



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1680

Introduced 2/15/2019, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Provides that each chief procurement officer has authority to designate as veteran small business set-asides a fair proportion of construction, supply, and service contracts for awards to qualified service-disabled veteran-owned small businesses or veteran-owned small businesses. Provides further requirements concerning veteran small business set-aside designations. Requires each chief procurement officer to report to the General Assembly (currently, Department of Central Management Services) on specified information concerning qualified service-disabled veteran-owned small businesses and veteran-owned small businesses, and requires that the number of bids or offers will be delineated between contracts that were designated as set-aside and those that were not designated as set-aside. Makes other changes.

LRB101 09928 RJF 55030 b

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by  
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

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

23 (a-5) Set-asides. Each chief procurement officer has

1 authority to designate as veteran small business set-asides a  
2 fair proportion of construction, supply, and service contracts  
3 for awards to qualified service-disabled veteran-owned small  
4 businesses or veteran-owned small businesses. Advertisements  
5 for bids or offers for such contracts shall specify designation  
6 as veteran small business set-asides. In awarding the  
7 contracts, only bids or offers from qualified service-disabled  
8 veteran-owned small businesses or veteran-owned small  
9 businesses shall be considered.

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

17 (2) Each chief procurement officer may adopt rules to  
18 implement and administer the use of set-asides.

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

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

1 who submitted bids or offers for contracts under this Code.  
2 The number of bids or offers will be delineated between  
3 contracts that were set-aside under subsection (a-5) and  
4 those that were not set-aside.

5 (2) The total number of VOSB, and the number of SDVOSB,  
6 who entered into contracts with the State under this Code  
7 and the total value of those contracts. The number of  
8 contracts and the value of contracts will be delineated  
9 between contracts that were awarded as set-asides under  
10 subsection (a-5) and those that were not set-aside.

11 The requirement for reporting to the General Assembly under  
12 this subsection (b) shall be satisfied by filing copies of the  
13 report as required by Section 3.1 of the General Assembly  
14 Organization Act.

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

1 by qualified veterans.

2 (d) Governor's recommendations. To assist the State in  
3 reaching the goal described in subsection (a), the Governor  
4 shall recommend to the General Assembly changes in programs to  
5 assist businesses owned by qualified veterans.

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

7 "Armed forces of the United States" means the United States  
8 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in  
9 active duty as defined under 38 U.S.C. Section 101. Service in  
10 the Merchant Marine that constitutes active duty under Section  
11 401 of federal Public Act 95-202 shall also be considered  
12 service in the armed forces for purposes of this Section.

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

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

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

21 "Qualified service-disabled veteran-owned small business"  
22 or "SDVOSB" means a small business (i) that is at least 51%  
23 owned by one or more qualified service-disabled veterans living  
24 in Illinois or, in the case of a corporation, at least 51% of  
25 the stock of which is owned by one or more qualified  
26 service-disabled veterans living in Illinois; (ii) that has its

1 home office in Illinois; and (iii) for which items (i) and (ii)  
2 are factually verified annually by the Department of Central  
3 Management Services.

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

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

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

24 "State agency" has the meaning provided in Section 1-15.100  
25 of this Code.

26 "Time of hostilities with a foreign country" means any

1 period of time in the past, present, or future during which a  
2 declaration of war by the United States Congress has been or is  
3 in effect or during which an emergency condition has been or is  
4 in effect that is recognized by the issuance of a Presidential  
5 proclamation or a Presidential executive order and in which the  
6 armed forces expeditionary medal or other campaign service  
7 medals are awarded according to Presidential executive order.

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

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

26 (g) Penalties.



1           (1) Administrative penalties. The chief procurement  
2 officers appointed pursuant to Section 10-20 shall suspend  
3 any person who commits a violation of Section 17-10.3 or  
4 subsection (d) of Section 33E-6 of the Criminal Code of  
5 2012 relating to this Section from bidding on, or  
6 participating as a contractor, subcontractor, or supplier  
7 in, any State contract or project for a period of not less  
8 than 3 years, and, if the person is certified as a  
9 service-disabled veteran-owned small business or a  
10 veteran-owned small business, then the Department shall  
11 revoke the business's certification for a period of not  
12 less than 3 years. An additional or subsequent violation  
13 shall extend the periods of suspension and revocation for a  
14 period of not less than 5 years. The suspension and  
15 revocation shall apply to the principals of the business  
16 and any subsequent business formed or financed by, or  
17 affiliated with, those principals.

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

1           (3) List of suspended persons. The chief procurement  
2 officers appointed pursuant to Section 10-20 shall monitor  
3 the status of all reported violations of Section 17-10.3 or  
4 subsection (d) of Section 33E-6 of the Criminal Code of  
5 1961 or the Criminal Code of 2012 relating to this Section  
6 and shall maintain and make available to all State agencies  
7 a central listing of all persons that committed violations  
8 resulting in suspension.

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

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

22 (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;  
23 100-863, eff. 8-14-18.)