, 2011 a copy of a draft contract. Within
3 30 days after the receipt of the draft contract, each such gas
4 utility shall provide the Illinois Power Agency and the owner
5 of the clean coal SNG facility with its comments and
6 recommended revisions to the draft contract. Within 7 days
7 after the receipt of the gas utility's comments and recommended
8 revisions, the owner of the facility shall submit its
9 responsive comments and a further revised draft of the contract
10 to the Illinois Power Agency. The Illinois Power Agency shall
11 review the draft contract and comments.

12 During its review of the draft contract, the Illinois Power
13 Agency shall:

14 (1) review and confirm in writing that the terms stated
15 in this subsection (h) are incorporated in the SNG
16 contract;

17 (2) review the SNG pricing formula included in the
18 contract and approve that formula if the Illinois Power
19 Agency determines that the formula, at the time the
20 contract term commences: (A) starts with a price of \$6.50
21 per MMBtu adjusted by the adjusted final capitalized plant
22 cost; (B) takes into account budgeted miscellaneous net
23 revenue after cost allowance, including sale of SNG
24 produced by the clean coal SNG facility above the nameplate
25 capacity of the facility and other by-products produced by
26 the facility, as approved by the Illinois Power Agency; (C)

1 does not include carbon dioxide transportation or
2 sequestration expenses; and (D) includes all provisions
3 required under this subsection (h); if the Illinois Power
4 Agency does not approve of the SNG pricing formula, then
5 the Illinois Power Agency shall modify the formula to
6 ensure that it meets the requirements of this subsection
7 (h);

8 (3) review and approve the amount of budgeted
9 miscellaneous net revenue after cost allowance, including
10 sale of SNG produced by the clean coal SNG facility above
11 the nameplate capacity of the facility and other
12 by-products produced by the facility, to be included in the
13 pricing formula; the Illinois Power Agency shall approve
14 the amount of budgeted miscellaneous net revenue to be
15 included in the pricing formula if it determines the
16 budgeted amount to be reasonable and accurate;

17 (4) review and confirm in writing that using the EIA
18 Annual Energy Outlook-2011 Henry Hub Spot Price, the
19 contract terms set out in subsection (h), the
20 reconciliation account terms as set out in subsection
21 (h-15), and an estimated inflation rate of 2.5% for each
22 corresponding year, that there will be no cumulative
23 estimated increase for residential customers; and

24 (5) allocate the nameplate capacity of the clean coal
25 SNG by total therms sold to ultimate customers by each gas
26 utility in 2008; provided, however, no utility shall be

1 required to purchase more than 42% of the projected annual
2 output of the facility; additionally, the Illinois Power
3 Agency shall further adjust the allocation only as required
4 to take into account (A) adverse consolidation,
5 derivative, or lease impacts to the balance sheet or income
6 statement of any gas utility or (B) the physical capacity
7 of the gas utility to accept SNG.

8 If the parties to the contract do not agree on the terms
9 therein, then the Illinois Power Agency shall retain an
10 independent mediator to mediate the dispute between the
11 parties. If the parties are in agreement on the terms of the
12 contract, then the Illinois Power Agency shall approve the
13 contract. If after mediation the parties have failed to come to
14 agreement, then the Illinois Power Agency shall revise the
15 draft contract as necessary to confirm that the contract
16 contains only terms that are reasonable and equitable. The
17 Illinois Power Agency may, in its discretion, retain an
18 independent, qualified, and experienced expert to assist in its
19 obligations under this subsection (h). The Illinois Power
20 Agency shall adopt and make public policies detailing the
21 processes for retaining a mediator and an expert under this
22 subsection (h). Any mediator or expert retained under this
23 subsection (h) shall be retained no later than 60 days after
24 August 2, 2011.

25 The Illinois Power Agency shall complete all of its
26 responsibilities under this subsection (h) within 60 days after

1 August 2, 2011. The clean coal SNG facility shall pay a
2 reasonable fee as required by the Illinois Power Agency for its
3 services under this subsection (h) and shall pay the mediator's
4 and expert's reasonable fees, if any. A gas utility and its
5 customers shall have no obligation to reimburse the clean coal
6 SNG facility or the Illinois Power Agency of any such costs.

7 Within 30 days after commercial production of SNG has
8 begun, the Commission shall initiate a review to determine
9 whether the final capitalized plant cost of the clean coal SNG
10 facility reflects actual incurred costs and whether the
11 incurred costs were reasonable. In determining the actual
12 incurred costs included in the final capitalized plant cost and
13 the reasonableness of those costs, the Commission may in its
14 discretion retain independent, qualified, and experienced
15 experts to assist in its determination. The expert shall not
16 own or control any direct or indirect interest in the clean
17 coal SNG facility and shall have no contractual relationship
18 with the clean coal SNG facility. If an expert is retained by
19 the Commission, then the clean coal SNG facility shall pay the
20 expert's reasonable fees. The fees shall not be passed on to a
21 utility or its customers. The Commission shall adopt and make
22 public a policy detailing the process for retaining experts
23 under this subsection (h).

24 Within 30 days after completion of its review, the
25 Commission shall initiate a formal proceeding on the final
26 capitalized plant cost of the clean coal SNG facility at which

1 comments and testimony may be submitted by any interested
2 parties and the public. If the Commission finds that the final
3 capitalized plant cost includes costs that were not actually
4 incurred or costs that were unreasonably incurred, then the
5 Commission shall disallow the amount of non-incurred or
6 unreasonable costs from the SNG price under contracts entered
7 into under this subsection (h). If the Commission disallows any
8 costs, then the Commission shall adjust the SNG price using the
9 price formula in the contract approved by the Illinois Power
10 Agency under this subsection (h) to reflect the disallowed
11 costs and shall enter an order specifying the revised price. In
12 addition, the Commission's order shall direct the clean coal
13 SNG facility to issue refunds of such sums as shall represent
14 the difference between actual gross revenues and the gross
15 revenue that would have been obtained based upon the same
16 volume, from the price revised by the Commission. Any refund
17 shall include interest calculated at a rate determined by the
18 Commission and shall be returned according to procedures
19 prescribed by the Commission.

20 Nothing in this subsection (h) shall preclude any party
21 affected by a decision of the Commission under this subsection
22 (h) from seeking judicial review of the Commission's decision.

23 (h-1) Any Illinois gas utility may enter into a sourcing
24 agreement for up to 30 years of supply with the clean coal SNG
25 brownfield facility if the clean coal SNG brownfield facility
26 has commenced construction. Any gas utility that is providing

1 service to more than 150,000 customers on July 13, 2011 (the
2 effective date of Public Act 97-096) shall either elect to file
3 biennial rate proceedings before the Commission in the years
4 2012, 2014, and 2016 or enter into a sourcing agreement or
5 sourcing agreements with a clean coal SNG brownfield facility
6 with an initial term of 30 years for either (i) a percentage of
7 43,500,000,000 cubic feet per year, such that the utilities
8 entering into sourcing agreements with the clean coal SNG
9 brownfield facility purchase 100%, allocated by total therms
10 sold to ultimate customers by each gas utility in 2008 or (ii)
11 such lesser amount as may be available from the clean coal SNG
12 brownfield facility; provided that no utility shall be required
13 to purchase more than 42% of the projected annual output of the
14 clean coal SNG brownfield facility, with the remainder of such
15 utility's obligation to be divided proportionately between the
16 other utilities, and provided that the Illinois Power Agency
17 shall further adjust the allocation only as required to take
18 into account adverse consolidation, derivative, or lease
19 impacts to the balance sheet or income statement of any gas
20 utility.

21 A gas utility electing to file biennial rate proceedings
22 before the Commission must file a notice of its election with
23 the Commission within 60 days after July 13, 2011 or its right
24 to make the election is irrevocably waived. A gas utility
25 electing to file biennial rate proceedings shall make such
26 filings no later than August 1 of the years 2012, 2014, and

1 2016, consistent with all requirements of 83 Ill. Adm. Code 255
2 and 285 as though the gas utility were filing for an increase
3 in its rates, without regard to whether such filing would
4 produce an increase, a decrease, or no change in the gas
5 utility's rates, and notwithstanding any other provisions of
6 this Act, the Commission shall fully review the gas utility's
7 filing and shall issue its order in accordance with the
8 provisions of Section 9-201 of this Act, regardless of whether
9 the Commission has approved a formula rate for the gas utility.

10 Within 15 days after July 13, 2011, the owner of the clean
11 coal SNG brownfield facility shall submit to the Illinois Power
12 Agency and each gas utility that is providing service to more
13 than 150,000 customers on July 13, 2011 a copy of a draft
14 sourcing agreement. Within 45 days after receipt of the draft
15 sourcing agreement, each such gas utility shall provide the
16 Illinois Power Agency and the owner of a clean coal SNG
17 brownfield facility with its comments and recommended
18 revisions to the draft sourcing agreement. Within 15 days after
19 the receipt of the gas utility's comments and recommended
20 revisions, the owner of the clean coal SNG brownfield facility
21 shall submit its responsive comments and a further revised
22 draft of the sourcing agreement to the Illinois Power Agency.
23 The Illinois Power Agency shall review the draft sourcing
24 agreement and comments.

25 If the parties to the sourcing agreement do not agree on
26 the terms therein, then the Illinois Power Agency shall retain

1 an independent mediator to mediate the dispute between the
2 parties. If the parties are in agreement on the terms of the
3 sourcing agreement, the Illinois Power Agency shall approve the
4 final draft sourcing agreement. If after mediation the parties
5 have failed to come to agreement, then the Illinois Power
6 Agency shall revise the draft sourcing agreement as necessary
7 to confirm that the final draft sourcing agreement contains
8 only terms that are reasonable and equitable. The Illinois
9 Power Agency shall adopt and make public a policy detailing the
10 process for retaining a mediator under this subsection (h-1).
11 Any mediator retained to assist with mediating disputes between
12 the parties regarding the sourcing agreement shall be retained
13 no later than 60 days after July 13, 2011.

14 Upon approval of a final draft agreement, the Illinois
15 Power Agency shall submit the final draft agreement to the
16 Capital Development Board and the Commission no later than 90
17 days after July 13, 2011. The gas utility and the clean coal
18 SNG brownfield facility shall pay a reasonable fee as required
19 by the Illinois Power Agency for its services under this
20 subsection (h-1) and shall pay the mediator's reasonable fees,
21 if any. The Illinois Power Agency shall adopt and make public a
22 policy detailing the process for retaining a mediator under
23 this Section.

24 The sourcing agreement between a gas utility and the clean
25 coal SNG brownfield facility shall contain the following
26 provisions:

1 (1) Any and all coal used in the gasification process
2 must be coal that has high volatile bituminous rank and
3 greater than 1.7 pounds of sulfur per million Btu content.

4 (2) Coal and petroleum coke are feedstocks for the
5 gasification process, with coal comprising at least 50% of
6 the total feedstock over the term of the sourcing agreement
7 unless the facility reasonably determines that it is
8 necessary to use additional petroleum coke to deliver net
9 consumer savings, in which case the facility shall use coal
10 for at least 35% of the total feedstock over the term of
11 any sourcing agreement and with the feedstocks to be
12 procured in accordance with requirements of Section 1-78 of
13 the Illinois Power Agency Act.

14 (3) The sourcing agreement has an initial term that
15 once entered into terminates no more than 30 years after
16 the commencement of the commercial production of SNG at the
17 clean coal SNG brownfield facility.

18 (4) The clean coal SNG brownfield facility guarantees a
19 minimum of \$100,000,000 in consumer savings to customers of
20 the utilities that have entered into sourcing agreements
21 with the clean coal SNG brownfield facility, calculated in
22 real 2010 dollars at the conclusion of the term of the
23 sourcing agreement by comparing the delivered SNG price to
24 the Chicago City-gate price on a weighted daily basis for
25 each day over the entire term of the sourcing agreement, to
26 be provided in accordance with subsection (h-2) of this

1 Section.

2 (5) Prior to the clean coal SNG brownfield facility
3 issuing a notice to proceed to construction, the clean coal
4 SNG brownfield facility shall establish a consumer
5 protection reserve account for the benefit of the customers
6 of the utilities that have entered into sourcing agreements
7 with the clean coal SNG brownfield facility pursuant to
8 this subsection (h-1), with cash principal in the amount of
9 \$150,000,000. This cash principal shall only be
10 recoverable through the consumer protection reserve
11 account and not as a cost to be recovered in the delivered
12 SNG price pursuant to subsection (h-3) of this Section. The
13 consumer protection reserve account shall be maintained
14 and administered by an independent trustee that is mutually
15 agreed upon by the clean coal SNG brownfield facility, the
16 utilities, and the Commission in an interest-bearing
17 account in accordance with subsection (h-2) of this
18 Section.

19 "Consumer protection reserve account principal maximum
20 amount" shall mean the maximum amount of principal to be
21 maintained in the consumer protection reserve account.
22 During the first 2 years of operation of the facility,
23 there shall be no consumer protection reserve account
24 maximum amount. After the first 2 years of operation of the
25 facility, the consumer protection reserve account maximum
26 amount shall be \$150,000,000. After 5 years of operation,

1 and every 5 years thereafter, the trustee shall calculate
2 the 5-year average balance of the consumer protection
3 reserve account. If the trustee determines that during the
4 prior 5 years the consumer protection reserve account has
5 had an average account balance of less than \$75,000,000,
6 then the consumer protection reserve account principal
7 maximum amount shall be increased by \$5,000,000. If the
8 trustee determines that during the prior 5 years the
9 consumer protection reserve account has had an average
10 account balance of more than \$75,000,000, then the consumer
11 protection reserve account principal maximum amount shall
12 be decreased by \$5,000,000.

13 (6) The clean coal SNG brownfield facility shall
14 identify and sell economically viable by-products produced
15 by the facility.

16 (7) Fifty percent of all additional net revenue,
17 defined as miscellaneous net revenue from products
18 produced by the facility and delivered during the month
19 after cost allowance for costs associated with additional
20 net revenue that are not otherwise recoverable pursuant to
21 subsection (h-3) of this Section, including net revenue
22 from sales of substitute natural gas derived from the
23 facility above the nameplate capacity of the facility and
24 other by-products produced by the facility, shall be
25 credited to the consumer protection reserve account
26 pursuant to subsection (h-2) of this Section.

1 (8) The delivered SNG price per million btu to be paid
2 monthly by the utility to the clean coal SNG brownfield
3 facility, which shall be based only upon the following: (A)
4 a capital recovery charge, operations and maintenance
5 costs, and sequestration costs, only to the extent approved
6 by the Commission pursuant to paragraphs (1), (2), and (3)
7 of subsection (h-3) of this Section; (B) the actual
8 delivered and processed fuel costs pursuant to paragraph
9 (4) of subsection (h-3) of this Section; (C) actual costs
10 of SNG transportation pursuant to paragraph (6) of
11 subsection (h-3) of this Section; (D) certain taxes and
12 fees imposed by the federal government, the State, or any
13 unit of local government as provided in paragraph (6) of
14 subsection (h-3) of this Section; and (E) the credit, if
15 any, from the consumer protection reserve account pursuant
16 to subsection (h-2) of this Section. The delivered SNG
17 price per million Btu shall proportionately reflect these
18 elements over the term of the sourcing agreement.

19 (9) A formula to translate the recoverable costs and
20 charges under subsection (h-3) of this Section into the
21 delivered SNG price per million btu.

22 (10) Title to the SNG shall pass at a mutually
23 agreeable point in Illinois, and may provide that, rather
24 than the utility taking title to the SNG, a mutually agreed
25 upon third-party gas marketer pursuant to a contract
26 approved by the Illinois Power Agency or its designee may

1 take title to the SNG pursuant to an agreement between the
2 utility, the owner of the clean coal SNG brownfield
3 facility, and the third-party gas marketer.

4 (11) A utility may exit the sourcing agreement without
5 penalty if the clean coal SNG brownfield facility does not
6 commence construction by July 1, 2015.

7 (12) A utility is responsible to pay only the
8 Commission determined unit price cost of SNG that is
9 purchased by the utility. Nothing in the sourcing agreement
10 will obligate a utility to invest capital in a clean coal
11 SNG brownfield facility.

12 (13) The quality of SNG must, at a minimum, be
13 equivalent to the quality required for interstate pipeline
14 gas before a utility is required to accept and pay for SNG
15 gas.

