



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0721

Introduced 2/8/2021, by Rep. Delia C. Ramirez

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 575/5
220 ILCS 5/5-117

from Ch. 127, par. 132.605

Creates the Not-for-Profit Business Enterprise Act. Allows for the certification of and the preference in awarding of State contracts to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability under the Act. Provides further requirements concerning the awarding of State contracts and certification. Requires State agencies and institutions of higher education to annually file with the Business Enterprise Council a compliance plan for contracting with minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Provides enforcement provisions. Provides for the adoption of rules necessary to implement and enforce the requirements of the Act. Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides the Business Enterprise Council with the authority and responsibility to devise a certification procedure for not-for-profit organizations and to make a list of all not-for-profit organizations legitimately classified as a minority-led not-for-profit organization, a woman-led not-for-profit organization, or a not-for-profit organization led by a person with a disability for purposes of the Not-for-Profit Business Enterprise Act. Amends the Public Utilities Act. Provides that specified supplier diversity goal requirements under the Act apply to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Defines terms. Makes other changes.

LRB102 04028 RJF 14044 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 1. Short title. This Act may be cited as the
5 Not-for-Profit Business Enterprise Act.

6 Section 5. Definitions. As used in this Act:

7 "Board of Directors" has the same meaning as provided
8 under subsection (d) of Section 101.80 of the General Not For
9 Profit Corporation Act of 1986.

10 "Business Enterprise Council" or "Council" means the
11 Business Enterprise Council for Minorities, Women, and Persons
12 with Disabilities created under Section 5 of the Business
13 Enterprise for Minorities, Women, and Persons with
14 Disabilities Act.

15 "Certification" means a determination made by the Business
16 Enterprise Council, or by one delegated authority from the
17 Council to make certifications, or by a State agency with
18 statutory authority to make such a certification, that a
19 not-for-profit organization meets the defined classifications
20 of a "minority-led not-for-profit organization", a "woman-led
21 not-for-profit organization", or a "not-for-profit
22 organization led by a person with a disability".

23 "Key employees" means an employee of the organization who

1 is:

2 (1) the person who has ultimate responsibility for
3 implementing the decisions of the Board of Directors or
4 for supervising the management, administration, or
5 operation of the organization;

6 (2) the person who has ultimate responsibility for
7 managing the organization's finances; or

8 (3) the person who:

9 (A) has responsibilities, powers, or influence
10 over the organization as a whole that is similar to the
11 persons described in paragraphs (1) and (2);

12 (B) manages a discrete segment or activity of the
13 organizations that represents 25% or more of the
14 activities, assets, income, or expenses of the
15 organization, as compared to the organization as a
16 whole, or has or shares authority to control or
17 determine 25% or more of the organization's capital
18 expenditures, operating budget, or compensation for
19 employees; and

20 (C) is one of the 5 highest compensated employees
21 in the organization.

22 "Minority-led not-for-profit organization" means an
23 organization that is tax-exempt under Sections 501(c)(3) or
24 501(c)(4) of the Internal Revenue Code of 1986, and for which:

25 (1) at least 51% of the organization's Board of
26 Directors are minority persons, or at least 51% of the

1 organization's Board of Directors and key employees are
2 minority persons;

3 (2) the organization is regularly and actively engaged
4 in the activity for which it is formed;

5 (3) the organization is not dependent upon or
6 influenced by another non-eligible person or organization;
7 and

8 (4) the organization has not been established or
9 reorganized for the specific purpose of participating in
10 the Business Enterprise Program.

11 "Not-for-profit organization led by a person with a
12 disability" means an organization that is tax-exempt under
13 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code
14 of 1986, and for which:

15 (1) at least 51% of the organization's Board of
16 Directors are persons with a disability, or at least 51%
17 of the organization's Board of Directors and key employees
18 are persons with a disability;

19 (2) the organization is regularly and actively engaged
20 in the activity for which it is formed;

21 (3) the organization is not dependent upon or
22 influenced by another non-eligible person or organization;
23 and

24 (4) the organization has not been established or
25 reorganized for the specific purpose of participating in
26 the Business Enterprise Program.

