



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3106

Introduced 2/15/2018, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

15 ILCS 405/23.9
30 ILCS 575/5

from Ch. 127, par. 132.605

Amends the State Comptroller Act. Provides that the Business Enterprise Council created under the Business Enterprise for Minorities, Women, and Persons with Disabilities Act shall provide the Comptroller with information necessary to fulfill the Comptroller's responsibilities with respect to the Minority Contractor Opportunity Initiative. Provides that the Comptroller shall annually prepare and submit a report to the Governor and the General Assembly concerning the progress of the initiative for the preceding fiscal year (rather than calendar year). Provides that each Chief Procurement Officer shall provide to the Comptroller information necessary to fulfill the Comptroller's responsibilities with respect to the Minority Contractor Opportunity Initiative. Makes a conforming changes. Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Adds the State Comptroller to the Business Enterprise Council for Minorities, Women, and Persons with Disabilities. Effective immediately.

LRB100 20664 RJF 36115 b

1 AN ACT concerning State government.

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

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

6 (15 ILCS 405/23.9)

7 Sec. 23.9. Minority Contractor Opportunity Initiative. The
8 State Comptroller Minority Contractor Opportunity Initiative
9 is created to provide greater opportunities for minority-owned
10 businesses, women-owned businesses, businesses owned by
11 persons with disabilities, and small businesses with 20 or
12 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 businesses, businesses owned by
17 persons with disabilities, and small businesses capable of
18 providing services to the State; (ii) education of
19 minority-owned businesses, women-owned businesses, businesses
20 owned by persons with disabilities, and small businesses
21 concerning State contracting and procurement; (iii)
22 notification of minority-owned businesses, women-owned
23 businesses, businesses owned by persons with disabilities, and

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

10 The ~~Comptroller shall work with the~~ Business Enterprise
11 Council created under Section 5 of the Business Enterprise for
12 Minorities, Women, and Persons with Disabilities Act shall
13 provide the Comptroller with information necessary to fulfill
14 the Comptroller's responsibilities under this Section,
15 including, but not limited to, ~~The Comptroller may rely on the~~
16 ~~Business Enterprise Council's~~ identification of minority-owned
17 businesses, women-owned businesses, and businesses owned by
18 persons with disabilities.

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

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

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

24 Each Chief Procurement Officer shall provide to the
25 Comptroller information necessary to fulfill the Comptroller's
26 responsibilities under this Section, including, but not

1 limited to, identification of small businesses.

2 (Source: P.A. 99-143, eff. 7-27-15; 100-391, eff. 8-25-17.)

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

6 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

8 Sec. 5. Business Enterprise Council.

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

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

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

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

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

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

25 (b) Maintain a list of all businesses legitimately
26 classified as businesses owned by minorities, women, or

1 persons with disabilities to provide to State agencies and
2 public institutions of higher education.

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

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

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

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

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

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

1 written for a business not owned by a minority, woman, or
2 person with a disability.

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

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

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

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

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

25 (d) To devise appropriate policies, regulations and
26 procedures for including participation by businesses owned

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

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

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

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.