



Rep. William Davis

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10200HB2629ham002

LRB102 12939 RJF 25193 a

1 AMENDMENT TO HOUSE BILL 2629

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2629 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Business Enterprise for Minorities, Women,  
5 and Persons with Disabilities Act is amended by changing  
6 Sections 4, 7, and 8 as follows:

7 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

8 (Text of Section before amendment by P.A. 101-657)

9 (Section scheduled to be repealed on June 30, 2024)

10 Sec. 4. Award of State contracts.

11 (a) Except as provided in subsection (b), not less than  
12 20% of the total dollar amount of State contracts, as defined  
13 by the Secretary of the Council and approved by the Council,  
14 shall be established as an aspirational goal to be awarded to  
15 businesses owned by minorities, women, and persons with  
16 disabilities; provided, however, that of the total amount of

1 all State contracts awarded to businesses owned by minorities,  
2 women, and persons with disabilities pursuant to this Section,  
3 contracts representing at least 11% shall be awarded to  
4 businesses owned by minorities, contracts representing at  
5 least 7% shall be awarded to women-owned businesses, and  
6 contracts representing at least 2% shall be awarded to  
7 businesses owned by persons with disabilities.

8 The above percentage relates to the total dollar amount of  
9 State contracts during each State fiscal year, calculated by  
10 examining independently each type of contract for each agency  
11 or public institutions of higher education which lets such  
12 contracts. Only that percentage of arrangements which  
13 represents the participation of businesses owned by  
14 minorities, women, and persons with disabilities on such  
15 contracts shall be included. State contracts subject to the  
16 requirements of this Act shall include the requirement that  
17 only expenditures to businesses owned by minorities, women,  
18 and persons with disabilities that perform a commercially  
19 useful function may be counted toward the goals set forth by  
20 this Act. Contracts shall include a definition of  
21 "commercially useful function" that is consistent with 49 CFR  
22 26.55(c).

23 (b) Not less than 20% of the total dollar amount of State  
24 construction contracts is established as an aspirational goal  
25 to be awarded to businesses owned by minorities, women, and  
26 persons with disabilities; provided that, contracts

1 representing at least 11% of the total dollar amount of State  
2 construction contracts shall be awarded to businesses owned by  
3 minorities; contracts representing at least 7% of the total  
4 dollar amount of State construction contracts shall be awarded  
5 to women-owned businesses; and contracts representing at least  
6 2% of the total dollar amount of State construction contracts  
7 shall be awarded to businesses owned by persons with  
8 disabilities.

9 (c) (Blank).

10 (d) Within one year after April 28, 2009 (the effective  
11 date of Public Act 96-8), the Department of Central Management  
12 Services shall conduct a social scientific study that measures  
13 the impact of discrimination on minority and women business  
14 development in Illinois. Within 18 months after April 28, 2009  
15 (the effective date of Public Act 96-8), the Department shall  
16 issue a report of its findings and any recommendations on  
17 whether to adjust the goals for minority and women  
18 participation established in this Act. Copies of this report  
19 and the social scientific study shall be filed with the  
20 Governor and the General Assembly.

21 By December 1, 2020, the Department of Central Management  
22 Services shall conduct a new social scientific study that  
23 measures the impact of discrimination on minority and women  
24 business development in Illinois. By June 1, 2022, the  
25 Department shall issue a report of its findings and any  
26 recommendations on whether to adjust the goals for minority

1 and women participation established in this Act. Copies of  
2 this report and the social scientific study shall be filed  
3 with the Governor, the Advisory Board, and the General  
4 Assembly. By December 1, 2022, the Department of Central  
5 Management Services Business Enterprise Program shall develop  
6 a model for social scientific disparity study sourcing for  
7 local governmental units to adapt and implement to address  
8 regional disparities in public procurement.

9 (e) Except as permitted under this Act or as otherwise  
10 mandated by federal law or regulation, those who submit bids  
11 or proposals for State contracts subject to the provisions of  
12 this Act, whose bids or proposals are successful and include a  
13 utilization plan but that fail to meet the goals set forth in  
14 subsection (b) of this Section, shall be notified of that  
15 deficiency and shall be afforded a period not to exceed 10  
16 calendar days from the date of notification to cure that  
17 deficiency in the bid or proposal. The deficiency in the bid or  
18 proposal may only be cured by contracting with additional  
19 subcontractors who are owned by minorities or women. Any  
20 increase in cost to a contract for the addition of a  
21 subcontractor to cure a bid's deficiency shall not affect the  
22 bid price, shall not be used in the request for an exemption in  
23 this Act, and in no case shall an identified subcontractor  
24 with a certification made pursuant to this Act be terminated  
25 from the contract without the written consent of the State  
26 agency or public institution of higher education entering into

1 the contract.