1 "Public institution of higher education" means the
2 University of Illinois, Southern Illinois University, Chicago
3 State University, Eastern Illinois University, Governors State
4 University, Illinois State University, Northeastern Illinois
5 University, Northern Illinois University, Western Illinois
6 University, the public community colleges of the State, and
7 any other public universities, colleges, and community
8 colleges now or hereafter established or authorized by the
9 General Assembly.

10 "State agency" means and includes all boards, commissions,
11 agencies, institutions, authorities, and bodies politic and
12 corporate of the State.

13 "State contracts" means all contracts entered into by the
14 State, any agency or department thereof, or any public
15 institution of higher education, including community college
16 districts, regardless of the source of the funds with which
17 the contracts are paid, which are not subject to federal
18 reimbursement. "State contracts" does not include contracts
19 awarded by a retirement system, pension fund, or investment
20 board subject to Section 1-109.1 of the Illinois Pension Code.

21 "Woman-led not-for-profit organization" means an
22 organization that is tax-exempt under Sections 501(c)(3) or
23 501(c)(4) of the Internal Revenue Code of 1986, and for which:

- 24 (1) at least 51% of the organization's Board of
25 Directors are women, or at least 51% of the organization's
26 Board of Directors and key employees are women;

1 (2) the organization is regularly and actively engaged
2 in the activity for which it is formed;

3 (3) the organization is not dependent upon or
4 influenced by another non-eligible person or organization;
5 and

6 (4) the organization has not been established or
7 reorganized for the specific purpose of participating in
8 the Business Enterprise Program.

9 Section 10. Award of State contracts. Not less than 10% of
10 the total dollar amount of State contracts shall be
11 established as an aspirational goal to be awarded to
12 minority-led not-for-profit organizations, woman-led
13 not-for-profit organizations, and not-for-profit
14 organizations led by a person with a disability. The
15 percentage established under this Section relates to the total
16 dollar amount of State contracts during each State fiscal
17 year, calculated by examining independently each type of
18 contract for each State agency or public institution of higher
19 education which lets such contracts. Only that percentage of
20 arrangements which represents the participation of
21 minority-led not-for-profit organizations, woman-led
22 not-for-profit organizations, and not-for-profit
23 organizations led by a person with a disability on such
24 contracts shall be included.

1 Section 15. Certification.

2 (a) For the purpose of assuring that a not-for-profit
3 organization taking advantage of this Act is legitimately
4 classified as a minority-led not-for-profit organization, a
5 woman-led not-for-profit organization, or a not-for-profit
6 organization led by a person with a disability, the Business
7 Enterprise Council shall devise a certification procedure to
8 classify such organizations. The Council shall also maintain a
9 list of all not-for-profit organizations legitimately
10 classified as a minority-led not-for-profit organization, a
11 woman-led not-for-profit organization, or a not-for-profit
12 organization led by a person with a disability to provide to
13 State agencies and public institutions of higher education
14 entering into State contracts under this Act.

15 (b) When a not-for-profit organization's Board of
16 Directors, or the Board of Directors together with key
17 employees, consists of at least 51% of any combination of
18 minority persons, women, or persons with disabilities, even
19 though none of the 3 classes alone holds at least a 51% share,
20 the 51% membership requirement for purposes of certification
21 under this Act shall be considered met. The certification
22 category for not-for-profit organizations shall be that of the
23 class holding the largest share of positions on the Board of
24 Directors, or on the Board of Directors together with key
25 employees, of a not-for-profit organization. If 2 or more
26 classes have an equal share of positions on the Board of

1 Directors, or on the Board of Directors together with key
2 employees, the certification category shall be determined by
3 the not-for-profit organization.

