HB3914

LRB10216820RJF22223b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3914

Introduced 2/22/2021, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

See Index

Creates the Positive Action Act. Provides that each State agency and employer shall take positive action when it reasonably believes such action is necessary to rectify discrimination or a disadvantage towards persons having a protected characteristic. Allows for favorable consideration in the process of recruitment or promotion for persons having a protected characteristic. Provides that each State agency and employer shall have a duty of equality in relation to employment and its employees. Specifies further requirements concerning the duty of equality. Requires each State agency to perform an internal examination for the existence of eugenics-inspired policies, and issue an annual report to the Governor and the General Assembly. Requires each State agency to take positive action and implement strategies and programs to eliminate and prevent any disparities created by discriminatory administrative rules, policies, and procedures. Provides for the adoption of rules. Provides that nothing in the Act shall be construed to contravene any federal law or requirement regarding affirmative action or its application to State law. Makes conforming changes for the purpose of changing references from "affirmative action" to "positive action". Defines terms.

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A BILL FOR

AN ACT concerning State government.

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

Section 1. Short title. This Act may be cited as the Positive Action Act.

Section 5. Definitions. As used in this Act:

"Employer" means and includes: (i) any person employing one or more employees within this State; (ii) the State and any political subdivision, municipal corporation, or other governmental unit or agency, without regard to the number of employees; and (iii) any party to a public contract without regard to the number of employees.

"Eugenics-inspired policies" means any administrative rule or policy, including State agency rules, policies, and procedures, derived from a belief that heredity is the fundamental determinant of an individual's ability to contribute to society, which excludes, or has the effect of excluding, persons and groups judged to be inferior, based upon such characteristics as race, ethnicity, mental and physical disabilities, country of origin, and poverty, while promoting, or having the effect of promoting, those judged to be superior.

"Positive action" means measures, including, but not

limited to, measures as provided under this Act, that are taken regarding people from underrepresented groups or people having a protected characteristic to aid them in overcoming discrimination and disadvantages in competing with or in relation to persons not of the disadvantaged group. Any reference in any law or rule to the term "affirmative action" as used within the context of eliminating past discrimination or preventing future discrimination is deemed to be a reference to "positive action" as defined and used under this Act. Any reference in any law or rule to the term "positive action" is deemed to be a reference to "positive action" as defined and used under this Act, unless explicitly indicated otherwise.

"Protected characteristic" means race and any other characteristic which may be used, either directly or indirectly, to discriminate against or place at a disadvantage such persons having that characteristic.

"State agency" shall have the same meaning as provided under Section 1-7 of the Illinois State Auditing Act.

Section 10. Positive action.

(a) Each State agency and employer shall take positive action within each respective entity when it reasonably believes such action is necessary to rectify discrimination or a disadvantage towards persons having a protected characteristic based upon the following circumstances:

(1) persons who share a protected characteristic suffer a disadvantage connected to the characteristic;

(2) persons who share a protected characteristic have needs that are different from the needs of persons who do not share that characteristic; or

(3) participation in an opportunity or activity by persons who share a protected characteristic is disproportionately low.

(b) Subject to subsection (c), for the purpose of specifically enabling or encouraging persons who share a protected characteristic to overcome or minimize disadvantages or to participate in an opportunity or activity that has disproportionately low participation by persons sharing the protected characteristic, a State agency or employer may consider persons sharing the protected characteristic more favorably than persons who do not share that characteristic in the process of recruitment or promotion.

(c) Favorable consideration in the process of recruitment or promotion under subsection (b) shall only be allowed if:

(1) the person having the protected characteristic is as qualified as the person not having the protected characteristic;

(2) the State agency or employer does not have a policy of considering persons who share the protected characteristic more favorably in connection with recruitment or promotion than persons who do not share the

characteristic; and

(3) taking the action in question is a proportionate means of enabling or encouraging persons who share a protected characteristic to overcome or minimize disadvantages or to participate in an opportunity or activity that has disproportionately low participation by persons sharing the protected characteristic.

Section 15. Duty of equality.

(a) In addition to the requirements of Section 10, each State agency and employer shall have a duty of equality in relation to employment and its employees as provided under this Section.

(b) Each State agency shall, in the exercise of its functions, develop a policy for and take positive action towards the following:

(1) elimination of discrimination, harassment, victimization, and any other discriminatory conduct that may be directed towards employees having a protected characteristic;

(2) advancement of equality of opportunity within the State agency between persons who share a relevant protected characteristic and persons who do not share that characteristic; and

(3) fostering of good relations within the State agency between persons who share a relevant protected

characteristic and persons who do not share that characteristic.

(c) An employer shall, in the exercise of its functions, develop a policy and take positive action to the extent specified under subsection (a). Nothing in this subsection (c) precludes an employer from developing a policy or taking action in excess of that required under subsection (a).

(d) Each State agency and employer shall, for the purpose of advancing equality of employment opportunities between persons who share a relevant protected characteristic and persons who do not share that characteristic, take positive action to:

(1) remove or minimize disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(2) meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share that characteristic; and

(3) encourage persons who share a relevant protected characteristic to participate in opportunities in which participation by such persons is disproportionately low.

(e) Each State agency and employer shall, for the purpose of fostering good employee relations between persons who share a relevant protected characteristic and persons who do not share that characteristic, take positive action to: (i) minimize prejudice; and (ii) promote understanding.

Section 20. Eugenics-inspired policies; positive action.

(a) Each State agency shall perform an internal examination for the existence of eugenics-inspired policies or administrative rules, policies, and procedures that otherwise have or may have a discriminatory impact creating disparities between classes of persons, and issue an annual report to the Governor and the General Assembly. Each State agency shall also make its report available to the public on its Internet website.

(b) Each State agency shall take positive action and implement strategies and programs to eliminate and prevent any disparities created by discriminatory administrative rules, policies, and procedures, and make the services provided by the State agency more readily accessible to the public.

Section 25. Rules. Each State agency subject to the provisions of this Act may adopt all rules necessary to perform its requirements under this Act.

Section 30. Construction. Nothing in this Act shall be construed to contravene any federal law or requirement regarding affirmative action or its application to State law.

Section 100. The Election Code is amended by changing Section 7-14.1 as follows:

(10 ILCS 5/7-14.1) (from Ch. 46, par. 7-14.1)

Sec. 7-14.1. Delegates and alternate delegates to national nominating conventions shall be chosen according to one of the following alternative methods of allocating delegates for election. The State central committee of each political party established pursuant to this Article 7 shall certify to the State Board of Elections, not less than 30 days prior to the first date for filing of petitions for election as delegate or alternate delegate to a national nominating convention, which of the following alternatives it wishes to be utilized in allocating the delegates and alternate delegates to which Illinois will be entitled at its national nominating convention. The State Board of Elections shall meet promptly and, not less than 20 days prior to the first date for filing of such petitions, shall publish and certify to the county clerk in each county the number of delegates or alternate delegates to be elected from each congressional district or from the State at large or State convention of a political party, as the case may be, according to the method chosen by each State central committee. If a State central committee fails to certify to the State Board of Elections its choice of one of the following methods prior to the aforementioned meeting of the State Board of Elections, the State Board of Elections shall certify delegates for that political party pursuant to whichever of the alternatives below was used by

that political party pursuant to whichever of the alternatives below was used by that political party in the most recent year in which delegates were selected, subject to any subsequent amendments.

Prior to the aforementioned meeting of the State Board of Elections at which the Board shall publish and certify to the county clerk the number of delegates or alternate delegates to be elected from each congressional district or the State at large or State convention, the Secretary of State shall ascertain from the call of the national convention of each political party the number of delegates and alternate delegates to which Illinois will be entitled at the respective national nominating conventions. The Secretary of State shall report the number of delegates and alternate delegates to which Illinois will be entitled at the respective national nominating conventions to the State Board of Elections convened as aforesaid to be utilized by the State Board of Elections in calculating the number of delegates and alternates to be elected from each congressional district in the State at large or State convention, as the case may be.

Alternative A: The State Board of Elections shall allocate the number of delegates and alternate delegates to which the State is entitled among the congressional districts in the State.

1. Of the number of delegates to which the State is entitled, 10, plus those remaining unallocated under paragraph

2, shall be delegates at large. The State central committee of the appropriate political party shall determine whether the delegates at large shall be (a) elected in the primary from the State at large, (b) selected by the State convention, or (c) chosen by a combination of these 2 methods. If the State central committee determines that all or a specified number of the delegates at large shall be elected in the primary, the committee shall file with the Board a report of such determination at the same time it certifies the alternative it wishes to use in allocating its delegates.

2. All delegates other than the delegates at large shall be elected from the congressional districts. Two delegates shall be allocated from this number to each district. After reserving 10 delegates to be delegates at large and allocating 2 delegates to each district, the Board shall allocate the remaining delegates to the congressional districts pursuant to the following formula:

(a) For each district, the number of remaining delegates shall be multiplied by a fraction, the numerator of which is the vote cast in the congressional district for the party's nominee in the last Presidential election, and the denominator of which is the vote cast in the State for the party's nominee in the last Presidential election.

(b) The Board shall first allocate to each district a number of delegates equal to the whole number in the product resulting from the multiplication procedure in

subparagraph (a).

(c) The Board shall then allocate any remaining delegates, one to each district, in the order of the largest fractional remainder in the product resulting from the multiplication procedure in subparagraph (a), omitting those districts for which that product is less than 1.875.

(d) The Board shall then allocate any remaining delegates, one to each district, in the order of the largest fractional remainder in the product resulting from the multiplication procedure in subparagraph (a), among those districts for which that product is at least one but less than 1.875.

(e) Any delegates remaining unallocated shall be delegates at large and shall be selected as determined by the State central committee under paragraph 1 of this Alternative A.

3. The alternate delegates at large shall be allocated in the same manner as the delegates at large. The alternate delegates other than the alternate delegates at large shall be allocated in the same manner as the delegates other than the delegates at large.

Alternative B: the chair of the State central committee shall file with the State Board of Elections a statement of the number of delegates and alternate delegates to which the State is entitled and the number of such delegates and alternate delegates to be elected from congressional districts. The

State Board of Elections shall allocate such number of delegates and alternate delegates, as the case may be, among the congressional districts in the State for election from the congressional districts.

The Board shall utilize the sum of 1/3 of each of the following formulae to determine the number of delegates and alternate delegates, as the case may be, to be elected from each congressional district:

(1) Formula 1 shall be determined by multiplying paragraphs (a), (b), and (c) together as follows:

(a) The fraction derived by dividing the population of the district by the population of the State and adding to that fraction the following: 1/2 of the fraction calculated by dividing the total district vote for the party's candidate in the most recent presidential election by the total statewide vote for that candidate in that election, plus 1/2 of the fraction calculated by dividing the total district vote for the party's candidate in the second most recent Presidential election by the total statewide vote for that candidate in that election;

(b) 1/2;

(c) The number of delegates or alternate delegates, as the case may be, to which the State is entitled at the party's national nominating convention.

(2) Formula 2 shall be determined by multiplying paragraphs (a), (b), and (c) together as follows:

(a) The fraction calculated by dividing the total numbers of votes in the district for the party's candidate in the most recent Gubernatorial election by the total statewide vote for that candidate in that election, plus, the fraction calculated by dividing the total district vote for the party's candidate in the most recent presidential election by the total statewide vote for that candidate in that election;

(b) 1/2;

(c) The number of delegates or alternate delegates, as the case may be, to which the State is entitled at the party's national nominating convention.

(3) Formula 3 shall be determined by multiplying paragraphs (a), (b), and (c) together as follows:

(a) 1/2 of the fraction calculated by dividing the total district vote for the party's candidate in the most recent presidential election by the total statewide vote for that candidate in that election, plus 1/2 of the fraction calculated by dividing the total district vote for the party's candidate in the second most recent presidential election by the total statewide vote for that candidate in that election. This sum shall be added to the fraction calculated by dividing the total voter registration of the party in the district by the total voter registration of the party in the State as of January 1 of the year prior to the year in which the national

nominating convention is held;

(b) 1/2;

(c) The number of delegates or alternate delegates, as the case may be, to which the State is entitled at the party's national nominating convention.

Fractional numbers of delegates and alternate delegates shall be rounded upward in rank order to the next whole number, largest fraction first, until the total number of delegates and alternate delegates, respectively, to be so chosen have been allocated.

The remainder of the delegates and alternate delegates shall be selected as determined by the State central committee of the party and shall be certified to the State Board of Elections by the chair of the State central committee.

Notwithstanding anything to the contrary contained herein, with respect to all aspects of the selection of delegates and alternate delegates to a national nominating convention under Alternative B, this Code shall be superseded by the delegate selection rules and policies of the national political party including, but not limited to, the development of a positive action ~~an affirmative action~~ plan.

(Source: P.A. 100-1027, eff. 1-1-19.)

Section 105. The Secretary of State Merit Employment Code is amended by changing Section 18 as follows:

(15 ILCS 310/18) (from Ch. 124, par. 118)

Sec. 18. Positive Action ~~Affirmative Action~~. The Secretary of State shall appoint an Equal Employment Opportunity Officer who shall serve until his or her successor is appointed and qualified.

(Source: P.A. 80-13.)

Section 110. The Comptroller Merit Employment Code is amended by changing Section 18 as follows:

(15 ILCS 410/18) (from Ch. 15, par. 453)

Sec. 18. Positive Action ~~Affirmative Action~~. The Comptroller shall appoint an Equal Employment Opportunity Officer who shall serve until his or her successor is appointed. The Equal Employment Opportunity Officer may be assigned such other duties as the Comptroller may direct.

(Source: P.A. 80-1397.)

Section 115. The African American Employment Plan Act is amended by changing Section 20 as follows:

(20 ILCS 30/20)

Sec. 20. State agency positive action ~~affirmative action~~ and equal employment opportunity goals.

(a) Each State agency shall implement strategies and programs in accordance with the African American Employment

Plan to increase the number of African Americans employed by that State agency and the number of African Americans employed by that State agency at supervisory, technical, professional, and managerial levels.

(b) Each State agency shall report annually to the Department and the Department of Human Rights, in a format prescribed by the Department, all of the agency's activities in implementing the African American Employment Plan. Each agency's annual report shall include reports or information related to the agency's African American employment strategies and programs that the agency has received from the Department, the Department of Human Rights, or the Auditor General, pursuant to their periodic review responsibilities; findings made by the Governor in his or her report to the General Assembly; assessments of service needs based upon the agency's service populations; information on the agency's studies and monitoring success concerning the number of African Americans employed by the agency at the supervisory, technical, professional, and managerial levels and any increases in those categories from the prior year; and information concerning the agency's African American employment budget allocations.

(c) The Department shall assist State agencies required to establish preparation and promotion training programs under subsection (H) of Section 7-105 of the Illinois Human Rights Act for failure to meet their positive action ~~affirmative action~~ and equal employment opportunity goals. The Department

shall survey State agencies to identify effective existing training programs and shall serve as a resource to other State agencies. The Department shall assist agencies in the development and modification of training programs to enable them to meet their positive action ~~affirmative action~~ and equal employment opportunity goals and shall provide information regarding other existing training and educational resources, such as the Upward Mobility Program, the Illinois Institute for Training and Development, the Central Management Services Training Center, Executive Recruitment Internships, and Graduate Public Service Internships.

(Source: P.A. 96-1341, eff. 7-27-10.)

Section 120. The Illinois Act on the Aging is amended by changing Section 4.01 as follows:

(20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

Sec. 4.01. Additional powers and duties of the Department. In addition to powers and duties otherwise provided by law, the Department shall have the following powers and duties:

(1) To evaluate all programs, services, and facilities for the aged and for minority senior citizens within the State and determine the extent to which present public or private programs, services and facilities meet the needs of the aged.

(2) To coordinate and evaluate all programs, services, and facilities for the Aging and for minority senior citizens

presently furnished by State agencies and make appropriate recommendations regarding such services, programs and facilities to the Governor and/or the General Assembly.

(2-a) To request, receive, and share information electronically through the use of data-sharing agreements for the purpose of (i) establishing and verifying the initial and continuing eligibility of older adults to participate in programs administered by the Department; (ii) maximizing federal financial participation in State assistance expenditures; and (iii) investigating allegations of fraud or other abuse of publicly funded benefits. Notwithstanding any other law to the contrary, but only for the limited purposes identified in the preceding sentence, this paragraph (2-a) expressly authorizes the exchanges of income, identification, and other pertinent eligibility information by and among the Department and the Social Security Administration, the Department of Employment Security, the Department of Healthcare and Family Services, the Department of Human Services, the Department of Revenue, the Secretary of State, the U.S. Department of Veterans Affairs, and any other governmental entity. The confidentiality of information otherwise shall be maintained as required by law. In addition, the Department on Aging shall verify employment information at the request of a community care provider for the purpose of ensuring program integrity under the Community Care Program.

(3) To function as the sole State agency to develop a

comprehensive plan to meet the needs of the State's senior citizens and the State's minority senior citizens.

(4) To receive and disburse State and federal funds made available directly to the Department including those funds made available under the Older Americans Act and the Senior Community Service Employment Program for providing services for senior citizens and minority senior citizens or for purposes related thereto, and shall develop and administer any State Plan for the Aging required by federal law.

(5) To solicit, accept, hold, and administer in behalf of the State any grants or legacies of money, securities, or property to the State of Illinois for services to senior citizens and minority senior citizens or purposes related thereto.

(6) To provide consultation and assistance to communities, area agencies on aging, and groups developing local services for senior citizens and minority senior citizens.

(7) To promote community education regarding the problems of senior citizens and minority senior citizens through institutes, publications, radio, television and the local press.

(8) To cooperate with agencies of the federal government in studies and conferences designed to examine the needs of senior citizens and minority senior citizens and to prepare programs and facilities to meet those needs.

(9) To establish and maintain information and referral

sources throughout the State when not provided by other agencies.

(10) To provide the staff support that may reasonably be required by the Council.

(11) To make and enforce rules and regulations necessary and proper to the performance of its duties.

(12) To establish and fund programs or projects or experimental facilities that are specially designed as alternatives to institutional care.

(13) To develop a training program to train the counselors presently employed by the Department's aging network to provide Medicare beneficiaries with counseling and advocacy in Medicare, private health insurance, and related health care coverage plans. The Department shall report to the General Assembly on the implementation of the training program on or before December 1, 1986.

(14) To make a grant to an institution of higher learning to study the feasibility of establishing and implementing a positive action ~~an affirmative action~~ employment plan for the recruitment, hiring, training and retraining of persons 60 or more years old for jobs for which their employment would not be precluded by law.

(15) To present one award annually in each of the categories of community service, education, the performance and graphic arts, and the labor force to outstanding Illinois senior citizens and minority senior citizens in recognition of

their individual contributions to either community service, education, the performance and graphic arts, or the labor force. The awards shall be presented to 4 senior citizens and minority senior citizens selected from a list of 44 nominees compiled annually by the Department. Nominations shall be solicited from senior citizens' service providers, area agencies on aging, senior citizens' centers, and senior citizens' organizations. The Department shall establish a central location within the State to be designated as the Senior Illinoisans Hall of Fame for the public display of all the annual awards, or replicas thereof.

(16) To establish multipurpose senior centers through area agencies on aging and to fund those new and existing multipurpose senior centers through area agencies on aging, the establishment and funding to begin in such areas of the State as the Department shall designate by rule and as specifically appropriated funds become available.

(17) (Blank).

(18) To develop a pamphlet in English and Spanish which may be used by physicians licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, pharmacists licensed pursuant to the Pharmacy Practice Act, and Illinois residents 65 years of age or older for the purpose of assisting physicians, pharmacists, and patients in monitoring prescriptions provided by various physicians and to aid persons 65 years of age or older in complying with

directions for proper use of pharmaceutical prescriptions. The pamphlet may provide space for recording information including but not limited to the following:

(a) name and telephone number of the patient;

(b) name and telephone number of the prescribing physician;

(c) date of prescription;

(d) name of drug prescribed;

(e) directions for patient compliance; and

(f) name and telephone number of dispensing pharmacy.

In developing the pamphlet, the Department shall consult with the Illinois State Medical Society, the Center for Minority Health Services, the Illinois Pharmacists Association and senior citizens organizations. The Department shall distribute the pamphlets to physicians, pharmacists and persons 65 years of age or older or various senior citizen organizations throughout the State.

(19) To conduct a study of the feasibility of implementing the Senior Companion Program throughout the State.

(20) The reimbursement rates paid through the community care program for chore housekeeping services and home care aides shall be the same.

(21) From funds appropriated to the Department from the Meals on Wheels Fund, a special fund in the State treasury that is hereby created, and in accordance with State and federal guidelines and the intrastate funding formula, to make grants

to area agencies on aging, designated by the Department, for the sole purpose of delivering meals to homebound persons 60 years of age and older.

(22) To distribute, through its area agencies on aging, information alerting seniors on safety issues regarding emergency weather conditions, including extreme heat and cold, flooding, tornadoes, electrical storms, and other severe storm weather. The information shall include all necessary instructions for safety and all emergency telephone numbers of organizations that will provide additional information and assistance.

(23) To develop guidelines for the organization and implementation of Volunteer Services Credit Programs to be administered by Area Agencies on Aging or community based senior service organizations. The Department shall hold public hearings on the proposed guidelines for public comment, suggestion, and determination of public interest. The guidelines shall be based on the findings of other states and of community organizations in Illinois that are currently operating volunteer services credit programs or demonstration volunteer services credit programs. The Department shall offer guidelines for all aspects of the programs including, but not limited to, the following:

(a) types of services to be offered by volunteers;

(b) types of services to be received upon the redemption of service credits;

(c) issues of liability for the volunteers and the administering organizations;

(d) methods of tracking service credits earned and service credits redeemed;

(e) issues of time limits for redemption of service credits;

(f) methods of recruitment of volunteers;

(g) utilization of community volunteers, community service groups, and other resources for delivering services to be received by service credit program clients;

(h) accountability and assurance that services will be available to individuals who have earned service credits; and

(i) volunteer screening and qualifications.

The Department shall submit a written copy of the guidelines to the General Assembly by July 1, 1998.

(24) To function as the sole State agency to receive and disburse State and federal funds for providing adult protective services in a domestic living situation in accordance with the Adult Protective Services Act.

(25) To hold conferences, trainings, and other programs for which the Department shall determine by rule a reasonable fee to cover related administrative costs. Rules to implement the fee authority granted by this paragraph (25) must be adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of

the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized. (Source: P.A. 98-8, eff. 5-3-13; 98-49, eff. 7-1-13; 98-380, eff. 8-16-13; 98-756, eff. 7-16-14; 99-331, eff. 1-1-16.)

Section 125. The Department of Central Management Services Law of the Civil Administrative Code of Illinois is amended by changing Section 405-125 as follows:

(20 ILCS 405/405-125) (was 20 ILCS 405/67.31)

Sec. 405-125. State agency positive action ~~affirmative action~~ and equal employment opportunity goals. Each State agency shall implement strategies and programs in accordance with the State Hispanic Employment Plan, the State Asian-American Employment Plan, and the Native American Employment Plan to increase the number of Hispanics employed by the State, the number of Asian-Americans employed by the State, the number of bilingual persons employed by the State, and the number of Native American persons employed by the State at supervisory, technical, professional, and managerial levels. Each State agency shall report annually to the Department and the Department of Human Rights, in a format prescribed by the Department, all of the agency's activities in implementing the State Hispanic Employment Plan, the State Asian-American Employment Plan, and the Native American Employment Plan. Each agency's annual report shall include

reports or information related to the agency's Hispanic, Asian-American, Native American, and bilingual employment strategies and programs that the agency has received from the Illinois Department of Human Rights, the Department of Central Management Services, or the Auditor General, pursuant to their periodic review responsibilities; findings made by the Governor in his or her report to the General Assembly; assessments of bilingual service needs based upon the agency's service populations; information on the agency's studies and monitoring success concerning the number of Hispanics, Asian-Americans, Native Americans, and bilingual persons employed by the agency at the supervisory, technical, professional, and managerial levels and any increases in those categories from the prior year; and information concerning the agency's Hispanic, Asian-American, Native American, and bilingual employment budget allocations. The Department shall assist State agencies required to establish preparation and promotion training programs under subsection (H) of Section 7-105 of the Illinois Human Rights Act for failure to meet their positive action ~~affirmative action~~ and equal employment opportunity goals. The Department shall survey State agencies to identify effective existing training programs and shall serve as a resource to other State agencies. The Department shall assist agencies in the development and modification of training programs to enable them to meet their positive action ~~affirmative action~~ and equal employment opportunity goals and

shall provide information regarding other existing training and educational resources, such as the Upward Mobility Program, the Illinois Institute for Training and Development, the Central Management Services Training Center, Executive Recruitment Internships, and Graduate Public Service Internships.