16 (14) Nothing in the sourcing agreement will require a
17 utility to construct any facilities to accept delivery of
18 SNG. Provided, however, if a utility is required by law or
19 otherwise elects to connect the clean coal SNG brownfield
20 facility to an interstate pipeline, then the utility shall
21 be entitled to recover pursuant to its tariffs all just and
22 reasonable costs that are prudently incurred. Any costs
23 incurred by the utility to receive, deliver, manage, or
24 otherwise accommodate purchases under the SNG sourcing
25 agreement will be fully recoverable through a utility's
26 purchased gas adjustment clause rider mechanism in

1 conjunction with a SNG brownfield facility rider
2 mechanism. The SNG brownfield facility rider mechanism (A)
3 shall be applicable to all customers who receive
4 transportation service from the utility, (B) shall be
5 designed to have an equal percent impact on the
6 transportation services rates of each class of the
7 utility's customers, and (C) shall accurately reflect the
8 net consumer savings, if any, and above-market costs, if
9 any, associated with the utility receiving, delivering,
10 managing, or otherwise accommodating purchases under the
11 SNG sourcing agreement.

12 (15) Remedies for the clean coal SNG brownfield
13 facility's failure to deliver a designated amount for a
14 designated period.

15 (16) The clean coal SNG brownfield facility shall make
16 a good faith effort to ensure that an amount equal to not
17 less than 15% of the value of its prime construction
18 contract for the facility shall be established as a goal to
19 be awarded to minority-owned ~~minority-owned~~ businesses,
20 women-owned ~~female-owned~~ businesses, and businesses owned
21 by a person with a disability; provided that at least 75%
22 of the amount of such total goal shall be for
23 minority-owned ~~minority-owned~~ businesses. "Minority-owned
24 ~~Minority-owned~~ business", "women-owned ~~female-owned~~
25 business", and "business owned by a person with a
26 disability" shall have the meanings ascribed to them in

1 Section 2 of the Business Enterprise for Minorities, Women,
2 ~~Females~~ and Persons with Disabilities Act.

3 (17) Prior to the clean coal SNG brownfield facility
4 issuing a notice to proceed to construction, the clean coal
5 SNG brownfield facility shall file with the Commission a
6 certificate from an independent engineer that the clean
7 coal SNG brownfield facility has (A) obtained all
8 applicable State and federal environmental permits
9 required for construction; (B) obtained approval from the
10 Commission of a carbon capture and sequestration plan; and
11 (C) obtained all necessary permits required for
12 construction for the transportation and sequestration of
13 carbon dioxide as set forth in the Commission-approved
14 carbon capture and sequestration plan.

15 (h-2) Consumer protection reserve account. The clean coal
16 SNG brownfield facility shall guarantee a minimum of
17 \$100,000,000 in consumer savings to customers of the utilities
18 that have entered into sourcing agreements with the clean coal
19 SNG brownfield facility, calculated in real 2010 dollars at the
20 conclusion of the term of the sourcing agreement by comparing
21 the delivered SNG price to the Chicago City-gate price on a
22 weighted daily basis for each day over the entire term of the
23 sourcing agreement. Prior to the clean coal SNG brownfield
24 facility issuing a notice to proceed to construction, the clean
25 coal SNG brownfield facility shall establish a consumer
26 protection reserve account for the benefit of the retail

1 customers of the utilities that have entered into sourcing
2 agreements with the clean coal SNG brownfield facility pursuant
3 to subsection (h-1), with cash principal in the amount of
4 \$150,000,000. Such cash principal shall only be recovered
5 through the consumer protection reserve account and not as a
6 cost to be recovered in the delivered SNG price pursuant to
7 subsection (h-3) of this Section. The consumer protection
8 reserve account shall be maintained and administered by an
9 independent trustee that is mutually agreed upon by the clean
10 coal SNG brownfield facility, the utilities, and the Commission
11 in an interest-bearing account in accordance with the
12 following:

13 (1) The clean coal SNG brownfield facility monthly
14 shall calculate (A) the difference between the monthly
15 delivered SNG price and the Chicago City-gate price, by
16 comparing the delivered SNG price, which shall include the
17 cost of transportation to the delivery point, if any, to
18 the Chicago City-gate price on a weighted daily basis for
19 each day of the prior month based upon a mutually agreed
20 upon published index and (B) the overage amount, if any, by
21 calculating the annualized incremental additional cost, if
22 any, of the delivered SNG in excess of 2.015% of the
23 average annual inflation-adjusted amounts paid by all gas
24 distribution customers in connection with natural gas
25 service during the 5 years ending May 31, 2010.

26 (2) During the first 2 years of operation of the

1 facility:

2 (A) to the extent there is an overage amount, the
3 consumer protection reserve account shall be used to
4 provide a credit to reduce the SNG price by an amount
5 equal to the overage amount; and

6 (B) to the extent the monthly delivered SNG price
7 is less than or equal to the Chicago City-gate price,
8 the utility shall credit the difference between the
9 monthly delivered SNG price and the monthly Chicago
10 City-gate price, if any, to the consumer protection
11 reserve account. Such credit issued pursuant to this
12 paragraph (B) shall be deemed prudent and reasonable
13 and not subject to a Commission prudence review;

14 (3) After 2 years of operation of the facility, and
15 monthly, on an on-going basis, thereafter:

16 (A) to the extent that the monthly delivered SNG
17 price is less than or equal to the Chicago City-gate
18 price, calculated using the weighted average of the
19 daily Chicago City-gate price on a daily basis over the
20 entire month, the utility shall credit the difference,
21 if any, to the consumer protection reserve account.
22 Such credit issued pursuant to this subparagraph (A)
23 shall be deemed prudent and reasonable and not subject
24 to a Commission prudence review;

25 (B) any amounts in the consumer protection reserve
26 account in excess of the consumer protection reserve

1 account principal maximum amount shall be distributed
2 as follows: (i) if retail customers have not realized
3 net consumer savings, calculated by comparing the
4 delivered SNG price to the weighted average of the
5 daily Chicago City-gate price on a daily basis over the
6 entire term of the sourcing agreement to date, then 50%
7 of any amounts in the consumer protection reserve
8 account in excess of the consumer protection reserve
9 account principal maximum shall be distributed to the
10 clean coal SNG brownfield facility, with the remaining
11 50% of any such additional amounts being credited to
12 retail customers, and (ii) if retail customers have
13 realized net consumer savings, then 100% of any amounts
14 in the consumer protection reserve account in excess of
15 the consumer protection reserve account principal
16 maximum shall be distributed to the clean coal SNG
17 brownfield facility; provided, however, that under no
18 circumstances shall the total cumulative amount
19 distributed to the clean coal SNG brownfield facility
20 under this subparagraph (B) exceed \$150,000,000;

21 (C) to the extent there is an overage amount, after
22 distributing the amounts pursuant to subparagraph (B)
23 of this paragraph (3), if any, the consumer protection
24 reserve account shall be used to provide a credit to
25 reduce the SNG price by an amount equal to the overage
26 amount;

1 (D) if retail customers have realized net consumer
2 savings, calculated by comparing the delivered SNG
3 price to the weighted average of the daily Chicago
4 City-gate price on a daily basis over the entire term
5 of the sourcing agreement to date, then after
6 distributing the amounts pursuant to subparagraphs (B)
7 and (C) of this paragraph (3), 50% of any additional
8 amounts in the consumer protection reserve account in
9 excess of the consumer protection reserve account
10 principal maximum shall be distributed to the clean
11 coal SNG brownfield facility, with the remaining 50% of
12 any such additional amounts being credited to retail
13 customers; provided, however, that if retail customers
14 have not realized such net consumer savings, no such
15 distribution shall be made to the clean coal SNG
16 brownfield facility, and 100% of such additional
17 amounts shall be credited to the retail customers to
18 the extent the consumer protection reserve account
19 exceeds the consumer protection reserve account
20 principal maximum amount.

21 (4) Fifty percent of all additional net revenue,
22 defined as miscellaneous net revenue after cost allowance
23 for costs associated with additional net revenue that are
24 not otherwise recoverable pursuant to subsection (h-3) of
25 this Section, including net revenue from sales of
26 substitute natural gas derived from the facility above the

1 nameplate capacity of the facility and other by-products
2 produced by the facility, shall be credited to the consumer
3 protection reserve account.

4 (5) At the conclusion of the term of the sourcing
5 agreement, to the extent retail customers have not saved
6 the minimum of \$100,000,000 in consumer savings as
7 guaranteed in this subsection (h-2), amounts in the
8 consumer protection reserve account shall be credited to
9 retail customers to the extent the retail customers have
10 saved the minimum of \$100,000,000; 50% of any additional
11 amounts in the consumer protection reserve account shall be
12 distributed to the company, and the remaining 50% shall be
13 distributed to retail customers.

14 (6) If, at the conclusion of the term of the sourcing
15 agreement, the customers have not saved the minimum
16 \$100,000,000 in savings as guaranteed in this subsection
17 (h-2) and the consumer protection reserve account has been
18 depleted, then the clean coal SNG brownfield facility shall
19 be liable for any remaining amount owed to the retail
20 customers to the extent that the customers are provided
21 with the \$100,000,000 in savings as guaranteed in this
22 subsection (h-2). The retail customers shall have first
23 priority in recovering that debt above any creditors,
24 except the original senior secured lender to the extent
25 that the original senior secured lender has any senior
26 secured debt outstanding, including any clean coal SNG

1 brownfield facility parent companies or affiliates.

2 (7) The clean coal SNG brownfield facility, the
3 utilities, and the trustee shall work together to take
4 commercially reasonable steps to minimize the tax impact of
5 these transactions, while preserving the consumer
6 benefits.

7 (8) The clean coal SNG brownfield facility shall each
8 month, starting in the facility's first year of commercial
9 operation, file with the Commission, in such form as the
10 Commission shall require, a report as to the consumer
11 protection reserve account. The monthly report must
12 contain the following information:

13 (A) the extent the monthly delivered SNG price is
14 greater than, less than, or equal to the Chicago
15 City-gate price;

16 (B) the amount credited or debited to the consumer
17 protection reserve account during the month;

18 (C) the amounts credited to consumers and
19 distributed to the clean coal SNG brownfield facility
20 during the month;

21 (D) the total amount of the consumer protection
22 reserve account at the beginning and end of the month;

23 (E) the total amount of consumer savings to date;

24 (F) a confidential summary of the inputs used to
25 calculate the additional net revenue; and

26 (G) any other additional information the

1 Commission shall require.

2 When any report is erroneous or defective or appears to
3 the Commission to be erroneous or defective, the Commission
4 may notify the clean coal SNG brownfield facility to amend
5 the report within 30 days, and, before or after the
6 termination of the 30-day period, the Commission may
7 examine the trustee of the consumer protection reserve
8 account or the officers, agents, employees, books,
9 records, or accounts of the clean coal SNG brownfield
10 facility and correct such items in the report as upon such
11 examination the Commission may find defective or
12 erroneous. All reports shall be under oath.

13 All reports made to the Commission by the clean coal
14 SNG brownfield facility and the contents of the reports
15 shall be open to public inspection and shall be deemed a
16 public record under the Freedom of Information Act. Such
17 reports shall be preserved in the office of the Commission.
18 The Commission shall publish an annual summary of the
19 reports prior to February 1 of the following year. The
20 annual summary shall be made available to the public on the
21 Commission's website and shall be submitted to the General
22 Assembly.

23 Any facility that fails to file a report required under
24 this paragraph (8) to the Commission within the time
25 specified or to make specific answer to any question
26 propounded by the Commission within 30 days from the time

1 it is lawfully required to do so, or within such further
2 time not to exceed 90 days as may in its discretion be
3 allowed by the Commission, shall pay a penalty of \$500 to
4 the Commission for each day it is in default.

5 Any person who willfully makes any false report to the
6 Commission or to any member, officer, or employee thereof,
7 any person who willfully in a report withholds or fails to
8 provide material information to which the Commission is
9 entitled under this paragraph (8) and which information is
10 either required to be filed by statute, rule, regulation,
11 order, or decision of the Commission or has been requested
12 by the Commission, and any person who willfully aids or
13 abets such person shall be guilty of a Class A misdemeanor.

14 (h-3) Recoverable costs and revenue by the clean coal SNG
15 brownfield facility.

16 (1) A capital recovery charge approved by the
17 Commission shall be recoverable by the clean coal SNG
18 brownfield facility under a sourcing agreement. The
19 capital recovery charge shall be comprised of capital costs
20 and a reasonable rate of return. "Capital costs" means
21 costs to be incurred in connection with the construction
22 and development of a facility, as defined in Section 1-10
23 of the Illinois Power Agency Act, and such other costs as
24 the Capital Development Board deems appropriate to be
25 recovered in the capital recovery charge.

26 (A) Capital costs. The Capital Development Board

1 shall calculate a range of capital costs that it
2 believes would be reasonable for the clean coal SNG
3 brownfield facility to recover under the sourcing
4 agreement. In making this determination, the Capital
5 Development Board shall review the facility cost
6 report, if any, of the clean coal SNG brownfield
7 facility, adjusting the results based on the change in
8 the Annual Consumer Price Index for All Urban Consumers
9 for the Midwest Region as published in April by the
10 United States Department of Labor, Bureau of Labor
11 Statistics, the final draft of the sourcing agreement,
12 and the rate of return approved by the Commission. In
13 addition, the Capital Development Board may consult as
14 much as it deems necessary with the clean coal SNG
15 brownfield facility and conduct whatever research and
16 investigation it deems necessary.

17 The Capital Development Board shall retain an
18 engineering expert to assist in determining both the
19 range of capital costs and the range of operations and
20 maintenance costs that it believes would be reasonable
21 for the clean coal SNG brownfield facility to recover
22 under the sourcing agreement. Provided, however, that
23 such expert shall: (i) not have been involved in the
24 clean coal SNG brownfield facility's facility cost
25 report, if any, (ii) not own or control any direct or
26 indirect interest in the initial clean coal facility,

1 and (iii) have no contractual relationship with the
2 clean coal SNG brownfield facility. In order to qualify
3 as an independent expert, a person or company must
4 have:

5 (i) direct previous experience conducting
6 front-end engineering and design studies for
7 large-scale energy facilities and administering
8 large-scale energy operations and maintenance
9 contracts, which may be particularized to the
10 specific type of financing associated with the
11 clean coal SNG brownfield facility;

12 (ii) an advanced degree in economics,
13 mathematics, engineering, or a related area of
14 study;

15 (iii) ten years of experience in the energy
16 sector, including construction and risk management
17 experience;

18 (iv) expertise in assisting companies with
19 obtaining financing for large-scale energy
20 projects, which may be particularized to the
21 specific type of financing associated with the
22 clean coal SNG brownfield facility;

23 (v) expertise in operations and maintenance
24 which may be particularized to the specific type of
25 operations and maintenance associated with the
26 clean coal SNG brownfield facility;

1 (vi) expertise in credit and contract
2 protocols;

3 (vii) adequate resources to perform and
4 fulfill the required functions and
5 responsibilities; and

6 (viii) the absence of a conflict of interest
7 and inappropriate bias for or against an affected
8 gas utility or the clean coal SNG brownfield
9 facility.

10 The clean coal SNG brownfield facility and the
11 Illinois Power Agency shall cooperate with the Capital
12 Development Board in any investigation it deems
13 necessary. The Capital Development Board shall make
14 its final determination of the range of capital costs
15 confidentially and shall submit that range to the
16 Commission in a confidential filing within 120 days
17 after July 13, 2011 (the effective date of Public Act
18 97-096). The clean coal SNG brownfield facility shall
19 submit to the Commission its estimate of the capital
20 costs to be recovered under the sourcing agreement.
21 Only after the clean coal SNG brownfield facility has
22 submitted this estimate shall the Commission publicly
23 announce the range of capital costs submitted by the
24 Capital Development Board.

25 In the event that the estimate submitted by the
26 clean coal SNG brownfield facility is within or below

1 the range submitted by the Capital Development Board,
2 the clean coal SNG brownfield facility's estimate
3 shall be approved by the Commission as the amount of
4 capital costs to be recovered under the sourcing
5 agreement. In the event that the estimate submitted by
6 the clean coal SNG brownfield facility is above the
7 range submitted by the Capital Development Board, the
8 amount of capital costs at the lowest end of the range
9 submitted by the Capital Development Board shall be
10 approved by the Commission as the amount of capital
11 costs to be recovered under the sourcing agreement.
12 Within 15 days after the Capital Development Board has
13 submitted its range and the clean coal SNG brownfield
14 facility has submitted its estimate, the Commission
15 shall approve the capital costs for the clean coal SNG
16 brownfield facility.

