



Sen. Toi W. Hutchinson

Filed: 4/20/2018

10000SB3106sam004

LRB100 20664 RJF 39124 a

1 AMENDMENT TO SENATE BILL 3106

2 AMENDMENT NO. _____. Amend Senate Bill 3106, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Attorney General Act is amended by adding
6 Section 9 as follows:

7 (15 ILCS 205/9 new)

8 Sec. 9. Contract aspirational goals. The Attorney General
9 shall establish aspirational goals for contract awards for all
10 contracts for goods and services, not including contracts for
11 services relating to investigations or litigation. These
12 aspirational goals shall be substantially in accordance with
13 the Business Enterprise for Minorities, Women, and Persons with
14 Disabilities Act, unless otherwise governed by other law. The
15 Attorney General shall not be subject to the jurisdiction of
16 the Business Enterprise Council established under the Business

1 Enterprise for Minorities, Women, and Persons with
2 Disabilities Act, with regard to steps taken to achieve
3 aspirational goals. The Attorney General shall annually post
4 information regarding the Office's utilization of businesses
5 owned by minorities, women, and persons with disabilities
6 during the preceding fiscal year on the Office's Internet
7 websites.

8 Section 10. The Secretary of State Act is amended by adding
9 Section 19 as follows:

10 (15 ILCS 305/19 new)

11 Sec. 19. Contract aspirational goals. The Secretary of
12 State shall establish aspirational goals for contract awards
13 substantially in accordance with the Business Enterprise for
14 Minorities, Women, and Persons with Disabilities Act, unless
15 otherwise governed by other law. The Secretary of State shall
16 not be subject to the jurisdiction of the Business Enterprise
17 Council established under the Business Enterprise for
18 Minorities, Women, and Persons with Disabilities Act, with
19 regard to steps taken to achieve aspirational goals. The
20 Secretary of State shall annually post the Office's utilization
21 of businesses owned by minorities, women, and persons with
22 disabilities during the preceding fiscal year on the Office's
23 Internet websites.

1 Section 15. The State Comptroller Act is amended by
2 changing Section 23.9, and by adding Section 23.10 as follows:

3 (15 ILCS 405/23.9)

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

1 amount paid by State agencies to contractors and the percentage
2 paid to minority-owned businesses, women-owned businesses,
3 businesses owned by persons with disabilities, and small
4 businesses.

5 The ~~Comptroller shall work with the~~ Business Enterprise
6 Council created under Section 5 of the Business Enterprise for
7 Minorities, Women, and Persons with Disabilities Act shall
8 provide the Comptroller with names, Federal Employer
9 Identification Numbers, and designations of Business
10 Enterprise Program certified vendors to fulfill the
11 Comptroller's responsibilities under this Section, including,
12 but not limited to, ~~The Comptroller may rely on the Business~~
13 ~~Enterprise Council's~~ identification of minority-owned
14 businesses, women-owned businesses, and businesses owned by
15 persons with disabilities.

16 The Comptroller shall annually prepare and submit a report
17 to the Governor and the General Assembly concerning the
18 progress of this initiative including the following
19 information for the preceding fiscal ~~calendar~~ year: (i) a
20 statement of the total amounts paid by each executive branch
21 agency to contractors since the previous report; (ii) the
22 percentage of the amounts that were paid to minority-owned
23 businesses, women-owned businesses, businesses owned by
24 persons with disabilities, and small businesses; (iii) the
25 successes achieved and the challenges faced by the Comptroller
26 in operating outreach programs for minorities, women, persons

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

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

21 Each Chief Procurement Officer shall provide the
22 Comptroller with names and Federal Employer Identification
23 Numbers of vendors registered in the Illinois Small Business
24 Set Aside Program to aid the Comptroller in fulfilling his or
25 her responsibilities under this Section.