(Source: P.A. 101-534, eff. 1-1-20.)

Section 130. The Personnel Code is amended by changing Section 8b.3 as follows:

(20 ILCS 415/8b.3) (from Ch. 127, par. 63b108b.3)

Sec. 8b.3. For the establishment of eligible lists for appointment and promotion, upon which lists shall be placed the names of successful candidates in order of their relative excellence in respective examinations. The Director may substitute rankings such as superior, excellent, well-qualified and qualified for numerical ratings and establish eligible lists accordingly. Such rules may provide for lists by area or location, by department or other agency, for removal of those not available for or refusing employment, for minimum and maximum duration of such lists, and for such other provisions as may be necessary to provide rapid and satisfactory service to the operating agencies. The Director may approve the written request of an agency or applicant to extend the eligibility of a qualified eligible candidate when

the extension is necessary to assist in achieving positive action ~~affirmative action~~ goals in employment. The extended period of eligibility shall not exceed the duration of the original period of eligibility and shall not be renewed. The rules may authorize removal of eligibles from lists if those eligibles fail to furnish evidence of availability upon forms sent to them by the Director.

(Source: P.A. 87-545.)

Section 135. The Economic Development Area Tax Increment Allocation Act is amended by changing Section 3 as follows:

(20 ILCS 620/3) (from Ch. 67 1/2, par. 1003)

Sec. 3. Definitions. In this Act, words or terms shall have the following meanings unless the context or usage clearly indicates that another meaning is intended.

(a) "Department" means the Department of Commerce and Economic Opportunity.

(b) "Economic development plan" means the written plan of a municipality which sets forth an economic development program for an economic development project area. Each economic development plan shall include but not be limited to (1) estimated economic development project costs, (2) the sources of funds to pay such costs, (3) the nature and term of any obligations to be issued by the municipality to pay such costs, (4) the most recent equalized assessed valuation of the

economic development project area, (5) an estimate of the equalized assessed valuation of the economic development project area after completion of an economic development project, (6) the estimated date of completion of any economic development project proposed to be undertaken, (7) a general description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, (8) a description of the type, structure and general character of the facilities to be developed or improved in the economic development project area, (9) a description of the general land uses to apply in the economic development project area, (10) a description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved in the economic development project area, and (11) a commitment by the municipality to fair employment practices and a positive action ~~an affirmative action~~ plan with respect to any economic development program to be undertaken by the municipality.

(c) "Economic development project" means any development project in furtherance of the objectives of this Act.

(d) "Economic development project area" means any improved or vacant area which (1) is located within or partially within or partially without the territorial limits of a municipality, provided that no area without the territorial limits of a municipality shall be included in an economic development project area without the express consent of the Department,

acting as agent for the State, (2) is contiguous, (3) is not less in the aggregate than three hundred twenty acres, (4) is suitable for siting by any commercial, manufacturing, industrial, research or transportation enterprise of facilities to include but not be limited to commercial businesses, offices, factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial or commercial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or transportation facilities, whether or not such area has been used at any time for such facilities and whether or not the area has been used or is suitable for other uses, including commercial agricultural purposes, and (5) which has been approved and certified by the Department pursuant to this Act.

(e) "Economic development project costs" mean and include the sum total of all reasonable or necessary costs incurred by a municipality incidental to an economic development project, including, without limitation, the following:

(1) Costs of studies, surveys, development of plans and specifications, implementation and administration of an economic development plan, personnel and professional service costs for architectural, engineering, legal, marketing, financial, planning, police, fire, public works or other services, provided that no charges for professional services may be based on a percentage of

incremental tax revenues;

(2) Property assembly costs within an economic development project area, including but not limited to acquisition of land and other real or personal property or rights or interests therein, and specifically including payments to developers or other nongovernmental persons as reimbursement for property assembly costs incurred by such developer or other nongovernmental person;

(3) Site preparation costs, including but not limited to clearance of any area within an economic development project area by demolition or removal of any existing buildings, structures, fixtures, utilities and improvements and clearing and grading; and including installation, repair, construction, reconstruction, or relocation of public streets, public utilities, and other public site improvements within or without an economic development project area which are essential to the preparation of the economic development project area for use in accordance with an economic development plan; and specifically including payments to developers or other nongovernmental persons as reimbursement for site preparation costs incurred by such developer or nongovernmental person;

(4) Costs of renovation, rehabilitation, reconstruction, relocation, repair or remodeling of any existing buildings, improvements, and fixtures within an

economic development project area, and specifically including payments to developers or other nongovernmental persons as reimbursement for such costs incurred by such developer or nongovernmental person;

(5) Costs of construction, acquisition, and operation within an economic development project area of public improvements, including but not limited to, publicly owned buildings, structures, works, utilities or fixtures; provided that no allocation made to the municipality pursuant to subparagraph (A) of paragraph (2) of subsection (g) of Section 4 of this Act or subparagraph (A) of paragraph (4) of subsection (g) of Section 4 of this Act shall be used to operate a convention center or similar entertainment complex or venue;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations issued hereunder which accrues during the estimated period of construction of any economic development project for which such obligations are issued and for not exceeding 36 months thereafter, and any reasonable reserves related to the issuance of such obligations;

(7) All or a portion of a taxing district's capital costs resulting from an economic development project necessarily incurred or estimated to be incurred by a taxing district in the furtherance of the objectives of an

economic development project, to the extent that the municipality by written agreement accepts and approves such costs;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law;

(9) The estimated tax revenues from real property in an economic development project area acquired by a municipality which, according to the economic development plan, is to be used for a private use and which any taxing district would have received had the municipality not adopted tax increment allocation financing for an economic development project area and which would result from such taxing district's levies made after the time of the adoption by the municipality of tax increment allocation financing to the time the current equalized assessed value of real property in the economic development project area exceeds the total initial equalized value of real property in said area;

(10) Costs of job training, advanced vocational or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs are related to the establishment and maintenance of additional job training,

advanced vocational education or career education programs for persons employed or to be employed by employers located in an economic development project area, and further provided that when such costs are incurred by a taxing district or taxing districts other than the municipality they shall be set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of the School Code;

(11) Private financing costs incurred by developers or other nongovernmental persons in connection with an economic development project, and specifically including payments to developers or other nongovernmental persons as reimbursement for such costs incurred by such developer or other nongovernmental person, provided that:

(A) private financing costs shall be paid or

reimbursed by a municipality only pursuant to the prior official action of the municipality evidencing an intent to pay or reimburse such private financing costs;

(B) except as provided in subparagraph (D), the aggregate amount of such costs paid or reimbursed by a municipality in any one year shall not exceed 30% of such costs paid or incurred by the developer or other nongovernmental person in that year;

(C) private financing costs shall be paid or reimbursed by a municipality solely from the special tax allocation fund established pursuant to this Act and shall not be paid or reimbursed from the proceeds of any obligations issued by a municipality;

(D) if there are not sufficient funds available in the special tax allocation fund in any year to make such payment or reimbursement in full, any amount of such interest cost remaining to be paid or reimbursed by a municipality shall accrue and be payable when funds are available in the special tax allocation fund to make such payment; and

(E) in connection with its approval and certification of an economic development project pursuant to Section 5 of this Act, the Department shall review any agreement authorizing the payment or reimbursement by a municipality of private financing

costs in its consideration of the impact on the revenues of the municipality and the affected taxing districts of the use of tax increment allocation financing.

(f) "Municipality" means a city, village or incorporated town.

(g) "Obligations" means any instrument evidencing the obligation of a municipality to pay money, including without limitation, bonds, notes, installment or financing contracts, certificates, tax anticipation warrants or notes, vouchers, and any other evidence of indebtedness.

(h) "Taxing districts" means counties, townships, municipalities, and school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes upon property located within the economic development project area.

(Source: P.A. 97-636, eff. 6-1-12.)

Section 140. The Illinois Promotion Act is amended by changing Section 13a as follows:

(20 ILCS 665/13a) (from Ch. 127, par. 200-33a)

Sec. 13a. Positive action ~~Affirmative action~~. The Department shall, within 90 days after the effective date of

this amendatory Act of 1984, establish and maintain a positive action ~~an affirmative action~~ program designed to promote equal employment opportunity and eliminate the effects of past discrimination. Such program shall include a plan which shall specify goals and methods for increasing participation by women and minorities in employment by parties which receive funds pursuant to this Act. The Department shall submit a detailed plan with the General Assembly prior to March 1 of each year. Such program shall also establish procedures to ensure compliance with the plan established pursuant to this Section and with State and federal laws and regulations relating to the employment of women and minorities.

(Source: P.A. 92-38, eff. 6-28-01.)

Section 145. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-213 as follows:

(20 ILCS 2310/2310-213)

Sec. 2310-213. Diversity in Health Care Professions Task Force.

(a) The Diversity in Health Care Professions Task Force is created. The Director shall serve as the chairperson and shall appoint the following members to the Task Force, licensed to practice in their respective fields in Illinois:

(1) 2 dentists.

(2) 2 medical doctors.

(3) 2 nurses.

(4) 2 optometrists.

(5) 2 pharmacists.

(6) 2 physician assistants.

(7) 2 podiatrists.

(8) 2 public health practitioners.

(b) The Task Force has the following objectives:

(1) Minority students pursuing medicine or healthcare as a career option. The goal is to diversify the health care workforce by engaging students, parents, and the community to build an infrastructure that assists students in developing the skills necessary for careers in healthcare.

(2) Establishing a mentee/mentor relationship with current healthcare professionals and students, utilizing social media to communicate important messages and success stories, and holding a conference related to diversity and inclusion in healthcare professions.

(3) Early employment and support, including (i) researching and leveraging best practices, including recruitment, retention, orientation, workplace diversity, and inclusion training, (ii) identifying barriers to inclusion and retention, and (iii) proposing solutions.

(4) Healthcare leadership and succession planning, including:

(A) providing education, resources and tool kits to fully support, implement, and cultivate diversity and inclusion in Illinois health-related professions through coordination of resources from professional health care leadership organizations;

(B) developing healthy work environments, leadership training on culture, diversity, and inclusion; and

(C) obtaining workforce development concentrated on graduate and post-graduate education and succession planning.

(c) The Task Force may collaborate with policy makers, medical and specialty societies, national minority organizations, and other groups to achieve greater diversity in medicine and the health professions.

The Task Force's priorities are:

(1) Positive action ~~Affirmative action~~ programs should be designed to promote the entry of racial and ethnic minority students into medical school, as well as other specialized training programs for other health professions.

(2) Recruitment activities should support and advocate for the full spectrum of racial, ethnic, and cultural diversity, including language, national origin, and religion within the healthcare profession. These activities should maintain the high quality of the health

care workforce and encourage individuals from all backgrounds to enter careers in healthcare.

(3) Recruitment and academic preparations of underrepresented minority students should begin in elementary school and continue through the entire scope of their education and professional formation. Efforts to recruit minority students into the various health care professions should be targeted appropriately at each educational level.

(4) Financial incentives should be increased to minority students, including federal funding for diversity programs, such as Title VII funding, loan forgiveness or repayment programs, and tuition reimbursement.

(5) Enhancing diversity within the healthcare workforce will require a commitment at the highest levels. To put this commitment into practice, educational and healthcare institutions, medical organizations, and other relevant bodies should hire staff who are responsible solely for the implementation, management, and evaluation of diversity programs and who are accountable to the organizational leadership. These programs should be integrated into the organization's operations and provided with an infrastructure adequate to implement and measure the effectiveness of their activities.

(6) Institutional commitments to improve workforce diversity must include a formal program or mechanism to

ensure that racial, ethnic, and cultural minority individuals rise to leadership positions at all levels.

(7) Organizations with a stake in enhancing workforce diversity should implement systems to track data and information on race, ethnicity, and other cultural attributes.

(d) Task Force members shall serve without compensation but may be reimbursed for their expenses incurred in performing their duties. The Task Force shall meet at least quarterly and at other times as called by the chairperson.

(e) The Department of Public Health shall provide administrative and other support to the Task Force.

(f) The Task Force shall prepare a report that summarizes its work and makes recommendations resulting from its study. The Task Force shall submit the report of its findings and recommendations to the Governor and the General Assembly by December 1, 2020 and annually thereafter.

(Source: P.A. 101-273, eff. 1-1-20.)

Section 150. The Illinois Manufacturing Technology Alliance Act is amended by changing Section 9 as follows:

(20 ILCS 3990/9) (from Ch. 48, par. 2609)

Sec. 9. Personnel. (a) The Board shall appoint, retain and employ such persons as it deems necessary to achieve the purposes of this Act. The Board shall establish regulations to

insure that discharge shall not be arbitrary and that hiring and promotion are based on merit. No unlawful discrimination, as defined by the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall any discrimination be made on a basis of political affiliation.

The Alliance shall be subject to the Illinois Human Rights Act and the remedies and procedures established thereunder. The Alliance shall develop a positive action ~~an affirmative action~~ program and file it with the Department of Human Rights to assure that the employment of applicants and treatment of employees are without unlawful discrimination. Such positive action ~~affirmative action~~ program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation.

(b) The Board shall organize the staff, assign their functions and duties, fix their compensation, benefits and conditions of employment, and regulate their travel.

(Source: P.A. 86-1015.)

Section 155. The Legislative Commission Reorganization Act of 1984 is amended by changing Sections 1-2 and 1-4 as follows:

(25 ILCS 130/1-2) (from Ch. 63, par. 1001-2)

Sec. 1-2. The Joint Committee on Legislative Support Services, hereinafter called the "Joint Committee", is hereby

created and shall be composed of the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives, all ex officio. Members shall serve without compensation but shall be reimbursed for their reasonable expenses incurred in the performance of their duties under this Act. The Joint Committee on Legislative Support Services shall meet quarterly and at such other times as it determines necessary to perform its functions under this Act. Any action taken by such Joint Committee shall require the affirmative vote of at least 3 of the 4 members. The Joint Committee may appoint, retain, employ and fix the compensation of any necessary professional, technical and secretarial staff. The staff shall not be subject to the Personnel Code, but the Joint Committee shall adopt rules establishing personnel policies, including positive action ~~affirmative action~~, to assure equality of employment opportunity.

(Source: P.A. 83-1539.)

(25 ILCS 130/1-4) (from Ch. 63, par. 1001-4)

Sec. 1-4. In addition to its general policy making and coordinating responsibilities for the legislative support services agencies, the Joint Committee on Legislative Support Services shall have the following powers and duties with respect to such agencies:

(1) To approve the executive director pursuant to Section 1-5(e);

(2) To establish uniform hiring practices and personnel procedures, including positive action ~~affirmative action~~, to assure equality of employment opportunity;

(3) To establish uniform contract procedures, including positive action ~~affirmative action~~, to assure equality in the awarding of contracts, and to maintain a list of all contracts entered into;

(4) To establish uniform travel regulations and approve all travel outside the State of Illinois;

(5) To coordinate all leases and rental of real property;

(6) Except as otherwise expressly provided by law, to coordinate and serve as the agency authorized to assign studies to be performed by any legislative support services agency. Any study requested by resolution or joint resolution of either house of the General Assembly shall be subject to the powers of the Joint Committee to allocate resources available to the General Assembly hereunder; provided, however, that nothing herein shall be construed to preclude the participation by public members in such studies or prohibit their reimbursement for reasonable and necessary expenses in connection therewith;

(7) To make recommendations to the General Assembly regarding the continuance of the various committees, boards and commissions that are the subject of the

statutory provisions repealed March 31, 1985, under Article 11 of this Act;

(8) To assist the Auditor General as necessary to assure the orderly and efficient termination of the various committees, boards and commissions that are subject to Article 12 of this Act;

(9) To consider and make recommendations to the General Assembly regarding further reorganization of the legislative support services agencies, and other legislative committees, boards and commissions, as it may from time to time determine to be necessary;

(10) To consider and recommend a comprehensive transition plan for the legislative support services agencies, including but not limited to issues such as the consolidation of the organizational structure, centralization or decentralization of staff, appropriate level of member participation, guidelines for policy development, further reductions which may be necessary, and measures which can be taken to improve efficiency, and ensure accountability. To assist in such recommendations the Joint Committee may appoint an Advisory Group. Recommendations of the Joint Committee shall be reported to the members of the General Assembly no later than November 13, 1984. The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General

Assembly Organization Act, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act;

(11) To contract for the establishment of child care services pursuant to the State Agency Employees Child Care Services Act; and

(12) To use funds appropriated from the General Assembly Computer Equipment Revolving Fund for the purchase of computer equipment for the General Assembly and for related expenses and for other operational purposes of the General Assembly in accordance with Section 6 of the Legislative Information System Act.

(Source: P.A. 100-1148, eff. 12-10-18.)

Section 160. The Architectural, Engineering, and Land Surveying Qualifications Based Selection Act is amended by changing Section 80 as follows:

(30 ILCS 535/80) (from Ch. 127, par. 4151-80)

Sec. 80. Positive action ~~Affirmative action~~. Nothing in this Act shall be deemed to prohibit or restrict agencies from establishing or maintaining positive action ~~affirmative action~~ contracting goals for minorities or women, or small business setaside programs, now or hereafter established by law, rules and regulations, or executive order.

(Source: P.A. 87-673.)

Section 165. The Local Government Facility Lease Act is amended by changing Section 10 as follows:

(50 ILCS 615/10)

Sec. 10. Compliance with applicable ordinances. Each party to whom facility property is leased shall comply with all applicable ordinances of the municipality in which the property is located governing contracting with minority-owned and women-owned businesses and prohibiting discrimination and requiring appropriate positive action ~~affirmative action~~, to the extent permitted by law and federal funding restrictions, as if the party to whom the property is leased were that municipality.

(Source: P.A. 94-750, eff. 5-9-06.)

Section 170. The Fire Department Promotion Act is amended by changing Section 10 as follows:

(50 ILCS 742/10)

Sec. 10. Applicability.

(a) This Act shall apply to all positions in an affected department, except those specifically excluded in items (i), (ii), (iii), (iv), and (v) of the definition of "promotion" in Section 5 unless such positions are covered by a collective

bargaining agreement in force on the effective date of this Act. Existing promotion lists shall continue to be valid until their expiration dates, or up to a maximum of 3 years after the effective date of this Act.

(b) Notwithstanding any statute, ordinance, rule, or other laws to the contrary, all promotions in an affected department to which this Act applies shall be administered in the manner provided for in this Act. Provisions of the Illinois Municipal Code, the Fire Protection District Act, municipal ordinances, or rules adopted pursuant to such authority and other laws relating to promotions in affected departments shall continue to apply to the extent they are compatible with this Act, but in the event of conflict between this Act and any other law, this Act shall control.

(c) A home rule or non-home rule municipality may not administer its fire department promotion process in a manner that is inconsistent with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(d) This Act is intended to serve as a minimum standard and shall be construed to authorize and not to limit:

(1) An appointing authority from establishing different or supplemental promotional criteria or components, provided that the criteria are job-related and applied uniformly.

(2) The right of an exclusive bargaining representative to require an employer to negotiate clauses within a collective bargaining agreement relating to conditions, criteria, or procedures for the promotion of employees to ranks, as defined in Section 5, covered by this Act.

(3) The negotiation by an employer and an exclusive bargaining representative of provisions within a collective bargaining agreement to achieve positive action ~~affirmative action~~ objectives, provided that such clauses are consistent with applicable law.

(e) Local authorities and exclusive bargaining agents affected by this Act may agree to waive one or more of its provisions and bargain on the contents of those provisions, provided that any such waivers shall be considered permissive subjects of bargaining.

(Source: P.A. 93-411, eff. 8-4-03; 94-809, eff. 5-26-06.)

Section 175. The County Economic Development Project Area Property Tax Allocation Act is amended by changing Section 3 as follows:

(55 ILCS 85/3) (from Ch. 34, par. 7003)

Sec. 3. Definitions. In this Act, words or terms shall have the following meanings unless the context usage clearly indicates that another meaning is intended.

(a) "Department" means the Department of Commerce and Economic Opportunity.

(b) "Economic development plan" means the written plan of a county which sets forth an economic development program for an economic development project area. Each economic development plan shall include but not be limited to (1) estimated economic development project costs, (2) the sources of funds to pay such costs, (3) the nature and term of any obligations to be issued by the county to pay such costs, (4) the most recent equalized assessed valuation of the economic development project area, (5) an estimate of the equalized assessed valuation of the economic development project area after completion of the economic development plan, (6) the estimated date of completion of any economic development project proposed to be undertaken, (7) a general description of any proposed developer, user, or tenant of any property to be located or improved within the economic development project area, (8) a description of the type, structure and general character of the facilities to be developed or improved in the economic development project area, (9) a description of the general land uses to apply in the economic development project area, (10) a description of the type, class and number of employees to be employed in the operation of the facilities to be developed or improved in the economic development project area and (11) a commitment by the county to fair employment practices and a positive action ~~an affirmative action~~ plan

with respect to any economic development program to be undertaken by the county. The economic development plan for an economic development project area authorized by subsection (a-15) of Section 4 of this Act must additionally include (1) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and is not reasonably expected to be subject to such growth and development without the assistance provided through the implementation of the economic development plan and (2) evidence that portions of the economic development project area have incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the project area.

(c) "Economic development project" means any development project in furtherance of the objectives of this Act.

(d) "Economic development project area" means any improved or vacant area which is located within the corporate limits of a county and which (1) is within the unincorporated area of such county, or, with the consent of any affected

municipality, is located partially within the unincorporated area of such county and partially within one or more municipalities, (2) is contiguous, (3) is not less in the aggregate than 100 acres and, for an economic development project area authorized by subsection (a-15) of Section 4 of this Act, not more than 2,000 acres, (4) is suitable for siting by any commercial, manufacturing, industrial, research or transportation enterprise of facilities to include but not be limited to commercial businesses, offices, factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial or commercial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or transportation facilities, whether or not such area has been used at any time for such facilities and whether or not the area has been used or is suitable for such facilities and whether or not the area has been used or is suitable for other uses, including commercial agricultural purposes, and (5) which has been certified by the Department pursuant to this Act.

(e) "Economic development project costs" means and includes the sum total of all reasonable or necessary costs incurred by a county incidental to an economic development project, including, without limitation, the following:

(1) Costs of studies, surveys, development of plans and specifications, implementation and administration of

an economic development plan, personnel and professional service costs for architectural, engineering, legal, marketing, financial, planning, sheriff, fire, public works or other services, provided that no charges for professional services may be based on a percentage of incremental tax revenue;

(2) Property assembly costs within an economic development project area, including but not limited to acquisition of land and other real or personal property or rights or interests therein, and specifically including payments to developers or other non-governmental persons as reimbursement for property assembly costs incurred by such developer or other non-governmental person;

(3) Site preparation costs, including but not limited to clearance of any area within an economic development project area by demolition or removal of any existing buildings, structures, fixtures, utilities and improvements and clearing and grading; site improvement addressing ground level or below ground environmental contamination; and including installation, repair, construction, reconstruction, or relocation of public streets, public utilities, and other public site improvements within or without an economic development project area which are essential to the preparation of the economic development project area for use in accordance with an economic development plan; and specifically

including payments to developers or other non-governmental persons as reimbursement for site preparation costs incurred by such developer or non-governmental person;

(4) Costs of renovation, rehabilitation, reconstruction, relocation, repair or remodeling of any existing buildings, improvements, and fixtures within an economic development project area, and specifically including payments to developers or other non-governmental persons as reimbursement for such costs incurred by such developer or non-governmental person;

(5) Costs of construction within an economic development project area of public improvements, including but not limited to, buildings, structures, works, improvements, utilities or fixtures;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations issued hereunder which accrues during the estimated period of construction of any economic development project for which such obligations are issued and for not exceeding 36 months thereafter, and any reasonable reserves related to the issuance of such obligations;

(7) All or a portion of a taxing district's capital costs resulting from an economic development project necessarily incurred or estimated to be incurred by a taxing district in the furtherance of the objectives of an

economic development project, to the extent that the county by written agreement accepts, approves and agrees to incur or to reimburse such costs;

(8) Relocation costs to the extent that a county determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law;

(9) The estimated tax revenues from real property in an economic development project area acquired by a county which, according to the economic development plan, is to be used for a private use and which any taxing district would have received had the county not adopted property tax allocation financing for an economic development project area and which would result from such taxing district's levies made after the time of the adoption by the county of property tax allocation financing to the time the current equalized assessed value of real property in the economic development project area exceeds the total initial equalized value of real property in that area;

(10) Costs of rebating ad valorem taxes paid by any developer or other nongovernmental person in whose name the general taxes were paid for the last preceding year on any lot, block, tract or parcel of land in the economic development project area, provided that:

(i) such economic development project area is located in an enterprise zone created pursuant to the

Illinois Enterprise Zone Act; compliance with this provision (i) is not required in Grundy County in relation to one or more contiguous parcels not exceeding a total area of 120 acres within which an electric generating facility is intended to be constructed and where the owner of such proposed electric generating facility has entered into a redevelopment agreement with Grundy County in respect thereto between July 25, 2013 and July 26, 2017;

(ii) such ad valorem taxes shall be rebated only in such amounts and for such tax year or years as the county and any one or more affected taxing districts shall have agreed by prior written agreement; beginning on July 25, 2013 and ending on July 25, 2017, compliance with this provision (ii) is not required in Grundy County in relation to one or more contiguous parcels not exceeding a total area of 120 acres within which an electric generating facility is intended to be constructed and where the owner of such proposed electric generating facility has entered into a redevelopment agreement with Grundy County in respect thereto if the county receives approval from 2/3 of the taxing districts having taxable property within such parcels and representing no less than 75% of the aggregate tax levy for those taxing districts for the levy year;

(iii) any amount of rebate of taxes shall not exceed the portion, if any, of taxes levied by the county or such taxing district or districts which is attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the economic development project area over and above the initial equalized assessed value of each property existing at the time property tax allocation financing was adopted for said economic development project area; and

(iv) costs of rebating ad valorem taxes shall be paid by a county solely from the special tax allocation fund established pursuant to this Act and shall be paid from the proceeds of any obligations issued by a county.

