



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2121

Introduced 2/15/2019, by Sen. Omar Aquino - Mattie Hunter

SYNOPSIS AS INTRODUCED:

30 ILCS 575/2
30 ILCS 575/4f

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Modifies the terms "State contracts" and "public institutions of higher education" to remove references to community colleges and community college districts within the meanings of those terms. Provides aspirational goals for community colleges in the awarding of contracts under the Act. Specifies additional information that the Business Enterprise Council is required to report for each community college district. Provides that the Business Enterprise Council shall (rather than may) collect the data needed to make its report from the Illinois Community College Board. Effective immediately.

LRB101 10969 RJF 56148 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 Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act is amended by changing
6 Sections 2 and 4f as follows:

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2020)

9 Sec. 2. Definitions.

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

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

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

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

1 Vietnam).

2 (c) Black or African American (a person having
3 origins in any of the black racial groups of Africa).
4 Terms such as "Haitian" or "Negro" can be used in
5 addition to "Black or African American".

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

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

12 (2) "Woman" shall mean a person who is a citizen or
13 lawful permanent resident of the United States and who is
14 of the female gender.

15 (2.05) "Person with a disability" means a person who is
16 a citizen or lawful resident of the United States and is a
17 person qualifying as a person with a disability under
18 subdivision (2.1) of this subsection (A).

19 (2.1) "Person with a disability" means a person with a
20 severe physical or mental disability that:

21 (a) results from:

22 amputation,

23 arthritis,

24 autism,

25 blindness,

26 burn injury,

1 cancer,
2 cerebral palsy,
3 Crohn's disease,
4 cystic fibrosis,
5 deafness,
6 head injury,
7 heart disease,
8 hemiplegia,
9 hemophilia,
10 respiratory or pulmonary dysfunction,
11 an intellectual disability,
12 mental illness,
13 multiple sclerosis,
14 muscular dystrophy,
15 musculoskeletal disorders,
16 neurological disorders, including stroke and
17 epilepsy,
18 paraplegia,
19 quadriplegia and other spinal cord conditions,
20 sickle cell anemia,
21 ulcerative colitis,
22 specific learning disabilities, or
23 end stage renal failure disease; and
24 (b) substantially limits one or more of the
25 person's major life activities.
26 Another disability or combination of disabilities may

1 also be considered as a severe disability for the purposes
2 of item (a) of this subdivision (2.1) if it is determined
3 by an evaluation of rehabilitation potential to cause a
4 comparable degree of substantial functional limitation
5 similar to the specific list of disabilities listed in item
6 (a) of this subdivision (2.1).

7 (3) "Minority-owned business" means a business which
8 is at least 51% owned by one or more minority persons, or
9 in the case of a corporation, at least 51% of the stock in
10 which is owned by one or more minority persons; and the
11 management and daily business operations of which are
12 controlled by one or more of the minority individuals who
13 own it.

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

20 (4.1) "Business owned by a person with a disability"
21 means a business that is at least 51% owned by one or more
22 persons with a disability and the management and daily
23 business operations of which are controlled by one or more
24 of the persons with disabilities who own it. A
25 not-for-profit agency for persons with disabilities that
26 is exempt from taxation under Section 501 of the Internal

1 Revenue Code of 1986 is also considered a "business owned
2 by a person with a disability".

3 (4.2) "Council" means the Business Enterprise Council
4 for Minorities, Women, and Persons with Disabilities
5 created under Section 5 of this Act.

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

17 "State construction contracts" means all State
18 contracts entered into by a State agency or public
19 institution of higher education for the repair,
20 remodeling, renovation or construction of a building or
21 structure, or for the construction or maintenance of a
22 highway defined in Article 2 of the Illinois Highway Code.

23 (6) "State agencies" shall mean all departments,
24 officers, boards, commissions, institutions and bodies
25 politic and corporate of the State, but does not include
26 the Board of Trustees of the University of Illinois, the

1 Board of Trustees of Southern Illinois University, the
2 Board of Trustees of Chicago State University, the Board of
3 Trustees of Eastern Illinois University, the Board of
4 Trustees of Governors State University, the Board of
5 Trustees of Illinois State University, the Board of
6 Trustees of Northeastern Illinois University, the Board of
7 Trustees of Northern Illinois University, the Board of
8 Trustees of Western Illinois University, municipalities or
9 other local governmental units, or other State
10 constitutional officers.