17 The Capital Development Board shall monitor the
18 construction of the clean coal SNG brownfield facility
19 for the full duration of construction to assess
20 potential cost overruns. The Capital Development
21 Board, in its discretion, may retain an expert to
22 facilitate such monitoring. The clean coal SNG
23 brownfield facility shall pay a reasonable fee as
24 required by the Capital Development Board for the
25 Capital Development Board's services under this
26 subsection (h-3) to be deposited into the Capital

1 Development Board Revolving Fund, and such fee shall
2 not be passed through to a utility or its customers. If
3 an expert is retained by the Capital Development Board
4 for monitoring of construction, then the clean coal SNG
5 brownfield facility must pay for the expert's
6 reasonable fees and such costs shall not be passed
7 through to a utility or its customers.

8 (B) Rate of Return. No later than 30 days after the
9 date on which the Illinois Power Agency submits a final
10 draft sourcing agreement, the Commission shall hold a
11 public hearing to determine the rate of return to be
12 recovered under the sourcing agreement. Rate of return
13 shall be comprised of the clean coal SNG brownfield
14 facility's actual cost of debt, including
15 mortgage-style amortization, and a reasonable return
16 on equity. The Commission shall post notice of the
17 hearing on its website no later than 10 days prior to
18 the date of the hearing. The Commission shall provide
19 the public and all interested parties, including the
20 gas utilities, the Attorney General, and the Illinois
21 Power Agency, an opportunity to be heard.

22 In determining the return on equity, the
23 Commission shall select a commercially reasonable
24 return on equity taking into account the return on
25 equity being received by developers of similar
26 facilities in or outside of Illinois, the need to

1 balance an incentive for clean-coal technology with
2 the need to protect ratepayers from high gas prices,
3 the risks being borne by the clean coal SNG brownfield
4 facility in the final draft sourcing agreement, and any
5 other information that the Commission may deem
6 relevant. The Commission may establish a return on
7 equity that varies with the amount of savings, if any,
8 to customers during the term of the sourcing agreement,
9 comparing the delivered SNG price to a daily weighted
10 average price of natural gas, based upon an index. The
11 Illinois Power Agency shall recommend a return on
12 equity to the Commission using the same criteria.
13 Within 60 days after receiving the final draft sourcing
14 agreement from the Illinois Power Agency, the
15 Commission shall approve the rate of return for the
16 clean coal brownfield facility. Within 30 days after
17 obtaining debt financing for the clean coal SNG
18 brownfield facility, the clean coal SNG brownfield
19 facility shall file a notice with the Commission
20 identifying the actual cost of debt.

21 (2) Operations and maintenance costs approved by the
22 Commission shall be recoverable by the clean coal SNG
23 brownfield facility under the sourcing agreement. The
24 operations and maintenance costs mean costs that have been
25 incurred for the administration, supervision, operation,
26 maintenance, preservation, and protection of the clean

1 coal SNG brownfield facility's physical plant.

2 The Capital Development Board shall calculate a range
3 of operations and maintenance costs that it believes would
4 be reasonable for the clean coal SNG brownfield facility to
5 recover under the sourcing agreement, incorporating an
6 inflation index or combination of inflation indices to most
7 accurately reflect the actual costs of operating the clean
8 coal SNG brownfield facility. In making this
9 determination, the Capital Development Board shall review
10 the facility cost report, if any, of the clean coal SNG
11 brownfield facility, adjusting the results for inflation
12 based on the change in the Annual Consumer Price Index for
13 All Urban Consumers for the Midwest Region as published in
14 April by the United States Department of Labor, Bureau of
15 Labor Statistics, the final draft of the sourcing
16 agreement, and the rate of return approved by the
17 Commission. In addition, the Capital Development Board may
18 consult as much as it deems necessary with the clean coal
19 SNG brownfield facility and conduct whatever research and
20 investigation it deems necessary. As set forth in
21 subparagraph (A) of paragraph (1) of this subsection (h-3),
22 the Capital Development Board shall retain an independent
23 engineering expert to assist in determining both the range
24 of operations and maintenance costs that it believes would
25 be reasonable for the clean coal SNG brownfield facility to
26 recover under the sourcing agreement. The clean coal SNG

1 brownfield facility and the Illinois Power Agency shall
2 cooperate with the Capital Development Board in any
3 investigation it deems necessary. The Capital Development
4 Board shall make its final determination of the range of
5 operations and maintenance costs confidentially and shall
6 submit that range to the Commission in a confidential
7 filing within 120 days after July 13, 2011.

8 The clean coal SNG brownfield facility shall submit to
9 the Commission its estimate of the operations and
10 maintenance costs to be recovered under the sourcing
11 agreement. Only after the clean coal SNG brownfield
12 facility has submitted this estimate shall the Commission
13 publicly announce the range of operations and maintenance
14 costs submitted by the Capital Development Board. In the
15 event that the estimate submitted by the clean coal SNG
16 brownfield facility is within or below the range submitted
17 by the Capital Development Board, the clean coal SNG
18 brownfield facility's estimate shall be approved by the
19 Commission as the amount of operations and maintenance
20 costs to be recovered under the sourcing agreement. In the
21 event that the estimate submitted by the clean coal SNG
22 brownfield facility is above the range submitted by the
23 Capital Development Board, the amount of operations and
24 maintenance costs at the lowest end of the range submitted
25 by the Capital Development Board shall be approved by the
26 Commission as the amount of operations and maintenance

1 costs to be recovered under the sourcing agreement. Within
2 15 days after the Capital Development Board has submitted
3 its range and the clean coal SNG brownfield facility has
4 submitted its estimate, the Commission shall approve the
5 operations and maintenance costs for the clean coal SNG
6 brownfield facility.

7 The clean coal SNG brownfield facility shall pay for
8 the independent engineering expert's reasonable fees and
9 such costs shall not be passed through to a utility or its
10 customers. The clean coal SNG brownfield facility shall pay
11 a reasonable fee as required by the Capital Development
12 Board for the Capital Development Board's services under
13 this subsection (h-3) to be deposited into the Capital
14 Development Board Revolving Fund, and such fee shall not be
15 passed through to a utility or its customers.

16 (3) Sequestration costs approved by the Commission
17 shall be recoverable by the clean coal SNG brownfield
18 facility. "Sequestration costs" means costs to be incurred
19 by the clean coal SNG brownfield facility in accordance
20 with its Commission-approved carbon capture and
21 sequestration plan to:

22 (A) capture carbon dioxide;

23 (B) build, operate, and maintain a sequestration
24 site in which carbon dioxide may be injected;

25 (C) build, operate, and maintain a carbon dioxide
26 pipeline; and

1 (D) transport the carbon dioxide to the
2 sequestration site or a pipeline.

3 The Commission shall assess the prudence of the
4 sequestration costs for the clean coal SNG brownfield
5 facility before construction commences at the
6 sequestration site or pipeline. Any revenues the clean coal
7 SNG brownfield facility receives as a result of the
8 capture, transportation, or sequestration of carbon
9 dioxide shall be first credited against all sequestration
10 costs, with the positive balance, if any, treated as
11 additional net revenue.

12 The Commission may, in its discretion, retain an expert
13 to assist in its review of sequestration costs. The clean
14 coal SNG brownfield facility shall pay for the expert's
15 reasonable fees if an expert is retained by the Commission,
16 and such costs shall not be passed through to a utility or
17 its customers. Once made, the Commission's determination
18 of the amount of recoverable sequestration costs shall not
19 be increased unless the clean coal SNG brownfield facility
20 can show by clear and convincing evidence that (i) the
21 costs were not reasonably foreseeable; (ii) the costs were
22 due to circumstances beyond the clean coal SNG brownfield
23 facility's control; and (iii) the clean coal SNG brownfield
24 facility took all reasonable steps to mitigate the costs.
25 If the Commission determines that sequestration costs may
26 be increased, the Commission shall provide for notice and a

1 public hearing for approval of the increased sequestration
2 costs.

3 (4) Actual delivered and processed fuel costs shall be
4 set by the Illinois Power Agency through a SNG feedstock
5 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
6 the Illinois Power Agency Act, to be performed at least
7 every 5 years and purchased by the clean coal SNG
8 brownfield facility pursuant to feedstock procurement
9 contracts developed by the Illinois Power Agency, with coal
10 comprising at least 50% of the total feedstock over the
11 term of the sourcing agreement and petroleum coke
12 comprising the remainder of the SNG feedstock. If the
13 Commission fails to approve a feedstock procurement plan or
14 fails to approve the results of a feedstock procurement
15 event, then the fuel shall be purchased by the company
16 month-by-month on the spot market and those actual
17 delivered and processed fuel costs shall be recoverable
18 under the sourcing agreement. If a supplier defaults under
19 the terms of a procurement contract, then the Illinois
20 Power Agency shall immediately initiate a feedstock
21 procurement process to obtain a replacement supply, and,
22 prior to the conclusion of that process, fuel shall be
23 purchased by the company month-by-month on the spot market
24 and those actual delivered and processed fuel costs shall
25 be recoverable under the sourcing agreement.

26 (5) Taxes and fees imposed by the federal government,

1 the State, or any unit of local government applicable to
2 the clean coal SNG brownfield facility, excluding income
3 tax, shall be recoverable by the clean coal SNG brownfield
4 facility under the sourcing agreement to the extent such
5 taxes and fees were not applicable to the facility on July
6 13, 2011.

7 (6) The actual transportation costs, in accordance
8 with the applicable utility's tariffs, and third-party
9 marketer costs incurred by the company, if any, associated
10 with transporting the SNG from the clean coal SNG
11 brownfield facility to the Chicago City-gate to sell such
12 SNG into the natural gas markets shall be recoverable under
13 the sourcing agreement.

14 (7) Unless otherwise provided, within 30 days after a
15 decision of the Commission on recoverable costs under this
16 Section, any interested party to the Commission's decision
17 may apply for a rehearing with respect to the decision. The
18 Commission shall receive and consider the application for
19 rehearing and shall grant or deny the application in whole
20 or in part within 20 days after the date of the receipt of
21 the application by the Commission. If no rehearing is
22 applied for within the required 30 days or an application
23 for rehearing is denied, then the Commission decision shall
24 be final. If an application for rehearing is granted, then
25 the Commission shall hold a rehearing within 30 days after
26 granting the application. The decision of the Commission

1 upon rehearing shall be final.

2 Any person affected by a decision of the Commission
3 under this subsection (h-3) may have the decision reviewed
4 only under and in accordance with the Administrative Review
5 Law. Unless otherwise provided, the provisions of the
6 Administrative Review Law, all amendments and
7 modifications to that Law, and the rules adopted pursuant
8 to that Law shall apply to and govern all proceedings for
9 the judicial review of final administrative decisions of
10 the Commission under this subsection (h-3). The term
11 "administrative decision" is defined as in Section 3-101 of
12 the Code of Civil Procedure.

13 (8) The Capital Development Board shall adopt and make
14 public a policy detailing the process for retaining experts
15 under this Section. Any experts retained to assist with
16 calculating the range of capital costs or operations and
17 maintenance costs shall be retained no later than 45 days
18 after July 13, 2011.

19 (h-4) No later than 90 days after the Illinois Power Agency
20 submits the final draft sourcing agreement pursuant to
21 subsection (h-1), the Commission shall approve a sourcing
22 agreement containing (i) the capital costs, rate of return, and
23 operations and maintenance costs established pursuant to
24 subsection (h-3) and (ii) all other terms and conditions,
25 rights, provisions, exceptions, and limitations contained in
26 the final draft sourcing agreement; provided, however, the

1 Commission shall correct typographical and scrivener's errors
2 and modify the contract only as necessary to provide that the
3 gas utility does not have the right to terminate the sourcing
4 agreement due to any future events that may occur other than
5 the clean coal SNG brownfield facility's failure to timely meet
6 milestones, uncured default, extended force majeure, or
7 abandonment. Once the sourcing agreement is approved, then the
8 gas utility subject to that sourcing agreement shall have 45
9 days after the date of the Commission's approval to enter into
10 the sourcing agreement.

11 (h-5) Sequestration enforcement.

12 (A) All contracts entered into under subsection (h) of
13 this Section and all sourcing agreements under subsection
14 (h-1) of this Section, regardless of duration, shall
15 require the owner of any facility supplying SNG under the
16 contract or sourcing agreement to provide certified
17 documentation to the Commission each year, starting in the
18 facility's first year of commercial operation, accurately
19 reporting the quantity of carbon dioxide emissions from the
20 facility that have been captured and sequestered and
21 reporting any quantities of carbon dioxide released from
22 the site or sites at which carbon dioxide emissions were
23 sequestered in prior years, based on continuous monitoring
24 of those sites.

25 (B) If, in any year, the owner of the clean coal SNG
26 facility fails to demonstrate that the SNG facility

1 captured and sequestered at least 90% of the total carbon
2 dioxide emissions that the facility would otherwise emit or
3 that sequestration of emissions from prior years has
4 failed, resulting in the release of carbon dioxide into the
5 atmosphere, then the owner of the clean coal SNG facility
6 must pay a penalty of \$20 per ton of excess carbon dioxide
7 emissions not to exceed \$40,000,000, in any given year
8 which shall be deposited into the Energy Efficiency Trust
9 Fund and distributed pursuant to subsection (b) of Section
10 6-6 of the Renewable Energy, Energy Efficiency, and Coal
11 Resources Development Law of 1997. On or before the 5-year
12 anniversary of the execution of the contract and every 5
13 years thereafter, an expert hired by the owner of the
14 facility with the approval of the Attorney General shall
15 conduct an analysis to determine the cost of sequestration
16 of at least 90% of the total carbon dioxide emissions the
17 plant would otherwise emit. If the analysis shows that the
18 actual annual cost is greater than the penalty, then the
19 penalty shall be increased to equal the actual cost.
20 Provided, however, to the extent that the owner of the
21 facility described in subsection (h) of this Section can
22 demonstrate that the failure was as a result of acts of God
23 (including fire, flood, earthquake, tornado, lightning,
24 hurricane, or other natural disaster); any amendment,
25 modification, or abrogation of any applicable law or
26 regulation that would prevent performance; war; invasion;

1 act of foreign enemies; hostilities (regardless of whether
2 war is declared); civil war; rebellion; revolution;
3 insurrection; military or usurped power or confiscation;
4 terrorist activities; civil disturbance; riots;
5 nationalization; sabotage; blockage; or embargo, the owner
6 of the facility described in subsection (h) of this Section
7 shall not be subject to a penalty if and only if (i) it
8 promptly provides notice of its failure to the Commission;
9 (ii) as soon as practicable and consistent with any order
10 or direction from the Commission, it submits to the
11 Commission proposed modifications to its carbon capture
12 and sequestration plan; and (iii) it carries out its
13 proposed modifications in the manner and time directed by
14 the Commission.

15 If the Commission finds that the facility has not
16 satisfied each of these requirements, then the facility
17 shall be subject to the penalty. If the owner of the clean
18 coal SNG facility captured and sequestered more than 90% of
19 the total carbon dioxide emissions that the facility would
20 otherwise emit, then the owner of the facility may credit
21 such additional amounts to reduce the amount of any future
22 penalty to be paid. The penalty resulting from the failure
23 to capture and sequester at least the minimum amount of
24 carbon dioxide shall not be passed on to a utility or its
25 customers.

26 If the clean coal SNG facility fails to meet the

1 requirements specified in this subsection (h-5), then the
2 Attorney General, on behalf of the People of the State of
3 Illinois, shall bring an action to enforce the obligations
4 related to the facility set forth in this subsection (h-5),
5 including any penalty payments owed, but not including the
6 physical obligation to capture and sequester at least 90%
7 of the total carbon dioxide emissions that the facility
8 would otherwise emit. Such action may be filed in any
9 circuit court in Illinois. By entering into a contract
10 pursuant to subsection (h) of this Section, the clean coal
11 SNG facility agrees to waive any objections to venue or to
12 the jurisdiction of the court with regard to the Attorney
13 General's action under this subsection (h-5).

14 Compliance with the sequestration requirements and any
15 penalty requirements specified in this subsection (h-5)
16 for the clean coal SNG facility shall be assessed annually
17 by the Commission, which may in its discretion retain an
18 expert to facilitate its assessment. If any expert is
19 retained by the Commission, then the clean coal SNG
20 facility shall pay for the expert's reasonable fees, and
21 such costs shall not be passed through to the utility or
22 its customers.

23 In addition, carbon dioxide emission credits received
24 by the clean coal SNG facility in connection with
25 sequestration of carbon dioxide from the facility must be
26 sold in a timely fashion with any revenue, less applicable

1 fees and expenses and any expenses required to be paid by
2 facility for carbon dioxide transportation or
3 sequestration, deposited into the reconciliation account
4 within 30 days after receipt of such funds by the owner of
5 the clean coal SNG facility.