(11) Costs of job training, advanced vocational education or career education programs, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in an economic development project area, and further provided, that when such costs are incurred by a taxing district or taxing districts

other than the county, they shall be set forth in a written agreement by or among the county and the taxing district or taxing districts, which agreement describes the program to be undertaken, including, but not limited to, the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Section 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20 and 10-23.3a of the School Code;

(12) Private financing costs incurred by developers or other non-governmental persons in connection with an economic development project, and specifically including payments to developers or other non-governmental persons as reimbursement for such costs incurred by such developer or other non-governmental persons provided that:

(A) private financing costs shall be paid or reimbursed by a county only pursuant to the prior official action of the county evidencing an intent to pay such private financing costs;

(B) except as provided in subparagraph (D) of this Section, the aggregate amount of such costs paid or

reimbursed by a county in any one year shall not exceed 30% of such costs paid or incurred by such developer or other non-governmental person in that year;

(C) private financing costs shall be paid or reimbursed by a county solely from the special tax allocation fund established pursuant to this Act and shall not be paid or reimbursed from the proceeds of any obligations issued by a county;

(D) if there are not sufficient funds available in the special tax allocation fund in any year to make such payment or reimbursement in full, any amount of such private financing costs remaining to be paid or reimbursed by a county shall accrue and be payable when funds are available in the special tax allocation fund to make such payment; and

(E) in connection with its approval and certification of an economic development project pursuant to Section 5 of this Act, the Department shall review any agreement authorizing the payment or reimbursement by a county of private financing costs in its consideration of the impact on the revenues of the county and the affected taxing districts of the use of property tax allocation financing.

(f) "Obligations" means any instrument evidencing the obligation of a county to pay money, including without limitation, bonds, notes, installment or financing contracts,

certificates, tax anticipation warrants or notes, vouchers, and any other evidence of indebtedness.

(g) "Taxing districts" means municipalities, townships, counties, and school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other county corporations or districts with the power to levy taxes on real property.

(Source: P.A. 98-109, eff. 7-25-13; 99-513, eff. 6-30-16.)

Section 180. The Illinois Municipal Code is amended by changing Sections 11-74.4-3 and 11-74.6-10 as follows:

(65 ILCS 5/11-74.4-3) (from Ch. 24, par. 11-74.4-3)

Sec. 11-74.4-3. Definitions. The following terms, wherever used or referred to in this Division 74.4 shall have the following respective meanings, unless in any case a different meaning clearly appears from the context.

(a) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "blighted area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial

limits of the municipality where:

(1) If improved, industrial, commercial, and residential buildings or improvements are detrimental to the public safety, health, or welfare because of a combination of 5 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part of the redevelopment project area:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters,

sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or

rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and

safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(J) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean-up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or

redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is

designated.

(2) If vacant, the sound growth of the redevelopment project area is impaired by a combination of 2 or more of the following factors, each of which is (i) present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) Obsolete platting of vacant land that results in parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

(B) Diversity of ownership of parcels of vacant land sufficient in number to retard or impede the ability to assemble the land for development.

(C) Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last 5 years.

(D) Deterioration of structures or site

improvements in neighboring areas adjacent to the vacant land.

(E) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(F) The total equalized assessed value of the proposed redevelopment project area has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

(3) If vacant, the sound growth of the redevelopment project area is impaired by one of the following factors that (i) is present, with that presence documented, to a meaningful extent so that a municipality may reasonably find that the factor is clearly present within the intent of the Act and (ii) is reasonably distributed throughout the vacant part of the redevelopment project area to which it pertains:

(A) The area consists of one or more unused quarries, mines, or strip mine ponds.

(B) The area consists of unused rail yards, rail tracks, or railroad rights-of-way.

(C) The area, prior to its designation, is subject to (i) chronic flooding that adversely impacts on real property in the area as certified by a registered professional engineer or appropriate regulatory agency or (ii) surface water that discharges from all or a part of the area and contributes to flooding within the same watershed, but only if the redevelopment project provides for facilities or improvements to contribute to the alleviation of all or part of the flooding.

(D) The area consists of an unused or illegal disposal site containing earth, stone, building debris, or similar materials that were removed from construction, demolition, excavation, or dredge sites.

(E) Prior to November 1, 1999, the area is not less than 50 nor more than 100 acres and 75% of which is vacant (notwithstanding that the area has been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area), and the area meets at least one of the factors itemized in paragraph (1) of this subsection, the area has been designated as a town or village center by ordinance or comprehensive plan adopted prior to January 1, 1982, and the area has not been developed for that designated purpose.

(F) The area qualified as a blighted improved area immediately prior to becoming vacant, unless there has been substantial private investment in the immediately surrounding area.

(b) For any redevelopment project area that has been designated pursuant to this Section by an ordinance adopted prior to November 1, 1999 (the effective date of Public Act 91-478), "conservation area" shall have the meaning set forth in this Section prior to that date.

On and after November 1, 1999, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality in which 50% or more of the structures in the area have an age of 35 years or more. Such an area is not yet a blighted area but because of a combination of 3 or more of the

following factors is detrimental to the public safety, health, morals or welfare and such an area may become a blighted area:

(1) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(2) Obsolescence. The condition or process of falling into disuse. Structures have become ill-suited for the original use.

(3) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts, and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking, and surface storage areas evidence deterioration, including, but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(4) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not

including housing and property maintenance codes.

(5) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(6) Excessive vacancies. The presence of buildings that are unoccupied or under-utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(7) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence or inadequacy of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(8) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate.

Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(9) Excessive land coverage and overcrowding of structures and community facilities. The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking, or inadequate provision for loading and service.

(10) Deleterious land use or layout. The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed-uses, or uses considered to be

noxious, offensive, or unsuitable for the surrounding area.

(11) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(12) The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(13) The total equalized assessed value of the

proposed redevelopment project area has declined for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years for which information is available.

(c) "Industrial park" means an area in a blighted or conservation area suitable for use by any manufacturing, industrial, research or transportation enterprise, of facilities to include but not be limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, industrial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities.

(d) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the territorial limits of a municipality that is a labor surplus municipality or within 1 1/2 miles of the territorial limits of a municipality that is a labor surplus municipality if the area is annexed to the municipality; which area is zoned as industrial no later than at the time the

municipality by ordinance designates the redevelopment project area, and which area includes both vacant land suitable for use as an industrial park and a blighted area or conservation area contiguous to such vacant land.

(e) "Labor surplus municipality" means a municipality in which, at any time during the 6 months before the municipality by ordinance designates an industrial park conservation area, the unemployment rate was over 6% and was also 100% or more of the national average unemployment rate for that same time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection, if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be the same as the unemployment rate in the principal county in which the municipality is located.

(f) "Municipality" shall mean a city, village, incorporated town, or a township that is located in the unincorporated portion of a county with 3 million or more inhabitants, if the county adopted an ordinance that approved the township's redevelopment plan.

(g) "Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal

Service Occupation Tax Act by retailers and servicemen on transactions at places located in a State Sales Tax Boundary during the calendar year 1985.

(g-1) "Revised Initial Sales Tax Amounts" means the amount of taxes paid under the Retailers' Occupation Tax Act, Use Tax Act, Service Use Tax Act, the Service Occupation Tax Act, the Municipal Retailers' Occupation Tax Act, and the Municipal Service Occupation Tax Act by retailers and servicemen on transactions at places located within the State Sales Tax Boundary revised pursuant to Section 11-74.4-8a(9) of this Act.

(h) "Municipal Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid to a municipality from the Local Government Tax Fund arising from sales by retailers and servicemen within the redevelopment project area or State Sales Tax Boundary, as the case may be, for as long as the redevelopment project area or State Sales Tax Boundary, as the case may be, exist over and above the aggregate amount of taxes as certified by the Illinois Department of Revenue and paid under the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act by retailers and servicemen, on transactions at places of business located in the redevelopment project area or State Sales Tax Boundary, as the case may be, during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation

financing. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall determine the Initial Sales Tax Amounts for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amounts". For purposes of determining the Municipal Sales Tax Increment, the Department of Revenue shall for each period subtract from the amount paid to the municipality from the Local Government Tax Fund arising from sales by retailers and servicemen on transactions located in the redevelopment project area or the State Sales Tax Boundary, as the case may be, the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for the Municipal Retailers' Occupation Tax Act and the Municipal Service Occupation Tax Act. For the State Fiscal Year 1989, this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, the

Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, to June 30, 1989, to determine the tax amounts received from retailers and servicemen pursuant to the Municipal Retailers' Occupation Tax and the Municipal Service Occupation Tax Act which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending June 30 to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, the Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts, as the case may be.

(i) "Net State Sales Tax Increment" means the sum of the following: (a) 80% of the first $100,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; (b) 60% of the amount in excess of $100,000 but not exceeding $500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary; and (c) 40% of all amounts in excess of $500,000 of State Sales Tax Increment annually generated within a State Sales Tax Boundary. If, however, a municipality established a tax increment financing district in a county with a population in excess of 3,000,000

before January 1, 1986, and the municipality entered into a contract or issued bonds after January 1, 1986, but before December 31, 1986, to finance redevelopment project costs within a State Sales Tax Boundary, then the Net State Sales Tax Increment means, for the fiscal years beginning July 1, 1990, and July 1, 1991, 100% of the State Sales Tax Increment annually generated within a State Sales Tax Boundary; and notwithstanding any other provision of this Act, for those fiscal years the Department of Revenue shall distribute to those municipalities 100% of their Net State Sales Tax Increment before any distribution to any other municipality and regardless of whether or not those other municipalities will receive 100% of their Net State Sales Tax Increment. For Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a State Sales Tax Boundary, the Net State Sales Tax Increment shall be calculated as follows: By multiplying the Net State Sales Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter.

Municipalities that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991, or that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988, shall continue to receive their proportional share of the Illinois Tax Increment Fund distribution until the date on which the redevelopment project is completed or terminated. If, however, a municipality that issued bonds in connection with a redevelopment project in a redevelopment project area within the State Sales Tax Boundary prior to July 29, 1991 retires the bonds prior to June 30, 2007 or a municipality that entered into contracts in connection with a redevelopment project in a redevelopment project area before June 1, 1988 completes the contracts prior to June 30, 2007, then so long as the redevelopment project is not completed or is not terminated, the Net State Sales Tax Increment shall be calculated, beginning on the date on which the bonds are retired or the contracts are completed, as follows: By multiplying the Net State Sales Tax Increment by 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for State Fiscal Year 2008 and thereafter. Refunding of any bonds issued prior to July 29, 1991, shall not alter the Net State Sales Tax

Increment.

(j) "State Utility Tax Increment Amount" means an amount equal to the aggregate increase in State electric and gas tax charges imposed on owners and tenants, other than residential customers, of properties located within the redevelopment project area under Section 9-222 of the Public Utilities Act, over and above the aggregate of such charges as certified by the Department of Revenue and paid by owners and tenants, other than residential customers, of properties within the redevelopment project area during the base year, which shall be the calendar year immediately prior to the year of the adoption of the ordinance authorizing tax increment allocation financing.

(k) "Net State Utility Tax Increment" means the sum of the following: (a) 80% of the first $100,000 of State Utility Tax Increment annually generated by a redevelopment project area; (b) 60% of the amount in excess of $100,000 but not exceeding $500,000 of the State Utility Tax Increment annually generated by a redevelopment project area; and (c) 40% of all amounts in excess of $500,000 of State Utility Tax Increment annually generated by a redevelopment project area. For the State Fiscal Year 1999, and every year thereafter until the year 2007, for any municipality that has not entered into a contract or has not issued bonds prior to June 1, 1988 to finance redevelopment project costs within a redevelopment project area, the Net State Utility Tax Increment shall be

calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in the State Fiscal Year 1999; 80% in the State Fiscal Year 2000; 70% in the State Fiscal Year 2001; 60% in the State Fiscal Year 2002; 50% in the State Fiscal Year 2003; 40% in the State Fiscal Year 2004; 30% in the State Fiscal Year 2005; 20% in the State Fiscal Year 2006; and 10% in the State Fiscal Year 2007. No payment shall be made for the State Fiscal Year 2008 and thereafter.

Municipalities that issue bonds in connection with the redevelopment project during the period from June 1, 1988 until 3 years after the effective date of this Amendatory Act of 1988 shall receive the Net State Utility Tax Increment, subject to appropriation, for 15 State Fiscal Years after the issuance of such bonds. For the 16th through the 20th State Fiscal Years after issuance of the bonds, the Net State Utility Tax Increment shall be calculated as follows: By multiplying the Net State Utility Tax Increment by 90% in year 16; 80% in year 17; 70% in year 18; 60% in year 19; and 50% in year 20. Refunding of any bonds issued prior to June 1, 1988, shall not alter the revised Net State Utility Tax Increment payments set forth above.

(l) "Obligations" mean bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(m) "Payment in lieu of taxes" means those estimated tax

revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality which according to the redevelopment project or plan is to be used for a private use which taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and which would result from levies made after the time of the adoption of tax increment allocation financing to the time the current equalized value of real property in the redevelopment project area exceeds the total initial equalized value of real property in said area.

(n) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate those conditions the existence of which qualified the redevelopment project area as a "blighted area" or "conservation area" or combination thereof or "industrial park conservation area," and thereby to enhance the tax bases of the taxing districts which extend into the redevelopment project area, provided that, with respect to redevelopment project areas described in subsections (p-1) and (p-2), "redevelopment plan" means the comprehensive program of the affected municipality for the development of qualifying transit facilities. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of

vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan shall set forth in writing the program to be undertaken to accomplish the objectives and shall include but not be limited to:

(A) an itemized list of estimated redevelopment project costs;

(B) evidence indicating that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise, provided that such evidence shall not be required for any redevelopment project area located within a transit facility improvement area established pursuant to Section 11-74.4-3.3;

(C) an assessment of any financial impact of the redevelopment project area on or any increased demand for services from any taxing district affected by the plan and any program to address such financial impact or increased demand;

(D) the sources of funds to pay costs;

(E) the nature and term of the obligations to be

issued;

(F) the most recent equalized assessed valuation of the redevelopment project area;

(G) an estimate as to the equalized assessed valuation after redevelopment and the general land uses to apply in the redevelopment project area;

(H) a commitment to fair employment practices and a positive action ~~an affirmative action~~ plan;

(I) if it concerns an industrial park conservation area, the plan shall also include a general description of any proposed developer, user and tenant of any property, a description of the type, structure and general character of the facilities to be developed, a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed; and

(J) if property is to be annexed to the municipality, the plan shall include the terms of the annexation agreement.

The provisions of items (B) and (C) of this subsection (n) shall not apply to a municipality that before March 14, 1994 (the effective date of Public Act 88-537) had fixed, either by its corporate authorities or by a commission designated under subsection (k) of Section 11-74.4-4, a time and place for a public hearing as required by subsection (a) of Section 11-74.4-5. No redevelopment plan shall be adopted unless a municipality complies with all of the following requirements:

(1) The municipality finds that the redevelopment project area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the redevelopment plan, provided, however, that such a finding shall not be required with respect to any redevelopment project area located within a transit facility improvement area established pursuant to Section 11-74.4-3.3.

(2) The municipality finds that the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality, or (ii) includes land uses that have been approved by the planning commission of the municipality.

(3) The redevelopment plan establishes the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs. Those dates may not be later than the dates set forth under Section 11-74.4-3.5.

A municipality may by municipal ordinance amend an

existing redevelopment plan to conform to this paragraph (3) as amended by Public Act 91-478, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Act pertaining to an amendment to or the initial approval of a redevelopment plan and project and designation of a redevelopment project area.

(3.5) The municipality finds, in the case of an industrial park conservation area, also that the municipality is a labor surplus municipality and that the implementation of the redevelopment plan will reduce unemployment, create new jobs and by the provision of new facilities enhance the tax base of the taxing districts that extend into the redevelopment project area.

(4) If any incremental revenues are being utilized under Section 8(a)(1) or 8(a)(2) of this Act in redevelopment project areas approved by ordinance after January 1, 1986, the municipality finds: (a) that the redevelopment project area would not reasonably be developed without the use of such incremental revenues, and (b) that such incremental revenues will be exclusively utilized for the development of the redevelopment project area.

(5) If: (a) the redevelopment plan will not result in displacement of residents from 10 or more inhabited residential units, and the municipality certifies in the

plan that such displacement will not result from the plan; or (b) the redevelopment plan is for a redevelopment project area located within a transit facility improvement area established pursuant to Section 11-74.4-3.3, and the applicable project is subject to the process for evaluation of environmental effects under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., then a housing impact study need not be performed. If, however, the redevelopment plan would result in the displacement of residents from 10 or more inhabited residential units, or if the redevelopment project area contains 75 or more inhabited residential units and no certification is made, then the municipality shall prepare, as part of the separate feasibility report required by subsection (a) of Section 11-74.4-5, a housing impact study.

Part I of the housing impact study shall include (i) data as to whether the residential units are single family or multi-family units, (ii) the number and type of rooms within the units, if that information is available, (iii) whether the units are inhabited or uninhabited, as determined not less than 45 days before the date that the ordinance or resolution required by subsection (a) of Section 11-74.4-5 is passed, and (iv) data as to the racial and ethnic composition of the residents in the inhabited residential units. The data requirement as to

the racial and ethnic composition of the residents in the inhabited residential units shall be deemed to be fully satisfied by data from the most recent federal census.

Part II of the housing impact study shall identify the inhabited residential units in the proposed redevelopment project area that are to be or may be removed. If inhabited residential units are to be removed, then the housing impact study shall identify (i) the number and location of those units that will or may be removed, (ii) the municipality's plans for relocation assistance for those residents in the proposed redevelopment project area whose residences are to be removed, (iii) the availability of replacement housing for those residents whose residences are to be removed, and shall identify the type, location, and cost of the housing, and (iv) the type and extent of relocation assistance to be provided.

(6) On and after November 1, 1999, the housing impact study required by paragraph (5) shall be incorporated in the redevelopment plan for the redevelopment project area.

(7) On and after November 1, 1999, no redevelopment plan shall be adopted, nor an existing plan amended, nor shall residential housing that is occupied by households of low-income and very low-income persons in currently existing redevelopment project areas be removed after November 1, 1999 unless the redevelopment plan provides, with respect to inhabited housing units that are to be

removed for households of low-income and very low-income persons, affordable housing and relocation assistance not less than that which would be provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the regulations under that Act, including the eligibility criteria. Affordable housing may be either existing or newly constructed housing. For purposes of this paragraph (7), "low-income households", "very low-income households", and "affordable housing" have the meanings set forth in the Illinois Affordable Housing Act. The municipality shall make a good faith effort to ensure that this affordable housing is located in or near the redevelopment project area within the municipality.

(8) On and after November 1, 1999, if, after the adoption of the redevelopment plan for the redevelopment project area, any municipality desires to amend its redevelopment plan to remove more inhabited residential units than specified in its original redevelopment plan, that change shall be made in accordance with the procedures in subsection (c) of Section 11-74.4-5.

(9) For redevelopment project areas designated prior to November 1, 1999, the redevelopment plan may be amended without further joint review board meeting or hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and

registrant on the interested party registry, to authorize the municipality to expend tax increment revenues for redevelopment project costs defined by paragraphs (5) and (7.5), subparagraphs (E) and (F) of paragraph (11), and paragraph (11.5) of subsection (q) of Section 11-74.4-3, so long as the changes do not increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted.

(o) "Redevelopment project" means any public and private development project in furtherance of the objectives of a redevelopment plan. On and after November 1, 1999 (the effective date of Public Act 91-478), no redevelopment plan may be approved or amended that includes the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(p) "Redevelopment project area" means an area designated by the municipality, which is not less in the aggregate than 1 1/2 acres and in respect to which the municipality has made a finding that there exist conditions which cause the area to be

classified as an industrial park conservation area or a blighted area or a conservation area, or a combination of both blighted areas and conservation areas.

(p-1) Notwithstanding any provision of this Act to the contrary, on and after August 25, 2009 (the effective date of Public Act 96-680), a redevelopment project area may include areas within a one-half mile radius of an existing or proposed Regional Transportation Authority Suburban Transit Access Route (STAR Line) station without a finding that the area is classified as an industrial park conservation area, a blighted area, a conservation area, or a combination thereof, but only if the municipality receives unanimous consent from the joint review board created to review the proposed redevelopment project area.

(p-2) Notwithstanding any provision of this Act to the contrary, on and after the effective date of this amendatory Act of the 99th General Assembly, a redevelopment project area may include areas within a transit facility improvement area that has been established pursuant to Section 11-74.4-3.3 without a finding that the area is classified as an industrial park conservation area, a blighted area, a conservation area, or any combination thereof.

(q) "Redevelopment project costs", except for redevelopment project areas created pursuant to subsection (p-1) or (p-2), means and includes the sum total of all reasonable or necessary costs incurred or estimated to be

incurred, and any such costs incidental to a redevelopment plan and a redevelopment project. Such costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan including but not limited to staff and professional service costs for architectural, engineering, legal, financial, planning or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected; except that on and after November 1, 1999 (the effective date of Public Act 91-478), no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the

municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors;

(2) Property assembly costs, including but not limited to acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land;

(3) Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the cost of replacing an existing public building if pursuant to the

implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment; including any direct or indirect costs relating to Green Globes or LEED certified construction elements or construction elements with an equivalent certification;

(4) Costs of the construction of public works or improvements, including any direct or indirect costs relating to Green Globes or LEED certified construction elements or construction elements with an equivalent certification, except that on and after November 1, 1999, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building as provided under paragraph (3) of subsection (q) of Section 11-74.4-3 unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to November 1, 1999, (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new

municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan, or (iii) the new municipal public building is for the storage, maintenance, or repair of transit vehicles and is located in a transit facility improvement area that has been established pursuant to Section 11-74.4-3.3;

(5) Costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within the redevelopment project area;

(6) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(7) To the extent the municipality by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the redevelopment plan and project;

(7.5) For redevelopment project areas designated (or

redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after November 1, 1999, an elementary, secondary, or unit school district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act, and which costs shall be paid by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units and shall be calculated annually as follows:

(A) for foundation districts, excluding any school district in a municipality with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that

housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general State aid as defined in Section 18-8.05 of the School Code or evidence-based funding as defined in Section 18-8.15 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 25% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act;

(ii) for elementary school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 17% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts with a district average 1995-96 Per Capita Tuition Charge of less than $5,900, no more than 8% of the total amount of property tax increment revenue produced by those housing units that have received tax

increment finance assistance under this Act.

(B) For alternate method districts, flat grant districts, and foundation districts with a district average 1995-96 Per Capita Tuition Charge equal to or more than $5,900, excluding any school district with a population in excess of 1,000,000, by multiplying the district's increase in attendance resulting from the net increase in new students enrolled in that school district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since the designation of the redevelopment project area by the most recently available per capita tuition cost as defined in Section 10-20.12a of the School Code less any increase in general state aid as defined in Section 18-8.05 of the School Code or evidence-based funding as defined in Section 18-8.15 of the School Code attributable to these added new students subject to the following annual limitations:

(i) for unit school districts, no more than 40% of the total amount of property tax increment revenue produced by those housing units that have

received tax increment finance assistance under this Act;

(ii) for elementary school districts, no more than 27% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act; and

(iii) for secondary school districts, no more than 13% of the total amount of property tax increment revenue produced by those housing units that have received tax increment finance assistance under this Act.