2 (f) Non-construction solicitations that include Business  
3 Enterprise Program participation goals shall require bidders  
4 and offerors to include utilization plans. Utilization plans  
5 are due at the time of bid or offer submission. Failure to  
6 complete and include a utilization plan, including  
7 documentation demonstrating good faith effort when requesting  
8 a waiver, shall render the bid or offer non-responsive.

9 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;  
10 101-601, eff. 1-1-20.)

11 (Text of Section after amendment by P.A. 101-657)

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

13 Sec. 4. Award of State contracts.

14 (a) Except as provided in subsection (b), not less than  
15 30% of the total dollar amount of State contracts, as defined  
16 by the Secretary of the Council and approved by the Council,  
17 shall be established as an aspirational goal to be awarded to  
18 businesses owned by minorities, women, and persons with  
19 disabilities; provided, however, that of the total amount of  
20 all State contracts awarded to businesses owned by minorities,  
21 women, and persons with disabilities pursuant to this Section,  
22 contracts representing at least 16% shall be awarded to  
23 businesses owned by minorities, contracts representing at  
24 least 10% shall be awarded to women-owned businesses, and  
25 contracts representing at least 4% shall be awarded to

1 businesses owned by persons with disabilities. Of the 16% of  
2 contracts awarded to businesses owned by minorities: (i) a  
3 minimum of 6% of the total dollar amount of State contracts  
4 must be spent with certified African American Business  
5 Enterprise Program vendors; and (ii) a minimum of 6% of the  
6 total dollar amount of State contracts must be spent with  
7 certified Hispanic Business Enterprise Program vendors.

8 (a-5) In addition to the aspirational goals in awarding  
9 State contracts set under subsection (a), the Department of  
10 Central Management Services shall by rule further establish  
11 committed diversity aspirational goals for State contracts  
12 awarded to businesses owned by minorities, women, and persons  
13 with disabilities. Such efforts shall include, but not be  
14 limited to, further concerted outreach efforts to businesses  
15 owned by minorities, women, and persons with disabilities.

16 The above percentage relates to the total dollar amount of  
17 State contracts during each State fiscal year, calculated by  
18 examining independently each type of contract for each agency  
19 or public institutions of higher education which lets such  
20 contracts. Only that percentage of arrangements which  
21 represents the participation of businesses owned by  
22 minorities, women, and persons with disabilities on such  
23 contracts shall be included. State contracts subject to the  
24 requirements of this Act shall include the requirement that  
25 only expenditures to businesses owned by minorities, women,  
26 and persons with disabilities that perform a commercially

1 useful function may be counted toward the goals set forth by  
2 this Act. Contracts shall include a definition of  
3 "commercially useful function" that is consistent with 49 CFR  
4 26.55(c).

5 (b) Not less than 20% of the total dollar amount of State  
6 construction contracts is established as an aspirational goal  
7 to be awarded to businesses owned by minorities, women, and  
8 persons with disabilities; provided that, contracts  
9 representing at least 11% of the total dollar amount of State  
10 construction contracts shall be awarded to businesses owned by  
11 minorities; contracts representing at least 7% of the total  
12 dollar amount of State construction contracts shall be awarded  
13 to women-owned businesses; and contracts representing at least  
14 2% of the total dollar amount of State construction contracts  
15 shall be awarded to businesses owned by persons with  
16 disabilities.

17 (c) (Blank).

18 (d) Within one year after April 28, 2009 (the effective  
19 date of Public Act 96-8), the Department of Central Management  
20 Services shall conduct a social scientific study that measures  
21 the impact of discrimination on minority and women business  
22 development in Illinois. Within 18 months after April 28, 2009  
23 (the effective date of Public Act 96-8), the Department shall  
24 issue a report of its findings and any recommendations on  
25 whether to adjust the goals for minority and women  
26 participation established in this Act. Copies of this report

1 and the social scientific study shall be filed with the  
2 Governor and the General Assembly.

3 By December 1, 2020, the Department of Central Management  
4 Services shall conduct a new social scientific study that  
5 measures the impact of discrimination on minority and women  
6 business development in Illinois. By June 1, 2022, the  
7 Department shall issue a report of its findings and any  
8 recommendations on whether to adjust the goals for minority  
9 and women participation established in this Act. Copies of  
10 this report and the social scientific study shall be filed  
11 with the Governor and the General Assembly. By December 1,  
12 2022, the Department of Central Management Services Business  
13 Enterprise Program shall develop a model for social scientific  
14 disparity study sourcing for local governmental units to adapt  
15 and implement to address regional disparities in public  
16 procurement.