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

1 (15 ILCS 405/23.10 new)

2 Sec. 23.10. Contract aspirational goals. The Comptroller
3 shall establish aspirational goals for contract awards
4 substantially in accordance with the Business Enterprise for
5 Minorities, Women, and Persons with Disabilities Act, unless
6 otherwise governed by other law. The Comptroller shall not be
7 subject to the jurisdiction of the Business Enterprise Council
8 established under the Business Enterprise for Minorities,
9 Women, and Persons with Disabilities Act, with regard to steps
10 taken to achieve aspirational goals. The Comptroller shall
11 annually post the Office's utilization of businesses owned by
12 minorities, women, and persons with disabilities during the
13 preceding fiscal year on the Office's Internet websites.

14 Section 20. The Illinois State Auditing Act is amended by
15 adding Section 2-16 as follows:

16 (30 ILCS 5/2-16 new)

17 Sec. 2-16. Contract aspirational goals. The Auditor
18 General shall establish aspirational goals for contract awards
19 substantially in accordance the Business Enterprise for
20 Minorities, Women, and Persons with Disabilities Act, unless
21 otherwise governed by other law. The Auditor General Shall not
22 be subject to the jurisdiction of the Business Enterprise
23 Council established under the Business Enterprise for

1 Minorities, Women, and Persons with Disabilities Act, with
2 regard to steps taken to achieve aspirational goals. The
3 Auditor General shall annually post the Office's utilization of
4 businesses owned by minorities, women, and persons with
5 disabilities during the preceding fiscal year on the Office's
6 Internet websites.

7 Section 25. The Business Enterprise for Minorities, Women,
8 and Persons with Disabilities Act is amended by changing
9 Section 5 as follows:

10 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

12 Sec. 5. Business Enterprise Council.

13 (1) To help implement, monitor and enforce the goals of
14 this Act, there is created the Business Enterprise Council for
15 Minorities, Women, and Persons with Disabilities, hereinafter
16 referred to as the Council, composed of the Secretary of Human
17 Services and the Directors of the Department of Human Rights,
18 the Department of Commerce and Economic Opportunity, the
19 Department of Central Management Services, the Department of
20 Transportation and the Capital Development Board, or their duly
21 appointed representatives, with the Comptroller, or his or her
22 designee, serving as an advisory member of the Council. Ten
23 individuals representing businesses that are minority-owned or
24 women-owned or owned by persons with disabilities, 2

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

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

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

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

25 (a) Devise a certification procedure to assure that
26 businesses taking advantage of this Act are legitimately

1 classified as businesses owned by minorities, women, or
2 persons with disabilities.

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

7 (c) Review rules and regulations for the
8 implementation of the program for businesses owned by
9 minorities, women, and persons with disabilities.

10 (d) Review compliance plans submitted by each State
11 agency and public institutions of higher education
12 pursuant to this Act.

13 (e) Make annual reports as provided in Section 8f to
14 the Governor and the General Assembly on the status of the
15 program.

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

23 (g) Establish a toll free telephone number to
24 facilitate information requests concerning the
25 certification process and pending contracts.

26 (3) No premium bond rate of a surety company for a bond

1 required of a business owned by a minority, woman, or person
2 with a disability bidding for a State contract shall be higher
3 than the lowest rate charged by that surety company for a
4 similar bond in the same classification of work that would be
5 written for a business not owned by a minority, woman, or
6 person with a disability.

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

11 (5) The Secretary shall have the following duties and
12 responsibilities:

13 (a) To be responsible for the day-to-day operation of
14 the Council.

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

20 (c) To establish an enforcement procedure whereby the
21 Council may recommend to the appropriate State legal
22 officer that the State exercise its legal remedies which
23 shall include (1) termination of the contract involved, (2)
24 prohibition of participation by the respondent in public
25 contracts for a period not to exceed 3 years, (3)
26 imposition of a penalty not to exceed any profit acquired

1 as a result of violation, or (4) any combination thereof.
2 Such procedures shall require prior approval by Council.

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

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

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

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".