6 The clean coal SNG facility is prohibited from
7 transporting or sequestering carbon dioxide unless the
8 owner of the carbon dioxide pipeline that transfers the
9 carbon dioxide from the facility and the owner of the
10 sequestration site where the carbon dioxide captured by the
11 facility is stored has acquired all applicable permits
12 under applicable State and federal laws, statutes, rules,
13 or regulations prior to the transfer or sequestration of
14 carbon dioxide. The responsibility for compliance with the
15 sequestration requirements specified in this subsection
16 (h-5) for the clean coal SNG facility shall reside solely
17 with the clean coal SNG facility, regardless of whether the
18 facility has contracted with another party to capture,
19 transport, or sequester carbon dioxide.

20 (C) If, in any year, the owner of a clean coal SNG
21 brownfield facility fails to demonstrate that the clean
22 coal SNG brownfield facility captured and sequestered at
23 least 85% of the total carbon dioxide emissions that the
24 facility would otherwise emit, then the owner of the clean
25 coal SNG brownfield facility must pay a penalty of \$20 per
26 ton of excess carbon emissions up to \$20,000,000, which

1 shall be deposited into the Energy Efficiency Trust Fund
2 and distributed pursuant to subsection (b) of Section 6-6
3 of the Renewable Energy, Energy Efficiency, and Coal
4 Resources Development Law of 1997. Provided, however, to
5 the extent that the owner of the clean coal SNG brownfield
6 facility can demonstrate that the failure was as a result
7 of acts of God (including fire, flood, earthquake, tornado,
8 lightning, hurricane, or other natural disaster); any
9 amendment, modification, or abrogation of any applicable
10 law or regulation that would prevent performance; war;
11 invasion; act of foreign enemies; hostilities (regardless
12 of whether war is declared); civil war; rebellion;
13 revolution; insurrection; military or usurped power or
14 confiscation; terrorist activities; civil disturbances;
15 riots; nationalization; sabotage; blockage; or embargo,
16 the owner of the clean coal SNG brownfield facility shall
17 not be subject to a penalty if and only if (i) it promptly
18 provides notice of its failure to the Commission; (ii) as
19 soon as practicable and consistent with any order or
20 direction from the Commission, it submits to the Commission
21 proposed modifications to its carbon capture and
22 sequestration plan; and (iii) it carries out its proposed
23 modifications in the manner and time directed by the
24 Commission. If the Commission finds that the facility has
25 not satisfied each of these requirements, then the facility
26 shall be subject to the penalty. If the owner of a clean

1 coal SNG brownfield facility demonstrates that the clean
2 coal SNG brownfield facility captured and sequestered more
3 than 85% of the total carbon emissions that the facility
4 would otherwise emit, the owner of the clean coal SNG
5 brownfield facility may credit such additional amounts to
6 reduce the amount of any future penalty to be paid. The
7 penalty resulting from the failure to capture and sequester
8 at least the minimum amount of carbon dioxide shall not be
9 passed on to a utility or its customers.

10 In addition to any penalty for the clean coal SNG
11 brownfield facility's failure to capture and sequester at
12 least its minimum sequestration requirement, the Attorney
13 General, on behalf of the People of the State of Illinois,
14 shall bring an action for specific performance of this
15 subsection (h-5). Such action may be filed in any circuit
16 court in Illinois. By entering into a sourcing agreement
17 pursuant to subsection (h-1) of this Section, the clean
18 coal SNG brownfield facility agrees to waive any objections
19 to venue or to the jurisdiction of the court with regard to
20 the Attorney General's action for specific performance
21 under this subsection (h-5).

22 Compliance with the sequestration requirements and
23 penalty requirements specified in this subsection (h-5)
24 for the clean coal SNG brownfield facility shall be
25 assessed annually by the Commission, which may in its
26 discretion retain an expert to facilitate its assessment.

1 If an expert is retained by the Commission, then the clean
2 coal SNG brownfield facility shall pay for the expert's
3 reasonable fees, and such costs shall not be passed through
4 to a utility or its customers. A SNG facility operating
5 pursuant to this subsection (h-5) shall not forfeit its
6 designation as a clean coal SNG facility or a clean coal
7 SNG brownfield facility if the facility fails to fully
8 comply with the applicable carbon sequestration
9 requirements in any given year, provided the requisite
10 offsets are purchased or requisite penalties are paid.

11 Responsibility for compliance with the sequestration
12 requirements specified in this subsection (h-5) for the
13 clean coal SNG brownfield facility shall reside solely with
14 the clean coal SNG brownfield facility regardless of
15 whether the facility has contracted with another party to
16 capture, transport, or sequester carbon dioxide.

17 (h-7) Sequestration permitting, oversight, and
18 investigations.

19 (1) No clean coal facility or clean coal SNG brownfield
20 facility may transport or sequester carbon dioxide unless
21 the Commission approves the method of carbon dioxide
22 transportation or sequestration. Such approval shall be
23 required regardless of whether the facility has contracted
24 with another to transport or sequester the carbon dioxide.
25 Nothing in this subsection (h-7) shall release the owner or
26 operator of a carbon dioxide sequestration site or carbon

1 dioxide pipeline from any other permitting requirements
2 under applicable State and federal laws, statutes, rules,
3 or regulations.

4 (2) The Commission shall review carbon dioxide
5 transportation and sequestration methods proposed by a
6 clean coal facility or a clean coal SNG brownfield facility
7 and shall approve those methods it deems reasonable and
8 cost-effective. For purposes of this review,
9 "cost-effective" means a commercially reasonable price for
10 similar carbon dioxide transportation or sequestration
11 techniques. In determining whether sequestration is
12 reasonable and cost-effective, the Commission may consult
13 with the Illinois State Geological Survey and retain third
14 parties to assist in its determination, provided that such
15 third parties shall not own or control any direct or
16 indirect interest in the facility that is proposing the
17 carbon dioxide transportation or the carbon dioxide
18 sequestration method and shall have no contractual
19 relationship with that facility. If a third party is
20 retained by the Commission, then the facility proposing the
21 carbon dioxide transportation or sequestration method
22 shall pay for the expert's reasonable fees, and these costs
23 shall not be passed through to a utility or its customers.

24 No later than 6 months prior to the date upon which the
25 owner intends to commence construction of a clean coal
26 facility or the clean coal SNG brownfield facility, the

1 owner of the facility shall file with the Commission a
2 carbon dioxide transportation or sequestration plan. The
3 Commission shall hold a public hearing within 30 days after
4 receipt of the facility's carbon dioxide transportation or
5 sequestration plan. The Commission shall post notice of the
6 review on its website upon submission of a carbon dioxide
7 transportation or sequestration method and shall accept
8 written public comments. The Commission shall take the
9 comments into account when making its decision.

10 The Commission may not approve a carbon dioxide
11 sequestration method if the owner or operator of the
12 sequestration site has not received (i) an Underground
13 Injection Control permit from the United States
14 Environmental Protection Agency, or from the Illinois
15 Environmental Protection Agency pursuant to the
16 Environmental Protection Act; (ii) an Underground
17 Injection Control permit from the Illinois Department of
18 Natural Resources pursuant to the Illinois Oil and Gas Act;
19 or (iii) an Underground Injection Control permit from the
20 United States Environmental Protection Agency or a permit
21 similar to items (i) or (ii) from the state in which the
22 sequestration site is located if the sequestration will
23 take place outside of Illinois. The Commission shall
24 approve or deny the carbon dioxide transportation or
25 sequestration method within 90 days after the receipt of
26 all required information.

1 (3) At least annually, the Illinois Environmental
2 Protection Agency shall inspect all carbon dioxide
3 sequestration sites in Illinois. The Illinois
4 Environmental Protection Agency may, as often as deemed
5 necessary, monitor and conduct investigations of those
6 sites. The owner or operator of the sequestration site must
7 cooperate with the Illinois Environmental Protection
8 Agency investigations of carbon dioxide sequestration
9 sites.

10 If the Illinois Environmental Protection Agency
11 determines at any time a site creates conditions that
12 warrant the issuance of a seal order under Section 34 of
13 the Environmental Protection Act, then the Illinois
14 Environmental Protection Agency shall seal the site
15 pursuant to the Environmental Protection Act. If the
16 Illinois Environmental Protection Agency determines at any
17 time a carbon dioxide sequestration site creates
18 conditions that warrant the institution of a civil action
19 for an injunction under Section 43 of the Environmental
20 Protection Act, then the Illinois Environmental Protection
21 Agency shall request the State's Attorney or the Attorney
22 General institute such action. The Illinois Environmental
23 Protection Agency shall provide notice of any such actions
24 as soon as possible on its website. The SNG facility shall
25 incur all reasonable costs associated with any such
26 inspection or monitoring of the sequestration sites, and

1 these costs shall not be recoverable from utilities or
2 their customers.

3 (4) (Blank).

4 (h-9) The clean coal SNG brownfield facility shall have the
5 right to recover prudently incurred increased costs or reduced
6 revenue resulting from any new or amendatory legislation or
7 other action. The State of Illinois pledges that the State will
8 not enact any law or take any action to:

9 (1) break, or repeal the authority for, sourcing
10 agreements approved by the Commission and entered into
11 between public utilities and the clean coal SNG brownfield
12 facility;

13 (2) deny public utilities full cost recovery for their
14 costs incurred under those sourcing agreements; or

15 (3) deny the clean coal SNG brownfield facility full
16 cost and revenue recovery as provided under those sourcing
17 agreements that are recoverable pursuant to subsection
18 (h-3) of this Section.

19 These pledges are for the benefit of the parties to those
20 sourcing agreements and the issuers and holders of bonds or
21 other obligations issued or incurred to finance or refinance
22 the clean coal SNG brownfield facility. The clean coal SNG
23 brownfield facility is authorized to include and refer to these
24 pledges in any financing agreement into which it may enter in
25 regard to those sourcing agreements.

26 The State of Illinois retains and reserves all other rights

1 to enact new or amendatory legislation or take any other
2 action, without impairment of the right of the clean coal SNG
3 brownfield facility to recover prudently incurred increased
4 costs or reduced revenue resulting from the new or amendatory
5 legislation or other action, including, but not limited to,
6 such legislation or other action that would (i) directly or
7 indirectly raise the costs the clean coal SNG brownfield
8 facility must incur; (ii) directly or indirectly place
9 additional restrictions, regulations, or requirements on the
10 clean coal SNG brownfield facility; (iii) prohibit
11 sequestration in general or prohibit a specific sequestration
12 method or project; or (iv) increase minimum sequestration
13 requirements for the clean coal SNG brownfield facility to the
14 extent technically feasible. The clean coal SNG brownfield
15 facility shall have the right to recover prudently incurred
16 increased costs or reduced revenue resulting from the new or
17 amendatory legislation or other action as described in this
18 subsection (h-9).

19 (h-10) Contract costs for SNG incurred by an Illinois gas
20 utility are reasonable and prudent and recoverable through the
21 purchased gas adjustment clause and are not subject to review
22 or disallowance by the Commission. Contract costs are costs
23 incurred by the utility under the terms of a contract that
24 incorporates the terms stated in subsection (h) of this Section
25 as confirmed in writing by the Illinois Power Agency as set
26 forth in subsection (h) of this Section, which confirmation

1 shall be deemed conclusive, or as a consequence of or condition
2 to its performance under the contract, including (i) amounts
3 paid for SNG under the SNG contract and (ii) costs of
4 transportation and storage services of SNG purchased from
5 interstate pipelines under federally approved tariffs. The
6 Illinois gas utility shall initiate a clean coal SNG facility
7 rider mechanism that (A) shall be applicable to all customers
8 who receive transportation service from the utility, (B) shall
9 be designed to have an equal percentage impact on the
10 transportation services rates of each class of the utility's
11 total customers, and (C) shall accurately reflect the net
12 customer savings, if any, and above market costs, if any, under
13 the SNG contract. Any contract, the terms of which have been
14 confirmed in writing by the Illinois Power Agency as set forth
15 in subsection (h) of this Section and the performance of the
16 parties under such contract cannot be grounds for challenging
17 prudence or cost recovery by the utility through the purchased
18 gas adjustment clause, and in such cases, the Commission is
19 directed not to consider, and has no authority to consider, any
20 attempted challenges.

21 The contracts entered into by Illinois gas utilities
22 pursuant to subsection (h) of this Section shall provide that
23 the utility retains the right to terminate the contract without
24 further obligation or liability to any party if the contract
25 has been impaired as a result of any legislative,
26 administrative, judicial, or other governmental action that is

1 taken that eliminates all or part of the prudence protection of
2 this subsection (h-10) or denies the recoverability of all or
3 part of the contract costs through the purchased gas adjustment
4 clause. Should any Illinois gas utility exercise its right
5 under this subsection (h-10) to terminate the contract, all
6 contract costs incurred prior to termination are and will be
7 deemed reasonable, prudent, and recoverable as and when
8 incurred and not subject to review or disallowance by the
9 Commission. Any order, issued by the State requiring or
10 authorizing the discontinuation of the merchant function,
11 defined as the purchase and sale of natural gas by an Illinois
12 gas utility for the ultimate consumer in its service territory
13 shall include provisions necessary to prevent the impairment of
14 the value of any contract hereunder over its full term.

15 (h-11) All costs incurred by an Illinois gas utility in
16 procuring SNG from a clean coal SNG brownfield facility
17 pursuant to subsection (h-1) or a third-party marketer pursuant
18 to subsection (h-1) are reasonable and prudent and recoverable
19 through the purchased gas adjustment clause in conjunction with
20 a SNG brownfield facility rider mechanism and are not subject
21 to review or disallowance by the Commission; provided that if a
22 utility is required by law or otherwise elects to connect the
23 clean coal SNG brownfield facility to an interstate pipeline,
24 then the utility shall be entitled to recover pursuant to its
25 tariffs all just and reasonable costs that are prudently
26 incurred. Sourcing agreement costs are costs incurred by the

1 utility under the terms of a sourcing agreement that
2 incorporates the terms stated in subsection (h-1) of this
3 Section as approved by the Commission as set forth in
4 subsection (h-4) of this Section, which approval shall be
5 deemed conclusive, or as a consequence of or condition to its
6 performance under the contract, including (i) amounts paid for
7 SNG under the SNG contract and (ii) costs of transportation and
8 storage services of SNG purchased from interstate pipelines
9 under federally approved tariffs. Any sourcing agreement, the
10 terms of which have been approved by the Commission as set
11 forth in subsection (h-4) of this Section, and the performance
12 of the parties under the sourcing agreement cannot be grounds
13 for challenging prudence or cost recovery by the utility, and
14 in these cases, the Commission is directed not to consider, and
15 has no authority to consider, any attempted challenges.

16 (h-15) Reconciliation account. The clean coal SNG facility
17 shall establish a reconciliation account for the benefit of the
18 retail customers of the utilities that have entered into
19 contracts with the clean coal SNG facility pursuant to
20 subsection (h). The reconciliation account shall be maintained
21 and administered by an independent trustee that is mutually
22 agreed upon by the owners of the clean coal SNG facility, the
23 utilities, and the Commission in an interest-bearing account in
24 accordance with the following:

25 (1) The clean coal SNG facility shall conduct an
26 analysis annually within 60 days after receiving the

1 necessary cost information, which shall be provided by the
2 gas utility within 6 months after the end of the preceding
3 calendar year, to determine (i) the average annual contract
4 SNG cost, which shall be calculated as the total amount
5 paid for SNG purchased from the clean coal SNG facility
6 over the preceding 12 months, plus the cost to the utility
7 of the required transportation and storage services of SNG,
8 divided by the total number of MMBtus of SNG actually
9 purchased from the clean coal SNG facility in the preceding
10 12 months under the utility contract; (ii) the average
11 annual natural gas purchase cost, which shall be calculated
12 as the total annual supply costs paid for baseload natural
13 gas (excluding any SNG) purchased by such utility over the
14 preceding 12 months plus the costs of transportation and
15 storage services of such natural gas (excluding such costs
16 for SNG), divided by the total number of MMBtus of baseload
17 natural gas (excluding SNG) actually purchased by the
18 utility during the year; (iii) the cost differential, which
19 shall be the difference between the average annual contract
20 SNG cost and the average annual natural gas purchase cost;
21 and (iv) the revenue share target which shall be the cost
22 differential multiplied by the total amount of SNG
23 purchased over the preceding 12 months under such utility
24 contract.