(C) For any school district in a municipality with a population in excess of 1,000,000, the following restrictions shall apply to the reimbursement of increased costs under this paragraph (7.5):

(i) no increased costs shall be reimbursed unless the school district certifies that each of the schools affected by the assisted housing project is at or over its student capacity;

(ii) the amount reimbursable shall be reduced by the value of any land donated to the school district by the municipality or developer, and by the value of any physical improvements made to the schools by the municipality or developer; and

(iii) the amount reimbursed may not affect

amounts otherwise obligated by the terms of any bonds, notes, or other funding instruments, or the terms of any redevelopment agreement.

Any school district seeking payment under this paragraph (7.5) shall, after July 1 and before September 30 of each year, provide the municipality with reasonable evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the school district. If the school district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that year. School districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.5). By acceptance of this reimbursement the school district waives the right to directly or indirectly set aside, modify, or contest in any manner the establishment of the redevelopment project area or projects;

(7.7) For redevelopment project areas designated (or redevelopment project areas amended to add or increase the number of tax-increment-financing assisted housing units) on or after January 1, 2005 (the effective date of Public Act 93-961), a public library district's increased costs attributable to assisted housing units located within the redevelopment project area for which the developer or

redeveloper receives financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the assisted housing sites necessary for the completion of that housing as authorized by this Act shall be paid to the library district by the municipality from the Special Tax Allocation Fund when the tax increment revenue is received as a result of the assisted housing units. This paragraph (7.7) applies only if (i) the library district is located in a county that is subject to the Property Tax Extension Limitation Law or (ii) the library district is not located in a county that is subject to the Property Tax Extension Limitation Law but the district is prohibited by any other law from increasing its tax levy rate without a prior voter referendum.

The amount paid to a library district under this paragraph (7.7) shall be calculated by multiplying (i) the net increase in the number of persons eligible to obtain a library card in that district who reside in housing units within the redevelopment project area that have received financial assistance through an agreement with the municipality or because the municipality incurs the cost of necessary infrastructure improvements within the boundaries of the housing sites necessary for the completion of that housing as authorized by this Act since

the designation of the redevelopment project area by (ii) the per-patron cost of providing library services so long as it does not exceed $120. The per-patron cost shall be the Total Operating Expenditures Per Capita for the library in the previous fiscal year. The municipality may deduct from the amount that it must pay to a library district under this paragraph any amount that it has voluntarily paid to the library district from the tax increment revenue. The amount paid to a library district under this paragraph (7.7) shall be no more than 2% of the amount produced by the assisted housing units and deposited into the Special Tax Allocation Fund.

A library district is not eligible for any payment under this paragraph (7.7) unless the library district has experienced an increase in the number of patrons from the municipality that created the tax-increment-financing district since the designation of the redevelopment project area.

Any library district seeking payment under this paragraph (7.7) shall, after July 1 and before September 30 of each year, provide the municipality with convincing evidence to support its claim for reimbursement before the municipality shall be required to approve or make the payment to the library district. If the library district fails to provide the information during this period in any year, it shall forfeit any claim to reimbursement for that

year. Library districts may adopt a resolution waiving the right to all or a portion of the reimbursement otherwise required by this paragraph (7.7). By acceptance of such reimbursement, the library district shall forfeit any right to directly or indirectly set aside, modify, or contest in any manner whatsoever the establishment of the redevelopment project area or projects;

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law or in order to satisfy subparagraph (7) of subsection (n);

(9) Payment in lieu of taxes;

(10) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, provided that such costs (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) when incurred by a taxing district or taxing districts other than the municipality, are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which

agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of the School Code;

(11) Interest cost incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:

(A) such costs are to be paid directly from the special tax allocation fund established pursuant to this Act;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this paragraph (11) then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;

(D) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total (i) cost paid or incurred by the redeveloper for the redevelopment project plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act;

(E) the cost limits set forth in subparagraphs (B) and (D) of paragraph (11) shall be modified for the financing of rehabilitated or new housing units for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act. The percentage of 75% shall be substituted for 30% in subparagraphs (B) and (D) of paragraph (11); and

(F) instead of the eligible costs provided by subparagraphs (B) and (D) of paragraph (11), as modified by this subparagraph, and notwithstanding any other provisions of this Act to the contrary, the municipality may pay from tax increment revenues up to 50% of the cost of construction of new housing units to be occupied by low-income households and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act. The cost of construction of those units may be derived from the proceeds of bonds issued by the municipality under

this Act or other constitutional or statutory authority or from other sources of municipal revenue that may be reimbursed from tax increment revenues or the proceeds of bonds issued to finance the construction of that housing.

The eligible costs provided under this subparagraph (F) of paragraph (11) shall be an eligible cost for the construction, renovation, and rehabilitation of all low and very low-income housing units, as defined in Section 3 of the Illinois Affordable Housing Act, within the redevelopment project area. If the low and very low-income units are part of a residential redevelopment project that includes units not affordable to low and very low-income households, only the low and very low-income units shall be eligible for benefits under this subparagraph (F) of paragraph (11). The standards for maintaining the occupancy by low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, of those units constructed with eligible costs made available under the provisions of this subparagraph (F) of paragraph (11) shall be established by guidelines adopted by the municipality. The responsibility for annually documenting the initial occupancy of the units by low-income households and very low-income

households, as defined in Section 3 of the Illinois Affordable Housing Act, shall be that of the then current owner of the property. For ownership units, the guidelines will provide, at a minimum, for a reasonable recapture of funds, or other appropriate methods designed to preserve the original affordability of the ownership units. For rental units, the guidelines will provide, at a minimum, for the affordability of rent to low and very low-income households. As units become available, they shall be rented to income-eligible tenants. The municipality may modify these guidelines from time to time; the guidelines, however, shall be in effect for as long as tax increment revenue is being used to pay for costs associated with the units or for the retirement of bonds issued to finance the units or for the life of the redevelopment project area, whichever is later;

(11.5) If the redevelopment project area is located within a municipality with a population of more than 100,000, the cost of day care services for children of employees from low-income families working for businesses located within the redevelopment project area and all or a portion of the cost of operation of day care centers established by redevelopment project area businesses to serve employees from low-income families working in businesses located in the redevelopment project area. For

the purposes of this paragraph, "low-income families" means families whose annual income does not exceed 80% of the municipal, county, or regional median income, adjusted for family size, as the annual income and municipal, county, or regional median income are determined from time to time by the United States Department of Housing and Urban Development.

(12) Costs relating to the development of urban agricultural areas under Division 15.2 of the Illinois Municipal Code.

Unless explicitly stated herein the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost.

After November 1, 1999 (the effective date of Public Act 91-478), none of the redevelopment project costs enumerated in this subsection shall be eligible redevelopment project costs if those costs would provide direct financial support to a retail entity initiating operations in the redevelopment project area while terminating operations at another Illinois location within 10 miles of the redevelopment project area but outside the boundaries of the redevelopment project area municipality. For purposes of this paragraph, termination means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a redevelopment project area, but it does not mean closing an

operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality that the current location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

No cost shall be a redevelopment project cost in a redevelopment project area if used to demolish, remove, or substantially modify a historic resource, after August 26, 2008 (the effective date of Public Act 95-934), unless no prudent and feasible alternative exists. "Historic resource" for the purpose of this paragraph means (i) a place or structure that is included or eligible for inclusion on the National Register of Historic Places or (ii) a contributing structure in a district on the National Register of Historic Places. This paragraph does not apply to a place or structure for which demolition, removal, or modification is subject to review by the preservation agency of a Certified Local Government designated as such by the National Park Service of the United States Department of the Interior.

If a special service area has been established pursuant to the Special Service Area Tax Act or Special Service Area Tax Law, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act or Special Service Area Tax Law may be used within the redevelopment project area for the purposes permitted by that

Act or Law as well as the purposes permitted by this Act.

(q-1) For redevelopment project areas created pursuant to subsection (p-1), redevelopment project costs are limited to those costs in paragraph (q) that are related to the existing or proposed Regional Transportation Authority Suburban Transit Access Route (STAR Line) station.

(q-2) For a redevelopment project area located within a transit facility improvement area established pursuant to Section 11-74.4-3.3, redevelopment project costs means those costs described in subsection (q) that are related to the construction, reconstruction, rehabilitation, remodeling, or repair of any existing or proposed transit facility.

(r) "State Sales Tax Boundary" means the redevelopment project area or the amended redevelopment project area boundaries which are determined pursuant to subsection (9) of Section 11-74.4-8a of this Act. The Department of Revenue shall certify pursuant to subsection (9) of Section 11-74.4-8a the appropriate boundaries eligible for the determination of State Sales Tax Increment.

(s) "State Sales Tax Increment" means an amount equal to the increase in the aggregate amount of taxes paid by retailers and servicemen, other than retailers and servicemen subject to the Public Utilities Act, on transactions at places of business located within a State Sales Tax Boundary pursuant to the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act,

except such portion of such increase that is paid into the State and Local Sales Tax Reform Fund, the Local Government Distributive Fund, the Local Government Tax Fund and the County and Mass Transit District Fund, for as long as State participation exists, over and above the Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts for such taxes as certified by the Department of Revenue and paid under those Acts by retailers and servicemen on transactions at places of business located within the State Sales Tax Boundary during the base year which shall be the calendar year immediately prior to the year in which the municipality adopted tax increment allocation financing, less 3.0% of such amounts generated under the Retailers' Occupation Tax Act, Use Tax Act and Service Use Tax Act and the Service Occupation Tax Act, which sum shall be appropriated to the Department of Revenue to cover its costs of administering and enforcing this Section. For purposes of computing the aggregate amount of such taxes for base years occurring prior to 1985, the Department of Revenue shall compute the Initial Sales Tax Amount for such taxes and deduct therefrom an amount equal to 4% of the aggregate amount of taxes per year for each year the base year is prior to 1985, but not to exceed a total deduction of 12%. The amount so determined shall be known as the "Adjusted Initial Sales Tax Amount". For purposes of determining the State Sales Tax Increment the Department of Revenue shall for each period

subtract from the tax amounts received from retailers and servicemen on transactions located in the State Sales Tax Boundary, the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or Revised Initial Sales Tax Amounts for the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act and the Service Occupation Tax Act. For the State Fiscal Year 1989 this calculation shall be made by utilizing the calendar year 1987 to determine the tax amounts received. For the State Fiscal Year 1990, this calculation shall be made by utilizing the period from January 1, 1988, until September 30, 1988, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For the State Fiscal Year 1991, this calculation shall be made by utilizing the period from October 1, 1988, until June 30, 1989, to determine the tax amounts received from retailers and servicemen, which shall have deducted therefrom nine-twelfths of the certified Initial State Sales Tax Amounts, Adjusted Initial Sales Tax Amounts or the Revised Initial Sales Tax Amounts as appropriate. For every State Fiscal Year thereafter, the applicable period shall be the 12 months beginning July 1 and ending on June 30, to determine the tax amounts received which shall have deducted therefrom the certified Initial Sales Tax Amounts, Adjusted Initial Sales

Tax Amounts or the Revised Initial Sales Tax Amounts. Municipalities intending to receive a distribution of State Sales Tax Increment must report a list of retailers to the Department of Revenue by October 31, 1988 and by July 31, of each year thereafter.

(t) "Taxing districts" means counties, townships, cities and incorporated towns and villages, school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy taxes.

(u) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and directly result from the redevelopment project.

(v) As used in subsection (a) of Section 11-74.4-3 of this Act, "vacant land" means any parcel or combination of parcels of real property without industrial, commercial, and residential buildings which has not been used for commercial agricultural purposes within 5 years prior to the designation of the redevelopment project area, unless the parcel is included in an industrial park conservation area or the parcel has been subdivided; provided that if the parcel was part of a larger tract that has been divided into 3 or more smaller tracts that were accepted for recording during the period from 1950 to 1990, then the parcel shall be deemed to have been

subdivided, and all proceedings and actions of the municipality taken in that connection with respect to any previously approved or designated redevelopment project area or amended redevelopment project area are hereby validated and hereby declared to be legally sufficient for all purposes of this Act. For purposes of this Section and only for land subject to the subdivision requirements of the Plat Act, land is subdivided when the original plat of the proposed Redevelopment Project Area or relevant portion thereof has been properly certified, acknowledged, approved, and recorded or filed in accordance with the Plat Act and a preliminary plat, if any, for any subsequent phases of the proposed Redevelopment Project Area or relevant portion thereof has been properly approved and filed in accordance with the applicable ordinance of the municipality.

(w) "Annual Total Increment" means the sum of each municipality's annual Net Sales Tax Increment and each municipality's annual Net Utility Tax Increment. The ratio of the Annual Total Increment of each municipality to the Annual Total Increment for all municipalities, as most recently calculated by the Department, shall determine the proportional shares of the Illinois Tax Increment Fund to be distributed to each municipality.

(x) "LEED certified" means any certification level of construction elements by a qualified Leadership in Energy and Environmental Design Accredited Professional as determined by

the U.S. Green Building Council.

(y) "Green Globes certified" means any certification level of construction elements by a qualified Green Globes Professional as determined by the Green Building Initiative.

(Source: P.A. 99-792, eff. 8-12-16; 100-201, eff. 8-18-17; 100-465, eff. 8-31-17; 100-1133, eff. 1-1-19.)

(65 ILCS 5/11-74.6-10)

Sec. 11-74.6-10. Definitions.

(a) "Environmentally contaminated area" means any improved or vacant area within the boundaries of a redevelopment project area located within the corporate limits of a municipality when, (i) there has been a determination of release or substantial threat of release of a hazardous substance or pesticide, by the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, or the Illinois Pollution Control Board, or any court, or a release or substantial threat of release which is addressed as part of the Pre-Notice Site Cleanup Program under Section 22.2(m) of the Illinois Environmental Protection Act, or a release or substantial threat of release of petroleum under Section 22.12 of the Illinois Environmental Protection Act, and (ii) which release or threat of release presents an imminent and substantial danger to public health or welfare or presents a significant threat to public health or the environment, and (iii) which release or threat of release

would have a significant impact on the cost of redeveloping the area.

(b) "Department" means the Department of Commerce and Economic Opportunity.

(c) "Industrial park" means an area in a redevelopment project area suitable for use by any manufacturing, industrial, research, or transportation enterprise, of facilities, including but not limited to factories, mills, processing plants, assembly plants, packing plants, fabricating plants, distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities or railroad facilities. An industrial park may contain space for commercial and other use as long as the expected principal use of the park is industrial and is reasonably expected to result in the creation of a significant number of new permanent full time jobs. An industrial park may also contain related operations and facilities including, but not limited to, business and office support services such as centralized computers, telecommunications, publishing, accounting, photocopying and similar activities and employee services such as child care, health care, food service and similar activities. An industrial park may also include demonstration projects, prototype development, specialized training on developing technology, and pure research in any field related or adaptable to business and industry.

(d) "Research park" means an area in a redevelopment project area suitable for development of a facility or complex that includes research laboratories and related operations. These related operations may include, but are not limited to, business and office support services such as centralized computers, telecommunications, publishing, accounting, photocopying and similar activities, and employee services such as child care, health care, food service and similar activities. A research park may include demonstration projects, prototype development, specialized training on developing technology, and pure research in any field related or adaptable to business and industry.

(e) "Industrial park conservation area" means an area within the boundaries of a redevelopment project area located within the corporate limits of a municipality or within 1 1/2 miles of the corporate limits of a municipality if the area is to be annexed to the municipality, if the area is zoned as industrial no later than the date on which the municipality by ordinance designates the redevelopment project area, and if the area includes improved or vacant land suitable for use as an industrial park or a research park, or both. To be designated as an industrial park conservation area, the area shall also satisfy one of the following standards:

(1) Standard One: The municipality must be a labor surplus municipality and the area must be served by adequate public and or road transportation for access by

the unemployed and for the movement of goods or materials and the redevelopment project area shall contain no more than 2% of the most recently ascertained equalized assessed value of all taxable real properties within the corporate limits of the municipality after adjustment for all annexations associated with the establishment of the redevelopment project area or be located in the vicinity of a waste disposal site or other waste facility. The project plan shall include a plan for and shall establish a marketing program to attract appropriate businesses to the proposed industrial park conservation area and shall include an adequate plan for financing and construction of the necessary infrastructure. No redevelopment projects may be authorized by the municipality under Standard One of subsection (e) of this Section unless the project plan also provides for an employment training project that would prepare unemployed workers for work in the industrial park conservation area, and the project has been approved by official action of or is to be operated by the local community college district, public school district or state or locally designated private industry council or successor agency, or

(2) Standard Two: The municipality must be a substantial labor surplus municipality and the area must be served by adequate public and or road transportation for access by the unemployed and for the movement of goods

or materials and the redevelopment project area shall contain no more than 2% of the most recently ascertained equalized assessed value of all taxable real properties within the corporate limits of the municipality after adjustment for all annexations associated with the establishment of the redevelopment project area. No redevelopment projects may be authorized by the municipality under Standard Two of subsection (e) of this Section unless the project plan also provides for an employment training project that would prepare unemployed workers for work in the industrial park conservation area, and the project has been approved by official action of or is to be operated by the local community college district, public school district or state or locally designated private industry council or successor agency.

(f) "Vacant industrial buildings conservation area" means an area containing one or more industrial buildings located within the corporate limits of the municipality that has been zoned industrial for at least 5 years before the designation of that area as a redevelopment project area by the municipality and is planned for reuse principally for industrial purposes. For the area to be designated as a vacant industrial buildings conservation area, the area shall also satisfy one of the following standards:

(1) Standard One: The area shall consist of one or more industrial buildings totaling at least 50,000 net

square feet of industrial space, with a majority of the total area of all the buildings having been vacant for at least 18 months; and (A) the area is located in a labor surplus municipality or a substantial labor surplus municipality, or (B) the equalized assessed value of the properties within the area during the last 2 years is at least 25% lower than the maximum equalized assessed value of those properties during the immediately preceding 10 years.

(2) Standard Two: The area exclusively consists of industrial buildings or a building complex operated by a user or related users (A) that has within the immediately preceding 5 years either (i) employed 200 or more employees at that location, or (ii) if the area is located in a municipality with a population of 12,000 or less, employed more than 50 employees at that location and (B) either is currently vacant, or the owner has: (i) directly notified the municipality of the user's intention to terminate operations at the facility or (ii) filed a notice of closure under the Worker Adjustment and Retraining Notification Act.

(g) "Labor surplus municipality" means a municipality in which, during the 4 calendar years immediately preceding the date the municipality by ordinance designates an industrial park conservation area, the average unemployment rate was 1% or more over the State average unemployment rate for that same

period of time as published in the United States Department of Labor Bureau of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection (g), if unemployment rate statistics for the municipality are not available, the unemployment rate in the municipality shall be deemed to be: (i) for a municipality that is not in an urban county, the same as the unemployment rate in the principal county where the municipality is located or (ii) for a municipality in an urban county at that municipality's option, either the unemployment rate certified for the municipality by the Department after consultation with the Illinois Department of Labor or the federal Bureau of Labor Statistics, or the unemployment rate of the municipality as determined by the most recent federal census if that census was not dated more than 5 years prior to the date on which the determination is made.

(h) "Substantial labor surplus municipality" means a municipality in which, during the 5 calendar years immediately preceding the date the municipality by ordinance designates an industrial park conservation area, the average unemployment rate was 2% or more over the State average unemployment rate for that same period of time as published in the United States Department of Labor Statistics publication entitled "The Employment Situation" or its successor publication. For the purpose of this subsection (h), if unemployment rate statistics for the municipality are not available, the

unemployment rate in the municipality shall be deemed to be: (i) for a municipality that is not in an urban county, the same as the unemployment rate in the principal county in which the municipality is located; or (ii) for a municipality in an urban county, at that municipality's option, either the unemployment rate certified for the municipality by the Department after consultation with the Illinois Department of Labor or the federal Bureau of Labor Statistics, or the unemployment rate of the municipality as determined by the most recent federal census if that census was not dated more than 5 years prior to the date on which the determination is made.

(i) "Municipality" means a city, village or incorporated town.

(j) "Obligations" means bonds, loans, debentures, notes, special certificates or other evidence of indebtedness issued by the municipality to carry out a redevelopment project or to refund outstanding obligations.

(k) "Payment in lieu of taxes" means those estimated tax revenues from real property in a redevelopment project area derived from real property that has been acquired by a municipality, which according to the redevelopment project or plan are to be used for a private use, that taxing districts would have received had a municipality not acquired the real property and adopted tax increment allocation financing and that would result from levies made after the time of the

adoption of tax increment allocation financing until the time the current equalized assessed value of real property in the redevelopment project area exceeds the total initial equalized assessed value of real property in that area.

(l) "Redevelopment plan" means the comprehensive program of the municipality for development or redevelopment intended by the payment of redevelopment project costs to reduce or eliminate the conditions that qualified the redevelopment project area or redevelopment planning area, or both, as an environmentally contaminated area or industrial park conservation area, or vacant industrial buildings conservation area, or combination thereof, and thereby to enhance the tax bases of the taxing districts that extend into the redevelopment project area or redevelopment planning area. On and after the effective date of this amendatory Act of the 91st General Assembly, no redevelopment plan may be approved or amended to include the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting. Each redevelopment plan must set forth in writing the bases for the municipal findings required in this subsection, the program to be undertaken to

accomplish the objectives, including but not limited to: (1) an itemized list of estimated redevelopment project costs, (2) evidence indicating that the redevelopment project area or the redevelopment planning area, or both, on the whole has not been subject to growth and development through investment by private enterprise, (3) (i) in the case of an environmentally contaminated area, industrial park conservation area, or a vacant industrial buildings conservation area classified under either Standard One, or Standard Two of subsection (f) where the building is currently vacant, evidence that implementation of the redevelopment plan is reasonably expected to create a significant number of permanent full time jobs, (ii) in the case of a vacant industrial buildings conservation area classified under Standard Two (B)(i) or (ii) of subsection (f), evidence that implementation of the redevelopment plan is reasonably expected to retain a significant number of existing permanent full time jobs, and (iii) in the case of a combination of an environmentally contaminated area, industrial park conservation area, or vacant industrial buildings conservation area, evidence that the standards concerning the creation or retention of jobs for each area set forth in (i) or (ii) above are met, (4) an assessment of the financial impact of the redevelopment project area or the redevelopment planning area, or both, on the overlapping taxing bodies or any increased demand for services from any taxing district affected by the plan and any program to

address such financial impact or increased demand, (5) the sources of funds to pay costs, (6) the nature and term of the obligations to be issued, (7) the most recent equalized assessed valuation of the redevelopment project area or the redevelopment planning area, or both, (8) an estimate of the equalized assessed valuation after redevelopment and the general land uses that are applied in the redevelopment project area or the redevelopment planning area, or both, (9) a commitment to fair employment practices and a positive action ~~an affirmative action~~ plan, (10) if it includes an industrial park conservation area, the following: (i) a general description of any proposed developer, (ii) user and tenant of any property, (iii) a description of the type, structure and general character of the facilities to be developed, and (iv) a description of the type, class and number of new employees to be employed in the operation of the facilities to be developed, (11) if it includes an environmentally contaminated area, the following: either (i) a determination of release or substantial threat of release of a hazardous substance or pesticide or of petroleum by the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, or the Illinois Pollution Control Board or any court; or (ii) both an environmental audit report by a nationally recognized independent environmental auditor having a reputation for expertise in these matters and a copy of the signed Review and Evaluation

Services Agreement indicating acceptance of the site by the Illinois Environmental Protection Agency into the Pre-Notice Site Cleanup Program, (12) if it includes a vacant industrial buildings conservation area, the following: (i) a general description of any proposed developer, (ii) user and tenant of any building or buildings, (iii) a description of the type, structure and general character of the building or buildings to be developed, and (iv) a description of the type, class and number of new employees to be employed or existing employees to be retained in the operation of the building or buildings to be redeveloped, and (13) if property is to be annexed to the municipality, the terms of the annexation agreement.