17 (e) Except as permitted under this Act or as otherwise  
18 mandated by federal law or regulation, those who submit bids  
19 or proposals for State contracts subject to the provisions of  
20 this Act, whose bids or proposals are successful and include a  
21 utilization plan but that fail to meet the goals set forth in  
22 subsection (b) of this Section, shall be notified of that  
23 deficiency and shall be afforded a period not to exceed 10  
24 calendar days from the date of notification to cure that  
25 deficiency in the bid or proposal. The deficiency in the bid or  
26 proposal may only be cured by contracting with additional



1 subcontractors who are owned by minorities or women. Any  
2 increase in cost to a contract for the addition of a  
3 subcontractor to cure a bid's deficiency shall not affect the  
4 bid price, shall not be used in the request for an exemption in  
5 this Act, and in no case shall an identified subcontractor  
6 with a certification made pursuant to this Act be terminated  
7 from the contract without the written consent of the State  
8 agency or public institution of higher education entering into  
9 the contract. The Commission on Equity and Inclusion shall be  
10 notified of all utilization plan deficiencies on submitted  
11 bids or proposals for State contracts under this subsection  
12 (e).

13 (f) Non-construction solicitations that include Business  
14 Enterprise Program participation goals shall require bidders  
15 and offerors to include utilization plans. Utilization plans  
16 are due at the time of bid or offer submission. Failure to  
17 complete and include a utilization plan, including  
18 documentation demonstrating good faith effort when requesting  
19 a waiver, shall render the bid or offer non-responsive. The  
20 Commission on Equity and Inclusion shall be notified of all  
21 bids and offers that fail to include a utilization plan as  
22 required under this subsection (f).

23 (g) Bids or proposals for State contracts shall be  
24 examined to determine if the bid or proposal is responsible,  
25 competitive, and whether the services to be provided are  
26 likely to be completed based upon the pricing. If the bid or

1 proposal is responsible, competitive, and the services to be  
2 provided are likely to be completed based on the prices  
3 listed, then the bid is deemed responsive. If the bid or  
4 proposal is not responsible, competitive, and the services to  
5 be provided are not likely to be completed based on the prices  
6 listed, then the entire bid is deemed non-responsive. The  
7 Commission on Equity and Inclusion shall be notified of all  
8 non-responsive bids or proposals for State contracts under  
9 this subsection (g).

10 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;  
11 101-601, eff. 1-1-20; 101-657, Article 1, Section 1-5, eff.  
12 1-1-22; 101-657, Article 40, Section 40-130, eff. 1-1-22;  
13 revised 4-15-21.)

14 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

15 (Text of Section before amendment by P.A. 101-657)

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

17 Sec. 7. Exemptions; waivers; publication of data.

18 (1) Individual contract exemptions. The Council, at the  
19 written request of the affected agency, public institution of  
20 higher education, or recipient of a grant or loan of State  
21 funds of \$250,000 or more complying with Section 45 of the  
22 State Finance Act, may permit an individual contract or  
23 contract package, (related contracts being bid or awarded  
24 simultaneously for the same project or improvements) be made  
25 wholly or partially exempt from State contracting goals for

1 businesses owned by minorities, women, and persons with  
2 disabilities prior to the advertisement for bids or  
3 solicitation of proposals whenever there has been a  
4 determination, reduced to writing and based on the best  
5 information available at the time of the determination, that  
6 there is an insufficient number of businesses owned by  
7 minorities, women, and persons with disabilities to ensure  
8 adequate competition and an expectation of reasonable prices  
9 on bids or proposals solicited for the individual contract or  
10 contract package in question. Any such exemptions shall be  
11 given by the Council to the Bureau on Apprenticeship Programs.

12 (a) Written request for contract exemption. A written  
13 request for an individual contract exemption must include,  
14 but is not limited to, the following:

15 (i) a list of eligible businesses owned by  
16 minorities, women, and persons with disabilities;

17 (ii) a clear demonstration that the number of  
18 eligible businesses identified in subparagraph (i)  
19 above is insufficient to ensure adequate competition;

20 (iii) the difference in cost between the contract  
21 proposals being offered by businesses owned by  
22 minorities, women, and persons with disabilities and  
23 the agency or public institution of higher education's  
24 expectations of reasonable prices on bids or proposals  
25 within that class; and

26 (iv) a list of eligible businesses owned by

1 minorities, women, and persons with disabilities that  
2 the contractor has used in the current and prior  
3 fiscal years.

4 (b) Determination. The Council's determination  
5 concerning an individual contract exemption must consider,  
6 at a minimum, the following:

7 (i) the justification for the requested exemption,  
8 including whether diligent efforts were undertaken to  
9 identify and solicit eligible businesses owned by  
10 minorities, women, and persons with disabilities;

11 (ii) the total number of exemptions granted to the  
12 affected agency, public institution of higher  
13 education, or recipient of a grant or loan of State  
14 funds of \$250,000 or more complying with Section 45 of  
15 the State Finance Act that have been granted by the  
16 Council in the current and prior fiscal years; and

17 (iii) the percentage of contracts awarded by the  
18 agency or public institution of higher education to  
19 eligible businesses owned by minorities, women, and  
20 persons with disabilities in the current and prior  
21 fiscal years.