25 (A) To the extent the annual average contract SNG
26 cost is less than the annual average natural gas

1 purchase cost, the utility shall credit an amount equal
2 to the revenue share target to the reconciliation
3 account. Such credit payment shall be made monthly
4 starting within 30 days after the completed analysis in
5 this subsection (h-15) and based on collections from
6 all customers via a line item charge in all customer
7 bills designed to have an equal percentage impact on
8 the transportation services of each class of
9 customers. Credit payments made pursuant to this
10 subparagraph (A) shall be deemed prudent and
11 reasonable and not subject to Commission prudence
12 review.

13 (B) To the extent the annual average contract SNG
14 cost is greater than the annual average natural gas
15 purchase cost, the reconciliation account shall be
16 used to provide a credit equal to the revenue share
17 target to the utilities to be used to reduce the
18 utility's natural gas costs through the purchased gas
19 adjustment clause. Such payment shall be made within 30
20 days after the completed analysis pursuant to this
21 subsection (h-15), but only to the extent that the
22 reconciliation account has a positive balance.

23 (2) At the conclusion of the term of the SNG contracts
24 pursuant to subsection (h) and the completion of the final
25 annual analysis pursuant to this subsection (h-15), to the
26 extent the facility owes any amount to retail customers,

1 amounts in the account shall be credited to retail
2 customers to the extent the owed amount is repaid; 50% of
3 any additional amount in the reconciliation account shall
4 be distributed to the utilities to be used to reduce the
5 utilities' natural gas costs through the purchase gas
6 adjustment clause with the remaining amount distributed to
7 the clean coal SNG facility. Such payment shall be made
8 within 30 days after the last completed analysis pursuant
9 to this subsection (h-15). If the facility has repaid all
10 owed amounts, if any, to retail customers and has
11 distributed 50% of any additional amount in the account to
12 the utilities, then the owners of the clean coal SNG
13 facility shall have no further obligation to the utility or
14 the retail customers.

15 If, at the conclusion of the term of the contracts
16 pursuant to subsection (h) and the completion of the final
17 annual analysis pursuant to this subsection (h-15), the
18 facility owes any amount to retail customers and the
19 account has been depleted, then the clean coal SNG facility
20 shall be liable for any remaining amount owed to the retail
21 customers. The clean coal SNG facility shall market the
22 daily production of SNG and distribute on a monthly basis
23 5% of the amounts collected with respect to such future
24 sales to the utilities in proportion to each utility's SNG
25 contract to be used to reduce the utility's natural gas
26 costs through the purchase gas adjustment clause; such

1 payments to the utility shall continue until either 15
2 years after the conclusion of the contract or such time as
3 the sum of such payments equals the remaining amount owed
4 to the retail customers at the end of the contract,
5 whichever is earlier. If the debt to the retail customers
6 is not repaid within 15 years after the conclusion of the
7 contract, then the owner of the clean coal SNG facility
8 must sell the facility, and all proceeds from that sale
9 must be used to repay any amount owed to the retail
10 customers under this subsection (h-15).

11 The retail customers shall have first priority in
12 recovering that debt above any creditors, except the
13 secured lenders to the extent that the secured lenders have
14 any secured debt outstanding, including any parent
15 companies or affiliates of the clean coal SNG facility.

16 (3) 50% of all additional net revenue, defined as
17 miscellaneous net revenue after cost allowance and above
18 the budgeted estimate established for revenue pursuant to
19 subsection (h), including sale of substitute natural gas
20 derived from the clean coal SNG facility above the
21 nameplate capacity of the facility and other by-products
22 produced by the facility, shall be credited to the
23 reconciliation account on an annual basis with such payment
24 made within 30 days after the end of each calendar year
25 during the term of the contract.

26 (4) The clean coal SNG facility shall each year,

1 starting in the facility's first year of commercial
2 operation, file with the Commission, in such form as the
3 Commission shall require, a report as to the reconciliation
4 account. The annual report must contain the following
5 information:

6 (A) the revenue share target amount;

7 (B) the amount credited or debited to the
8 reconciliation account during the year;

9 (C) the amount credited to the utilities to be used
10 to reduce the utilities natural gas costs though the
11 purchase gas adjustment clause;

12 (D) the total amount of reconciliation account at
13 the beginning and end of the year;

14 (E) the total amount of consumer savings to date;
15 and

16 (F) any additional information the Commission may
17 require.

18 When any report is erroneous or defective or appears to the
19 Commission to be erroneous or defective, the Commission may
20 notify the clean coal SNG facility to amend the report within
21 30 days; before or after the termination of the 30-day period,
22 the Commission may examine the trustee of the reconciliation
23 account or the officers, agents, employees, books, records, or
24 accounts of the clean coal SNG facility and correct such items
25 in the report as upon such examination the Commission may find
26 defective or erroneous. All reports shall be under oath.

1 All reports made to the Commission by the clean coal SNG
2 facility and the contents of the reports shall be open to
3 public inspection and shall be deemed a public record under the
4 Freedom of Information Act. Such reports shall be preserved in
5 the office of the Commission. The Commission shall publish an
6 annual summary of the reports prior to February 1 of the
7 following year. The annual summary shall be made available to
8 the public on the Commission's website and shall be submitted
9 to the General Assembly.

10 Any facility that fails to file the report required under
11 this paragraph (4) to the Commission within the time specified
12 or to make specific answer to any question propounded by the
13 Commission within 30 days after the time it is lawfully
14 required to do so, or within such further time not to exceed 90
15 days as may be allowed by the Commission in its discretion,
16 shall pay a penalty of \$500 to the Commission for each day it
17 is in default.

18 Any person who willfully makes any false report to the
19 Commission or to any member, officer, or employee thereof, any
20 person who willfully in a report withholds or fails to provide
21 material information to which the Commission is entitled under
22 this paragraph (4) and which information is either required to
23 be filed by statute, rule, regulation, order, or decision of
24 the Commission or has been requested by the Commission, and any
25 person who willfully aids or abets such person shall be guilty
26 of a Class A misdemeanor.

1 (h-20) The General Assembly authorizes the Illinois
2 Finance Authority to issue bonds to the maximum extent
3 permitted to finance coal gasification facilities described in
4 this Section, which constitute both "industrial projects"
5 under Article 801 of the Illinois Finance Authority Act and
6 "clean coal and energy projects" under Sections 825-65 through
7 825-75 of the Illinois Finance Authority Act.

8 Administrative costs incurred by the Illinois Finance
9 Authority in performance of this subsection (h-20) shall be
10 subject to reimbursement by the clean coal SNG facility on
11 terms as the Illinois Finance Authority and the clean coal SNG
12 facility may agree. The utility and its customers shall have no
13 obligation to reimburse the clean coal SNG facility or the
14 Illinois Finance Authority for any such costs.

15 (h-25) The State of Illinois pledges that the State may not
16 enact any law or take any action to (1) break or repeal the
17 authority for SNG purchase contracts entered into between
18 public gas utilities and the clean coal SNG facility pursuant
19 to subsection (h) of this Section or (2) deny public gas
20 utilities their full cost recovery for contract costs, as
21 defined in subsection (h-10), that are incurred under such SNG
22 purchase contracts. These pledges are for the benefit of the
23 parties to such SNG purchase contracts and the issuers and
24 holders of bonds or other obligations issued or incurred to
25 finance or refinance the clean coal SNG facility. The
26 beneficiaries are authorized to include and refer to these

1 pledges in any finance agreement into which they may enter in
2 regard to such contracts.

3 (h-30) The State of Illinois retains and reserves all other
4 rights to enact new or amendatory legislation or take any other
5 action, including, but not limited to, such legislation or
6 other action that would (1) directly or indirectly raise the
7 costs that the clean coal SNG facility must incur; (2) directly
8 or indirectly place additional restrictions, regulations, or
9 requirements on the clean coal SNG facility; (3) prohibit
10 sequestration in general or prohibit a specific sequestration
11 method or project; or (4) increase minimum sequestration
12 requirements.

13 (i) If a gas utility or an affiliate of a gas utility has
14 an ownership interest in any entity that produces or sells
15 synthetic natural gas, Article VII of this Act shall apply.

16 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-630,
17 eff. 12-8-11; 97-906, eff. 8-7-12; 97-1081, eff. 8-24-12;
18 98-463, eff. 8-16-13.)

19 Section 145. The Illinois Horse Racing Act of 1975 is
20 amended by changing Sections 12.1 and 12.2 as follows:

21 (230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

22 Sec. 12.1. (a) The General Assembly finds that the Illinois
23 Racing Industry does not include a fair proportion of minority
24 or female workers.

1 Therefore, the General Assembly urges that the job training
2 institutes, trade associations and employers involved in the
3 Illinois Horse Racing Industry take affirmative action to
4 encourage equal employment opportunity to all workers
5 regardless of race, color, creed or sex.

6 Before an organization license, inter-track wagering
7 license or inter-track wagering location license can be
8 granted, the applicant for any such license shall execute and
9 file with the Board a good faith affirmative action plan to
10 recruit, train and upgrade minorities and females in all
11 classifications with the applicant for license. One year after
12 issuance of any such license, and each year thereafter, the
13 licensee shall file a report with the Board evidencing and
14 certifying compliance with the originally filed affirmative
15 action plan.

16 (b) At least 10% of the total amount of all State contracts
17 for the infrastructure improvement of any race track grounds in
18 this State shall be let to minority-owned ~~minority-owned~~
19 businesses or women-owned ~~female-owned~~ businesses. "State
20 contract", "minority-owned ~~minority-owned~~ business" and
21 "women-owned ~~female-owned~~ business" shall have the meanings
22 ascribed to them under the Business Enterprise for Minorities,
23 Women ~~Females~~, and Persons with Disabilities Act.

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

1 Sec. 12.2. Business enterprise program.

2 (a) For the purposes of this Section, the terms "minority",
3 "minority-owned ~~minority-owned~~ business", "woman ~~female~~",
4 "women-owned ~~female-owned~~ business", "person with a
5 disability", and "business owned by a person with a disability"
6 have the meanings ascribed to them in the Business Enterprise
7 for Minorities, Women ~~Females~~, and Persons with Disabilities
8 Act.

9 (b) The Board shall, by rule, establish goals for the award
10 of contracts by each organization licensee or inter-track
11 wagering licensee to businesses owned by minorities, women
12 ~~females~~, and persons with disabilities, expressed as
13 percentages of an organization licensee's or inter-track
14 wagering licensee's total dollar amount of contracts awarded
15 during each calendar year. Each organization licensee or
16 inter-track wagering licensee must make every effort to meet
17 the goals established by the Board pursuant to this Section.
18 When setting the goals for the award of contracts, the Board
19 shall not include contracts where: (1) licensees are purchasing
20 goods or services from vendors or suppliers or in markets where
21 there are no or a limited number of minority-owned ~~minority~~
22 ~~owned~~ businesses, women-owned ~~women-owned~~ businesses, or
23 businesses owned by persons with disabilities that would be
24 sufficient to satisfy the goal; (2) there are no or a limited
25 number of suppliers licensed by the Board; (3) the licensee or
26 its parent company owns a company that provides the goods or

1 services; or (4) the goods or services are provided to the
2 licensee by a publicly traded company.

3 (c) Each organization licensee or inter-track wagering
4 licensee shall file with the Board an annual report of its
5 utilization of minority-owned ~~minority-owned~~ businesses,
6 women-owned ~~female-owned~~ businesses, and businesses owned by
7 persons with disabilities during the preceding calendar year.
8 The reports shall include a self-evaluation of the efforts of
9 the organization licensee or inter-track wagering licensee to
10 meet its goals under this Section.

11 (d) The organization licensee or inter-track wagering
12 licensee shall have the right to request a waiver from the
13 requirements of this Section. The Board shall grant the waiver
14 where the organization licensee or inter-track wagering
15 licensee demonstrates that there has been made a good faith
16 effort to comply with the goals for participation by
17 minority-owned ~~minority-owned~~ businesses, women-owned ~~female~~
18 ~~owned~~ businesses, and businesses owned by persons with
19 disabilities.

20 (e) If the Board determines that its goals and policies are
21 not being met by any organization licensee or inter-track
22 wagering licensee, then the Board may:

23 (1) adopt remedies for such violations; and

24 (2) recommend that the organization licensee or
25 inter-track wagering licensee provide additional
26 opportunities for participation by minority-owned ~~minority~~

1 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
2 businesses owned by persons with disabilities; such
3 recommendations may include, but shall not be limited to:

4 (A) assurances of stronger and better focused
5 solicitation efforts to obtain more minority-owned
6 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
7 businesses, and businesses owned by persons with
8 disabilities as potential sources of supply;

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

14 (C) elimination of extended experience or
15 capitalization requirements, when programmatically
16 feasible, to permit participation of minority-owned
17 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
18 businesses, and businesses owned by persons with
19 disabilities;

20 (D) identification of specific proposed contracts
21 as particularly attractive or appropriate for
22 participation by minority-owned ~~minority-owned~~
23 businesses, women-owned ~~female-owned~~ businesses, and
24 businesses owned by persons with disabilities, such
25 identification to result from and be coupled with the
26 efforts of items (A) through (C); and

1 (E) implementation of regulations established for
2 the use of the sheltered market process.

3 (f) The Board shall file, no later than March 1 of each
4 year, an annual report that shall detail the level of
5 achievement toward the goals specified in this Section over the
6 3 most recent fiscal years. The annual report shall include,
7 but need not be limited to:

8 (1) a summary detailing expenditures subject to the
9 goals, the actual goals specified, and the goals attained
10 by each organization licensee or inter-track wagering
11 licensee;

12 (2) a summary of the number of contracts awarded and
13 the average contract amount by each organization licensee
14 or inter-track wagering licensee;

15 (3) an analysis of the level of overall goal
16 achievement concerning purchases from minority-owned
17 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
18 businesses, and businesses owned by persons with
19 disabilities;

20 (4) an analysis of the number of minority-owned
21 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
22 businesses, and businesses owned by persons with
23 disabilities that are certified under the program as well
24 as the number of those businesses that received State
25 procurement contracts; and

26 (5) (blank).

1 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15;
2 99-891, eff. 1-1-17.)

3 Section 150. The Riverboat Gambling Act is amended by
4 changing Sections 4, 7, 7.1, 7.4, 7.6, and 11.2 as follows:

5 (230 ILCS 10/4) (from Ch. 120, par. 2404)

6 Sec. 4. Definitions. As used in this Act:

7 (a) "Board" means the Illinois Gaming Board.

8 (b) "Occupational license" means a license issued by the
9 Board to a person or entity to perform an occupation which the
10 Board has identified as requiring a license to engage in
11 riverboat gambling in Illinois.

12 (c) "Gambling game" includes, but is not limited to,
13 baccarat, twenty-one, poker, craps, slot machine, video game of
14 chance, roulette wheel, klondike table, punchboard, faro
15 layout, keno layout, numbers ticket, push card, jar ticket, or
16 pull tab which is authorized by the Board as a wagering device
17 under this Act.

18 (d) "Riverboat" means a self-propelled excursion boat, a
19 permanently moored barge, or permanently moored barges that are
20 permanently fixed together to operate as one vessel, on which
21 lawful gambling is authorized and licensed as provided in this
22 Act.

23 (e) "Managers license" means a license issued by the Board
24 to a person or entity to manage gambling operations conducted

1 by the State pursuant to Section 7.3.

2 (f) "Dock" means the location where a riverboat moors for
3 the purpose of embarking passengers for and disembarking
4 passengers from the riverboat.

5 (g) "Gross receipts" means the total amount of money
6 exchanged for the purchase of chips, tokens or electronic cards
7 by riverboat patrons.

8 (h) "Adjusted gross receipts" means the gross receipts less
9 winnings paid to wagerers.

10 (i) "Cheat" means to alter the selection of criteria which
11 determine the result of a gambling game or the amount or
12 frequency of payment in a gambling game.

13 (j) (Blank).

14 (k) "Gambling operation" means the conduct of authorized
15 gambling games upon a riverboat.

16 (l) "License bid" means the lump sum amount of money that
17 an applicant bids and agrees to pay the State in return for an
18 owners license that is re-issued on or after July 1, 2003.

19 (m) The terms "minority person", "woman ~~female~~", and
20 "person with a disability" shall have the same meaning as
21 defined in Section 2 of the Business Enterprise for Minorities,
22 Women ~~Females~~, and Persons with Disabilities Act.

23 (Source: P.A. 95-331, eff. 8-21-07; 96-1392, eff. 1-1-11.)