11 (7) "Public institutions of higher education" means
12 the University of Illinois, Southern Illinois University,
13 Chicago State University, Eastern Illinois University,
14 Governors State University, Illinois State University,
15 Northeastern Illinois University, Northern Illinois
16 University, Western Illinois University, ~~the public~~
17 ~~community colleges of the State,~~ and any other public
18 universities, ~~colleges, and community colleges~~ now or
19 hereafter established or authorized by the General
20 Assembly.

21 (8) "Certification" means a determination made by the
22 Council or by one delegated authority from the Council to
23 make certifications, or by a State agency with statutory
24 authority to make such a certification, that a business
25 entity is a business owned by a minority, woman, or person
26 with a disability for whatever purpose. A business owned

1 and controlled by women shall be certified as a
2 "woman-owned business". A business owned and controlled by
3 women who are also minorities shall be certified as both a
4 "women-owned business" and a "minority-owned business".

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

22 (10) "Business" means a business that has annual gross
23 sales of less than \$75,000,000 as evidenced by the federal
24 income tax return of the business. A firm with gross sales
25 in excess of this cap may apply to the Council for
26 certification for a particular contract if the firm can

1 demonstrate that the contract would have significant
2 impact on businesses owned by minorities, women, or persons
3 with disabilities as suppliers or subcontractors or in
4 employment of minorities, women, or persons with
5 disabilities.

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

14 (12) "Business Enterprise Program" means the Business
15 Enterprise Program of the Department of Central Management
16 Services.

17 (B) When a business is owned at least 51% by any
18 combination of minority persons, women, or persons with
19 disabilities, even though none of the 3 classes alone holds at
20 least a 51% interest, the ownership requirement for purposes of
21 this Act is considered to be met. The certification category
22 for the business is that of the class holding the largest
23 ownership interest in the business. If 2 or more classes have
24 equal ownership interests, the certification category shall be
25 determined by the business.

26 (Source: P.A. 99-143, eff. 7-27-15; 99-462, eff. 8-25-15;

1 99-642, eff. 7-28-16; 100-391, eff. 8-25-17.)

2 (30 ILCS 575/4f)

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

4 Sec. 4f. Award of State contracts.

5 (1) It is hereby declared to be the public policy of the
6 State of Illinois to promote and encourage each State agency
7 and public institution of higher education, including
8 community colleges, to use businesses owned by minorities,
9 women, and persons with disabilities in the area of goods and
10 services, including, but not limited to, insurance services,
11 investment management services, information technology
12 services, accounting services, architectural and engineering
13 services, and legal services. Furthermore, each State agency
14 and public institution of higher education, including
15 community colleges, shall utilize such firms to the greatest
16 extent feasible within the bounds of financial and fiduciary
17 prudence, and take affirmative steps to remove any barriers to
18 the full participation of such firms in the procurement and
19 contracting opportunities afforded.

20 (a) When a State agency or public institution of higher
21 education, other than a community college, awards a
22 contract for insurance services, for each State agency or
23 public institution of higher education, it shall be the
24 aspirational goal to use insurance brokers owned by
25 minorities, women, and persons with disabilities as

1 defined by this Act, for not less than 20% of the total
2 annual premiums or fees.

3 (b) When a State agency or public institution of higher
4 education, other than a community college, awards a
5 contract for investment services, for each State agency or
6 public institution of higher education, it shall be the
7 aspirational goal to use emerging investment managers
8 owned by minorities, women, and persons with disabilities
9 as defined by this Act, for not less than 20% of the total
10 funds under management. Furthermore, it is the
11 aspirational goal that not less than 20% of the direct
12 asset managers of the State funds be minorities, women, and
13 persons with disabilities.

14 (c) When a State agency or public institution of higher
15 education, other than a community college, awards
16 contracts for information technology services, accounting
17 services, architectural and engineering services, and
18 legal services, for each State agency and public
19 institution of higher education, it shall be the
20 aspirational goal to use such firms owned by minorities,
21 women, and persons with disabilities as defined by this Act
22 and lawyers who are minorities, women, and persons with
23 disabilities as defined by this Act, for not less than 20%
24 of the total dollar amount of State contracts.