22 (2) Class exemptions.

23 (a) Creation. The Council, at the written request of  
24 the affected agency or public institution of higher  
25 education, may permit an entire class of contracts be made  
26 exempt from State contracting goals for businesses owned

1 by minorities, women, and persons with disabilities  
2 whenever there has been a determination, reduced to  
3 writing and based on the best information available at the  
4 time of the determination, that there is an insufficient  
5 number of qualified businesses owned by minorities, women,  
6 and persons with disabilities to ensure adequate  
7 competition and an expectation of reasonable prices on  
8 bids or proposals within that class. Any such exemption  
9 shall be given by the Council to the Bureau on  
10 Apprenticeship Programs.

11 (a-1) Written request for class exemption. A written  
12 request for a class exemption must include, but is not  
13 limited to, the following:

14 (i) a list of eligible businesses owned by  
15 minorities, women, and persons with disabilities;

16 (ii) a clear demonstration that the number of  
17 eligible businesses identified in subparagraph (i)  
18 above is insufficient to ensure adequate competition;

19 (iii) the difference in cost between the contract  
20 proposals being offered by eligible businesses owned  
21 by minorities, women, and persons with disabilities  
22 and the agency or public institution of higher  
23 education's expectations of reasonable prices on bids  
24 or proposals within that class; and

25 (iv) the number of class exemptions the affected  
26 agency or public institution of higher education

1 requested in the current and prior fiscal years.

2 (a-2) Determination. The Council's determination  
3 concerning class exemptions must consider, at a minimum,  
4 the following:

5 (i) the justification for the requested exemption,  
6 including whether diligent efforts were undertaken to  
7 identify and solicit eligible businesses owned by  
8 minorities, women, and persons with disabilities;

9 (ii) the total number of class exemptions granted  
10 to the requesting agency or public institution of  
11 higher education that have been granted by the Council  
12 in the current and prior fiscal years; and

13 (iii) the percentage of contracts awarded by the  
14 agency or public institution of higher education to  
15 eligible businesses owned by minorities, women, and  
16 persons with disabilities the current and prior fiscal  
17 years.

18 (b) Limitation. Any such class exemption shall not be  
19 permitted for a period of more than one year at a time.

20 (3) Waivers. Where a particular contract requires a  
21 contractor to meet a goal established pursuant to this Act,  
22 the contractor shall have the right to request a waiver from  
23 such requirements. The Council shall grant the waiver where  
24 the contractor demonstrates that there has been made a good  
25 faith effort to comply with the goals for participation by  
26 businesses owned by minorities, women, and persons with

1 disabilities. Any such waiver shall also be transmitted in  
2 writing to the Bureau on Apprenticeship Programs.

3 (a) Request for waiver. A contractor's request for a  
4 waiver under this subsection (3) must include, but is not  
5 limited to, the following, if available:

6 (i) a list of eligible businesses owned by  
7 minorities, women, and persons with disabilities that  
8 pertain to the class of contracts in the requested  
9 waiver;

10 (ii) a clear demonstration that the number of  
11 eligible businesses identified in subparagraph (i)  
12 above is insufficient to ensure competition;

13 (iii) the difference in cost between the contract  
14 proposals being offered by businesses owned by  
15 minorities, women, and persons with disabilities and  
16 the agency or the public institution of higher  
17 education's expectations of reasonable prices on bids  
18 or proposals within that class; and

19 (iv) a list of businesses owned by minorities,  
20 women, and persons with disabilities that the  
21 contractor has used in the current and prior fiscal  
22 years.

23 (b) Determination. The Council's determination  
24 concerning waivers must include following:

25 (i) the justification for the requested waiver,  
26 including whether the requesting contractor made a

1 good faith effort to identify and solicit eligible  
2 businesses owned by minorities, women, and persons  
3 with disabilities;

4 (ii) the total number of waivers the contractor  
5 has been granted by the Council in the current and  
6 prior fiscal years;

7 (iii) the percentage of contracts awarded by the  
8 agency or public institution of higher education to  
9 eligible businesses owned by minorities, women, and  
10 persons with disabilities in the current and prior  
11 fiscal years; and

12 (iv) the contractor's use of businesses owned by  
13 minorities, women, and persons with disabilities in  
14 the current and prior fiscal years.

15 (3.5) (Blank).