24 (230 ILCS 10/7) (from Ch. 120, par. 2407)

25 Sec. 7. Owners Licenses.

1 (a) The Board shall issue owners licenses to persons, firms
2 or corporations which apply for such licenses upon payment to
3 the Board of the non-refundable license fee set by the Board,
4 upon payment of a \$25,000 license fee for the first year of
5 operation and a \$5,000 license fee for each succeeding year and
6 upon a determination by the Board that the applicant is
7 eligible for an owners license pursuant to this Act and the
8 rules of the Board. From the effective date of this amendatory
9 Act of the 95th General Assembly until (i) 3 years after the
10 effective date of this amendatory Act of the 95th General
11 Assembly, (ii) the date any organization licensee begins to
12 operate a slot machine or video game of chance under the
13 Illinois Horse Racing Act of 1975 or this Act, (iii) the date
14 that payments begin under subsection (c-5) of Section 13 of the
15 Act, or (iv) the wagering tax imposed under Section 13 of this
16 Act is increased by law to reflect a tax rate that is at least
17 as stringent or more stringent than the tax rate contained in
18 subsection (a-3) of Section 13, whichever occurs first, as a
19 condition of licensure and as an alternative source of payment
20 for those funds payable under subsection (c-5) of Section 13 of
21 the Riverboat Gambling Act, any owners licensee that holds or
22 receives its owners license on or after the effective date of
23 this amendatory Act of the 94th General Assembly, other than an
24 owners licensee operating a riverboat with adjusted gross
25 receipts in calendar year 2004 of less than \$200,000,000, must
26 pay into the Horse Racing Equity Trust Fund, in addition to any

1 other payments required under this Act, an amount equal to 3%
2 of the adjusted gross receipts received by the owners licensee.
3 The payments required under this Section shall be made by the
4 owners licensee to the State Treasurer no later than 3:00
5 o'clock p.m. of the day after the day when the adjusted gross
6 receipts were received by the owners licensee. A person, firm
7 or corporation is ineligible to receive an owners license if:

8 (1) the person has been convicted of a felony under the
9 laws of this State, any other state, or the United States;

10 (2) the person has been convicted of any violation of
11 Article 28 of the Criminal Code of 1961 or the Criminal
12 Code of 2012, or substantially similar laws of any other
13 jurisdiction;

14 (3) the person has submitted an application for a
15 license under this Act which contains false information;

16 (4) the person is a member of the Board;

17 (5) a person defined in (1), (2), (3) or (4) is an
18 officer, director or managerial employee of the firm or
19 corporation;

20 (6) the firm or corporation employs a person defined in
21 (1), (2), (3) or (4) who participates in the management or
22 operation of gambling operations authorized under this
23 Act;

24 (7) (blank); or

25 (8) a license of the person, firm or corporation issued
26 under this Act, or a license to own or operate gambling

1 facilities in any other jurisdiction, has been revoked.

2 The Board is expressly prohibited from making changes to
3 the requirement that licensees make payment into the Horse
4 Racing Equity Trust Fund without the express authority of the
5 Illinois General Assembly and making any other rule to
6 implement or interpret this amendatory Act of the 95th General
7 Assembly. For the purposes of this paragraph, "rules" is given
8 the meaning given to that term in Section 1-70 of the Illinois
9 Administrative Procedure Act.

10 (b) In determining whether to grant an owners license to an
11 applicant, the Board shall consider:

12 (1) the character, reputation, experience and
13 financial integrity of the applicants and of any other or
14 separate person that either:

15 (A) controls, directly or indirectly, such
16 applicant, or

17 (B) is controlled, directly or indirectly, by such
18 applicant or by a person which controls, directly or
19 indirectly, such applicant;

20 (2) the facilities or proposed facilities for the
21 conduct of riverboat gambling;

22 (3) the highest prospective total revenue to be derived
23 by the State from the conduct of riverboat gambling;

24 (4) the extent to which the ownership of the applicant
25 reflects the diversity of the State by including minority
26 persons, women ~~females~~, and persons with a disability and

1 the good faith affirmative action plan of each applicant to
2 recruit, train and upgrade minority persons, women
3 ~~females~~, and persons with a disability in all employment
4 classifications;

5 (5) the financial ability of the applicant to purchase
6 and maintain adequate liability and casualty insurance;

7 (6) whether the applicant has adequate capitalization
8 to provide and maintain, for the duration of a license, a
9 riverboat;

10 (7) the extent to which the applicant exceeds or meets
11 other standards for the issuance of an owners license which
12 the Board may adopt by rule; and

13 (8) The amount of the applicant's license bid.

14 (c) Each owners license shall specify the place where
15 riverboats shall operate and dock.

16 (d) Each applicant shall submit with his application, on
17 forms provided by the Board, 2 sets of his fingerprints.

18 (e) The Board may issue up to 10 licenses authorizing the
19 holders of such licenses to own riverboats. In the application
20 for an owners license, the applicant shall state the dock at
21 which the riverboat is based and the water on which the
22 riverboat will be located. The Board shall issue 5 licenses to
23 become effective not earlier than January 1, 1991. Three of
24 such licenses shall authorize riverboat gambling on the
25 Mississippi River, or, with approval by the municipality in
26 which the riverboat was docked on August 7, 2003 and with Board

1 approval, be authorized to relocate to a new location, in a
2 municipality that (1) borders on the Mississippi River or is
3 within 5 miles of the city limits of a municipality that
4 borders on the Mississippi River and (2), on August 7, 2003,
5 had a riverboat conducting riverboat gambling operations
6 pursuant to a license issued under this Act; one of which shall
7 authorize riverboat gambling from a home dock in the city of
8 East St. Louis. One other license shall authorize riverboat
9 gambling on the Illinois River south of Marshall County. The
10 Board shall issue one additional license to become effective
11 not earlier than March 1, 1992, which shall authorize riverboat
12 gambling on the Des Plaines River in Will County. The Board may
13 issue 4 additional licenses to become effective not earlier
14 than March 1, 1992. In determining the water upon which
15 riverboats will operate, the Board shall consider the economic
16 benefit which riverboat gambling confers on the State, and
17 shall seek to assure that all regions of the State share in the
18 economic benefits of riverboat gambling.

19 In granting all licenses, the Board may give favorable
20 consideration to economically depressed areas of the State, to
21 applicants presenting plans which provide for significant
22 economic development over a large geographic area, and to
23 applicants who currently operate non-gambling riverboats in
24 Illinois. The Board shall review all applications for owners
25 licenses, and shall inform each applicant of the Board's
26 decision. The Board may grant an owners license to an applicant

1 that has not submitted the highest license bid, but if it does
2 not select the highest bidder, the Board shall issue a written
3 decision explaining why another applicant was selected and
4 identifying the factors set forth in this Section that favored
5 the winning bidder.

6 In addition to any other revocation powers granted to the
7 Board under this Act, the Board may revoke the owners license
8 of a licensee which fails to begin conducting gambling within
9 15 months of receipt of the Board's approval of the application
10 if the Board determines that license revocation is in the best
11 interests of the State.

12 (f) The first 10 owners licenses issued under this Act
13 shall permit the holder to own up to 2 riverboats and equipment
14 thereon for a period of 3 years after the effective date of the
15 license. Holders of the first 10 owners licenses must pay the
16 annual license fee for each of the 3 years during which they
17 are authorized to own riverboats.

18 (g) Upon the termination, expiration, or revocation of each
19 of the first 10 licenses, which shall be issued for a 3 year
20 period, all licenses are renewable annually upon payment of the
21 fee and a determination by the Board that the licensee
22 continues to meet all of the requirements of this Act and the
23 Board's rules. However, for licenses renewed on or after May 1,
24 1998, renewal shall be for a period of 4 years, unless the
25 Board sets a shorter period.

26 (h) An owners license shall entitle the licensee to own up

1 to 2 riverboats. A licensee shall limit the number of gambling
2 participants to 1,200 for any such owners license. A licensee
3 may operate both of its riverboats concurrently, provided that
4 the total number of gambling participants on both riverboats
5 does not exceed 1,200. Riverboats licensed to operate on the
6 Mississippi River and the Illinois River south of Marshall
7 County shall have an authorized capacity of at least 500
8 persons. Any other riverboat licensed under this Act shall have
9 an authorized capacity of at least 400 persons.

10 (i) A licensed owner is authorized to apply to the Board
11 for and, if approved therefor, to receive all licenses from the
12 Board necessary for the operation of a riverboat, including a
13 liquor license, a license to prepare and serve food for human
14 consumption, and other necessary licenses. All use, occupation
15 and excise taxes which apply to the sale of food and beverages
16 in this State and all taxes imposed on the sale or use of
17 tangible personal property apply to such sales aboard the
18 riverboat.

19 (j) The Board may issue or re-issue a license authorizing a
20 riverboat to dock in a municipality or approve a relocation
21 under Section 11.2 only if, prior to the issuance or
22 re-issuance of the license or approval, the governing body of
23 the municipality in which the riverboat will dock has by a
24 majority vote approved the docking of riverboats in the
25 municipality. The Board may issue or re-issue a license
26 authorizing a riverboat to dock in areas of a county outside

1 any municipality or approve a relocation under Section 11.2
2 only if, prior to the issuance or re-issuance of the license or
3 approval, the governing body of the county has by a majority
4 vote approved of the docking of riverboats within such areas.

5 (Source: P.A. 96-1392, eff. 1-1-11; 97-1150, eff. 1-25-13.)

6 (230 ILCS 10/7.1)

7 Sec. 7.1. Re-issuance of revoked or non-renewed owners
8 licenses.

9 (a) If an owners license terminates or expires without
10 renewal or the Board revokes or determines not to renew an
11 owners license (including, without limitation, an owners
12 license for a licensee that was not conducting riverboat
13 gambling operations on January 1, 1998) and that revocation or
14 determination is final, the Board may re-issue such license to
15 a qualified applicant pursuant to an open and competitive
16 bidding process, as set forth in Section 7.5, and subject to
17 the maximum number of authorized licenses set forth in Section
18 7(e).

19 (b) To be a qualified applicant, a person, firm, or
20 corporation cannot be ineligible to receive an owners license
21 under Section 7(a) and must submit an application for an owners
22 license that complies with Section 6. Each such applicant must
23 also submit evidence to the Board that minority persons and
24 women ~~females~~ hold ownership interests in the applicant of at
25 least 16% and 4% respectively.

1 (c) Notwithstanding anything to the contrary in Section
2 7(e), an applicant may apply to the Board for approval of
3 relocation of a re-issued license to a new home dock location
4 authorized under Section 3(c) upon receipt of the approval from
5 the municipality or county, as the case may be, pursuant to
6 Section 7(j).

7 (d) In determining whether to grant a re-issued owners
8 license to an applicant, the Board shall consider all of the
9 factors set forth in Sections 7(b) and (e) as well as the
10 amount of the applicant's license bid. The Board may grant the
11 re-issued owners license to an applicant that has not submitted
12 the highest license bid, but if it does not select the highest
13 bidder, the Board shall issue a written decision explaining why
14 another applicant was selected and identifying the factors set
15 forth in Sections 7(b) and (e) that favored the winning bidder.

16 (e) Re-issued owners licenses shall be subject to annual
17 license fees as provided for in Section 7(a) and shall be
18 governed by the provisions of Sections 7(f), (g), (h), and (i).

19 (Source: P.A. 93-28, eff. 6-20-03.)

20 (230 ILCS 10/7.4)

21 Sec. 7.4. Managers licenses.

22 (a) A qualified person may apply to the Board for a
23 managers license to operate and manage any gambling operation
24 conducted by the State. The application shall be made on forms
25 provided by the Board and shall contain such information as the

1 Board prescribes, including but not limited to information
2 required in Sections 6(a), (b), and (c) and information
3 relating to the applicant's proposed price to manage State
4 gambling operations and to provide the riverboat, gambling
5 equipment, and supplies necessary to conduct State gambling
6 operations.

7 (b) Each applicant must submit evidence to the Board that
8 minority persons and women ~~females~~ hold ownership interests in
9 the applicant of at least 16% and 4%, respectively.

10 (c) A person, firm, or corporation is ineligible to receive
11 a managers license if:

12 (1) the person has been convicted of a felony under the
13 laws of this State, any other state, or the United States;

14 (2) the person has been convicted of any violation of
15 Article 28 of the Criminal Code of 1961 or the Criminal
16 Code of 2012, or substantially similar laws of any other
17 jurisdiction;

18 (3) the person has submitted an application for a
19 license under this Act which contains false information;

20 (4) the person is a member of the Board;

21 (5) a person defined in (1), (2), (3), or (4) is an
22 officer, director, or managerial employee of the firm or
23 corporation;

24 (6) the firm or corporation employs a person defined in
25 (1), (2), (3), or (4) who participates in the management or
26 operation of gambling operations authorized under this

1 Act; or

2 (7) a license of the person, firm, or corporation
3 issued under this Act, or a license to own or operate
4 gambling facilities in any other jurisdiction, has been
5 revoked.

6 (d) Each applicant shall submit with his or her
7 application, on forms prescribed by the Board, 2 sets of his or
8 her fingerprints.

9 (e) The Board shall charge each applicant a fee, set by the
10 Board, to defray the costs associated with the background
11 investigation conducted by the Board.

12 (f) A person who knowingly makes a false statement on an
13 application is guilty of a Class A misdemeanor.

14 (g) The managers license shall be for a term not to exceed
15 10 years, shall be renewable at the Board's option, and shall
16 contain such terms and provisions as the Board deems necessary
17 to protect or enhance the credibility and integrity of State
18 gambling operations, achieve the highest prospective total
19 revenue to the State, and otherwise serve the interests of the
20 citizens of Illinois.

21 (h) Issuance of a managers license shall be subject to an
22 open and competitive bidding process. The Board may select an
23 applicant other than the lowest bidder by price. If it does not
24 select the lowest bidder, the Board shall issue a notice of who
25 the lowest bidder was and a written decision as to why another
26 bidder was selected.

1 (Source: P.A. 97-1150, eff. 1-25-13.)

2 (230 ILCS 10/7.6)

3 Sec. 7.6. Business enterprise program.

4 (a) For the purposes of this Section, the terms "minority",
5 "minority-owned ~~minority-owned~~ business", "woman ~~female~~", "
6 women-owned ~~female-owned~~ business", "person with a
7 disability", and "business owned by a person with a disability"
8 have the meanings ascribed to them in the Business Enterprise
9 for Minorities, Women ~~Females~~, and Persons with Disabilities
10 Act.

11 (b) The Board shall, by rule, establish goals for the award
12 of contracts by each owners licensee to businesses owned by
13 minorities, women ~~females~~, and persons with disabilities,
14 expressed as percentages of an owners licensee's total dollar
15 amount of contracts awarded during each calendar year. Each
16 owners licensee must make every effort to meet the goals
17 established by the Board pursuant to this Section. When setting
18 the goals for the award of contracts, the Board shall not
19 include contracts where: (1) any purchasing mandates would be
20 dependent upon the availability of minority-owned ~~minority~~
21 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
22 businesses owned by persons with disabilities ready, willing,
23 and able with capacity to provide quality goods and services to
24 a gaming operation at reasonable prices; (2) there are no or a
25 limited number of licensed suppliers as defined by this Act for

1 the goods or services provided to the licensee; (3) the
2 licensee or its parent company owns a company that provides the
3 goods or services; or (4) the goods or services are provided to
4 the licensee by a publicly traded company.

5 (c) Each owners licensee shall file with the Board an
6 annual report of its utilization of minority-owned ~~minority~~
7 ~~owned~~ businesses, women-owned ~~female-owned~~ businesses, and
8 businesses owned by persons with disabilities during the
9 preceding calendar year. The reports shall include a
10 self-evaluation of the efforts of the owners licensee to meet
11 its goals under this Section.

12 (d) The owners licensee shall have the right to request a
13 waiver from the requirements of this Section. The Board shall
14 grant the waiver where the owners licensee demonstrates that
15 there has been made a good faith effort to comply with the
16 goals for participation by minority-owned ~~minority-owned~~
17 businesses, women-owned ~~female-owned~~ businesses, and
18 businesses owned by persons with disabilities.