4 Section 20. Agency compliance plans. Each State agency and
5 public institution of higher education under the jurisdiction
6 of this Act shall file with the Business Enterprise Council an
7 annual compliance plan which shall outline the goals of the
8 State agency or public institution of higher education for
9 contracting with minority-led not-for-profit organizations,
10 woman-led not-for-profit organizations, and not-for-profit
11 organizations led by a person with a disability for the then
12 current fiscal year, the manner in which the agency intends to
13 reach those goals, and a timetable for reaching those goals.
14 The Council shall review and approve the plan of each State
15 agency and public institution of higher education and may
16 reject any plan that does not comply with this Act.

17 Section 25. Enforcement. The Business Enterprise Council
18 shall make such findings, recommendations, and proposals to
19 the Governor as are necessary and appropriate to enforce this
20 Act. If, as a result of its monitoring activities, the Council
21 determines that its goals and policies are not being met by any
22 State agency or public institution of higher education, the
23 Council may recommend any actions necessary to enforce
24 compliance with this Act and compliance with contracts entered

1 into under this Act.

2 Section 30. Rules. The Business Enterprise Council shall
3 adopt any rules necessary to implement and enforce the
4 requirements of this Act.

5 Section 100. The Business Enterprise for Minorities,
6 Women, and Persons with Disabilities Act is amended by
7 changing Section 5 as follows:

8 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

9 (Section scheduled to be repealed on June 30, 2024)

10 Sec. 5. Business Enterprise Council.

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

1 community, and a representative of public institutions of
2 higher education shall be appointed by the Governor. These
3 members shall serve 2-year ~~2-year~~ terms and shall be eligible
4 for reappointment. Any vacancy occurring on the Council shall
5 also be filled by the Governor. Any member appointed to fill a
6 vacancy occurring prior to the expiration of the term for
7 which his or her predecessor was appointed shall be appointed
8 for the remainder of such term. Members of the Council shall
9 serve without compensation but shall be reimbursed for any
10 ordinary and necessary expenses incurred in the performance of
11 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
16 as the Division Manager of the Business Enterprise for
17 Minorities, Women, and Persons with Disabilities Division of
18 the Department of Central Management Services.

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

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

26 (a) Devise a certification procedure to assure that

1 businesses taking advantage of this Act are legitimately
2 classified as businesses owned by minorities, women, or
3 persons with disabilities and a registration procedure to
4 recognize, without additional evidence of Business
5 Enterprise Program eligibility, the certification of
6 businesses owned by minorities, women, or persons with
7 disabilities certified by the City of Chicago, Cook
8 County, or other jurisdictional programs with requirements
9 and procedures equaling or exceeding those in this Act.

10 (a-5) Devise a certification procedure to assure that
11 not-for-profit organizations taking advantage of the
12 Not-for-Profit Business Enterprise Act are legitimately
13 classified as a minority-led not-for-profit organization,
14 a woman-led not-for-profit organization, or a
15 not-for-profit organization led by a person with a
16 disability, as those classifications are defined under
17 that Act.

18 (b) Maintain a list of all businesses legitimately
19 classified as businesses owned by minorities, women, or
20 persons with disabilities to provide to State agencies and
21 public institutions of higher education.

22 (b-5) Maintain a list of all not-for-profit
23 organizations legitimately classified as a minority-led
24 not-for-profit organization, a woman-led not-for-profit
25 organization, or a not-for-profit organization led by a
26 person with a disability, as those classifications are

1 defined under the Not-for-Profit Business Enterprise Act,
2 and provide that list to State agencies and public
3 institutions of higher education.

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

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

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

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

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

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

1 similar bond in the same classification of work that would be
2 written for a business not owned by a minority, woman, or
3 person with a disability.

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

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

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

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

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

1 shall be used exclusively for maintenance and further
2 development of the Business Enterprise Program and
3 encouragement of participation in State procurement by
4 minorities, women, and persons with disabilities.

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

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

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

26 (Source: P.A. 100-391, eff. 8-25-17; 100-801, eff. 8-10-18;

1 101-601, eff. 1-1-20; revised 8-18-20.)