16 (4) Conflict with other laws. In the event that any State  
17 contract, which otherwise would be subject to the provisions  
18 of this Act, is or becomes subject to federal laws or  
19 regulations which conflict with the provisions of this Act or  
20 actions of the State taken pursuant hereto, the provisions of  
21 the federal laws or regulations shall apply and the contract  
22 shall be interpreted and enforced accordingly.

23 (5) Each chief procurement officer, as defined in the  
24 Illinois Procurement Code, shall maintain on his or her  
25 official Internet website a database of the following: (i)  
26 waivers granted under this Section with respect to contracts



1 under his or her jurisdiction; (ii) a State agency or public  
2 institution of higher education's written request for an  
3 exemption of an individual contract or an entire class of  
4 contracts; and (iii) the Council's written determination  
5 granting or denying a request for an exemption of an  
6 individual contract or an entire class of contracts. The  
7 database, which shall be updated periodically as necessary,  
8 shall be searchable by contractor name and by contracting  
9 State agency.

10 (6) Each chief procurement officer, as defined by the  
11 Illinois Procurement Code, shall maintain on its website a  
12 list of all firms that have been prohibited from bidding,  
13 offering, or entering into a contract with the State of  
14 Illinois as a result of violations of this Act.

15 Each public notice required by law of the award of a State  
16 contract shall include for each bid or offer submitted for  
17 that contract the following: (i) the bidder's or offeror's  
18 name, (ii) the bid amount, (iii) the name or names of the  
19 certified firms identified in the bidder's or offeror's  
20 submitted utilization plan, and (iv) the bid's amount and  
21 percentage of the contract awarded to businesses owned by  
22 minorities, women, and persons with disabilities identified in  
23 the utilization plan.

24 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;  
25 101-601, eff. 1-1-20.)

1 (Text of Section after amendment by P.A. 101-657)

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

3 Sec. 7. Exemptions; waivers; publication of data.

4 (1) Individual contract exemptions. The Council, at the  
5 written request of the affected agency, public institution of  
6 higher education, or recipient of a grant or loan of State  
7 funds of \$250,000 or more complying with Section 45 of the  
8 State Finance Act, may permit an individual contract or  
9 contract package, (related contracts being bid or awarded  
10 simultaneously for the same project or improvements) be made  
11 wholly or partially exempt from State contracting goals for  
12 businesses owned by minorities, women, and persons with  
13 disabilities prior to the advertisement for bids or  
14 solicitation of proposals whenever there has been a  
15 determination, reduced to writing and based on the best  
16 information available at the time of the determination, that  
17 there is an insufficient number of businesses owned by  
18 minorities, women, and persons with disabilities to ensure  
19 adequate competition and an expectation of reasonable prices  
20 on bids or proposals solicited for the individual contract or  
21 contract package in question. Any such exemptions shall be  
22 given by the Council to the Bureau on Apprenticeship Programs.

23 (a) Written request for contract exemption. A written  
24 request for an individual contract exemption must include,  
25 but is not limited to, the following:

26 (i) a list of eligible businesses owned by

1 minorities, women, and persons with disabilities;

2 (ii) a clear demonstration that the number of  
3 eligible businesses identified in subparagraph (i)  
4 above is insufficient to ensure adequate competition;

5 (iii) the difference in cost between the contract  
6 proposals being offered by businesses owned by  
7 minorities, women, and persons with disabilities and  
8 the agency or public institution of higher education's  
9 expectations of reasonable prices on bids or proposals  
10 within that class; and

11 (iv) a list of eligible businesses owned by  
12 minorities, women, and persons with disabilities that  
13 the contractor has used in the current and prior  
14 fiscal years.

15 (b) Determination. The Council's determination  
16 concerning an individual contract exemption must consider,  
17 at a minimum, the following:

18 (i) the justification for the requested exemption,  
19 including whether diligent efforts were undertaken to  
20 identify and solicit eligible businesses owned by  
21 minorities, women, and persons with disabilities;

22 (ii) the total number of exemptions granted to the  
23 affected agency, public institution of higher  
24 education, or recipient of a grant or loan of State  
25 funds of \$250,000 or more complying with Section 45 of  
26 the State Finance Act that have been granted by the

1 Council in the current and prior fiscal years; and

2 (iii) the percentage of contracts awarded by the  
3 agency or public institution of higher education to  
4 eligible businesses owned by minorities, women, and  
5 persons with disabilities in the current and prior  
6 fiscal years.

7 (2) Class exemptions.

8 (a) Creation. The Council, at the written request of  
9 the affected agency or public institution of higher  
10 education, may permit an entire class of contracts be made  
11 exempt from State contracting goals for businesses owned  
12 by minorities, women, and persons with disabilities  
13 whenever there has been a determination, reduced to  
14 writing and based on the best information available at the  
15 time of the determination, that there is an insufficient  
16 number of qualified businesses owned by minorities, women,  
17 and persons with disabilities to ensure adequate  
18 competition and an expectation of reasonable prices on  
19 bids or proposals within that class. Any such exemption  
20 shall be given by the Council to the Bureau on  
21 Apprenticeship Programs.