19 (e) If the Board determines that its goals and policies are
20 not being met by any owners licensee, then the Board may:

21 (1) adopt remedies for such violations; and

22 (2) recommend that the owners licensee provide
23 additional opportunities for participation by
24 minority-owned ~~minority-owned~~ businesses, women-owned
25 ~~female-owned~~ businesses, and businesses owned by persons
26 with disabilities; such recommendations may include, but

1 shall not be limited to:

2 (A) assurances of stronger and better focused
3 solicitation efforts to obtain more minority-owned
4 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
5 businesses, and businesses owned by persons with
6 disabilities as potential sources of supply;

7 (B) division of job or project requirements, when
8 economically feasible, into tasks or quantities to
9 permit participation of minority-owned ~~minority-owned~~
10 businesses, women-owned ~~female-owned~~ businesses, and
11 businesses owned by persons with disabilities;

12 (C) elimination of extended experience or
13 capitalization requirements, when programmatically
14 feasible, to permit participation of minority-owned
15 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
16 businesses, and businesses owned by persons with
17 disabilities;

18 (D) identification of specific proposed contracts
19 as particularly attractive or appropriate for
20 participation by minority-owned ~~minority-owned~~
21 businesses, women-owned ~~female-owned~~ businesses, and
22 businesses owned by persons with disabilities, such
23 identification to result from and be coupled with the
24 efforts of items (A) through (C); and

25 (E) implementation of regulations established for
26 the use of the sheltered market process.

1 (f) The Board shall file, no later than March 1 of each
2 year, an annual report that shall detail the level of
3 achievement toward the goals specified in this Section over the
4 3 most recent fiscal years. The annual report shall include,
5 but need not be limited to:

6 (1) a summary detailing expenditures subject to the
7 goals, the actual goals specified, and the goals attained
8 by each owners licensee; and

9 (2) an analysis of the level of overall goal
10 achievement concerning purchases from minority-owned
11 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
12 businesses, and businesses owned by persons with
13 disabilities.

14 (Source: P.A. 98-490, eff. 8-16-13; 99-78, eff. 7-20-15.)

15 (230 ILCS 10/11.2)

16 Sec. 11.2. Relocation of riverboat home dock.

17 (a) A licensee that was not conducting riverboat gambling
18 on January 1, 1998 may apply to the Board for renewal and
19 approval of relocation to a new home dock location authorized
20 under Section 3(c) and the Board shall grant the application
21 and approval upon receipt by the licensee of approval from the
22 new municipality or county, as the case may be, in which the
23 licensee wishes to relocate pursuant to Section 7(j).

24 (b) Any licensee that relocates its home dock pursuant to
25 this Section shall attain a level of at least 20% minority

1 person and woman ~~female~~ ownership, at least 16% and 4%
2 respectively, within a time period prescribed by the Board, but
3 not to exceed 12 months from the date the licensee begins
4 conducting gambling at the new home dock location. The 12-month
5 period shall be extended by the amount of time necessary to
6 conduct a background investigation pursuant to Section 6. For
7 the purposes of this Section, the terms "woman ~~female~~" and
8 "minority person" have the meanings provided in Section 2 of
9 the Business Enterprise for Minorities, Women ~~Females~~, and
10 Persons with Disabilities Act.

11 (Source: P.A. 91-40, eff. 6-25-99.)

12 Section 155. The Environmental Protection Act is amended by
13 changing Section 14.7 as follows:

14 (415 ILCS 5/14.7)

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

17 Sec. 14.7. Preservation of community water supplies.

18 (a) The Agency shall adopt rules governing certain
19 corrosion prevention projects carried out on community water
20 supplies. Those rules shall not apply to buried pipelines
21 including, but not limited to, pipes, mains, and joints. The
22 rules shall exclude routine maintenance activities of
23 community water supplies including, but not limited to, the use
24 of protective coatings applied by the owner's utility personnel

1 during the course of performing routine maintenance
2 activities. The activities may include, but not be limited to,
3 the painting of fire hydrants; routine over-coat painting of
4 interior and exterior building surfaces such as floors, doors,
5 windows, and ceilings; and routine touch-up and over-coat
6 application of protective coatings typically found on water
7 utility pumps, pipes, tanks, and other water treatment plant
8 appurtenances and utility owned structures. Those rules shall
9 include:

10 (1) standards for ensuring that community water
11 supplies carry out corrosion prevention and mitigation
12 methods according to corrosion prevention industry
13 standards adopted by the Agency;

14 (2) requirements that community water supplies use:

15 (A) protective coatings personnel to carry out
16 corrosion prevention and mitigation methods on exposed
17 water treatment tanks, exposed non-concrete water
18 treatment structures, exposed water treatment pipe
19 galleys; exposed pumps; and generators; the Agency
20 shall not limit to protective coatings personnel any
21 other work relating to prevention and mitigation
22 methods on any other water treatment appurtenances
23 where protective coatings are utilized for corrosion
24 control and prevention to prolong the life of the water
25 utility asset; and

26 (B) inspectors to ensure that best practices and

1 standards are adhered to on each corrosion prevention
2 project; and

3 (3) standards to prevent environmental degradation
4 that might occur as a result of carrying out corrosion
5 prevention and mitigation methods including, but not
6 limited to, standards to prevent the improper handling and
7 containment of hazardous materials, especially lead paint,
8 removed from the exterior of a community water supply.

9 In adopting rules under this subsection (a), the Agency
10 shall obtain input from corrosion industry experts
11 specializing in the training of personnel to carry out
12 corrosion prevention and mitigation methods.

13 (b) As used in this Section:

14 "Community water supply" has the meaning ascribed to that
15 term in Section 3.145 of this Act.

16 "Corrosion" means a naturally occurring phenomenon
17 commonly defined as the deterioration of a metal that results
18 from a chemical or electrochemical reaction with its
19 environment.

20 "Corrosion prevention and mitigation methods" means the
21 preparation, application, installation, removal, or general
22 maintenance as necessary of a protective coating system,
23 including any or more of the following:

24 (A) surface preparation and coating application on
25 the exterior or interior of a community water supply;
26 or

1 (B) shop painting of structural steel fabricated
2 for installation as part of a community water supply.

3 "Corrosion prevention project" means carrying out
4 corrosion prevention and mitigation methods. "Corrosion
5 prevention project" does not include clean-up related to
6 surface preparation.

7 "Protective coatings personnel" means personnel employed
8 or retained by a contractor providing services covered by this
9 Section to carry out corrosion prevention or mitigation methods
10 or inspections.

11 (c) This Section shall apply to only those projects
12 receiving 100% funding from the State.

13 (d) Each contract procured pursuant to the Illinois
14 Procurement Code for the provision of services covered by this
15 Section (1) shall comply with applicable provisions of the
16 Illinois Procurement Code and (2) shall include provisions for
17 reporting participation by minority persons, as defined by
18 Section 2 of the Business Enterprise for Minorities, Women
19 ~~Females~~, and Persons with Disabilities Act; women ~~females~~, as
20 defined by Section 2 of the Business Enterprise for Minorities,
21 Women ~~Females~~, and Persons with Disabilities Act; and veterans,
22 as defined by Section 45-57 of the Illinois Procurement Code,
23 in apprenticeship and training programs in which the contractor
24 or his or her subcontractors participate. The requirements of
25 this Section do not apply to an individual licensed under the
26 Professional Engineering Practice Act of 1989 or the Structural

1 Engineering Act of 1989.

2 (Source: P.A. 99-923, eff. 7-1-17.)

3 Section 160. The Public Private Agreements for the Illiana
4 Expressway Act is amended by changing Section 20 as follows:

5 (605 ILCS 130/20)

6 Sec. 20. Procurement; request for proposals process.

7 (a) Notwithstanding any provision of law to the contrary,
8 the Department on behalf of the State shall select a contractor
9 through a competitive request for proposals process governed by
10 the Illinois Procurement Code and rules adopted under that Code
11 and this Act.

12 (b) The competitive request for proposals process shall, at
13 a minimum, solicit statements of qualification and proposals
14 from offerors.

15 (c) The competitive request for proposals process shall, at
16 a minimum, take into account the following criteria:

17 (1) The offeror's plans for the Illiana Expressway
18 project;

19 (2) The offeror's current and past business practices;

20 (3) The offeror's poor or inadequate past performance
21 in developing, financing, constructing, managing, or
22 operating highways or other public assets;

23 (4) The offeror's ability to meet and past performance
24 in meeting or exhausting good faith efforts to meet the

1 utilization goals for business enterprises established in
2 the Business Enterprise for Minorities, Women ~~Females~~, and
3 Persons with Disabilities Act;

4 (5) The offeror's ability to comply with and past
5 performance in complying with Section 2-105 of the Illinois
6 Human Rights Act; and

7 (6) The offeror's plans to comply with the Business
8 Enterprise for Minorities, Women ~~Females~~, and Persons with
9 Disabilities Act and Section 2-105 of the Illinois Human
10 Rights Act.

11 (d) The Department shall retain the services of an advisor
12 or advisors with significant experience in the development,
13 financing, construction, management, or operation of public
14 assets to assist in the preparation of the request for
15 proposals.

16 (e) The Department shall not include terms in the request
17 for proposals that provide an advantage, whether directly or
18 indirectly, to any contractor presently providing goods,
19 services, or equipment to the Department.

20 (f) The Department shall select at least 2 offerors as
21 finalists. The Department shall submit the offerors'
22 statements of qualification and proposals to the Commission on
23 Government Forecasting and Accountability and the Procurement
24 Policy Board, which shall, within 30 days of the submission,
25 complete a review of the statements of qualification and
26 proposals and, jointly or separately, report on, at a minimum,

1 the satisfaction of the criteria contained in the request for
2 proposals, the qualifications of the offerors, and the value of
3 the proposals to the State. The Department shall not select an
4 offeror as the contractor for the Illiana Expressway project
5 until it has received and considered the findings of the
6 Commission on Government Forecasting and Accountability and
7 the Procurement Policy Board as set forth in their respective
8 reports.

9 (g) Before awarding a public private agreement to an
10 offeror, the Department shall schedule and hold a public
11 hearing or hearings on the proposed public private agreement
12 and publish notice of the hearing or hearings at least 7 days
13 before the hearing and in accordance with Section 4-219 of the
14 Illinois Highway Code. The notice must include the following:

15 (1) the date, time, and place of the hearing and the
16 address of the Department;

17 (2) the subject matter of the hearing;

18 (3) a description of the agreement that may be awarded;

19 and

20 (4) the recommendation that has been made to select an
21 offeror as the contractor for the Illiana Expressway
22 project.

23 At the hearing, the Department shall allow the public to be
24 heard on the subject of the hearing.

25 (h) After the procedures required in this Section have been
26 completed, the Department shall make a determination as to

1 whether the offeror should be designated as the contractor for
2 the Illiana Expressway project and shall submit the decision to
3 the Governor and to the Governor's Office of Management and
4 Budget. After review of the Department's determination, the
5 Governor may accept or reject the determination. If the
6 Governor accepts the determination of the Department, the
7 Governor shall designate the offeror for the Illiana Expressway
8 project.

9 (Source: P.A. 96-913, eff. 6-9-10.)

10 Section 165. The Public-Private Agreements for the South
11 Suburban Airport Act is amended by changing Section 2-30 as
12 follows:

13 (620 ILCS 75/2-30)

14 Sec. 2-30. Request for proposals process to enter into
15 public-private agreements.

16 (a) Notwithstanding any provisions of the Illinois
17 Procurement Code, the Department, on behalf of the State, shall
18 select a contractor through a competitive request for proposals
19 process governed by Section 2-30 of this Act. The Department
20 will consult with the chief procurement officer for
21 construction or construction-related activities designated
22 pursuant to clause (2) of Section 1-15.15 of the Illinois
23 Procurement Code on the competitive request for proposals
24 process, and the Secretary will determine, in consultation with

1 the chief procurement officer, which procedures to adopt and
2 apply to the competitive request for proposals process in order
3 to ensure an open, transparent, and efficient process that
4 accomplishes the purposes of this Act.

5 (b) The competitive request for proposals process shall, at
6 a minimum, solicit statements of qualification and proposals
7 from offerors.

8 (c) The competitive request for proposals process shall, at
9 a minimum, take into account the following criteria:

10 (1) the offeror's plans for the South Suburban Airport
11 project;

12 (2) the offeror's current and past business practices;

13 (3) the offeror's poor or inadequate past performance
14 in developing, financing, constructing, managing, or
15 operating airports or other public assets;

16 (4) the offeror's ability to meet the utilization goals
17 for business enterprises established in the Business
18 Enterprise for Minorities, Women ~~Females~~, and Persons with
19 Disabilities Act;

20 (5) the offeror's ability to comply with Section 2-105
21 of the Illinois 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 one or more offerors as
10 finalists. The Department shall submit the offeror's
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 after 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 South Suburban Airport
20 project until it has received and considered the findings of
21 the Commission on Government Forecasting and Accountability
22 and the Procurement Policy Board as set forth in their
23 respective 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. The notice shall include the following:

3 (1) the date, time, and place of the hearing and the
4 address of the Department;

5 (2) the subject matter of the hearing;

6 (3) a description of the agreement that may be awarded;
7 and

8 (4) the recommendation that has been made to select an
9 offeror as the contractor for the South Suburban Airport
10 project.

11 At the hearing, the Department shall allow the public to be
12 heard on the subject of the hearing.

13 (h) After the procedures required in this Section have been
14 completed, the Department shall make a determination as to
15 whether the offeror should be designated as the contractor for
16 the South Suburban Airport project and shall submit the
17 decision to the Governor and to the Governor's Office of
18 Management and Budget. After review of the Department's
19 determination, the Governor may accept or reject the
20 determination. If the Governor accepts the determination of the
21 Department, the Governor shall designate the offeror for the
22 South Suburban Airport project.

23 (Source: P.A. 98-109, eff. 7-25-13.)

24 Section 170. The Public-Private Partnerships for
25 Transportation Act is amended by changing Section 25 as

1 follows:

2 (630 ILCS 5/25)

3 Sec. 25. Design-build procurement.

4 (a) This Section 25 shall apply only to transportation
5 projects for which the Department or the Authority intends to
6 execute a design-build agreement, in which case the Department
7 or the Authority shall abide by the requirements and procedures
8 of this Section 25 in addition to other applicable requirements
9 and procedures set forth in this Act.

10 (b) (1) The transportation agency must issue a notice of
11 intent to receive proposals for the project at least 14 days
12 before issuing the request for the qualifications. The
13 transportation agency must publish the advance notice in a
14 daily newspaper of general circulation in the county where the
15 transportation agency is located. The transportation agency is
16 encouraged to use publication of the notice in related
17 construction industry service publications. A brief
18 description of the proposed procurement must be included in the
19 notice. The transportation agency must provide a copy of the
20 request for qualifications to any party requesting a copy.

21 (2) The request for qualifications shall be prepared for
22 each project and must contain, without limitation, the
23 following information: (i) the name of the transportation
24 agency; (ii) a preliminary schedule for the completion of the
25 contract; (iii) the proposed budget for the project and the

1 source of funds, to the extent not already reflected in the
2 Department's Multi-Year Highway Improvement Program; (iv) the
3 shortlisting process for entities or groups of entities such as
4 unincorporated joint ventures wishing to submit proposals (the
5 transportation agency shall include, at a minimum, its normal
6 prequalification, licensing, registration, and other
7 requirements, but nothing contained herein precludes the use of
8 additional criteria by the transportation agency); (v) a
9 summary of anticipated material requirements of the contract,
10 including but not limited to, the proposed terms and
11 conditions, required performance and payment bonds, insurance,
12 and the utilization goals established by the transportation
13 agency for minority and women business enterprises and
14 compliance with Section 2-105 of the Illinois Human Rights Act;
15 and (vi) the anticipated number of entities that will be
16 shortlisted for the request for proposals phase.

17 (3) The transportation agency may include any other
18 relevant information in the request for qualifications that it
19 chooses to supply. The private entity shall be entitled to rely
20 upon the accuracy of this documentation in the development of
21 its statement of qualifications and its proposal only to the
22 extent expressly warranted by the transportation agency.

23 (4) The date that statements of qualifications are due must
24 be at least 21 calendar days after the date of the issuance of
25 the request for qualifications. In the event the cost of the
26 project is estimated to exceed \$12,000,000, then the statement

1 of qualifications due date must be at least 28 calendar days
2 after the date of the issuance of the request for
3 qualifications. The transportation agency shall include in the
4 request for proposals a minimum of 30 days to develop the
5 proposals after the selection of entities from the evaluation
6 of the statements of qualifications is completed.

7 (c) (1) The transportation agency shall develop, with the
8 assistance of a licensed design professional, the request for
9 qualifications and the request for proposals, which shall
10 include scope and performance criteria. The scope and
11 performance criteria must be in sufficient detail and contain
12 adequate information to reasonably apprise the private
13 entities of the transportation agency's overall programmatic
14 needs and goals, including criteria and preliminary design
15 plans, general budget parameters, schedule, and delivery
16 requirements.

