

**SB3326**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB3326**

Introduced 2/14/2020, by Sen. Michael E. Hastings

**SYNOPSIS AS INTRODUCED:**

775 ILCS 5/2-105

from Ch. 68, par. 2-105

Amends the Employment Article of the Illinois Human Rights Act. Provides that specified requirements related to public contracts shall be completed prior to contract execution.

LRB101 19536 LNS 69009 b

**A BILL FOR**

1 AN ACT concerning human rights.

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

4 Section 5. The Illinois Human Rights Act is amended by  
5 changing Section 2-105 as follows:

6 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

7 Sec. 2-105. Equal Employment Opportunities; Affirmative  
8 Action.

9 (A) Public Contracts. Every party to a public contract and  
10 every eligible bidder, prior to execution of the contract,  
11 shall:

12 (1) Refrain from unlawful discrimination and  
13 discrimination based on citizenship status in employment  
14 and undertake affirmative action to assure equality of  
15 employment opportunity and eliminate the effects of past  
16 discrimination;

17 (2) Comply with the procedures and requirements of the  
18 Department's regulations concerning equal employment  
19 opportunities and affirmative action;

20 (3) Provide such information, with respect to its  
21 employees and applicants for employment, and assistance as  
22 the Department may reasonably request;

23 (4) Have written sexual harassment policies that shall

1 include, at a minimum, the following information: (i) the  
2 illegality of sexual harassment; (ii) the definition of  
3 sexual harassment under State law; (iii) a description of  
4 sexual harassment, utilizing examples; (iv) the vendor's  
5 internal complaint process including penalties; (v) the  
6 legal recourse, investigative and complaint process  
7 available through the Department and the Commission; (vi)  
8 directions on how to contact the Department and Commission;  
9 and (vii) protection against retaliation as provided by  
10 Section 6-101 of this Act. A copy of the policies shall be  
11 provided to the Department upon request. Additionally,  
12 each bidder who submits a bid or offer for a State contract  
13 under the Illinois Procurement Code shall have a written  
14 copy of the bidder's sexual harassment policy as required  
15 under this paragraph (4). A copy of the policy shall be  
16 provided to the State agency entering into the contract  
17 upon request.

18 (B) State Agencies. Every State executive department,  
19 State agency, board, commission, and instrumentality shall:

20 (1) Comply with the procedures and requirements of the  
21 Department's regulations concerning equal employment  
22 opportunities and affirmative action;

23 (2) Provide such information and assistance as the  
24 Department may request.

25 (3) Establish, maintain, and carry out a continuing  
26 affirmative action plan consistent with this Act and the

1 regulations of the Department designed to promote equal  
2 opportunity for all State residents in every aspect of  
3 agency personnel policy and practice. For purposes of these  
4 affirmative action plans, the race and national origin  
5 categories to be included in the plans are: American Indian  
6 or Alaska Native, Asian, Black or African American,  
7 Hispanic or Latino, Native Hawaiian or Other Pacific  
8 Islander.

9 This plan shall include a current detailed status  
10 report:

11 (a) indicating, by each position in State service,  
12 the number, percentage, and average salary of  
13 individuals employed by race, national origin, sex and  
14 disability, and any other category that the Department  
15 may require by rule;

16 (b) identifying all positions in which the  
17 percentage of the people employed by race, national  
18 origin, sex and disability, and any other category that  
19 the Department may require by rule, is less than  
20 four-fifths of the percentage of each of those  
21 components in the State work force;

22 (c) specifying the goals and methods for  
23 increasing the percentage by race, national origin,  
24 sex and disability, and any other category that the  
25 Department may require by rule, in State positions;

26 (d) indicating progress and problems toward

1 meeting equal employment opportunity goals, including,  
2 if applicable, but not limited to, Department of  
3 Central Management Services recruitment efforts,  
4 publicity, promotions, and use of options designating  
5 positions by linguistic abilities;

6 (e) establishing a numerical hiring goal for the  
7 employment of qualified persons with disabilities in  
8 the agency as a whole, to be based on the proportion of  
9 people with work disabilities in the Illinois labor  
10 force as reflected in the most recent employment data  
11 made available by the United States Census Bureau.

12 (4) If the agency has 1000 or more employees, appoint a  
13 full-time Equal Employment Opportunity officer, subject to  
14 the Department's approval, whose duties shall include:

15 (a) Advising the head of the particular State  
16 agency with respect to the preparation of equal  
17 employment opportunity programs, procedures,  
18 regulations, reports, and the agency's affirmative  
19 action plan.

20 (b) Evaluating in writing each fiscal year the  
21 sufficiency of the total agency program for equal  
22 employment opportunity and reporting thereon to the  
23 head of the agency with recommendations as to any  
24 improvement or correction in recruiting, hiring or  
25 promotion needed, including remedial or disciplinary  
26 action with respect to managerial or supervisory

1 employees who have failed to cooperate fully or who are  
2 in violation of the program.

3 (c) Making changes in recruitment, training and  
4 promotion programs and in hiring and promotion  
5 procedures designed to eliminate discriminatory  
6 practices when authorized.

7 (d) Evaluating tests, employment policies,  
8 practices and qualifications and reporting to the head  
9 of the agency and to the Department any policies,  
10 practices and qualifications that have unequal impact  
11 by race, national origin as required by Department  
12 rule, sex or disability or any other category that the  
13 Department may require by rule, and to assist in the  
14 recruitment of people in underrepresented  
15 classifications. This function shall be performed in  
16 cooperation with the State Department of Central  
17 Management Services.