25 (d) When a community college awards a contract for
26 insurance services, investment services, information

1 technology services, accounting services, architectural
2 and engineering services, and legal services, it shall be
3 the aspirational goal of each community college to use
4 businesses owned by minorities, women, and persons with
5 disabilities as defined in this Act for not less than 20%
6 of the total amount spent on contracts for these services
7 collectively. When a community college awards contracts
8 for investment services, contracts awarded to investment
9 managers who are not emerging investment managers as
10 defined in this Act shall not be considered businesses
11 owned by minorities, women, or persons with disabilities
12 for the purposes of this Section.

13 (e) When a community college awards a contract, it
14 shall be the aspirational goal of each community college to
15 use businesses owned by minorities, women, and persons with
16 disabilities, as defined in this Act, for not less than 20%
17 of the total dollar amount of all contracts entered into by
18 the community college district, regardless of the source of
19 the funds with which the contracts are paid, which are not
20 subject to federal reimbursement.

21 The percentage specified in this subsection (e)
22 relates to the total dollar amount of contracts during each
23 fiscal year, calculated by examining independently each
24 type of contract for each community college which lets such
25 contracts. Only the percentage of arrangements which
26 represents the participation of businesses owned by

1 minorities, women, and persons with disabilities on such
2 contracts shall be included.

3 (f) When a community college awards construction
4 contracts, it shall be the aspirational goal of each
5 community college to use businesses owned by minorities and
6 women, as defined in this Act, for not less than 20% of the
7 total amount of construction contracts entered into by the
8 community college district, regardless of the source of the
9 funds for which the contracts are paid, which are not
10 subject to federal reimbursement. In the case of
11 construction contracts, the provisions of this Act
12 requiring a portion of the contracts awarded to businesses
13 owned and controlled by persons with disabilities do not
14 apply.

15 (2) As used in this Section:

16 "Accounting services" means the measurement,
17 processing and communication of financial information
18 about economic entities including, but is not limited to,
19 financial accounting, management accounting, auditing,
20 cost containment and auditing services, taxation and
21 accounting information systems.

22 "Architectural and engineering services" means
23 professional services of an architectural or engineering
24 nature, or incidental services, that members of the
25 architectural and engineering professions, and individuals
26 in their employ, may logically or justifiably perform,

1 including studies, investigations, surveying and mapping,
2 tests, evaluations, consultations, comprehensive planning,
3 program management, conceptual designs, plans and
4 specifications, value engineering, construction phase
5 services, soils engineering, drawing reviews, preparation
6 of operating and maintenance manuals, and other related
7 services.

8 "Emerging investment manager" means an investment
9 manager or claims consultant having assets under
10 management below \$10 billion or otherwise adjudicating
11 claims.

12 "Information technology services" means, but is not
13 limited to, specialized technology-oriented solutions by
14 combining the processes and functions of software,
15 hardware, networks, telecommunications, web designers,
16 cloud developing resellers, and electronics.

17 "Insurance broker" means an insurance brokerage firm,
18 claims administrator, or both, that procures, places all
19 lines of insurance, or administers claims with annual
20 premiums or fees of at least \$5,000,000 but not more than
21 \$10,000,000.

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

25 (3) Each State agency and public institution of higher
26 education, including community colleges, shall adopt policies

1 that identify its plan and implementation procedures for
2 increasing the use of service firms owned by minorities, women,
3 and persons with disabilities.

4 (4) Except as provided in subsection (5), the Council shall
5 file no later than March 1 of each year an annual report to the
6 Governor and the General Assembly. The report filed with the
7 General Assembly shall be filed as required in Section 3.1 of
8 the General Assembly Organization Act. This report shall: (i)
9 identify the service firms used by each State agency and public
10 institution of higher education, (ii) identify the actions it
11 has undertaken to increase the use of service firms owned by
12 minorities, women, and persons with disabilities, including
13 encouraging non-minority-owned firms to use other service
14 firms owned by minorities, women, and persons with disabilities
15 as subcontractors when the opportunities arise, (iii) state any
16 recommendations made by the Council to each State agency and
17 public institution of higher education to increase
18 participation by the use of service firms owned by minorities,
19 women, and persons with disabilities, and (iv) include the
20 following:

21 (A) For insurance services: the names of the insurance
22 brokers or claims consultants used, the total of risk
23 managed by each State agency and public institution of
24 higher education by insurance brokers, the total
25 commissions, fees paid, or both, the lines or insurance
26 policies placed, and the amount of premiums placed; and the

1 percentage of the risk managed by insurance brokers, the
2 percentage of total commission, fees paid, or both, the
3 lines or insurance policies placed, and the amount of
4 premiums placed with each by the insurance brokers owned by
5 minorities, women, and persons with disabilities by each
6 State agency and public institution of higher education.