22 (a-1) Written request for class exemption. A written  
23 request for a class exemption must include, but is not  
24 limited to, the following:

25 (i) a list of eligible businesses owned by  
26 minorities, women, and persons with disabilities;

1           (ii) a clear demonstration that the number of  
2 eligible businesses identified in subparagraph (i)  
3 above is insufficient to ensure adequate competition;

4           (iii) the difference in cost between the contract  
5 proposals being offered by eligible businesses owned  
6 by minorities, women, and persons with disabilities  
7 and the agency or public institution of higher  
8 education's expectations of reasonable prices on bids  
9 or proposals within that class; and

10          (iv) the number of class exemptions the affected  
11 agency or public institution of higher education  
12 requested in the current and prior fiscal years.

13          (a-2) Determination. The Council's determination  
14 concerning class exemptions must consider, at a minimum,  
15 the following:

16           (i) the justification for the requested exemption,  
17 including whether diligent efforts were undertaken to  
18 identify and solicit eligible businesses owned by  
19 minorities, women, and persons with disabilities;

20           (ii) the total number of class exemptions granted  
21 to the requesting agency or public institution of  
22 higher education that have been granted by the Council  
23 in the current and prior fiscal years; and

24           (iii) the percentage of contracts awarded by the  
25 agency or public institution of higher education to  
26 eligible businesses owned by minorities, women, and

1 persons with disabilities the current and prior fiscal  
2 years.

3 (b) Limitation. Any such class exemption shall not be  
4 permitted for a period of more than one year at a time.

5 (3) Waivers. Where a particular contract requires a  
6 contractor to meet a goal established pursuant to this Act,  
7 the contractor shall have the right to request from the  
8 Council, in consultation with the Commission, a waiver from  
9 such requirements. The Council may grant the waiver only upon  
10 a demonstration by the contractor of unreasonable responses to  
11 the request for proposals given the class of contract. Any  
12 such waiver shall also be transmitted in writing to the Bureau  
13 on Apprenticeship Programs.

14 (a) Request for waiver. A contractor's request for a  
15 waiver under this subsection (3) must include, but is not  
16 limited to, the following, if available:

17 (i) a list of eligible businesses owned by  
18 minorities, women, and persons with disabilities that  
19 pertain to the class of contracts in the requested  
20 waiver. ~~Eligible businesses are only eligible if the~~  
21 ~~business is certified for the products or work~~  
22 ~~advertised in the solicitation;~~

23 (ii) (blank);

24 (iii) the difference in cost between the contract  
25 proposals being offered by businesses owned by  
26 minorities, women, and persons with disabilities and

1 the agency or the public institution of higher  
2 education's expectations of reasonable prices on bids  
3 or proposals within that class; and

4 (iv) a list of businesses owned by minorities,  
5 women, and persons with disabilities that the  
6 contractor has used in the current and prior fiscal  
7 years.

8 (b) Determination. The Council's determination, in  
9 consultation with the Commission, concerning waivers must  
10 include following:

11 (i) the justification for the requested waiver,  
12 including whether the requesting contractor made a  
13 proper demonstration of unreasonable responses to the  
14 request for proposals given the class of contract;

15 (ii) the total number of waivers the contractor  
16 has been granted by the Council in the current and  
17 prior fiscal years;

18 (iii) the percentage of contracts awarded by the  
19 agency or public institution of higher education to  
20 eligible businesses owned by minorities, women, and  
21 persons with disabilities in the current and prior  
22 fiscal years; and

23 (iv) the contractor's use of businesses owned by  
24 minorities, women, and persons with disabilities in  
25 the current and prior fiscal years.

26 (3.5) (Blank).

1           (4) Conflict with other laws. In the event that any State  
2 contract, which otherwise would be subject to the provisions  
3 of this Act, is or becomes subject to federal laws or  
4 regulations which conflict with the provisions of this Act or  
5 actions of the State taken pursuant hereto, the provisions of  
6 the federal laws or regulations shall apply and the contract  
7 shall be interpreted and enforced accordingly.

8           (5) Each chief procurement officer, as defined in the  
9 Illinois Procurement Code, shall maintain on his or her  
10 official Internet website a database of the following: (i)  
11 waivers granted under this Section with respect to contracts  
12 under his or her jurisdiction; (ii) a State agency or public  
13 institution of higher education's written request for an  
14 exemption of an individual contract or an entire class of  
15 contracts; and (iii) the Council's written determination  
16 granting or denying a request for an exemption of an  
17 individual contract or an entire class of contracts. The  
18 database, which shall be updated periodically as necessary,  
19 shall be searchable by contractor name and by contracting  
20 State agency.