No redevelopment plan shall be adopted by a municipality without findings that:

(1) the redevelopment project area or redevelopment planning area, or both, on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed in accordance with public goals stated in the redevelopment plan without the adoption of the redevelopment plan;

(2) the redevelopment plan and project conform to the comprehensive plan for the development of the municipality as a whole, or, for municipalities with a population of 100,000 or more, regardless of when the redevelopment plan and project was adopted, the redevelopment plan and

project either: (i) conforms to the strategic economic development or redevelopment plan issued by the designated planning authority of the municipality or (ii) includes land uses that have been approved by the planning commission of the municipality;

(3) that the redevelopment plan is reasonably expected to create or retain a significant number of permanent full time jobs as set forth in paragraph (3) of subsection (l) above;

(4) the estimated date of completion of the redevelopment project and retirement of obligations incurred to finance redevelopment project costs is not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.6-35 is to be made with respect to ad valorem taxes levied in the twenty-third calendar year after the year in which the ordinance approving the redevelopment project area is adopted; a municipality may by municipal ordinance amend an existing redevelopment plan to conform to this paragraph (4) as amended by this amendatory Act of the 91st General Assembly concerning ordinances adopted on or after January 15, 1981, which municipal ordinance may be adopted without further hearing or notice and without complying with the procedures provided in this Law pertaining to an amendment to or the initial approval of a redevelopment plan and project and

designation of a redevelopment project area;

(5) in the case of an industrial park conservation area, that the municipality is a labor surplus municipality or a substantial labor surplus municipality and that the implementation of the redevelopment plan is reasonably expected to create a significant number of permanent full time new jobs and, by the provision of new facilities, significantly enhance the tax base of the taxing districts that extend into the redevelopment project area;

(6) in the case of an environmentally contaminated area, that the area is subject to a release or substantial threat of release of a hazardous substance, pesticide or petroleum which presents an imminent and substantial danger to public health or welfare or presents a significant threat to public health or environment, that such release or threat of release will have a significant impact on the cost of redeveloping the area, that the implementation of the redevelopment plan is reasonably expected to result in the area being redeveloped, the tax base of the affected taxing districts being significantly enhanced thereby, and the creation of a significant number of permanent full time jobs; and

(7) in the case of a vacant industrial buildings conservation area, that the area is located within the corporate limits of a municipality that has been zoned

industrial for at least 5 years before its designation as a project redeveloped area, that it contains one or more industrial buildings, and whether the area has been designated under Standard One or Standard Two of subsection (f) and the basis for that designation.

(m) "Redevelopment project" means any public or private development project in furtherance of the objectives of a redevelopment plan. On and after the effective date of this amendatory Act of the 91st General Assembly, no redevelopment plan may be approved or amended to include the development of vacant land (i) with a golf course and related clubhouse and other facilities or (ii) designated by federal, State, county, or municipal government as public land for outdoor recreational activities or for nature preserves and used for that purpose within 5 years prior to the adoption of the redevelopment plan. For the purpose of this subsection, "recreational activities" is limited to mean camping and hunting.

(n) "Redevelopment project area" means a contiguous area designated by the municipality that is not less in the aggregate than 1 1/2 acres, and for which the municipality has made a finding that there exist conditions that cause the area to be classified as an industrial park conservation area, a vacant industrial building conservation area, an environmentally contaminated area or a combination of these types of areas.

(o) "Redevelopment project costs" means the sum total of all reasonable or necessary costs incurred or estimated to be incurred by the municipality, and any of those costs incidental to a redevelopment plan and a redevelopment project. These costs include, without limitation, the following:

(1) Costs of studies, surveys, development of plans, and specifications, implementation and administration of the redevelopment plan, staff and professional service costs for architectural, engineering, legal, marketing, financial, planning, or other services, but no charges for professional services may be based on a percentage of the tax increment collected; except that on and after the effective date of this amendatory Act of the 91st General Assembly, no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years. In addition, "redevelopment project costs" shall not include lobbying expenses. After consultation with the municipality, each tax increment consultant or advisor to a municipality that plans to designate or has designated a redevelopment project area shall inform the municipality in writing of any contracts that the consultant or advisor has entered into with entities or individuals that have received, or are receiving, payments financed by tax increment revenues

produced by the redevelopment project area with respect to which the consultant or advisor has performed, or will be performing, service for the municipality. This requirement shall be satisfied by the consultant or advisor before the commencement of services for the municipality and thereafter whenever any other contracts with those individuals or entities are executed by the consultant or advisor;

(1.5) After July 1, 1999, annual administrative costs shall not include general overhead or administrative costs of the municipality that would still have been incurred by the municipality if the municipality had not designated a redevelopment project area or approved a redevelopment plan;

(1.6) The cost of marketing sites within the redevelopment project area to prospective businesses, developers, and investors.

(2) Property assembly costs within a redevelopment project area, including but not limited to acquisition of land and other real or personal property or rights or interests therein.

(3) Site preparation costs, including but not limited to clearance of any area within a redevelopment project area by demolition or removal of any existing buildings, structures, fixtures, utilities and improvements and clearing and grading; and including installation, repair,

construction, reconstruction, or relocation of public streets, public utilities, and other public site improvements within or without a redevelopment project area which are essential to the preparation of the redevelopment project area for use in accordance with a redevelopment plan.

(4) Costs of renovation, rehabilitation, reconstruction, relocation, repair or remodeling of any existing public or private buildings, improvements, and fixtures within a redevelopment project area; and the cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment.

(5) Costs of construction within a redevelopment project area of public improvements, including but not limited to, buildings, structures, works, utilities or fixtures, except that on and after the effective date of this amendatory Act of the 91st General Assembly, redevelopment project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public

building as provided under paragraph (4) unless either (i) the construction of the new municipal building implements a redevelopment project that was included in a redevelopment plan that was adopted by the municipality prior to the effective date of this amendatory Act of the 91st General Assembly or (ii) the municipality makes a reasonable determination in the redevelopment plan, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the redevelopment plan.

(6) Costs of eliminating or removing contaminants and other impediments required by federal or State environmental laws, rules, regulations, and guidelines, orders or other requirements or those imposed by private lending institutions as a condition for approval of their financial support, debt or equity, for the redevelopment projects, provided, however, that in the event (i) other federal or State funds have been certified by an administrative agency as adequate to pay these costs during the 18 months after the adoption of the redevelopment plan, or (ii) the municipality has been reimbursed for such costs by persons legally responsible for them, such federal, State, or private funds shall, insofar as possible, be fully expended prior to the use of

any revenues deposited in the special tax allocation fund of the municipality and any other such federal, State or private funds received shall be deposited in the fund. The municipality shall seek reimbursement of these costs from persons legally responsible for these costs and the costs of obtaining this reimbursement.

(7) Costs of job training and retraining projects.

(8) Financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued under this Act including interest accruing during the estimated period of construction of any redevelopment project for which the obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related to those costs.

(9) All or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves those costs.

(10) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law.

(11) Payments in lieu of taxes.

(12) Costs of job training, retraining, advanced vocational education or career education, including but not limited to courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one or more taxing districts, if those costs are: (i) related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in a redevelopment project area; and (ii) are incurred by a taxing district or taxing districts other than the municipality and are set forth in a written agreement by or among the municipality and the taxing district or taxing districts, which agreement describes the program to be undertaken, including but not limited to the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. These costs include, specifically, the payment by community college districts of costs under Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs under Sections 10-22.20a and 10-23.3a of the School Code.

(13) The interest costs incurred by redevelopers or

other nongovernmental persons in connection with a redevelopment project, and specifically including payments to redevelopers or other nongovernmental persons as reimbursement for such costs incurred by such redeveloper or other nongovernmental person, provided that:

(A) interest costs shall be paid or reimbursed by a municipality only pursuant to the prior official action of the municipality evidencing an intent to pay or reimburse such interest costs;

(B) such payments in any one year may not exceed 30% of the annual interest costs incurred by the redeveloper with regard to the redevelopment project during that year;

(C) except as provided in subparagraph (E), the aggregate amount of such costs paid or reimbursed by a municipality shall not exceed 30% of the total (i) costs paid or incurred by the redeveloper or other nongovernmental person in that year plus (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by a municipality pursuant to this Act;

(D) interest costs shall be paid or reimbursed by a municipality solely from the special tax allocation fund established pursuant to this Act and shall not be paid or reimbursed from the proceeds of any obligations issued by a municipality;

(E) if there are not sufficient funds available in the special tax allocation fund in any year to make such payment or reimbursement in full, any amount of such interest cost remaining to be paid or reimbursed by a municipality shall accrue and be payable when funds are available in the special tax allocation fund to make such payment.

(14) The costs of construction of new privately owned buildings shall not be an eligible redevelopment project cost.

If a special service area has been established under the Special Service Area Tax Act, then any tax increment revenues derived from the tax imposed thereunder to the Special Service Area Tax Act may be used within the redevelopment project area for the purposes permitted by that Act as well as the purposes permitted by this Act.

(p) "Redevelopment Planning Area" means an area so designated by a municipality after the municipality has complied with all the findings and procedures required to establish a redevelopment project area, including the existence of conditions that qualify the area as an industrial park conservation area, or an environmentally contaminated area, or a vacant industrial buildings conservation area, or a combination of these types of areas, and adopted a redevelopment plan and project for the planning area and its included redevelopment project areas. The area shall not be

designated as a redevelopment planning area for more than 5 years, or 10 years in the case of a redevelopment planning area in the City of Rockford. At any time in the 5 years, or 10 years in the case of the City of Rockford, following that designation of the redevelopment planning area, the municipality may designate the redevelopment planning area, or any portion of the redevelopment planning area, as a redevelopment project area without making additional findings or complying with additional procedures required for the creation of a redevelopment project area. An amendment of a redevelopment plan and project in accordance with the findings and procedures of this Act after the designation of a redevelopment planning area at any time within the 5 years after the designation of the redevelopment planning area, or 10 years after the designation of the redevelopment planning area in the City of Rockford, shall not require new qualification of findings for the redevelopment project area to be designated within the redevelopment planning area.

The terms "redevelopment plan", "redevelopment project", and "redevelopment project area" have the definitions set out in subsections (l), (m), and (n), respectively.

(q) "Taxing districts" means counties, townships, municipalities, and school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium and any other municipal corporations or districts with the power to levy

taxes.

(r) "Taxing districts' capital costs" means those costs of taxing districts for capital improvements that are found by the municipal corporate authorities to be necessary and a direct result of the redevelopment project.

(s) "Urban county" means a county with 240,000 or more inhabitants.

(t) "Vacant area", as used in subsection (a) of this Section, means any parcel or combination of parcels of real property without industrial, commercial and residential buildings that has not been used for commercial agricultural purposes within 5 years before the designation of the redevelopment project area, unless that parcel is included in an industrial park conservation area.

(Source: P.A. 96-606, eff. 8-24-09.)

Section 185. The Economic Development Project Area Tax Increment Allocation Act of 1995 is amended by changing Section 10 as follows:

(65 ILCS 110/10)

Sec. 10. Definitions. In this Act, words or terms have the following meanings:

(a) "Closed military installation" means a former base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United

States Department of the Defense which is not less in the aggregate than 500 acres and which is closed or in the process of being closed by the Secretary of Defense under and pursuant to Title II of the Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), Section 2687 of Title 10 of the United States Code (10 U.S.C. 2687), or an installation, described in subsection (b) of Section 15 of the Joliet Arsenal Development Authority Act, that has been transferred or is in the process of being transferred by the Secretary of the Army pursuant to the Illinois Land Conservation Act (Title XXIX of Public Law 104-106; 16 U.S.C. 1609), as each may be further supplemented or amended.

(b) "Economic development plan" means the written plan of a municipality that sets forth an economic development program for an economic development project area. Each economic development plan shall include but not be limited to (i) estimated economic development project costs, (ii) the sources of funds to pay those costs, (iii) the nature and term of any obligations to be issued by the municipality to pay those costs, (iv) the most recent equalized assessed valuation of the economic development project area, (v) an estimate of the equalized assessed valuation of the economic development project area after completion of an economic development project, (vi) the estimated date of completion of any economic

development project proposed to be undertaken, (vii) a general description of the types of any proposed developers, users, or tenants of any property to be located or improved within the economic development project area, (viii) a description of the type, structure, and general character of the facilities to be developed or improved, (ix) a description of the general land uses to apply in the economic development project area, (x) a general description or an estimate of the type, class, and number of employees to be employed in the operation of the facilities to be developed or improved, and (xi) a commitment by the municipality to fair employment practices and a positive action ~~an affirmative action~~ plan regarding any economic development program to be undertaken by the municipality.

(c) "Economic development project" means any development project furthering the objectives of this Act.

(d) "Economic development project area" means any improved or vacant area that (i) is within or partially within and contiguous to the boundaries of a closed military installation as defined in subsection (a) of this Section (except the installation described in Section 15 of the Joliet Arsenal Development Authority Act) or, only in the case of the installation described in Section 15 of the Joliet Arsenal Development Authority Act, is within or contiguous to the closed military installation, (ii) is located entirely within the territorial limits of a municipality, (iii) is contiguous,

(iv) is not less in the aggregate than 1 1/2 acres, (v) is suitable for siting by a commercial, manufacturing, industrial, research, transportation or residential housing enterprise or facilities to include but not be limited to commercial businesses, offices, factories, mills, processing plants, industrial or commercial distribution centers, warehouses, repair overhaul or service facilities, freight terminals, research facilities, test facilities, transportation facilities or single or multi-family residential housing units, regardless of whether the area has been used at any time for those facilities and regardless of whether the area has been used or is suitable for other uses and (vi) has been approved and certified by the corporate authorities of the municipality pursuant to this Act.

(e) "Economic development project costs" means and includes the total of all reasonable or necessary costs incurred or to be incurred under an economic development project, including, without limitation, the following:

(1) Costs of studies, surveys, development of plans and specifications, and implementation and administration of an economic development plan and personnel and professional service costs for architectural, engineering, legal, marketing, financial planning, police, fire, public works, public utility, or other services. No charges for professional services, however, may be based on a percentage of incremental tax revenues.

(2) Property assembly costs within an economic development project area, including but not limited to acquisition of land and other real or personal property or rights or interests in property.

(3) Site preparation costs, including but not limited to clearance of any area within an economic development project area by demolition or removal of any existing buildings, structures, fixtures, utilities, and improvements and clearing and grading; and including installation, repair, construction, reconstruction, extension or relocation of public streets, public utilities, and other public site improvements located outside the boundaries of an economic development project area that are essential to the preparation of the economic development project area for use with an economic development plan.

(4) Costs of renovation, rehabilitation, reconstruction, relocation, repair, or remodeling of any existing buildings, improvements, equipment, and fixtures within an economic development project area.

(5) Costs of installation or construction within an economic development project area of any buildings, structures, works, streets, improvements, equipment, utilities, or fixtures, whether publicly or privately owned or operated.

(6) Financing costs, including but not limited to all

necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations issued under this Act that accrues during the estimated period of construction of any economic development project for which the obligations are issued and for not more than 36 months after that period, and any reasonable reserves related to the issuance of the obligations.

(7) All or a portion of a taxing district's capital or operating costs resulting from an economic development project necessarily incurred or estimated to be incurred by a taxing district in the furtherance of the objectives of an economic development project, to the extent that the municipality, by written agreement, accepts and approves those costs.

(8) Relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to pay relocation costs by federal or State law.

(9) The estimated tax revenues from real property in an economic development project area acquired by a municipality in furtherance of an economic development project under this Act that, according to the economic development plan, is to be used for a private use (i) that any taxing district would have received had the municipality not adopted tax increment allocation financing for an economic development project area and (ii) that would result from the taxing district's levies

made after the time of the adoption by the municipality of tax increment allocation financing to the time the current equalized assessed value of real property in the economic development project area exceeds the total initial equalized value of real property.

(10) Costs of rebating ad valorem taxes paid by any developer or other nongovernmental person in whose name the general taxes were paid for the last preceding year on any lot, block, tract, or parcel of land in the economic development project area, provided that:

(A) the economic development project area is located in an enterprise zone created under the Illinois Enterprise Zone Act;

(B) the ad valorem taxes shall be rebated only in amounts and for a tax year or years as the municipality and any one or more affected taxing districts have agreed by prior written agreement;

(C) any amount of rebate of taxes shall not exceed the portion, if any, of taxes levied by the municipality or taxing district or districts that is attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the economic development project area over and above the initial equalized assessed value of each property existing at the time property tax allocation financing was adopted for the

economic development project area; and

(D) costs of rebating ad valorem taxes shall be paid by a municipality solely from the special tax allocation fund established under this Act and shall not be paid from the proceeds of any obligations issued by a municipality.

(11) Costs of job training or advanced vocational or career education, including but not limited to courses in occupational, semi-technical, or technical fields leading directly to employment, incurred by one or more taxing districts, but only if the costs are related to the establishment and maintenance of additional job training, advanced vocational education, or career education programs for persons employed or to be employed by employers located in the economic development project area and only if, when the costs are incurred by a taxing district or taxing districts other than the municipality, they shall be set forth in a written agreement by or among the municipality and the taxing district or taxing districts that describes the program to be undertaken, including without limitation the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay the costs, and the term of the agreement. These costs include, specifically, the payment by

community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act and by school districts of costs pursuant to Sections 10-22.20 and 10-23.3a of the School Code.

(12) Private financing costs incurred by a developer or other nongovernmental person in connection with an economic development project, provided that:

(A) private financing costs shall be paid or reimbursed by a municipality only pursuant to the prior official action of the municipality evidencing an intent to pay or reimburse such private financing costs;

(B) except as provided in subparagraph (D), the aggregate amount of the costs paid or reimbursed by a municipality in any one year shall not exceed 30% of the costs paid or incurred by the developer or other nongovernmental person in that year;

(C) private financing costs shall be paid or reimbursed by a municipality solely from the special tax allocation fund established under this Act and shall not be paid from the proceeds of any obligations issued by a municipality; and

(D) if there are not sufficient funds available in the special tax allocation fund in any year to make the payment or reimbursement in full, any amount of the interest costs remaining to be paid or reimbursed by a

municipality shall accrue and be payable when funds are available in the special tax allocation fund to make the payment.

If a special service area has been established under the Special Service Area Tax Act, then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act may be used within the economic development project area for the purposes permitted by that Act as well as the purposes permitted by this Act.

(f) "Municipality" means a city, village, or incorporated town.

(g) "Obligations" means any instrument evidencing the obligation of a municipality to pay money, including without limitation bonds, notes, installment or financing contracts, certificates, tax anticipation warrants or notes, vouchers, and any other evidences of indebtedness.

(h) "Taxing districts" means counties, townships, and school, road, park, sanitary, mosquito abatement, forest preserve, public health, fire protection, river conservancy, tuberculosis sanitarium, and any other districts or other municipal corporations with the power to levy taxes.

(Source: P.A. 91-642, eff. 8-20-99.)

Section 190. The Metropolitan Pier and Exposition Authority Act is amended by changing Sections 23.1 and 26 as follows:

(70 ILCS 210/23.1) (from Ch. 85, par. 1243.1)

Sec. 23.1. Positive action ~~Affirmative action~~.

(a) The Authority shall, within 90 days after the effective date of this amendatory Act of 1984, establish and maintain a positive action ~~an affirmative action~~ program designed to promote equal employment opportunity and eliminate the effects of past discrimination. Such program shall include a plan, including timetables where appropriate, which shall specify goals and methods for increasing participation by women and minorities in employment, including employment related to the planning, organization, and staging of the games, by the Authority and by parties which contract with the Authority. The Authority shall submit a detailed plan with the General Assembly prior to September 1 of each year. Such program shall also establish procedures and sanctions, which the Authority shall enforce to ensure compliance with the plan established pursuant to this Section and with State and federal laws and regulations relating to the employment of women and minorities. A determination by the Authority as to whether a party to a contract with the Authority has achieved the goals or employed the methods for increasing participation by women and minorities shall be determined in accordance with the terms of such contracts or the applicable provisions of rules and regulations of the Authority existing at the time such contract was executed, including any provisions for

consideration of good faith efforts at compliance which the Authority may reasonably adopt.

(b) The Authority shall adopt and maintain minority-owned and women-owned business enterprise procurement programs under the positive action ~~affirmative action~~ program described in subsection (a) for any and all work, including all contracting related to the planning, organization, and staging of the games, undertaken by the Authority. That work shall include, but is not limited to, the purchase of professional services, construction services, supplies, materials, and equipment. The programs shall establish goals of awarding not less than 25% of the annual dollar value of all contracts, purchase orders, or other agreements (collectively referred to as "contracts") to minority-owned businesses and 5% of the annual dollar value of all contracts to women-owned businesses. Without limiting the generality of the foregoing, the programs shall require in connection with the prequalification or consideration of vendors for professional service contracts, construction contracts, and contracts for supplies, materials, equipment, and services that each proposer or bidder submit as part of his or her proposal or bid a commitment detailing how he or she will expend 25% or more of the dollar value of his or her contracts with one or more minority-owned businesses and 5% or more of the dollar value with one or more women-owned businesses. Bids or proposals that do not include such detailed commitments are not responsive and shall be rejected

unless the Authority deems it appropriate to grant a waiver of these requirements. In addition the Authority may, in connection with the selection of providers of professional services, reserve the right to select a minority-owned or women-owned business or businesses to fulfill the commitment to minority and woman business participation. The commitment to minority and woman business participation may be met by the contractor or professional service provider's status as a minority-owned or women-owned business, by joint venture or by subcontracting a portion of the work with or purchasing materials for the work from one or more such businesses, or by any combination thereof. Each contract shall require the contractor or provider to submit a certified monthly report detailing the status of that contractor or provider's compliance with the Authority's minority-owned and women-owned business enterprise procurement program. The Authority, after reviewing the monthly reports of the contractors and providers, shall compile a comprehensive report regarding compliance with this procurement program and file it quarterly with the General Assembly. If, in connection with a particular contract, the Authority determines that it is impracticable or excessively costly to obtain minority-owned or women-owned businesses to perform sufficient work to fulfill the commitment required by this subsection, the Authority shall reduce or waive the commitment in the contract, as may be appropriate. The Authority shall establish rules and

regulations setting forth the standards to be used in determining whether or not a reduction or waiver is appropriate. The terms "minority-owned business" and "women-owned business" have the meanings given to those terms in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(c) The Authority shall adopt and maintain a positive action ~~an affirmative action~~ program in connection with the hiring of minorities and women on the Expansion Project and on any and all construction projects, including all contracting related to the planning, organization, and staging of the games, undertaken by the Authority. The program shall be designed to promote equal employment opportunity and shall specify the goals and methods for increasing the participation of minorities and women in a representative mix of job classifications required to perform the respective contracts awarded by the Authority.

(d) In connection with the Expansion Project, the Authority shall incorporate the following elements into its minority-owned and women-owned business procurement programs to the extent feasible: (1) a major contractors program that permits minority-owned businesses and women-owned businesses to bear significant responsibility and risk for a portion of the project; (2) a mentor/protege program that provides financial, technical, managerial, equipment, and personnel support to minority-owned businesses and women-owned

businesses; (3) an emerging firms program that includes minority-owned businesses and women-owned businesses that would not otherwise qualify for the project due to inexperience or limited resources; (4) a small projects program that includes participation by smaller minority-owned businesses and women-owned businesses on jobs where the total dollar value is $5,000,000 or less; and (5) a set-aside program that will identify contracts requiring the expenditure of funds less than $50,000 for bids to be submitted solely by minority-owned businesses and women-owned businesses.

(e) The Authority is authorized to enter into agreements with contractors' associations, labor unions, and the contractors working on the Expansion Project to establish an Apprenticeship Preparedness Training Program to provide for an increase in the number of minority and women journeymen and apprentices in the building trades and to enter into agreements with Community College District 508 to provide readiness training. The Authority is further authorized to enter into contracts with public and private educational institutions and persons in the hospitality industry to provide training for employment in the hospitality industry.

(f) McCormick Place Advisory Board. There is created a McCormick Place Advisory Board composed as follows: 2 members shall be appointed by the Mayor of Chicago; 2 members shall be appointed by the Governor; 2 members shall be State Senators appointed by the President of the Senate; 2 members shall be

State Senators appointed by the Minority Leader of the Senate; 2 members shall be State Representatives appointed by the Speaker of the House of Representatives; and 2 members shall be State Representatives appointed by the Minority Leader of the House of Representatives. The terms of all previously appointed members of the Advisory Board expire on the effective date of this amendatory Act of the 92nd General Assembly. A State Senator or State Representative member may appoint a designee to serve on the McCormick Place Advisory Board in his or her absence.

A "member of a minority group" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:

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

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

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

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

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

Members of the McCormick Place Advisory Board shall serve 2-year terms and until their successors are appointed, except members who serve as a result of their elected position whose terms shall continue as long as they hold their designated elected positions. Vacancies shall be filled by appointment for the unexpired term in the same manner as original appointments are made. The McCormick Place Advisory Board shall elect its own chairperson.

Members of the McCormick Place Advisory Board shall serve without compensation but, at the Authority's discretion, shall be reimbursed for necessary expenses in connection with the performance of their duties.