18 (e) Making any aggrieved employee or applicant for  
19 employment aware of his or her remedies under this Act.

20 In any meeting, investigation, negotiation,  
21 conference, or other proceeding between a State  
22 employee and an Equal Employment Opportunity officer,  
23 a State employee (1) who is not covered by a collective  
24 bargaining agreement and (2) who is the complaining  
25 party or the subject of such proceeding may be  
26 accompanied, advised and represented by (1) an

1 attorney licensed to practice law in the State of  
2 Illinois or (2) a representative of an employee  
3 organization whose membership is composed of employees  
4 of the State and of which the employee is a member. A  
5 representative of an employee, other than an attorney,  
6 may observe but may not actively participate, or advise  
7 the State employee during the course of such meeting,  
8 investigation, negotiation, conference or other  
9 proceeding. Nothing in this Section shall be construed  
10 to permit any person who is not licensed to practice  
11 law in Illinois to deliver any legal services or  
12 otherwise engage in any activities that would  
13 constitute the unauthorized practice of law. Any  
14 representative of an employee who is present with the  
15 consent of the employee, shall not, during or after  
16 termination of the relationship permitted by this  
17 Section with the State employee, use or reveal any  
18 information obtained during the course of the meeting,  
19 investigation, negotiation, conference or other  
20 proceeding without the consent of the complaining  
21 party and any State employee who is the subject of the  
22 proceeding and pursuant to rules and regulations  
23 governing confidentiality of such information as  
24 promulgated by the appropriate State agency.  
25 Intentional or reckless disclosure of information in  
26 violation of these confidentiality requirements shall

1           constitute a Class B misdemeanor.

2           (5) Establish, maintain and carry out a continuing  
3 sexual harassment program that shall include the  
4 following:

5           (a) Develop a written sexual harassment policy  
6 that includes at a minimum the following information:  
7 (i) the illegality of sexual harassment; (ii) the  
8 definition of sexual harassment under State law; (iii)  
9 a description of sexual harassment, utilizing  
10 examples; (iv) the agency's internal complaint process  
11 including penalties; (v) the legal recourse,  
12 investigative and complaint process available through  
13 the Department and the Commission; (vi) directions on  
14 how to contact the Department and Commission; and (vii)  
15 protection against retaliation as provided by Section  
16 6-101 of this Act. The policy shall be reviewed  
17 annually.

18           (b) Post in a prominent and accessible location and  
19 distribute in a manner to assure notice to all agency  
20 employees without exception the agency's sexual  
21 harassment policy. Such documents may meet, but shall  
22 not exceed, the 6th grade literacy level. Distribution  
23 shall be effectuated within 90 days of the effective  
24 date of this amendatory Act of 1992 and shall occur  
25 annually thereafter.

26           (c) Provide training on sexual harassment



1 prevention and the agency's sexual harassment policy  
2 as a component of all ongoing or new employee training  
3 programs.

4 (6) Notify the Department 30 days before effecting any  
5 layoff. Once notice is given, the following shall occur:

6 (a) No layoff may be effective earlier than 10  
7 working days after notice to the Department, unless an  
8 emergency layoff situation exists.

9 (b) The State executive department, State agency,  
10 board, commission, or instrumentality in which the  
11 layoffs are to occur must notify each employee targeted  
12 for layoff, the employee's union representative (if  
13 applicable), and the State Dislocated Worker Unit at  
14 the Department of Commerce and Economic Opportunity.

15 (c) The State executive department, State agency,  
16 board, commission, or instrumentality in which the  
17 layoffs are to occur must conform to applicable  
18 collective bargaining agreements.

19 (d) The State executive department, State agency,  
20 board, commission, or instrumentality in which the  
21 layoffs are to occur should notify each employee  
22 targeted for layoff that transitional assistance may  
23 be available to him or her under the Economic  
24 Dislocation and Worker Adjustment Assistance Act  
25 administered by the Department of Commerce and  
26 Economic Opportunity. Failure to give such notice

1 shall not invalidate the layoff or postpone its  
2 effective date.

3 As used in this subsection (B), "disability" shall be  
4 defined in rules promulgated under the Illinois Administrative  
5 Procedure Act.

6 (C) Civil Rights Violations. It is a civil rights violation  
7 for any public contractor or eligible bidder to:

8 (1) fail to comply with the public contractor's or  
9 eligible bidder's duty to refrain from unlawful  
10 discrimination and discrimination based on citizenship  
11 status in employment under subsection (A)(1) of this  
12 Section; or

13 (2) fail to comply with the public contractor's or  
14 eligible bidder's duties of affirmative action under  
15 subsection (A) of this Section, provided however, that the  
16 Department has notified the public contractor or eligible  
17 bidder in writing by certified mail that the public  
18 contractor or eligible bidder may not be in compliance with  
19 affirmative action requirements of subsection (A). A  
20 minimum of 60 days to comply with the requirements shall be  
21 afforded to the public contractor or eligible bidder before  
22 the Department may issue formal notice of non-compliance.

23 (D) As used in this Section:

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

1 maintains tribal affiliation or community attachment.

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

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

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

17 (Source: P.A. 99-933, eff. 1-27-17; 100-698, eff. 1-1-19.)