21           (6) Each chief procurement officer, as defined by the  
22 Illinois Procurement Code, shall maintain on its website a  
23 list of all firms that have been prohibited from bidding,  
24 offering, or entering into a contract with the State of  
25 Illinois as a result of violations of this Act.

26           Each public notice required by law of the award of a State



1 contract shall include for each bid or offer submitted for  
2 that contract the following: (i) the bidder's or offeror's  
3 name, (ii) the bid amount, (iii) the name or names of the  
4 certified firms identified in the bidder's or offeror's  
5 submitted utilization plan, and (iv) the bid's amount and  
6 percentage of the contract awarded to businesses owned by  
7 minorities, women, and persons with disabilities identified in  
8 the utilization plan.

9 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;  
10 101-601, eff. 1-1-20; 101-657, eff. 1-1-22.)

11 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

12 (Text of Section before amendment by P.A. 101-657)

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

14 Sec. 8. Enforcement.

15 (1) The Council shall make such findings, recommendations  
16 and proposals to the Governor as are necessary and appropriate  
17 to enforce this Act. If, as a result of its monitoring  
18 activities, the Council determines that its goals and policies  
19 are not being met by any State agency or public institution of  
20 higher education, the Council may recommend any or all of the  
21 following actions:

22 (a) Establish enforcement procedures whereby the  
23 Council may recommend to the appropriate State agency,  
24 public institutions of higher education, or law  
25 enforcement officer that legal or administrative remedies

1 be initiated for violations of contract provisions or  
2 rules issued hereunder or by a contracting State agency or  
3 public institutions of higher education. State agencies  
4 and public institutions of higher education shall be  
5 authorized to adopt remedies for such violations which  
6 shall include (1) termination of the contract involved,  
7 (2) prohibition of participation of the respondents in  
8 public contracts for a period not to exceed one year, (3)  
9 imposition of a penalty not to exceed any profit acquired  
10 as a result of violation, or (4) any combination thereof.

11 (b) If the Council concludes that a compliance plan  
12 submitted under Section 6 is unlikely to produce the  
13 participation goals for businesses owned by minorities,  
14 women, and persons with disabilities within the then  
15 current fiscal year, the Council may recommend that the  
16 State agency or public institution of higher education  
17 revise its plan to provide additional opportunities for  
18 participation by businesses owned by minorities, women,  
19 and persons with disabilities. Such recommended revisions  
20 may include, but shall not be limited to, the following:

21 (i) assurances of stronger and better focused  
22 solicitation efforts to obtain more businesses owned  
23 by minorities, women, and persons with disabilities as  
24 potential sources of supply;

25 (ii) division of job or project requirements, when  
26 economically feasible, into tasks or quantities to

1 permit participation of businesses owned by  
2 minorities, women, and persons with disabilities;

3 (iii) elimination of extended experience or  
4 capitalization requirements, when programmatically  
5 feasible, to permit participation of businesses owned  
6 by minorities, women, and persons with disabilities;

7 (iv) identification of specific proposed contracts  
8 as particularly attractive or appropriate for  
9 participation by businesses owned by minorities,  
10 women, and persons with disabilities, such  
11 identification to result from and be coupled with the  
12 efforts of subparagraphs (i) through (iii);

13 (v) implementation of those regulations  
14 established for the use of the sheltered market  
15 process.

16 (2) State agencies and public institutions of higher  
17 education shall review a vendor's compliance with its  
18 utilization plan and the terms of its contract. Without  
19 limitation, a vendor's failure to comply with its contractual  
20 commitments as contained in the utilization plan; failure to  
21 cooperate in providing information regarding its compliance  
22 with its utilization plan; or the provision of false or  
23 misleading information or statements concerning compliance,  
24 certification status, or eligibility of the Business  
25 Enterprise Program-certified vendor, good faith efforts, or  
26 any other material fact or representation shall constitute a

1 material breach of the contract and entitle the State agency  
2 or public institution of higher education to declare a  
3 default, terminate the contract, or exercise those remedies  
4 provided for in the contract, at law, or in equity.

5 (3) A vendor shall be in breach of the contract and may be  
6 subject to penalties for failure to meet contract goals  
7 established under this Act, unless the vendor can show that it  
8 made good faith efforts to meet the contract goals.