The McCormick Place Advisory Board shall meet quarterly, or as needed, shall produce any reports it deems necessary, and shall:

(1) Work with the Authority on ways to improve the area physically and economically;

(2) Work with the Authority regarding potential means for providing increased economic opportunities to minorities and women produced indirectly or directly from

the construction and operation of the Expansion Project;

(3) Work with the Authority to minimize any potential impact on the area surrounding the McCormick Place Expansion Project, including any impact on minority-owned or women-owned businesses, resulting from the construction and operation of the Expansion Project;

(4) Work with the Authority to find candidates for building trades apprenticeships, for employment in the hospitality industry, and to identify job training programs;

(5) Work with the Authority to implement the provisions of subsections (a) through (e) of this Section in the construction of the Expansion Project, including the Authority's goal of awarding not less than 25% and 5% of the annual dollar value of contracts to minority-owned and women-owned businesses, the outreach program for minorities and women, and the mentor/protege program for providing assistance to minority-owned and women-owned businesses.

(g) The Authority shall comply with subsection (e) of Section 5-42 of the Olympic Games and Paralympic Games (2016) Law. For purposes of this Section, the term "games" has the meaning set forth in the Olympic Games and Paralympic Games (2016) Law.

(Source: P.A. 100-391, eff. 8-25-17.)

(70 ILCS 210/26) (from Ch. 85, par. 1246)

Sec. 26. (a) As soon after the end of each fiscal year as may be expedient, the Board shall cause to be prepared and printed a complete and detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the Governor, the Mayor, the General Assembly and the Park District President. Within 6 months after the effective date of this amendatory Act of 1985, or as soon thereafter as is possible, the Authority shall adopt an accounting system which shall not be implemented until it has been approved by the Auditor General as appropriate for the Authority's operations.

(b) With respect to construction by the Authority funded in whole or in part with State or borrowed funds, including the Project, the Authority shall prepare a monthly report of the progress of construction. The report shall include a discussion of: (1) the status of construction; (2) delays or anticipated delays in the completion of the construction; (3) cost overruns; (4) funds available for construction and the current construction budget; (5) the status of the implementation of the Authority's positive action ~~affirmative action~~ program by contractor, trade and levels of skill; and (6) any problems, or anticipated problems, with respect to construction or costs of construction. The monthly reports

required by this Section shall be submitted to the Governor, the Mayor and the General Assembly.

In connection with any construction by the Authority funded in whole or in part by State or borrowed funds, including the Project, the Authority will, when such construction is to be done by a general contractor or a construction manager operating in a general contractor capacity, institute a quality assurance program, including independent quality control inspections. The Authority will file not less frequently than quarterly written reports on the results of its quality assurance program with the Governor, the Mayor and the General Assembly.

(Source: P.A. 84-1027.)

Section 195. The Cook County Forest Preserve District Act is amended by changing Section 14 as follows:

(70 ILCS 810/14) (from Ch. 96 1/2, par. 6417)

Sec. 14. The board, as corporate authority of a forest preserve district, shall have power to pass and enforce all necessary ordinances, rules and regulations for the management of the property and conduct of the business of such district. The president of such board shall have power to appoint a secretary and an assistant secretary, and treasurer and an assistant treasurer and such other officers and such employees as may be necessary, all of whom, excepting the treasurer and

attorneys, shall be under civil service rules and regulations, as provided in Section 17 of this Act. The assistant secretary and assistant treasurer shall perform the duties of the secretary and treasurer, respectively, in case of death of said officers or when said officers are unable to perform the duties of their respective offices because of absence or inability to act. All contracts for supplies, material or work involving an expenditure by forest preserve districts in excess of $25,000 shall be let to the lowest responsible bidder, after due advertisement, excepting work requiring personal confidence or necessary supplies under the control of monopolies, where competitive bidding is impossible. Contracts for supplies, material or work involving an expenditure of $25,000 or less may be let without advertising for bids, but whenever practicable, at least 3 competitive bids shall be obtained before letting such contract. Notwithstanding the provisions of this Section, a forest preserve district may establish procedures to comply with State and federal regulations concerning positive action ~~affirmative action~~ and the use of small businesses or businesses owned by minorities or women in construction and procurement contracts. All contracts for supplies, material or work shall be signed by the president of the board or by any such other officer as the board in its discretion may designate.

Salaries of employees shall be fixed by ordinance.

(Source: P.A. 99-264, eff. 1-1-16.)

Section 200. The Chicago Park District Act is amended by changing Section 16a as follows:

(70 ILCS 1505/16a) (from Ch. 105, par. 333.16a)

Sec. 16a. Personnel code.

(a) Notwithstanding the provisions of the Park System Civil Service Act or the provisions of any other law, the board of commissioners by ordinance may establish a personnel code for the Chicago Park District creating a system of personnel administration based on merit principles and scientific methods.

(b) The passage by the board of commissioners of a personnel code that complies with the provisions of this Section shall suspend the applicability to the Chicago Park District of the Park System Civil Service Act. That Act shall again become applicable to the Chicago Park District immediately upon the repeal by the board of commissioners of the personnel code or of any provision of that Code that is required by this Section.

(c) Any personnel code passed by the board of commissioners under the authority of this Section shall contain provisions necessary to create a personnel system based on merit principles and scientific methods and shall at a minimum contain the following provisions:

(1) The code shall create the office of Director of

Human Resources. The Director of Human Resources shall be a resident of the district and shall be appointed by the board of commissioners.

(2) The code shall provide for a personnel board consisting of 3 members. Two members shall be commissioners and the third shall be the Director of Human Resources or the person lawfully acting in that capacity. Terms for members shall be prescribed by the personnel code. The commissioner members of the personnel board shall serve without compensation but shall be reimbursed for necessary travel and other expenses. The personnel board may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any hearing authorized by this Section. Any circuit court, upon application by the personnel board or any member of the board, may, in its discretion, compel the attendance of witnesses, the production of books and papers, and the giving of testimony before the board or its hearing officer in relation to a hearing. Any person who shall refuse to comply with a lawfully served order to appear or testify before the personnel board or its hearing officer, or to produce books and papers relevant to the hearing as commanded in a lawfully served subpoena, shall be guilty of a Class B misdemeanor. Any person who, having taken an oath or made affirmation before the board or its hearing officer, knowingly swears or affirms falsely is guilty of

perjury and upon conviction shall be punished accordingly.

(3) The code shall subject all positions of employment in the Park District to the jurisdiction of the personnel board, with the exception of offices or high-ranking senior executive positions, confidential positions, or special program positions that cannot be subject to career service due to program requirements. The board of commissioners shall, by resolution, specifically exempt those offices or positions from the jurisdiction of the personnel board.

(4) The substantive provisions of the code shall provide, at a minimum, for the following:

(A) With the exceptions listed below, all vacancies in positions of employment subject to the jurisdiction of the personnel board shall be filled only after providing reasonable public notice of the vacancy and inviting those who meet the published minimum requirements for the position as further provided in this Section to apply for it. The district shall specify in the announcement of the vacancy the minimum requirements necessary to be considered for the position, as contained in the official position description for the position. The district shall specify in the announcement of the vacancy whether competition for the vacancy is open to non-employees of the district, or to employees of the district, or to

both. The district may dispense with this requirement of public announcement when a vacancy, for reasons promoting the efficiency of the district service, is to be filled by demotion, recall from layoff or leave of absence, or lateral transfer of an employee; or as the result of a lawful order of a court, arbitrator, or administrative agency; or as the result of a bona fide settlement of a legal claim; or in accordance with the provisions of this Section governing emergency appointments; or as a result of a reclassification of an employee's job title made in accordance with rules prescribed by the district for correcting misclassifications; or as the result of a need to correct or avoid violations of any ethics ordinance of the district.

(B) All vacancies that have been publicly announced in accordance with the provisions of subparagraph (A) of this paragraph (4) shall thereafter be filled by a competitive evaluation of the relative qualifications of those who apply for it. Any method of evaluation shall be reasonably designed to select candidates on the basis of job-related criteria. The personnel board shall prescribe by rule the various methods of evaluation that may be used. The public announcement of the vacancy shall specify the method that will be used for the particular

vacancy. The Director of Human Resources shall document the process of conducting each competitive evaluation for each vacancy in sufficient detail that the personnel board may determine the process by which, and the basis on which, the person selected to fill the vacancy was selected.

(C) The district, where it determines that it is in the interest of the efficiency of the service, may specify reasonable lines of promotion or "career ladder" progressions grouping related positions. The district may, in its discretion, restrict competition for a particular vacancy (i) to existing employees who seek promotion to that vacancy from the position class at the next lower step in the relevant line of promotion or career ladder progression or (ii) if there is no such lower step, to existing employees seeking promotion from a particular job classification or classifications whose duties are reasonably related to the duties of the vacancy being filled. No restriction of competition for a vacancy to be filled by promotion shall be applied unless the line of promotion or similar restriction has first been approved by the personnel board.

(D) Persons appointed to a position of permanent employment shall acquire "career service" status following successful completion of a 6-month period of

probation.

(E) The district may prescribe reasonable rules that extend appropriate preference in filling vacancies to qualified persons who have been members of the armed forces of the United States in time of hostilities with a foreign country or to qualified persons who, while citizens of the United States, were members of the armed forces of allies of the United States in time of hostilities with a foreign country. A "time of hostilities with a foreign country" means the period of time from December 7, 1941, to December 31, 1945, and from June 27, 1950, to December 31, 1976 and during any other period prescribed by the Board of Commissioners to take account of periods in which the armed forces were subjected to the risks of hostilities with a foreign country. To qualify for this preference, a person must have served in the armed forces for at least 6 months, been discharged on the ground of hardship, or been released from active duty because of a service-connected disability; the person must not have received a dishonorable discharge.

(F) The district may make emergency appointments without public announcement or competition where immediate appointment is required for reasons of the security or safety of the public or of the district's

property. Emergency appointments shall be immediately reported to the personnel board, which may disapprove them and order them ended. No emergency appointment may last more than 30 days, and no emergency appointment shall be renewed.

(G) The district may make temporary appointments to positions in which it is determined by the personnel board that the continuous services of the employee will be needed for less than 12 months. Appointments shall be made by public announcement and competitive methods as provided in subparagraph (A) of this paragraph (4), but the employee thus appointed shall not acquire career service status during the period of his or her temporary appointment.

(H) The district may transfer employees without competitive procedures from a position to a similar position involving similar qualifications, duties, responsibilities, and salary ranges.

(I) The district may make layoffs by reason of lack of funds or work, abolition of a position, or material change in duties or organization. The personnel code may provide for reemployment of employees so laid off, giving consideration in both layoffs and reemployment to performance record, seniority in service, and impact on achieving equal employment opportunity goals.

(J) Any employee with career service status shall be discharged or suspended without pay for more than 30 days only for cause and only upon written charges for the discharge or suspension. The employee shall have an opportunity to appeal the action to the personnel board and to receive a hearing before the personnel board or a hearing officer appointed by it. The district may suspend, without pay, the charged employee pending a hearing and determination of an appeal by the personnel board. All final administrative decisions by the personnel board discharging or suspending, for more than 30 days, an employee with career service status are subject to judicial review under the Administrative Review Law.

(K) The district shall extend, to persons who are working in a position in which they lawfully acquired civil service status by virtue of being examined under the Park System Civil Service Act, career service status in that position without further examination.

(L) In filling any position subject to the jurisdiction of the personnel board and not exempted under paragraph (3) of subsection (c), the district shall take no account, whether favorably or unfavorably, of any candidate's political affiliation, political preferences or views, or service to any political party or organization. The district shall

maintain procedures through which employees may complain of violations of this prohibition and through which any established violation may be corrected.

(M) The district shall provide, by rule of the personnel board, by collective bargaining agreements with the appropriate collective bargaining representatives, or both, for continued recognition of any right acquired on or before the effective date of this amendatory Act of 1991 by an employee of the district to be employed or reemployed, as the result of a layoff or a recall, in a position in which the employee previously held civil service status. Those previously acquired rights may be modified by mutual agreement between the district and the appropriate collective bargaining representative.

(N) The code shall provide that in filling vacancies, the district will follow the provisions of any lawful positive action ~~affirmative action~~ plan approved by the board of commissioners.

(O) The code shall set forth specific standards of employee performance that all district employees shall be required to follow.

(5) The code shall provide for the preparation, maintenance, and revision by the personnel board of a position classification plan for all positions of employment within the district, based on similarity of

duties performed, responsibilities assigned, and conditions of employment, so that the same schedule of pay may be equitably applied to all positions in the same class. Every class of positions shall have a position description approved by the personnel board, specifying the duties expected of the occupant of the position, the minimum requirements of education, training, or experience required for the position, and any other information the personnel board by rule may prescribe for inclusion in the position descriptions. No position shall be filled, and no salary or other remuneration paid to an occupant of a position, until the position has been incorporated by the personnel board into the position classification plan.

(6) The code shall provide for the preparation, maintenance, and revision of a pay plan. The pay plan shall be approved, and all revisions to it shall be approved, by the board of commissioners. The pay plan shall assign rates of pay to each position within the approved position classification plan of the district. No salary for any position of employment in the district shall be paid unless and until that position has been lawfully included in the pay plan. Nothing in this Section shall relieve the district from the obligation to bargain over rates of pay under the Illinois Public Labor Relations Act or any other statute that regulates the labor relations of the district.

(7) The code shall provide that no disbursing or auditing officer of the district shall make or approve any payment for personal service to any person holding a position in the service of the district unless the payroll voucher or account of the payment bears the certification of the Director of Human Resources that each person named therein has been appointed and employed in accordance with the provisions of the personnel code and the provisions of this Section. The certification shall be based either upon verification of the individual items in each payroll period or upon procedures developed for avoiding unnecessary repetitive verification when other evidence of compliance with applicable laws and rules is available. The procedures may be based either upon a continuation of payroll preparation by individual departments or upon the use of a central payroll preparation unit. The Director of Human Resources shall furnish the personnel board with a copy of each payroll as certified.

(Source: P.A. 91-918, eff. 7-7-00.)

Section 205. The Metropolitan Water Reclamation District Act is amended by changing Section 11.3 as follows:

(70 ILCS 2605/11.3) (from Ch. 42, par. 331.3)

Sec. 11.3. Except as provided in Sections 11.4 and 11.5, all purchase orders or contracts involving amounts in excess

of the mandatory competitive bid threshold and made by or on behalf of the sanitary district for labor, services or work, the purchase, lease or sale of personal property, materials, equipment or supplies, or the granting of any concession, shall be let by free and open competitive bidding after advertisement, to the lowest responsible bidder or to the highest responsible bidder, as the case may be, depending upon whether the sanitary district is to expend or receive money.

All such purchase orders or contracts which shall involve amounts that will not exceed the mandatory competitive bid threshold, shall also be let in the manner prescribed above whenever practicable, except that after solicitation of bids, such purchase orders or contracts may be let in the open market, in a manner calculated to insure the best interests of the public. The provisions of this section are subject to any contrary provisions contained in "An Act concerning the use of Illinois mined coal in certain plants and institutions", filed July 13, 1937, as heretofore and hereafter amended. For purposes of this Section, the "mandatory competitive bid threshold" is a dollar amount equal to 0.1% of the total general fixed assets of the district as reported in the most recent required audit report. In no event, however, shall the mandatory competitive bid threshold dollar amount be less than $10,000 or more than $40,000.

If a unit of local government performs non-emergency construction, alteration, repair, improvement, or maintenance

work on the public way, the sanitary district may enter into an intergovernmental agreement with the unit of local government allowing similar construction work to be performed by the sanitary district on the same project, in an amount no greater than $100,000, to save taxpayer funds and eliminate duplication of government effort. The sanitary district and the other unit of local government shall, before work is performed by either unit of local government on a project, adopt a resolution by a majority vote of both governing bodies certifying work will occur at a specific location, the reasons why both units of local government require work to be performed in the same location, and the projected cost savings if work is performed by both units of local government on the same project. Officials or employees of the sanitary district may, if authorized by resolution, purchase in the open market any supplies, materials, equipment, or services for use within the project in an amount no greater than $100,000 without advertisement or without filing a requisition or estimate. A full written account of each project performed by the sanitary district and a requisition for the materials, supplies, equipment, and services used by the sanitary district required to complete the project must be submitted by the officials or employees authorized to make purchases to the board of trustees of the sanitary district no later than 30 days after purchase. The full written account must be available for public inspection for at least one year after expenditures are

made.

Notwithstanding the provisions of this Section, the sanitary district is expressly authorized to establish such procedures as it deems appropriate to comply with state or federal regulations as to positive action ~~affirmative action~~ and the utilization of small and minority businesses in construction and procurement contracts.

(Source: P.A. 100-882, eff. 8-14-18.)

Section 210. The Illinois Sports Facilities Authority Act is amended by changing Section 9 as follows:

(70 ILCS 3205/9) (from Ch. 85, par. 6009)

Sec. 9. Duties. In addition to the powers set forth elsewhere in this Act, subject to the terms of any agreements with the holders of the Authority's bonds or notes, the Authority shall:

(1) Comply with all zoning, building, and land use controls of the municipality within which is located any stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds

issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and reasonable provisions with respect to termination, default and legal remedies.

(3) With respect to a facility owned or to be owned by a governmental owner other than the Authority, enter into an assistance agreement with either a governmental owner of a facility or its tenant, or both, that requires the tenant, or if the tenant is not a party to the assistance agreement requires the governmental owner to enter into an agreement with the tenant that requires the tenant to use the facility for a period at least as long as the term of any bonds issued to finance the reconstruction, renovation, remodeling, extension or improvement of all or substantially all of the facility.

(4) Create and maintain a separate financial reserve for repair and replacement of capital assets of any facility owned by the Authority or for which the Authority provides financial assistance and deposit into this reserve not less than $1,000,000 per year for each such facility beginning at such time as the Authority and the tenant, or the Authority and a governmental owner of a facility, as applicable, shall agree.

(5) In connection with prequalification of general contractors for the construction of a new stadium facility or the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of an existing facility, the Authority shall require submission of a commitment detailing how the general contractor will expend 25% or more of the dollar value of the general contract with one or more minority-owned businesses and 5% or more of the dollar value with one or more women-owned businesses. This commitment may be met by contractor's status as a minority-owned businesses or women-owned businesses, by a joint venture or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new stadium facility and any contract for the reconstruction, renovation, remodeling, adding to, extension or improvement of all or substantially all of an existing facility shall require the general contractor to meet the foregoing obligations and shall require monthly reporting to the Authority with respect to the status of the implementation of the contractor's positive action ~~affirmative action~~ plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall establish and maintain a positive action ~~an affirmative action~~ program

designed to promote equal employment opportunity which specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this paragraph. The terms "minority-owned businesses", "women-owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(6) Provide for the construction of any new facility pursuant to one or more contracts which require delivery of a completed facility at a fixed maximum price to be insured or guaranteed by a third party determined by the Authority to be financially capable of causing completion of such construction of the new facility.

In connection with any assistance agreement with a governmental owner that provides financial assistance for a facility to be used by a National Football League team, the assistance agreement shall provide that the Authority or its agent shall enter into the contract or contracts for the design and construction services or design/build services for such facility and thereafter transfer its rights and obligations under the contract or contracts to the

governmental owner of the facility. In seeking parties to provide design and construction services or design/build services with respect to such facility, the Authority may use such procurement procedures as it may determine, including, without limitation, the selection of design professionals and construction managers or design/builders as may be required by a team that is at risk, in whole or in part, for the cost of design and construction of the facility.

An assistance agreement may not provide, directly or indirectly, for the payment to the Chicago Park District of more than a total of $10,000,000 on account of the District's loss of property or revenue in connection with the renovation of a facility pursuant to the assistance agreement.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 215. The Downstate Illinois Sports Facilities Authority Act is amended by changing Section 40 as follows:

(70 ILCS 3210/40)

Sec. 40. Duties.

(a) In addition to the powers set forth elsewhere in this Act, subject to the terms of any agreements with the holders of the Authority's evidences of indebtedness, the Authority shall do the following:

(1) Comply with all zoning, building, and land use controls of the municipality within which is located any

stadium facility owned by the Authority or for which the Authority provides financial assistance.

(2) Enter into a loan agreement with an owner of a facility to finance the acquisition, construction, maintenance, or rehabilitation of the facility. The agreement shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies. The loan may be at below-market interest rates.

(3) Create and maintain a financial reserve for repair and replacement of capital assets.

(b) In a loan agreement for the construction of a new facility, in connection with prequalification of general contractors for construction of the facility, the Authority shall require that the owner of the facility require submission of a commitment detailing how the general contractor will expend 25% or more of the dollar value of the general contract with one or more minority-owned businesses and 5% or more of the dollar value with one or more women-owned businesses. This commitment may be met by contractor's status as a minority-owned businesses or women-owned businesses, by a joint venture, or by subcontracting a portion of the work with or by purchasing materials for the work from one or more such businesses, or by any combination thereof. Any contract with the general contractor for construction of the new facility shall require the general contractor to meet the foregoing obligations and shall require monthly reporting to the

Authority with respect to the status of the implementation of the contractor's positive action ~~affirmative action~~ plan and compliance with that plan. This report shall be filed with the General Assembly. The Authority shall require that the facility owner establish and maintain a positive action ~~an affirmative action~~ program designed to promote equal employment opportunity and that specifies the goals and methods for increasing participation by minorities and women in a representative mix of job classifications required to perform the respective contracts. The Authority shall file a report before March 1 of each year with the General Assembly detailing its implementation of this subsection. The terms "minority-owned businesses" and "women-owned businesses" have the meanings provided in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(c) With respect to a facility owned or to be owned by the Authority, enter or have entered into a management agreement with a tenant of the Authority to operate the facility that requires the tenant to operate the facility for a period at least as long as the term of any bonds issued to finance the development, establishment, construction, erection, acquisition, repair, reconstruction, remodeling, adding to, extension, improvement, equipping, operation, and maintenance of the facility. Such agreement shall contain appropriate and reasonable provisions with respect to termination, default, and legal remedies.

(Source: P.A. 100-391, eff. 8-25-17.)

Section 220. The Regional Transportation Authority Act is amended by changing Sections 2.02, 2.14, 3A.05, and 3B.05 as follows:

(70 ILCS 3615/2.02) (from Ch. 111 2/3, par. 702.02)

Sec. 2.02. Purchase of service contracts; grants.

(a) The Service Boards may purchase public transportation from transportation agencies upon such terms and conditions as may be set forth in purchase of service agreements between the Service Boards and the transportation agencies.

(b) Grants may be made either by: (i) the Authority to a Service Board; or (ii) a Service Board to either a transportation agency or another Service Board, all for operating and other expenses, or for developing or planning public transportation or for constructing or acquiring public transportation facilities, all upon such terms and conditions as that Service Board or the Authority shall prescribe or as that Service Board and the Authority or that Service Board and the transportation agency shall agree in any grant contract.

(c) The Board shall adopt, to the extent it determines feasible, guidelines setting forth uniform standards for the making of grants and purchase of service agreements. Such grant contracts or purchase of service agreements may be for such number of years or duration as the parties shall agree.

Any purchase of service agreement with a transportation agency which is not a public body shall be upon terms and conditions which will allow the transportation agency to receive for the public transportation provided pursuant to the agreement net income, after reasonable deductions for depreciation and other proper and necessary reserves, equal to an amount which is a reasonable return upon the value of such portion of the transportation agency's property as is used and useful in rendering such transportation service. This paragraph shall be construed in a manner consistent with the principles applicable to such a transportation agency in rate proceedings under the Public Utilities Act. This paragraph shall not be construed to provide for the funding of reserves or guarantee that such a transportation agency shall in fact receive any return. A Service Board shall, within 180 days after receiving a written request from a transportation agency which is not a public body, tender and offer to enter into with such transportation agency a purchase of service agreement that is in conformity with this Act and that covers the public transportation services by rail (other than experimental or demonstration services) which such agency is providing at the time of such request and which services either were in operation for at least one year immediately preceding the effective date of this Act or were in operation pursuant to a purchase of service or grant agreement with the Authority or Service Board. No such tender by a Service Board need be made

before April 1, 1975. The first purchase of service agreement so requested shall not, unless the parties agree otherwise, become effective prior to June 30, 1975. If, following such a request and tender, a Service Board and the transportation agency do not agree upon the amount of compensation to be provided to the agency by the Service Board under the purchase of service agreement or fares and charges under the purchase of service agreement, either of them may submit such unresolved issues to the Illinois Commerce Commission for determination. The Commission shall determine the unresolved issues in conformity with this Act. The Commission's determination shall be set forth in writing, together with such terms as are agreed by the parties and any other unresolved terms as tendered by the Service Board, in a single document which shall constitute the entire purchase of service agreement between the Service Board and the transportation agency, which agreement, in the absence of contrary agreement by the parties, shall be for a term of 3 years effective as of July 1, 1975, or, if the agreement is requested to succeed a currently effective or recently expired purchase of service agreement between the parties, as of the date of such expiration. The decision of the Commission shall be binding upon the Service Board and the transportation agency, subject to judicial review as provided in the Public Utilities Act, but the parties may at any time mutually amend or terminate a purchase of service agreement. Prompt settlement between the

parties shall be made of any sums owing under the terms of the purchase of service agreement so established for public transportation services performed on and after the effective date of any such agreement. If the Authority reduces the amount of operating subsidy available to a Service Board under the provisions of Section 4.09 or Section 4.11, the Service Board shall, from those funds available to it under Section 4.02, first discharge its financial obligations under the terms of a purchase of service contract to any transportation agency which is not a public body, unless such transportation agency has failed to take any action requested by the Service Board, which under the terms of the purchase of service contract the Service Board can require the transportation agency to take, which would have the effect of reducing the financial obligation of the Service Board to the transportation agency. The provisions of this paragraph (c) shall not preclude a Service Board and a transportation agency from otherwise entering into a purchase of service or grant agreement in conformity with this Act or an agreement for the Authority or a Service Board to purchase or a Service Board to operate that agency's public transportation facilities, and shall not limit the exercise of the right of eminent domain by the Authority pursuant to this Act.