7 (B) For investment management services: the names of
8 the investment managers used, the total funds under
9 management of investment managers; the total commissions,
10 fees paid, or both; the total and percentage of funds under
11 management of emerging investment managers owned by
12 minorities, women, and persons with disabilities,
13 including the total and percentage of total commissions,
14 fees paid, or both by each State agency and public
15 institution of higher education.

16 (C) The names of service firms, the percentage and
17 total dollar amount paid for professional services by
18 category by each State agency and public institution of
19 higher education.

20 (D) The names of service firms, the percentage and
21 total dollar amount paid for services by category to firms
22 owned by minorities, women, and persons with disabilities
23 by each State agency and public institution of higher
24 education.

25 (E) The total number of contracts awarded for services
26 by category and the total number of contracts awarded to

1 firms owned by minorities, women, and persons with
2 disabilities by each State agency and public institution of
3 higher education.

4 (5) For community college districts, the Business
5 Enterprise Council shall only report the following information
6 for each community college district: (i) the name of the
7 community colleges in the district, (ii) the name and contact
8 information of a person at each community college appointed to
9 be the single point of contact for vendors owned by minorities,
10 women, or persons with disabilities, (iii) the policy of the
11 community college district concerning certified vendors, (iv)
12 the certifications recognized by the community college
13 district for determining whether a business is owned or
14 controlled by a minority, woman, or person with a disability,
15 (v) outreach efforts conducted by the community college
16 district to increase the use of certified vendors, (vi) the
17 total expenditures by the community college district in the
18 prior fiscal year in the divisions of work specified in
19 paragraphs (a), (b), and (c) of subsection (1) of this Section
20 and the amount paid to certified vendors in those divisions of
21 work, ~~and~~ (vii) the total number of contracts entered into for
22 the divisions of work specified in paragraphs (a), (b), and (c)
23 of subsection (1) of this Section and the total number of
24 contracts awarded to certified vendors providing these
25 services to the community college district, (viii) the total
26 expenditures and the total number of contracts entered into by

1 the community college district in the prior fiscal year as
2 specified in paragraph (e) of subsection (1), and the amount
3 paid to certified vendors and the total number of contracts
4 awarded to vendors, and (ix) the total expenditures and the
5 total number of contracts entered into by the community college
6 district in the prior fiscal years as specified under paragraph
7 (f) of subsection (1), and the amount paid to certified vendors
8 and the total number of contracts awarded to certified vendors.

9 The Business Enterprise Council shall not make any utilization
10 reports under this Act for community college districts for
11 Fiscal Year 2015 and Fiscal Year 2016, but shall make the
12 report required by this subsection for Fiscal Year 2017 and for
13 each fiscal year thereafter. The Business Enterprise Council
14 shall report the information in items (i), (ii), (iii), and
15 (iv) of this subsection beginning in September of 2016. The
16 Business Enterprise Council shall ~~may~~ collect the data needed
17 to make its report from the Illinois Community College Board.

18 (6) The status of the utilization of services shall be
19 discussed at each of the regularly scheduled Business
20 Enterprise Council meetings. Time shall be allotted for the
21 Council to receive, review, and discuss the progress of the use
22 of service firms owned by minorities, women, and persons with
23 disabilities by each State agency and public institution of
24 higher education; and any evidence regarding past or present
25 racial, ethnic, or gender-based discrimination which directly
26 impacts a State agency or public institution of higher

1 education contracting with such firms. If after reviewing such
2 evidence the Council finds that there is or has been such
3 discrimination against a specific group, race or sex, the
4 Council shall establish sheltered markets or adjust existing
5 sheltered markets tailored to address the Council's specific
6 findings for the divisions of work specified in paragraphs (a),
7 (b), and (c) of subsection (1) of this Section.

8 (Source: P.A. 99-462, eff. 8-25-15; 99-642, eff. 7-28-16;
9 100-391, eff. 8-25-17.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.