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

10 (Text of Section after amendment by P.A. 101-657)

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

12 Sec. 8. Enforcement.

13 (1) The Commission on Equity and Inclusion shall make such  
14 findings, recommendations and proposals to the Governor as are  
15 necessary and appropriate to enforce this Act. If, as a result  
16 of its monitoring activities, the Commission determines that  
17 its goals and policies are not being met by any State agency or  
18 public institution of higher education, the Commission may  
19 recommend any or all of the following actions:

20 (a) Establish enforcement procedures whereby the  
21 Commission may recommend to the appropriate State agency,  
22 public institutions of higher education, or law  
23 enforcement officer that legal or administrative remedies  
24 be initiated for violations of contract provisions or  
25 rules issued hereunder or by a contracting State agency or

1 public institutions of higher education. State agencies  
2 and public institutions of higher education shall be  
3 authorized to adopt remedies for such violations which  
4 shall include (1) termination of the contract involved,  
5 (2) prohibition of participation of the respondents in  
6 public contracts for a period not to exceed one year, (3)  
7 imposition of a penalty not to exceed any profit acquired  
8 as a result of violation, or (4) any combination thereof.

9 (b) If the Commission concludes that a compliance plan  
10 submitted under Section 6 is unlikely to produce the  
11 participation goals for businesses owned by minorities,  
12 women, and persons with disabilities within the then  
13 current fiscal year, the Commission may recommend that the  
14 State agency or public institution of higher education  
15 revise its plan to provide additional opportunities for  
16 participation by businesses owned by minorities, women,  
17 and persons with disabilities. Such recommended revisions  
18 may include, but shall not be limited to, the following:

19 (i) assurances of stronger and better focused  
20 solicitation efforts to obtain more businesses owned  
21 by minorities, women, and persons with disabilities as  
22 potential sources of supply;

23 (ii) division of job or project requirements, when  
24 economically feasible, into tasks or quantities to  
25 permit participation of businesses owned by  
26 minorities, women, and persons with disabilities;

1 (iii) elimination of extended experience or  
2 capitalization requirements, when programmatically  
3 feasible, to permit participation of businesses owned  
4 by minorities, women, and persons with disabilities;

5 (iv) identification of specific proposed contracts  
6 as particularly attractive or appropriate for  
7 participation by businesses owned by minorities,  
8 women, and persons with disabilities, such  
9 identification to result from and be coupled with the  
10 efforts of subparagraphs (i) through (iii);

11 (v) implementation of those regulations  
12 established for the use of the sheltered market  
13 process.

14 (2) State agencies and public institutions of higher  
15 education shall monitor ~~review~~ a vendor's compliance with its  
16 utilization plan and the terms of its contract. Without  
17 limitation, a vendor's failure to comply with its contractual  
18 commitments as contained in the utilization plan; failure to  
19 cooperate in providing information regarding its compliance  
20 with its utilization plan; or the provision of false or  
21 misleading information or statements concerning compliance,  
22 certification status, or eligibility of the Business  
23 Enterprise Program-certified vendor, good faith efforts, or  
24 any other material fact or representation shall constitute a  
25 material breach of the contract and entitle the State agency  
26 or public institution of higher education to declare a

1 default, terminate the contract, or exercise those remedies  
2 provided for in the contract, at law, or in equity.

3 (3) Prior to the expiration or termination of a contract,  
4 State agencies and public institutions of higher education  
5 shall evaluate the contractor's fulfillment of the contract  
6 goals for participation by businesses owned by minorities,  
7 women, and persons with disabilities. The agency or public  
8 institution of higher education shall prepare a report of the  
9 vendor's compliance with the contract goals and file it with  
10 the Secretary of the Council. If the Secretary of the Council  
11 determines that the vendor did not fulfill the contract goals,  
12 the vendor shall be in breach of the contract and may be  
13 subject to remedies or sanctions unless the vendor can show  
14 that it made good faith efforts to meet the contract goals.  
15 Such remedies or sanctions for failing to make good faith  
16 efforts may include (i) disqualification of the contractor  
17 from doing business with the State for a period of no more than  
18 one year or (ii) cancellation, without any penalty to the  
19 State, of any contract entered into by the vendor. The  
20 Business Enterprise Council shall develop procedures for  
21 determining whether a vendor has made good faith efforts to  
22 meet the contract goals upon the expiration or termination of  
23 a contract. A vendor shall be in breach of the contract and may  
24 be subject to penalties for failure to meet contract goals  
25 established under this Act, unless the vendor can show that it  
26 made good faith efforts to meet the contract goals.

1 (Source: P.A. 100-391, eff. 8-25-17; 101-657, eff. 1-1-22.)

2 Section 95. No acceleration or delay. Where this Act makes  
3 changes in a statute that is represented in this Act by text  
4 that is not yet or no longer in effect (for example, a Section  
5 represented by multiple versions), the use of that text does  
6 not accelerate or delay the taking effect of (i) the changes  
7 made by this Act or (ii) provisions derived from any other  
8 Public Act. Removes requirement that eligible businesses are  
9 only eligible if the business is certified for the products or  
10 work advertised in the solicitation."