(d) Any transportation agency providing public transportation pursuant to a purchase of service or grant agreement with the Authority or a Service Board shall be

subject to the Illinois Human Rights Act and the remedies and procedures established thereunder. Such agency shall file a positive action ~~an affirmative action~~ program for employment by it with regard to public transportation so provided with the Department of Human Rights within one year of the purchase of service or grant agreement, to ensure that applicants are employed and that employees are treated during employment, without unlawful discrimination. Such positive action ~~affirmative action~~ program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation. No unlawful discrimination as defined and prohibited in the Illinois Human Rights Act in any such employment shall be made in any term or aspect of employment and discrimination based upon political reasons or factors shall be prohibited.

(e) A Service Board, subject to the provisions of paragraph (c) of this Section, may not discriminate against a transportation agency with which it has a purchase of service contract or grant agreement in any condition affecting the operation of the public transportation facility including the level of subsidy provided, the quality or standard of public transportation to be provided or in meeting the financial obligations to transportation agencies under the terms of a purchase of service or grant contract. Any transportation agency that believes that a Service Board is discriminating

against it may, after attempting to resolve the alleged discrimination by meeting with the Service Board with which it has a purchase of service or grant contract, appeal to the Authority. The Board shall name 3 of its members, other than a member of the board of the concerned Service Board, to serve as a panel to arbitrate the dispute. The panel shall render a recommended decision to the Board which shall be binding on the Service Board and the transportation agency if adopted by the Board. The panel may not require the Service Board to take any action which would increase the operating budget of the Service Board. The decision of the Board shall be enforceable in a court of general jurisdiction.

(Source: P.A. 100-863, eff. 8-14-18.)

(70 ILCS 3615/2.14) (from Ch. 111 2/3, par. 702.14)

Sec. 2.14. Appointment of Officers and Employees. The Authority may appoint, retain and employ officers, attorneys, agents, engineers and employees. The officers shall include an Executive Director, who shall be the chief executive officer of the Authority, appointed by the Chairman with the concurrence of 11 of the other then Directors of the Board. The Executive Director shall organize the staff of the Authority, shall allocate their functions and duties, shall transfer such staff to the Suburban Bus Division and the Commuter Rail Division as is sufficient to meet their purposes, shall fix compensation and conditions of employment of the staff of the

Authority, and consistent with the policies of and direction from the Board, take all actions necessary to achieve its purposes, fulfill its responsibilities and carry out its powers, and shall have such other powers and responsibilities as the Board shall determine. The Executive Director must be an individual of proven transportation and management skills and may not be a member of the Board. The Authority may employ its own professional management personnel to provide professional and technical expertise concerning its purposes and powers and to assist it in assessing the performance of the Service Boards in the metropolitan region.

No employee, officer, or agent of the Authority may receive a bonus that exceeds 10% of his or her annual salary unless that bonus has been reviewed by the Board for a period of 14 days. After 14 days, the contract shall be considered reviewed. This Section does not apply to usual and customary salary adjustments.

No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors. The Authority shall establish regulations to insure that its discharges shall not be arbitrary and that hiring and promotion are based on merit.

The Authority shall be subject to the "Illinois Human Rights Act", as now or hereafter amended, and the remedies and procedure established thereunder. The Authority shall file a

positive action ~~an affirmative action~~ program for employment by it with the Department of Human Rights to ensure that applicants are employed and that employees are treated during employment, without regard to unlawful discrimination. Such a positive action ~~affirmative action~~ program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation.

(Source: P.A. 98-1027, eff. 1-1-15.)

(70 ILCS 3615/3A.05) (from Ch. 111 2/3, par. 703A.05)

Sec. 3A.05. Appointment of officers and employees. The Suburban Bus Board shall appoint an Executive Director who shall be the chief executive officer of the Division, appointed, retained or dismissed with the concurrence of 9 of the directors of the Suburban Bus Board. The Executive Director shall appoint, retain and employ officers, attorneys, agents, engineers, employees and shall organize the staff, shall allocate their functions and duties, fix compensation and conditions of employment, and consistent with the policies of and direction from the Suburban Bus Board take all actions necessary to achieve its purposes, fulfill its responsibilities and carry out its powers, and shall have such other powers and responsibilities as the Suburban Bus Board shall determine. The Executive Director shall be an individual of proven transportation and management skills and may not be

a member of the Suburban Bus Board. The Division may employ its own professional management personnel to provide professional and technical expertise concerning its purposes and powers and to assist it in assessing the performance of transportation agencies in the metropolitan region.

No employee, officer, or agent of the Suburban Bus Board may receive a bonus that exceeds 10% of his or her annual salary unless that bonus has been reviewed by the Regional Transportation Authority Board for a period of 14 days. After 14 days, the contract shall be considered reviewed. This Section does not apply to usual and customary salary adjustments.

No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors. The Suburban Bus Board shall establish regulations to insure that its discharges shall not be arbitrary and that hiring and promotion are based on merit.

The Division shall be subject to the "Illinois Human Rights Act", as now or hereafter amended, and the remedies and procedure established thereunder. The Suburban Bus Board shall file <u>a positive action</u> ~~an affirmative action~~ program for employment by it with the Department of Human Rights to ensure that applicants are employed and that employees are treated during employment, without regard to unlawful discrimination.

Such positive action ~~affirmative action~~ program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation.

(Source: P.A. 98-1027, eff. 1-1-15.)

(70 ILCS 3615/3B.05) (from Ch. 111 2/3, par. 703B.05)

Sec. 3B.05. Appointment of officers and employees. The Commuter Rail Board shall appoint an Executive Director who shall be the chief executive officer of the Division, appointed, retained or dismissed with the concurrence of 8 of the directors of the Commuter Rail Board. The Executive Director shall appoint, retain and employ officers, attorneys, agents, engineers, employees and shall organize the staff, shall allocate their functions and duties, fix compensation and conditions of employment, and consistent with the policies of and direction from the Commuter Rail Board take all actions necessary to achieve its purposes, fulfill its responsibilities and carry out its powers, and shall have such other powers and responsibilities as the Commuter Rail Board shall determine. The Executive Director shall be an individual of proven transportation and management skills and may not be a member of the Commuter Rail Board. The Division may employ its own professional management personnel to provide professional and technical expertise concerning its purposes and powers and to assist it in assessing the performance of

transportation agencies in the metropolitan region.

No employee, officer, or agent of the Commuter Rail Board may receive a bonus that exceeds 10% of his or her annual salary unless that bonus has been reviewed by the Regional Transportation Authority Board for a period of 14 days. After 14 days, the contract shall be considered reviewed. This Section does not apply to usual and customary salary adjustments.

No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors. The Commuter Rail Board shall establish regulations to insure that its discharges shall not be arbitrary and that hiring and promotion are based on merit.

The Division shall be subject to the "Illinois Human Rights Act", as now or hereafter amended, and the remedies and procedure established thereunder. The Commuter Rail Board shall file a positive action ~~an affirmative action~~ program for employment by it with the Department of Human Rights to ensure that applicants are employed and that employees are treated during employment, without regard to unlawful discrimination. Such positive action ~~affirmative action~~ program shall include provisions relating to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, selection for training and rates of pay or other forms of compensation.

(Source: P.A. 98-1027, eff. 1-1-15.)

Section 225. The School Code is amended by changing Sections 10-23.5 and 24-12 as follows:

(105 ILCS 5/10-23.5) (from Ch. 122, par. 10-23.5)

Sec. 10-23.5. Educational support personnel employees.

(a) To employ such educational support personnel employees as it deems advisable and to define their employment duties; provided that residency within any school district shall not be considered in determining the employment or the compensation of any such employee, or whether to retain, promote, assign or transfer such employee. If an educational support personnel employee is removed or dismissed or the hours he or she works are reduced as a result of a decision of the school board (i) to decrease the number of educational support personnel employees employed by the board or (ii) to discontinue some particular type of educational support service, written notice shall be mailed to the employee and also given to the employee either by certified mail, return receipt requested, or personal delivery with receipt, at least 30 days before the employee is removed or dismissed or the hours he or she works are reduced, together with a statement of honorable dismissal and the reason therefor if applicable. However, if a reduction in hours is due to an unforeseen reduction in the student population, then the written notice

must be mailed and given to the employee at least 5 days before the hours are reduced. The employee with the shorter length of continuing service with the district, within the respective category of position, shall be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and any exclusive bargaining agent and except that this provision shall not impair the operation of any positive action ~~affirmative action~~ program in the district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board. If the board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available within a specific category of position shall be tendered to the employees so removed or dismissed from that category or any other category of position, so far as they are qualified to hold such positions. Each board shall, in consultation with any exclusive employee representative or bargaining agent, each year establish a list, categorized by positions, showing the length of continuing service of each full time educational support personnel employee who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be

distributed to the exclusive employee representative or bargaining agent on or before February 1 of each year.

If an educational support personnel employee is removed or dismissed as a result of a decision of the board to decrease the number of educational support personnel employed by the board or to discontinue some particular type of educational support service and he or she accepts the tender of a vacancy within one calendar year from the beginning of the following school term, then that employee shall maintain any rights accrued during his or her previous service with the school district.

Where an educational support personnel employee is dismissed by the board as a result of a decrease in the number of employees or the discontinuance of the employee's job, the employee shall be paid all earned compensation on or before the next regular pay date following his or her last day of employment.

The provisions of this amendatory Act of 1986 relating to residency within any school district shall not apply to cities having a population exceeding 500,000 inhabitants.

(b) In the case of a new school district or districts formed in accordance with Article 11E of this Code, a school district or districts that annex all of the territory of one or more entire other school districts in accordance with Article 7 of this Code, or a school district receiving students from a deactivated school facility in accordance with Section

10-22.22b of this Code, the employment of educational support personnel in the new, annexing, or receiving school district immediately following the reorganization shall be governed by this subsection (b). Lists of the educational support personnel employed in the individual districts for the school year immediately prior to the effective date of the new district or districts, annexation, or deactivation shall be combined for the districts forming the new district or districts, for the annexed and annexing districts, or for the deactivating and receiving districts, as the case may be. The combined list shall be categorized by positions, showing the length of continuing service of each full-time educational support personnel employee who is qualified to hold any such position. If there are more full-time educational support personnel employees on the combined list than there are available positions in the new, annexing, or receiving school district, then the employing school board shall first remove or dismiss those educational support personnel employees with the shorter length of continuing service within the respective category of position, following the procedures outlined in subsection (a) of this Section. The employment and position of each educational support personnel employee on the combined list not so removed or dismissed shall be transferred to the new, annexing, or receiving school board, and the new, annexing, or receiving school board is subject to this Code with respect to any educational support personnel employee so

transferred as if the educational support personnel employee had been the new, annexing, or receiving board's employee during the time the educational support personnel employee was actually employed by the school board of the district from which the employment and position were transferred.

The changes made by Public Act 95-148 shall not apply to the formation of a new district or districts in accordance with Article 11E of this Code, the annexation of one or more entire districts in accordance with Article 7 of this Code, or the deactivation of a school facility in accordance with Section 10-22.22b of this Code effective on or before July 1, 2007.

(Source: P.A. 101-46, eff. 7-12-19.)

(105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

Sec. 24-12. Removal or dismissal of teachers in contractual continued service.

(a) This subsection (a) applies only to honorable dismissals and recalls in which the notice of dismissal is provided on or before the end of the 2010-2011 school term. If a teacher in contractual continued service is removed or dismissed as a result of a decision of the board to decrease the number of teachers employed by the board or to discontinue some particular type of teaching service, written notice shall be mailed to the teacher and also given the teacher either by certified mail, return receipt requested or personal delivery

with receipt at least 60 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor, and in all such cases the board shall first remove or dismiss all teachers who have not entered upon contractual continued service before removing or dismissing any teacher who has entered upon contractual continued service and who is legally qualified to hold a position currently held by a teacher who has not entered upon contractual continued service.

As between teachers who have entered upon contractual continued service, the teacher or teachers with the shorter length of continuing service with the district shall be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization and except that this provision shall not impair the operation of any positive action ~~affirmative action~~ program in the district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board. Any teacher dismissed as a result of such decrease or discontinuance shall be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

If the board has any vacancies for the following school term or within one calendar year from the beginning of the

following school term, the positions thereby becoming available shall be tendered to the teachers so removed or dismissed so far as they are legally qualified to hold such positions; provided, however, that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full-time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then if the board has any vacancies for the following school term or within 2 calendar years from the beginning of the following school term, the positions so becoming available shall be tendered to the teachers who were so notified and removed or dismissed whenever they are legally qualified to hold such positions. Each board shall, in consultation with any exclusive employee representatives, each year establish a list, categorized by positions, showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5, or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the board also shall hold a public

hearing on the question of the dismissals. Following the hearing and board review, the action to approve any such reduction shall require a majority vote of the board members.

(b) This subsection (b) applies only to honorable dismissals and recalls in which the notice of dismissal is provided during the 2011-2012 school term or a subsequent school term. If any teacher, whether or not in contractual continued service, is removed or dismissed as a result of a decision of a school board to decrease the number of teachers employed by the board, a decision of a school board to discontinue some particular type of teaching service, or a reduction in the number of programs or positions in a special education joint agreement, then written notice must be mailed to the teacher and also given to the teacher either by electronic mail, certified mail, return receipt requested, or personal delivery with receipt at least 45 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor, and in all such cases the sequence of dismissal shall occur in accordance with this subsection (b); except that this subsection (b) shall not impair the operation of any positive action ~~affirmative action~~ program in the school district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board.

Each teacher must be categorized into one or more positions for which the teacher is qualified to hold, based

upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the school year during which the sequence of dismissal is determined. Within each position and subject to agreements made by the joint committee on honorable dismissals that are authorized by subsection (c) of this Section, the school district or joint agreement must establish 4 groupings of teachers qualified to hold the position as follows:

(1) Grouping one shall consist of each teacher who is not in contractual continued service and who (i) has not received a performance evaluation rating, (ii) is employed for one school term or less to replace a teacher on leave, or (iii) is employed on a part-time basis. "Part-time basis" for the purposes of this subsection (b) means a teacher who is employed to teach less than a full-day, teacher workload or less than 5 days of the normal student attendance week, unless otherwise provided for in a collective bargaining agreement between the district and the exclusive representative of the district's teachers. For the purposes of this Section, a teacher (A) who is employed as a full-time teacher but who actually teaches or is otherwise present and participating in the district's educational program for less than a school term or (B) who, in the immediately previous school term, was employed on a full-time basis and actually taught or was

otherwise present and participated in the district's educational program for 120 days or more is not considered employed on a part-time basis.

(2) Grouping 2 shall consist of each teacher with a Needs Improvement or Unsatisfactory performance evaluation rating on either of the teacher's last 2 performance evaluation ratings.

(3) Grouping 3 shall consist of each teacher with a performance evaluation rating of at least Satisfactory or Proficient on both of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or on the teacher's last performance evaluation rating, if only one rating is available, unless the teacher qualifies for placement into grouping 4.

(4) Grouping 4 shall consist of each teacher whose last 2 performance evaluation ratings are Excellent and each teacher with 2 Excellent performance evaluation ratings out of the teacher's last 3 performance evaluation ratings with a third rating of Satisfactory or Proficient.

Among teachers qualified to hold a position, teachers must be dismissed in the order of their groupings, with teachers in grouping one dismissed first and teachers in grouping 4 dismissed last.

Within grouping one, the sequence of dismissal must be at the discretion of the school district or joint agreement. Within grouping 2, the sequence of dismissal must be based

upon average performance evaluation ratings, with the teacher or teachers with the lowest average performance evaluation rating dismissed first. A teacher's average performance evaluation rating must be calculated using the average of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or the teacher's last performance evaluation rating, if only one rating is available, using the following numerical values: 4 for Excellent; 3 for Proficient or Satisfactory; 2 for Needs Improvement; and 1 for Unsatisfactory. As between or among teachers in grouping 2 with the same average performance evaluation rating and within each of groupings 3 and 4, the teacher or teachers with the shorter length of continuing service with the school district or joint agreement must be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization.

Each board, including the governing board of a joint agreement, shall, in consultation with any exclusive employee representatives, each year establish a sequence of honorable dismissal list categorized by positions and the groupings defined in this subsection (b). Copies of the list showing each teacher by name and categorized by positions and the groupings defined in this subsection (b) must be distributed to the exclusive bargaining representative at least 75 days

before the end of the school term, provided that the school district or joint agreement may, with notice to any exclusive employee representatives, move teachers from grouping one into another grouping during the period of time from 75 days until 45 days before the end of the school term. Each year, each board shall also establish, in consultation with any exclusive employee representatives, a list showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list must be made in accordance with the alternative method. Copies of the list must be distributed to the exclusive employee representative at least 75 days before the end of the school term.

Any teacher dismissed as a result of such decrease or discontinuance must be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

If the board or joint agreement has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available must be tendered to the teachers so removed or dismissed who were in grouping 3 or 4 of the sequence of dismissal and are qualified to hold the positions, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before

the May 10 prior to the date of the positions becoming available, provided that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full-time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then the recall period is for the following school term or within 2 calendar years from the beginning of the following school term. If the board or joint agreement has any vacancies within the period from the beginning of the following school term through February 1 of the following school term (unless a date later than February 1, but no later than 6 months from the beginning of the following school term, is established in a collective bargaining agreement), the positions thereby becoming available must be tendered to the teachers so removed or dismissed who were in grouping 2 of the sequence of dismissal due to one "needs improvement" rating on either of the teacher's last 2 performance evaluation ratings, provided that, if 2 ratings are available, the other performance evaluation rating used for grouping purposes is "satisfactory", "proficient", or "excellent", and are qualified to hold the positions, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the date of the positions becoming available. On and after July 1, 2014 (the effective date of Public Act

98-648), the preceding sentence shall apply to teachers removed or dismissed by honorable dismissal, even if notice of honorable dismissal occurred during the 2013-2014 school year. Among teachers eligible for recall pursuant to the preceding sentence, the order of recall must be in inverse order of dismissal, unless an alternative order of recall is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5 notices or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the school board or governing board of a joint agreement, as applicable, shall also hold a public hearing on the question of the dismissals. Following the hearing and board review, the action to approve any such reduction shall require a majority vote of the board members.

For purposes of this subsection (b), subject to agreement on an alternative definition reached by the joint committee described in subsection (c) of this Section, a teacher's performance evaluation rating means the overall performance evaluation rating resulting from an annual or biennial performance evaluation conducted pursuant to Article 24A of this Code by the school district or joint agreement determining the sequence of dismissal, not including any performance evaluation conducted during or at the end of a

remediation period. No more than one evaluation rating each school term shall be one of the evaluation ratings used for the purpose of determining the sequence of dismissal. Except as otherwise provided in this subsection for any performance evaluations conducted during or at the end of a remediation period, if multiple performance evaluations are conducted in a school term, only the rating from the last evaluation conducted prior to establishing the sequence of honorable dismissal list in such school term shall be the one evaluation rating from that school term used for the purpose of determining the sequence of dismissal. Averaging ratings from multiple evaluations is not permitted unless otherwise agreed to in a collective bargaining agreement or contract between the board and a professional faculty members' organization. The preceding 3 sentences are not a legislative declaration that existing law does or does not already require that only one performance evaluation each school term shall be used for the purpose of determining the sequence of dismissal. For performance evaluation ratings determined prior to September 1, 2012, any school district or joint agreement with a performance evaluation rating system that does not use either of the rating category systems specified in subsection (d) of Section 24A-5 of this Code for all teachers must establish a basis for assigning each teacher a rating that complies with subsection (d) of Section 24A-5 of this Code for all of the performance evaluation ratings that are to be used to

determine the sequence of dismissal. A teacher's grouping and ranking on a sequence of honorable dismissal shall be deemed a part of the teacher's performance evaluation, and that information shall be disclosed to the exclusive bargaining representative as part of a sequence of honorable dismissal list, notwithstanding any laws prohibiting disclosure of such information. A performance evaluation rating may be used to determine the sequence of dismissal, notwithstanding the pendency of any grievance resolution or arbitration procedures relating to the performance evaluation. If a teacher has received at least one performance evaluation rating conducted by the school district or joint agreement determining the sequence of dismissal and a subsequent performance evaluation is not conducted in any school year in which such evaluation is required to be conducted under Section 24A-5 of this Code, the teacher's performance evaluation rating for that school year for purposes of determining the sequence of dismissal is deemed Proficient, except that, during any time in which the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act, this default to Proficient does not apply to any teacher who has entered into contractual continued service and who was deemed Excellent on his or her most recent evaluation. During any time in which the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management

Agency Act and unless the school board and any exclusive bargaining representative have completed the performance rating for teachers or have mutually agreed to an alternate performance rating, any teacher who has entered into contractual continued service, whose most recent evaluation was deemed Excellent, and whose performance evaluation is not conducted when the evaluation is required to be conducted shall receive a teacher's performance rating deemed Excellent. A school board and any exclusive bargaining representative may mutually agree to an alternate performance rating for teachers not in contractual continued service during any time in which the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act, as long as the agreement is in writing. If a performance evaluation rating is nullified as the result of an arbitration, administrative agency, or court determination, then the school district or joint agreement is deemed to have conducted a performance evaluation for that school year, but the performance evaluation rating may not be used in determining the sequence of dismissal.

Nothing in this subsection (b) shall be construed as limiting the right of a school board or governing board of a joint agreement to dismiss a teacher not in contractual continued service in accordance with Section 24-11 of this Code.

Any provisions regarding the sequence of honorable

dismissals and recall of honorably dismissed teachers in a collective bargaining agreement entered into on or before January 1, 2011 and in effect on June 13, 2011 (the effective date of Public Act 97-8) that may conflict with Public Act 97-8 shall remain in effect through the expiration of such agreement or June 30, 2013, whichever is earlier.

(c) Each school district and special education joint agreement must use a joint committee composed of equal representation selected by the school board and its teachers or, if applicable, the exclusive bargaining representative of its teachers, to address the matters described in paragraphs (1) through (5) of this subsection (c) pertaining to honorable dismissals under subsection (b) of this Section.

(1) The joint committee must consider and may agree to criteria for excluding from grouping 2 and placing into grouping 3 a teacher whose last 2 performance evaluations include a Needs Improvement and either a Proficient or Excellent.

(2) The joint committee must consider and may agree to an alternative definition for grouping 4, which definition must take into account prior performance evaluation ratings and may take into account other factors that relate to the school district's or program's educational objectives. An alternative definition for grouping 4 may not permit the inclusion of a teacher in the grouping with a Needs Improvement or Unsatisfactory performance

evaluation rating on either of the teacher's last 2 performance evaluation ratings.

(3) The joint committee may agree to including within the definition of a performance evaluation rating a performance evaluation rating administered by a school district or joint agreement other than the school district or joint agreement determining the sequence of dismissal.

(4) For each school district or joint agreement that administers performance evaluation ratings that are inconsistent with either of the rating category systems specified in subsection (d) of Section 24A-5 of this Code, the school district or joint agreement must consult with the joint committee on the basis for assigning a rating that complies with subsection (d) of Section 24A-5 of this Code to each performance evaluation rating that will be used in a sequence of dismissal.