17 (2) Each request for qualifications and request for
18 proposals shall also include a description of the level of
19 design to be provided in the proposals. This description must
20 include the scope and type of renderings, drawings, and
21 specifications that, at a minimum, will be required by the
22 transportation agency to be produced by the private entities.

23 (3) The scope and performance criteria shall be prepared by
24 a design professional who is an employee of the transportation
25 agency, or the transportation agency may contract with an
26 independent design professional selected under the

1 Architectural, Engineering, and Land Surveying Qualifications
2 Based Selection Act to provide these services.

3 (4) The design professional that prepares the scope and
4 performance criteria is prohibited from participating in any
5 private entity proposal for the project.

6 (d)(1) The transportation agency must use a two phase
7 procedure for the selection of the successful design-build
8 entity. The request for qualifications phase will evaluate and
9 shortlist the private entities based on qualifications, and the
10 request for proposals will evaluate the technical and cost
11 proposals.

12 (2) The transportation agency shall include in the request
13 for qualifications the evaluating factors to be used in the
14 request for qualifications phase. These factors are in addition
15 to any prequalification requirements of private entities that
16 the transportation agency has set forth. Each request for
17 qualifications shall establish the relative importance
18 assigned to each evaluation factor, including any weighting of
19 criteria to be employed by the transportation agency. The
20 transportation agency must maintain a record of the evaluation
21 scoring to be disclosed in event of a protest regarding the
22 solicitation.

23 The transportation agency shall include the following
24 criteria in every request for qualifications phase evaluation
25 of private entities: (i) experience of personnel; (ii)
26 successful experience with similar project types; (iii)

1 financial capability; (iv) timeliness of past performance; (v)
2 experience with similarly sized projects; (vi) successful
3 reference checks of the firm; (vii) commitment to assign
4 personnel for the duration of the project and qualifications of
5 the entity's consultants; and (viii) ability or past
6 performance in meeting or exhausting good faith efforts to meet
7 the utilization goals for business enterprises established in
8 the Business Enterprise for Minorities, Women ~~Females~~, and
9 Persons with Disabilities Act and in complying with Section
10 2-105 of the Illinois Human Rights Act. No proposal shall be
11 considered that does not include an entity's plan to comply
12 with the requirements regarding minority and women business
13 enterprises and economically disadvantaged firms established
14 by the transportation agency and with Section 2-105 of the
15 Illinois Human Rights Act. The transportation agency may
16 include any additional relevant criteria in the request for
17 qualifications phase that it deems necessary for a proper
18 qualification review.

19 Upon completion of the qualifications evaluation, the
20 transportation agency shall create a shortlist of the most
21 highly qualified private entities.

22 The transportation agency shall notify the entities
23 selected for the shortlist in writing. This notification shall
24 commence the period for the preparation of the request for
25 proposals phase technical and cost evaluations. The
26 transportation agency must allow sufficient time for the

1 shortlist entities to prepare their proposals considering the
2 scope and detail requested by the transportation agency.

3 (3) The transportation agency shall include in the request
4 for proposals the evaluating factors to be used in the
5 technical and cost submission components. Each request for
6 proposals shall establish, for both the technical and cost
7 submission components, the relative importance assigned to
8 each evaluation factor, including any weighting of criteria to
9 be employed by the transportation agency. The transportation
10 agency must maintain a record of the evaluation scoring to be
11 disclosed in event of a protest regarding the solicitation.

12 The transportation agency shall include the following
13 criteria in every request for proposals phase technical
14 evaluation of private entities: (i) compliance with objectives
15 of the project; (ii) compliance of proposed services to the
16 request for proposal requirements; (iii) compliance with the
17 request for proposal requirements of products or materials
18 proposed; (iv) quality of design parameters; and (v) design
19 concepts. The transportation agency may include any additional
20 relevant technical evaluation factors it deems necessary for
21 proper selection.

22 The transportation agency shall include the following
23 criteria in every request for proposals phase cost evaluation:
24 the total project cost and the time of completion. The
25 transportation agency may include any additional relevant
26 technical evaluation factors it deems necessary for proper

1 selection. The guaranteed maximum project cost criteria
2 weighing factor shall not exceed 30%.

3 The transportation agency shall directly employ or retain a
4 licensed design professional to evaluate the technical and cost
5 submissions to determine if the technical submissions are in
6 accordance with generally accepted industry standards.

7 (e) Statements of qualifications and proposals must be
8 properly identified and sealed. Statements of qualifications
9 and proposals may not be reviewed until after the deadline for
10 submission has passed as set forth in the request for
11 qualifications or the request for proposals. All private
12 entities submitting statements of qualifications or proposals
13 shall be disclosed after the deadline for submission, and all
14 private entities who are selected for request for proposals
15 phase evaluation shall also be disclosed at the time of that
16 determination.

17 Design-build proposals shall include a bid bond in the form
18 and security as designated in the request for proposals.
19 Proposals shall also contain a separate sealed envelope with
20 the cost information within the overall proposal submission.
21 Proposals shall include a list of all design professionals and
22 other entities to which any work identified in Section 30-30 of
23 the Illinois Procurement Code as a subdivision of construction
24 work may be subcontracted during the performance of the
25 contract to the extent known at the time of proposal. If the
26 information is not known at the time of proposal, then the

1 design-build agreement shall require the identification prior
2 to a previously unlisted subcontractor commencing work on the
3 transportation project.

4 Statements of qualifications and proposals must meet all
5 material requirements of the request for qualifications or
6 request for proposals, or else they may be rejected as
7 non-responsive. The transportation agency shall have the right
8 to reject any and all statements of qualifications and
9 proposals.

10 The private entity's proprietary intellectual property
11 contained in the drawings and specifications of any
12 unsuccessful statement of qualifications or proposal shall
13 remain the property of the private entity.

14 The transportation agency shall review the statements of
15 qualifications and the proposals for compliance with the
16 performance criteria and evaluation factors.

17 Statements of qualifications and proposals may be
18 withdrawn prior to the due date and time for submissions for
19 any cause. After evaluation begins by the transportation
20 agency, clear and convincing evidence of error is required for
21 withdrawal.

22 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

23 Section 175. The Criminal Code of 2012 is amended by
24 changing Sections 17-10.3 and 33E-2 as follows:

1 (720 ILCS 5/17-10.3)

2 Sec. 17-10.3. Deception relating to certification of
3 disadvantaged business enterprises.

4 (a) Fraudulently obtaining or retaining certification. A
5 person who, in the course of business, fraudulently obtains or
6 retains certification as a minority-owned ~~minority-owned~~
7 business, women-owned ~~female-owned~~ business, service-disabled
8 veteran-owned small business, or veteran-owned small business
9 commits a Class 2 felony.

10 (b) Willfully making a false statement. A person who, in
11 the course of business, willfully makes a false statement
12 whether by affidavit, report or other representation, to an
13 official or employee of a State agency or the ~~Minority and~~
14 ~~Female~~ Business Enterprise Council for Minorities, Women, and
15 Persons with Disabilities for the purpose of influencing the
16 certification or denial of certification of any business entity
17 as a minority-owned ~~minority-owned~~ business, women-owned
18 ~~female-owned~~ business, service-disabled veteran-owned small
19 business, or veteran-owned small business commits a Class 2
20 felony.

21 (c) Willfully obstructing or impeding an official or
22 employee of any agency in his or her investigation. Any person
23 who, in the course of business, willfully obstructs or impedes
24 an official or employee of any State agency or the ~~Minority and~~
25 ~~Female~~ Business Enterprise Council for Minorities, Women, and
26 Persons with Disabilities who is investigating the

1 qualifications of a business entity which has requested
2 certification as a minority-owned ~~minority-owned~~ business,
3 women-owned ~~female-owned~~ business, service-disabled
4 veteran-owned small business, or veteran-owned small business
5 commits a Class 2 felony.

6 (d) Fraudulently obtaining public moneys reserved for
7 disadvantaged business enterprises. Any person who, in the
8 course of business, fraudulently obtains public moneys
9 reserved for, or allocated or available to, minority-owned
10 ~~minority-owned~~ businesses, women-owned ~~female-owned~~
11 businesses, service-disabled veteran-owned small businesses,
12 or veteran-owned small businesses commits a Class 2 felony.

13 (e) Definitions. As used in this Article, "minority-owned
14 ~~minority-owned~~ business", "women-owned ~~female-owned~~ business",
15 "State agency" with respect to minority-owned ~~minority-owned~~
16 businesses and women-owned ~~female-owned~~ businesses, and
17 "certification" with respect to minority-owned ~~minority-owned~~
18 businesses and women-owned ~~female-owned~~ businesses shall have
19 the meanings ascribed to them in Section 2 of the Business
20 Enterprise for Minorities, Women ~~Females~~, and Persons with
21 Disabilities Act. As used in this Article, "service-disabled
22 veteran-owned small business", "veteran-owned small business",
23 "State agency" with respect to service-disabled veteran-owned
24 small businesses and veteran-owned small businesses, and
25 "certification" with respect to service-disabled veteran-owned
26 small businesses and veteran-owned small businesses have the

1 same meanings as in Section 45-57 of the Illinois Procurement
2 Code.

3 (Source: P.A. 96-1551, eff. 7-1-11; 97-260, eff. 8-5-11.)

4 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

5 Sec. 33E-2. Definitions. In this Act:

6 (a) "Public contract" means any contract for goods,
7 services or construction let to any person with or without bid
8 by any unit of State or local government.

9 (b) "Unit of State or local government" means the State,
10 any unit of state government or agency thereof, any county or
11 municipal government or committee or agency thereof, or any
12 other entity which is funded by or expends tax dollars or the
13 proceeds of publicly guaranteed bonds.

14 (c) "Change order" means a change in a contract term other
15 than as specifically provided for in the contract which
16 authorizes or necessitates any increase or decrease in the cost
17 of the contract or the time to completion.

18 (d) "Person" means any individual, firm, partnership,
19 corporation, joint venture or other entity, but does not
20 include a unit of State or local government.

21 (e) "Person employed by any unit of State or local
22 government" means any employee of a unit of State or local
23 government and any person defined in subsection (d) who is
24 authorized by such unit of State or local government to act on
25 its behalf in relation to any public contract.

1 (f) "Sheltered market" has the meaning ascribed to it in
2 Section 8b of the Business Enterprise for Minorities, Women
3 ~~Females~~, and Persons with Disabilities Act; except that, with
4 respect to State contracts set aside for award to
5 service-disabled veteran-owned small businesses and
6 veteran-owned small businesses pursuant to Section 45-57 of the
7 Illinois Procurement Code, "sheltered market" means
8 procurements pursuant to that Section.

9 (g) "Kickback" means any money, fee, commission, credit,
10 gift, gratuity, thing of value, or compensation of any kind
11 which is provided, directly or indirectly, to any prime
12 contractor, prime contractor employee, subcontractor, or
13 subcontractor employee for the purpose of improperly obtaining
14 or rewarding favorable treatment in connection with a prime
15 contract or in connection with a subcontract relating to a
16 prime contract.

17 (h) "Prime contractor" means any person who has entered
18 into a public contract.

19 (i) "Prime contractor employee" means any officer,
20 partner, employee, or agent of a prime contractor.

21 (i-5) "Stringing" means knowingly structuring a contract
22 or job order to avoid the contract or job order being subject
23 to competitive bidding requirements.

24 (j) "Subcontract" means a contract or contractual action
25 entered into by a prime contractor or subcontractor for the
26 purpose of obtaining goods or services of any kind under a

1 prime contract.

2 (k) "Subcontractor" (1) means any person, other than the
3 prime contractor, who offers to furnish or furnishes any goods
4 or services of any kind under a prime contract or a subcontract
5 entered into in connection with such prime contract; and (2)
6 includes any person who offers to furnish or furnishes goods or
7 services to the prime contractor or a higher tier
8 subcontractor.

9 (l) "Subcontractor employee" means any officer, partner,
10 employee, or agent of a subcontractor.

11 (Source: P.A. 97-260, eff. 8-5-11.)

12 Section 180. The Business Corporation Act of 1983 is
13 amended by changing Section 14.05 as follows:

14 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

15 Sec. 14.05. Annual report of domestic or foreign
16 corporation. Each domestic corporation organized under any
17 general law or special act of this State authorizing the
18 corporation to issue shares, other than homestead
19 associations, building and loan associations, banks and
20 insurance companies (which includes a syndicate or limited
21 syndicate regulated under Article V 1/2 of the Illinois
22 Insurance Code or member of a group of underwriters regulated
23 under Article V of that Code), and each foreign corporation
24 (except members of a group of underwriters regulated under

1 Article V of the Illinois Insurance Code) authorized to
2 transact business in this State, shall file, within the time
3 prescribed by this Act, an annual report setting forth:

4 (a) The name of the corporation.

5 (b) The address, including street and number, or rural
6 route number, of its registered office in this State, and
7 the name of its registered agent at that address.

8 (c) The address, including street and number, or rural
9 route number, of its principal office.

10 (d) The names and respective addresses, including
11 street and number, or rural route number, of its directors
12 and officers.

13 (e) A statement of the aggregate number of shares which
14 the corporation has authority to issue, itemized by classes
15 and series, if any, within a class.

16 (f) A statement of the aggregate number of issued
17 shares, itemized by classes, and series, if any, within a
18 class.

19 (g) A statement, expressed in dollars, of the amount of
20 paid-in capital of the corporation as defined in this Act.

21 (h) Either a statement that (1) all the property of the
22 corporation is located in this State and all of its
23 business is transacted at or from places of business in
24 this State, or the corporation elects to pay the annual
25 franchise tax on the basis of its entire paid-in capital,
26 or (2) a statement, expressed in dollars, of the value of

1 all the property owned by the corporation, wherever
2 located, and the value of the property located within this
3 State, and a statement, expressed in dollars, of the gross
4 amount of business transacted by the corporation and the
5 gross amount thereof transacted by the corporation at or
6 from places of business in this State as of the close of
7 its fiscal year on or immediately preceding the last day of
8 the third month prior to the anniversary month or in the
9 case of a corporation which has established an extended
10 filing month, as of the close of its fiscal year on or
11 immediately preceding the last day of the third month prior
12 to the extended filing month; however, in the case of a
13 domestic corporation that has not completed its first
14 fiscal year, the statement with respect to property owned
15 shall be as of the last day of the third month preceding
16 the anniversary month and the statement with respect to
17 business transacted shall be furnished for the period
18 between the date of incorporation and the last day of the
19 third month preceding the anniversary month. In the case of
20 a foreign corporation that has not been authorized to
21 transact business in this State for a period of 12 months
22 and has not commenced transacting business prior to
23 obtaining authority, the statement with respect to
24 property owned shall be as of the last day of the third
25 month preceding the anniversary month and the statement
26 with respect to business transacted shall be furnished for

1 the period between the date of its authorization to
2 transact business in this State and the last day of the
3 third month preceding the anniversary month. If the data
4 referenced in item (2) of this subsection is not completed,
5 the franchise tax provided for in this Act shall be
6 computed on the basis of the entire paid-in capital.

7 (i) A statement, including the basis therefor, of
8 status as a "minority-owned ~~minority-owned~~ business" or as
9 a "women-owned ~~female-owned~~ business" as those terms are
10 defined in the Business Enterprise for Minorities, Women
11 ~~Females~~, and Persons with Disabilities Act.

12 (j) Additional information as may be necessary or
13 appropriate in order to enable the Secretary of State to
14 administer this Act and to verify the proper amount of fees
15 and franchise taxes payable by the corporation.

16 The annual report shall be made on forms prescribed and
17 furnished by the Secretary of State, and the information
18 therein required by paragraphs (a) through (d), both inclusive,
19 of this Section, shall be given as of the date of the execution
20 of the annual report and the information therein required by
21 paragraphs (e), (f) and (g) of this Section shall be given as
22 of the last day of the third month preceding the anniversary
23 month, except that the information required by paragraphs (e),
24 (f) and (g) shall, in the case of a corporation which has
25 established an extended filing month, be given in its final
26 transition annual report and each subsequent annual report as

1 of the close of its fiscal year immediately preceding its
2 extended filing month. It shall be executed by the corporation
3 by its president, a vice-president, secretary, assistant
4 secretary, treasurer or other officer duly authorized by the
5 board of directors of the corporation to execute those reports,
6 and verified by him or her, or, if the corporation is in the
7 hands of a receiver or trustee, it shall be executed on behalf
8 of the corporation and verified by the receiver or trustee.

9 (Source: P.A. 92-16, eff. 6-28-01; 92-33, eff. 7-1-01; 93-59,
10 7-1-03.)

11 Section 999. Effective date. This Act takes effect upon
12 becoming law."