2 Section 105. The Public Utilities Act is amended by
3 changing Section 5-117 as follows:

4 (220 ILCS 5/5-117)

5 Sec. 5-117. Supplier diversity goals.

6 (a) The public policy of this State is to collaboratively
7 work with companies and not-for-profit organizations that
8 serve Illinois residents to improve their supplier diversity
9 in a non-antagonistic manner.

10 (a-5) For the purposes of this Section, "minority-led
11 not-for-profit organization", "woman-led not-for-profit
12 organization", and "not-for-profit organization led by a
13 person with a disability" shall have the same meanings as
14 provided under the Not-for-Profit Business Enterprise Act.

15 (b) The Commission shall require all gas, electric, and
16 water companies with at least 100,000 customers under its
17 authority, as well as suppliers of wind energy, solar energy,
18 hydroelectricity, nuclear energy, and any other supplier of
19 energy within this State, to submit an annual report by April
20 15, 2015 and every April 15 thereafter, in a searchable Adobe
21 PDF format, on all procurement goals and actual spending for
22 female-owned, minority-owned, veteran-owned, person with a
23 disability-owned, and small business enterprises, as well as
24 minority-led not-for-profit organizations, woman-led

1 not-for-profit organizations, and not-for-profit
2 organizations led by a person with a disability, in the
3 previous calendar year. These goals shall be expressed as a
4 percentage of the total work performed by the entity
5 submitting the report, and the actual spending for all
6 female-owned, minority-owned, veteran-owned, person with a
7 disability-owned, and small business enterprises, as well as
8 minority-led not-for-profit organizations, woman-led
9 not-for-profit organizations, and not-for-profit
10 organizations led by a person with a disability, shall also be
11 expressed as a percentage of the total work performed by the
12 entity submitting the report.

13 (c) Each participating company in its annual report shall
14 include the following information:

15 (1) an explanation of the plan for the next year to
16 increase participation;

17 (2) an explanation of the plan to increase the goals;

18 (3) the areas of procurement each company shall be
19 actively seeking more participation in ~~in~~ the next year;

20 (4) an outline of the plan to alert and encourage
21 potential vendors in that area to seek business from the
22 company;

23 (5) an explanation of the challenges faced in finding
24 quality vendors and offer any suggestions for what the
25 Commission could do to be helpful to identify those
26 vendors;

1 (6) a list of the certifications the company
2 recognizes;

3 (7) the point of contact for any potential vendor who
4 wishes to do business with the company and explain the
5 process for a vendor to enroll with the company as a
6 minority-owned, women-owned, ~~or~~ veteran-owned, or person
7 with a disability-owned company, or a minority-led
8 not-for-profit organization, a woman-led not-for-profit
9 organization, or a not-for-profit organization led by a
10 person with a disability; and

11 (8) any particular success stories to encourage other
12 companies to emulate best practices.

13 (d) Each annual report shall include as much
14 State-specific data as possible. If the submitting entity does
15 not submit State-specific data, then the company shall include
16 any national data it does have and explain why it could not
17 submit State-specific data and how it intends to do so in
18 future reports, if possible.

19 (e) Each annual report shall include the rules,
20 regulations, and definitions used for the procurement goals in
21 the company's annual report.

22 (f) The Commission and all participating entities shall
23 hold an annual workshop open to the public in 2015 and every
24 year thereafter on the state of supplier diversity to
25 collaboratively seek solutions to structural impediments to
26 achieving stated goals, including testimony from each

1 participating entity as well as subject matter experts and
2 advocates. The Commission shall publish a database on its
3 website of the point of contact for each participating entity
4 for supplier diversity, along with a list of certifications
5 each company recognizes from the information submitted in each
6 annual report. The Commission shall publish each annual report
7 on its website and shall maintain each annual report for at
8 least 5 years.

9 (Source: P.A. 98-1056, eff. 8-26-14; 99-906, eff. 6-1-17;
10 revised 7-22-19.)