(5) Upon request by a joint committee member submitted to the employing board by no later than 10 days after the distribution of the sequence of honorable dismissal list, a representative of the employing board shall, within 5 days after the request, provide to members of the joint committee a list showing the most recent and prior performance evaluation ratings of each teacher identified only by length of continuing service in the district or joint agreement and not by name. If, after review of this list, a member of the joint committee has a good faith

belief that a disproportionate number of teachers with greater length of continuing service with the district or joint agreement have received a recent performance evaluation rating lower than the prior rating, the member may request that the joint committee review the list to assess whether such a trend may exist. Following the joint committee's review, but by no later than the end of the applicable school term, the joint committee or any member or members of the joint committee may submit a report of the review to the employing board and exclusive bargaining representative, if any. Nothing in this paragraph (5) shall impact the order of honorable dismissal or a school district's or joint agreement's authority to carry out a dismissal in accordance with subsection (b) of this Section.

Agreement by the joint committee as to a matter requires the majority vote of all committee members, and if the joint committee does not reach agreement on a matter, then the otherwise applicable requirements of subsection (b) of this Section shall apply. Except as explicitly set forth in this subsection (c), a joint committee has no authority to agree to any further modifications to the requirements for honorable dismissals set forth in subsection (b) of this Section. The joint committee must be established, and the first meeting of the joint committee each school year must occur on or before December 1.

The joint committee must reach agreement on a matter on or before February 1 of a school year in order for the agreement of the joint committee to apply to the sequence of dismissal determined during that school year. Subject to the February 1 deadline for agreements, the agreement of a joint committee on a matter shall apply to the sequence of dismissal until the agreement is amended or terminated by the joint committee.

The provisions of the Open Meetings Act shall not apply to meetings of a joint committee created under this subsection (c).

(d) Notwithstanding anything to the contrary in this subsection (d), the requirements and dismissal procedures of Section 24-16.5 of this Code shall apply to any dismissal sought under Section 24-16.5 of this Code.

(1) If a dismissal of a teacher in contractual continued service is sought for any reason or cause other than an honorable dismissal under subsections (a) or (b) of this Section or a dismissal sought under Section 24-16.5 of this Code, including those under Section 10-22.4, the board must first approve a motion containing specific charges by a majority vote of all its members. Written notice of such charges, including a bill of particulars and the teacher's right to request a hearing, must be mailed to the teacher and also given to the teacher either by electronic mail, certified mail, return receipt requested, or personal delivery with receipt within 5 days

of the adoption of the motion. Any written notice sent on or after July 1, 2012 shall inform the teacher of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher and the board, or a hearing before a board-selected hearing officer, with the cost of the hearing officer paid by the board.

Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning is required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code.

If, in the opinion of the board, the interests of the school require it, the board may suspend the teacher without pay, pending the hearing, but if the board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits by reason of the suspension.

(2) No hearing upon the charges is required unless the teacher within 17 days after receiving notice requests in writing of the board that a hearing be scheduled before a mutually selected hearing officer or a hearing officer selected by the board. The secretary of the school board shall forward a copy of the notice to the State Board of

Education.

(3) Within 5 business days after receiving a notice of hearing in which either notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has requested a hearing before a mutually selected hearing officer, the State Board of Education shall provide a list of 5 prospective, impartial hearing officers from the master list of qualified, impartial hearing officers maintained by the State Board of Education. Each person on the master list must (i) be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between employers and employees or their exclusive bargaining representatives and (ii) beginning September 1, 2012, have participated in training provided or approved by the State Board of Education for teacher dismissal hearing officers so that he or she is familiar with issues generally involved in evaluative and non-evaluative dismissals.

If notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has requested a hearing before a mutually selected hearing officer, the board and the teacher or their legal representatives within 3 business days shall alternately strike one name from the list provided by the State Board of Education until only one name remains. Unless waived by

the teacher, the teacher shall have the right to proceed first with the striking. Within 3 business days of receipt of the list provided by the State Board of Education, the board and the teacher or their legal representatives shall each have the right to reject all prospective hearing officers named on the list and notify the State Board of Education of such rejection. Within 3 business days after receiving this notification, the State Board of Education shall appoint a qualified person from the master list who did not appear on the list sent to the parties to serve as the hearing officer, unless the parties notify it that they have chosen to alternatively select a hearing officer under paragraph (4) of this subsection (d).

If the teacher has requested a hearing before a hearing officer selected by the board, the board shall select one name from the master list of qualified impartial hearing officers maintained by the State Board of Education within 3 business days after receipt and shall notify the State Board of Education of its selection.

A hearing officer mutually selected by the parties, selected by the board, or selected through an alternative selection process under paragraph (4) of this subsection (d) (A) must not be a resident of the school district, (B) must be available to commence the hearing within 75 days and conclude the hearing within 120 days after being

selected as the hearing officer, and (C) must issue a decision as to whether the teacher must be dismissed and give a copy of that decision to both the teacher and the board within 30 days from the conclusion of the hearing or closure of the record, whichever is later.

If the Governor has declared a disaster due to a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act and except if the parties mutually agree otherwise and the agreement is in writing, the requirements of this Section pertaining to prehearings and hearings are paused and do not begin to toll until the proclamation is no longer in effect. If mutually agreed to and reduced to writing, the parties may proceed with the prehearing and hearing requirements of this Section and may also agree to extend the timelines of this Section connected to the appointment and selection of a hearing officer and those connected to commencing and concluding a hearing. Any hearing convened during a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act may be convened remotely. Any hearing officer for a hearing convened during a public health emergency pursuant to Section 7 of the Illinois Emergency Management Agency Act may voluntarily withdraw from the hearing and another hearing officer shall be selected or appointed pursuant to this Section.

(4) In the alternative to selecting a hearing officer

from the list received from the State Board of Education or accepting the appointment of a hearing officer by the State Board of Education or if the State Board of Education cannot provide a list or appoint a hearing officer that meets the foregoing requirements, the board and the teacher or their legal representatives may mutually agree to select an impartial hearing officer who is not on the master list either by direct appointment by the parties or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of Education of their intent to select a hearing officer using an alternative procedure within 3 business days of receipt of a list of prospective hearing officers provided by the State Board of Education, notice of appointment of a hearing officer by the State Board of Education, or receipt of notice from the State Board of Education that it cannot provide a list that meets the foregoing requirements, whichever is later.

(5) If the notice of dismissal was sent to the teacher before July 1, 2012, the fees and costs for the hearing officer must be paid by the State Board of Education. If the notice of dismissal was sent to the teacher on or after July 1, 2012, the hearing officer's fees and costs must be paid as follows in this paragraph (5). The fees and

permissible costs for the hearing officer must be determined by the State Board of Education. If the board and the teacher or their legal representatives mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education, they may agree to supplement the fees determined by the State Board to the hearing officer, at a rate consistent with the hearing officer's published professional fees. If the hearing officer is mutually selected by the parties, then the board and the teacher or their legal representatives shall each pay 50% of the fees and costs and any supplemental allowance to which they agree. If the hearing officer is selected by the board, then the board shall pay 100% of the hearing officer's fees and costs. The fees and costs must be paid to the hearing officer within 14 days after the board and the teacher or their legal representatives receive the hearing officer's decision set forth in paragraph (7) of this subsection (d).

(6) The teacher is required to answer the bill of particulars and aver affirmative matters in his or her defense, and the time for initially doing so and the time for updating such answer and defenses after pre-hearing discovery must be set by the hearing officer. The State Board of Education shall promulgate rules so that each party has a fair opportunity to present its case and to ensure that the dismissal process proceeds in a fair and

expeditious manner. These rules shall address, without limitation, discovery and hearing scheduling conferences; the teacher's initial answer and affirmative defenses to the bill of particulars and the updating of that information after pre-hearing discovery; provision for written interrogatories and requests for production of documents; the requirement that each party initially disclose to the other party and then update the disclosure no later than 10 calendar days prior to the commencement of the hearing, the names and addresses of persons who may be called as witnesses at the hearing, a summary of the facts or opinions each witness will testify to, and all other documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing); pre-hearing discovery and preparation, including provision for written interrogatories and requests for production of documents, provided that discovery depositions are prohibited; the conduct of the hearing; the right of each party to be represented by counsel, the offer of evidence and witnesses and the cross-examination of witnesses; the authority of the hearing officer to issue subpoenas and subpoenas duces tecum, provided that the hearing officer

may limit the number of witnesses to be subpoenaed on behalf of each party to no more than 7; the length of post-hearing briefs; and the form, length, and content of hearing officers' decisions. The hearing officer shall hold a hearing and render a final decision for dismissal pursuant to Article 24A of this Code or shall report to the school board findings of fact and a recommendation as to whether or not the teacher must be dismissed for conduct. The hearing officer shall commence the hearing within 75 days and conclude the hearing within 120 days after being selected as the hearing officer, provided that the hearing officer may modify these timelines upon the showing of good cause or mutual agreement of the parties. Good cause for the purpose of this subsection (d) shall mean the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission. In a dismissal hearing pursuant to Article 24A of this Code in which a witness is a student or is under the age of 18, the hearing officer must make accommodations for the witness, as provided under paragraph (6.5) of this subsection. The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A that are relevant to the issues in the hearing.

Each party shall have no more than 3 days to present

its case, unless extended by the hearing officer to enable a party to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses, for good cause or by mutual agreement of the parties. The State Board of Education shall define in rules the meaning of "day" for such purposes. All testimony at the hearing shall be taken under oath administered by the hearing officer. The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all the testimony. The costs of the reporter's attendance and services at the hearing shall be paid by the party or parties who are responsible for paying the fees and costs of the hearing officer. Either party desiring a transcript of the hearing shall pay for the cost thereof. Any post-hearing briefs must be submitted by the parties by no later than 21 days after a party's receipt of the transcript of the hearing, unless extended by the hearing officer for good cause or by mutual agreement of the parties.

(6.5) In the case of charges involving sexual abuse or severe physical abuse of a student or a person under the age of 18, the hearing officer shall make alternative hearing procedures to protect a witness who is a student or who is under the age of 18 from being intimidated or traumatized. Alternative hearing procedures may include,

but are not limited to: (i) testimony made via a telecommunication device in a location other than the hearing room and outside the physical presence of the teacher and other hearing participants, (ii) testimony outside the physical presence of the teacher, or (iii) non-public testimony. During a testimony described under this subsection, each party must be permitted to ask a witness who is a student or who is under 18 years of age all relevant questions and follow-up questions. All questions must exclude evidence of the witness' sexual behavior or predisposition, unless the evidence is offered to prove that someone other than the teacher subject to the dismissal hearing engaged in the charge at issue.

(7) The hearing officer shall, within 30 days from the conclusion of the hearing or closure of the record, whichever is later, make a decision as to whether or not the teacher shall be dismissed pursuant to Article 24A of this Code or report to the school board findings of fact and a recommendation as to whether or not the teacher shall be dismissed for cause and shall give a copy of the decision or findings of fact and recommendation to both the teacher and the school board. If a hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days after the hearing is concluded or the

record is closed, whichever is later, the parties may mutually agree to select a hearing officer pursuant to the alternative procedure, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision or findings of fact and recommendation or to review the record and render a decision. If any hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days after the hearing is concluded or the record is closed, whichever is later, the hearing officer shall be removed from the master list of hearing officers maintained by the State Board of Education for not more than 24 months. The parties and the State Board of Education may also take such other actions as it deems appropriate, including recovering, reducing, or withholding any fees paid or to be paid to the hearing officer. If any hearing officer repeats such failure, he or she must be permanently removed from the master list maintained by the State Board of Education and may not be selected by parties through the alternative selection process under this paragraph (7) or paragraph (4) of this subsection (d). The board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision or findings of fact and recommendation within the time specified in this

Section. If the decision of the hearing officer for dismissal pursuant to Article 24A of this Code or of the school board for dismissal for cause is in favor of the teacher, then the hearing officer or school board shall order reinstatement to the same or substantially equivalent position and shall determine the amount for which the school board is liable, including, but not limited to, loss of income and benefits.

(8) The school board, within 45 days after receipt of the hearing officer's findings of fact and recommendation as to whether (i) the conduct at issue occurred, (ii) the conduct that did occur was remediable, and (iii) the proposed dismissal should be sustained, shall issue a written order as to whether the teacher must be retained or dismissed for cause from its employ. The school board's written order shall incorporate the hearing officer's findings of fact, except that the school board may modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence.

If the school board dismisses the teacher notwithstanding the hearing officer's findings of fact and recommendation, the school board shall make a conclusion in its written order, giving its reasons therefor, and such conclusion and reasons must be included in its written order. The failure of the school board to strictly

adhere to the timelines contained in this Section shall not render it without jurisdiction to dismiss the teacher. The school board shall not lose jurisdiction to discharge the teacher for cause if the hearing officer fails to render a recommendation within the time specified in this Section. The decision of the school board is final, unless reviewed as provided in paragraph (9) of this subsection (d).

If the school board retains the teacher, the school board shall enter a written order stating the amount of back pay and lost benefits, less mitigation, to be paid to the teacher, within 45 days after its retention order. Should the teacher object to the amount of the back pay and lost benefits or amount mitigated, the teacher shall give written objections to the amount within 21 days. If the parties fail to reach resolution within 7 days, the dispute shall be referred to the hearing officer, who shall consider the school board's written order and teacher's written objection and determine the amount to which the school board is liable. The costs of the hearing officer's review and determination must be paid by the board.

(9) The decision of the hearing officer pursuant to Article 24A of this Code or of the school board's decision to dismiss for cause is final unless reviewed as provided in Section 24-16 of this Code. If the school board's

decision to dismiss for cause is contrary to the hearing officer's recommendation, the court on review shall give consideration to the school board's decision and its supplemental findings of fact, if applicable, and the hearing officer's findings of fact and recommendation in making its decision. In the event such review is instituted, the school board shall be responsible for preparing and filing the record of proceedings, and such costs associated therewith must be divided equally between the parties.

(10) If a decision of the hearing officer for dismissal pursuant to Article 24A of this Code or of the school board for dismissal for cause is adjudicated upon review or appeal in favor of the teacher, then the trial court shall order reinstatement and shall remand the matter to the school board with direction for entry of an order setting the amount of back pay, lost benefits, and costs, less mitigation. The teacher may challenge the school board's order setting the amount of back pay, lost benefits, and costs, less mitigation, through an expedited arbitration procedure, with the costs of the arbitrator borne by the school board.

Any teacher who is reinstated by any hearing or adjudication brought under this Section shall be assigned by the board to a position substantially similar to the one which that teacher held prior to that teacher's

suspension or dismissal.

(11) Subject to any later effective date referenced in this Section for a specific aspect of the dismissal process, the changes made by Public Act 97-8 shall apply to dismissals instituted on or after September 1, 2011. Any dismissal instituted prior to September 1, 2011 must be carried out in accordance with the requirements of this Section prior to amendment by Public Act 97-8.

(e) Nothing contained in Public Act 98-648 repeals, supersedes, invalidates, or nullifies final decisions in lawsuits pending on July 1, 2014 (the effective date of Public Act 98-648) in Illinois courts involving the interpretation of Public Act 97-8.

(Source: P.A. 100-768, eff. 1-1-19; 101-81, eff. 7-12-19; 101-531, eff. 8-23-19; 101-643, eff. 6-18-20.)

Section 230. The Board of Higher Education Act is amended by changing Section 9.21 as follows:

(110 ILCS 205/9.21) (from Ch. 144, par. 189.21)

Sec. 9.21. Human Relations.

(a) The Board shall monitor, budget, evaluate, and report to the General Assembly in accordance with Section 9.16 of this Act on programs to improve human relations to include race, ethnicity, gender and other issues related to improving human relations. The programs shall at least:

(1) require each public institution of higher education to include, in the general education requirements for obtaining a degree, coursework on improving human relations to include race, ethnicity, gender and other issues related to improving human relations to address racism and sexual harassment on their campuses, through existing courses;

(2) require each public institution of higher education to report annually to the Department of Human Rights and the Attorney General on each adjudicated case in which a finding of racial, ethnic or religious intimidation or sexual harassment made in a grievance, positive action ~~affirmative action~~ or other proceeding established by that institution to investigate and determine allegations of racial, ethnic or religious intimidation and sexual harassment; and

(3) require each public institution of higher education to forward to the local State's Attorney any report received by campus security or by a university police department alleging the commission of a hate crime as defined under Section 12-7.1 of the Criminal Code of 2012.

(b) In this subsection (b):

"Higher education institution" means a public university, a public community college, or an independent, not-for-profit or for-profit higher education institution located in this

State.

"Sexual violence" means physical sexual acts attempted or perpetrated against a person's will or when a person is incapable of giving consent, including without limitation rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

On or before November 1, 2017 and on or before every November 1 thereafter, each higher education institution shall provide an annual report, concerning the immediately preceding calendar year, to the Department of Human Rights and the Attorney General with all of the following components:

(1) A copy of the higher education institution's most recent comprehensive policy adopted in accordance with Section 10 of the Preventing Sexual Violence in Higher Education Act.

(2) A copy of the higher education institution's most recent concise, written notification of a survivor's rights and options under its comprehensive policy, required pursuant to Section 15 of the Preventing Sexual Violence in Higher Education Act.

(3) The number, type, and number of attendees, if applicable, of primary prevention and awareness programming at the higher education institution.

(4) The number of incidents of sexual violence, domestic violence, dating violence, and stalking reported to the Title IX coordinator or other responsible employee,

pursuant to Title IX of the federal Education Amendments of 1972, of the higher education institution.

(5) The number of confidential and anonymous reports to the higher education institution of sexual violence, domestic violence, dating violence, and stalking.

(6) The number of allegations in which the survivor requested not to proceed with the higher education institution's complaint resolution procedure.

(7) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that the higher education institution investigated.

(8) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that were referred to local or State law enforcement.

(9) The number of allegations of sexual violence, domestic violence, dating violence, and stalking that the higher education institution reviewed through its complaint resolution procedure.

(10) With respect to all allegations of sexual violence, domestic violence, dating violence, and stalking reviewed under the higher education institution's complaint resolution procedure, an aggregate list of the number of students who were (i) dismissed or expelled, (ii) suspended, (iii) otherwise disciplined, or (iv) found not responsible for violation of the comprehensive policy through the complaint resolution procedure during the

reporting period.

The Office of the Attorney General shall maintain on its Internet website for public inspection a list of all higher education institutions that fail to comply with the annual reporting requirements as set forth in this subsection (b).

(Source: P.A. 99-426, eff. 8-21-15.)

Section 235. The Illinois Horse Racing Act of 1975 is amended by changing Sections 12.1 and 20 as follows:

(230 ILCS 5/12.1) (from Ch. 8, par. 37-12.1)

Sec. 12.1. (a) The General Assembly finds that the Illinois Racing Industry does not include a fair proportion of minority or female workers.

Therefore, the General Assembly urges that the job training institutes, trade associations and employers involved in the Illinois Horse Racing Industry take positive action ~~affirmative action~~ to encourage equal employment opportunity to all workers regardless of race, color, creed or sex.

Before an organization license, inter-track wagering license or inter-track wagering location license can be granted, the applicant for any such license shall execute and file with the Board a good faith positive action ~~affirmative action~~ plan to recruit, train and upgrade minorities and females in all classifications with the applicant for license. One year after issuance of any such license, and each year

thereafter, the licensee shall file a report with the Board evidencing and certifying compliance with the originally filed positive action ~~affirmative action~~ plan.

(b) At least 10% of the total amount of all State contracts for the infrastructure improvement of any race track grounds in this State shall be let to minority-owned businesses or women-owned businesses. "State contract", "minority-owned business" and "women-owned business" shall have the meanings ascribed to them under the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

(Source: P.A. 100-391, eff. 8-25-17.)

(230 ILCS 5/20) (from Ch. 8, par. 37-20)

Sec. 20. (a) Any person desiring to conduct a horse race meeting may apply to the Board for an organization license. The application shall be made on a form prescribed and furnished by the Board. The application shall specify:

(1) the dates on which it intends to conduct the horse race meeting, which dates shall be provided under Section 21;

(2) the hours of each racing day between which it intends to hold or conduct horse racing at such meeting;

(3) the location where it proposes to conduct the meeting; and

(4) any other information the Board may reasonably require.

(b) A separate application for an organization license shall be filed for each horse race meeting which such person proposes to hold. Any such application, if made by an individual, or by any individual as trustee, shall be signed and verified under oath by such individual. If the application is made by individuals, then it shall be signed and verified under oath by at least 2 of the individuals; if the application is made by a partnership, an association, a corporation, a corporate trustee, a limited liability company, or any other entity, it shall be signed by an authorized officer, a partner, a member, or a manager, as the case may be, of the entity.

(c) The application shall specify:

(1) the name of the persons, association, trust, or corporation making such application;

(2) the principal address of the applicant;

(3) if the applicant is a trustee, the names and addresses of the beneficiaries; if the applicant is a corporation, the names and addresses of all officers, stockholders and directors; or if such stockholders hold stock as a nominee or fiduciary, the names and addresses of the parties who are the beneficial owners thereof or who are beneficially interested therein; if the applicant is a partnership, the names and addresses of all partners, general or limited; if the applicant is a limited liability company, the names and addresses of the manager

and members; and if the applicant is any other entity, the names and addresses of all officers or other authorized persons of the entity.

(d) The applicant shall execute and file with the Board a good faith positive action ~~affirmative action~~ plan to recruit, train, and upgrade minorities in all classifications within the association.

(e) With such application there shall be delivered to the Board a certified check or bank draft payable to the order of the Board for an amount equal to $1,000. All applications for the issuance of an organization license shall be filed with the Board before August 1 of the year prior to the year for which application is made and shall be acted upon by the Board at a meeting to be held on such date as shall be fixed by the Board during the last 15 days of September of such prior year. At such meeting, the Board shall announce the award of the racing meets, live racing schedule, and designation of host track to the applicants and its approval or disapproval of each application. No announcement shall be considered binding until a formal order is executed by the Board, which shall be executed no later than October 15 of that prior year. Absent the agreement of the affected organization licensees, the Board shall not grant overlapping race meetings to 2 or more tracks that are within 100 miles of each other to conduct the thoroughbred racing.

(e-1) The Board shall award standardbred racing dates to

organization licensees with an organization gaming license pursuant to the following schedule:

(1) For the first calendar year of operation of gambling games by an organization gaming licensee under this amendatory Act of the 101st General Assembly, when a single entity requests standardbred racing dates, the Board shall award no fewer than 100 days of racing. The 100-day requirement may be reduced to no fewer than 80 days if no dates are requested for the first 3 months of a calendar year. If more than one entity requests standardbred racing dates, the Board shall award no fewer than 140 days of racing between the applicants.

(2) For the second calendar year of operation of gambling games by an organization gaming licensee under this amendatory Act of the 101st General Assembly, when a single entity requests standardbred racing dates, the Board shall award no fewer than 100 days of racing. The 100-day requirement may be reduced to no fewer than 80 days if no dates are requested for the first 3 months of a calendar year. If more than one entity requests standardbred racing dates, the Board shall award no fewer than 160 days of racing between the applicants.

(3) For the third calendar year of operation of gambling games by an organization gaming licensee under this amendatory Act of the 101st General Assembly, and each calendar year thereafter, when a single entity

requests standardbred racing dates, the Board shall award no fewer than 120 days of racing. The 120-day requirement may be reduced to no fewer than 100 days if no dates are requested for the first 3 months of a calendar year. If more than one entity requests standardbred racing dates, the Board shall award no fewer than 200 days of racing between the applicants.

An organization licensee shall apply for racing dates pursuant to this subsection (e-1). In awarding racing dates under this subsection (e-1), the Board shall have the discretion to allocate those standardbred racing dates among these organization licensees.

(e-2) The Board shall award thoroughbred racing days to Cook County organization licensees pursuant to the following schedule:

(1) During the first year in which only one organization licensee is awarded an organization gaming license, the Board shall award no fewer than 110 days of racing.

During the second year in which only one organization licensee is awarded an organization gaming license, the Board shall award no fewer than 115 racing days.

During the third year and every year thereafter, in which only one organization licensee is awarded an organization gaming license, the Board shall award no fewer than 120 racing days.

(2) During the first year in which 2 organization licensees are awarded an organization gaming license, the Board shall award no fewer than 139 total racing days.

During the second year in which 2 organization licensees are awarded an organization gaming license, the Board shall award no fewer than 160 total racing days.

During the third year and every year thereafter in which 2 organization licensees are awarded an organization gaming license, the Board shall award no fewer than 174 total racing days.

A Cook County organization licensee shall apply for racing dates pursuant to this subsection (e-2). In awarding racing dates under this subsection (e-2), the Board shall have the discretion to allocate those thoroughbred racing dates among these Cook County organization licensees.

(e-3) In awarding racing dates for calendar year 2020 and thereafter in connection with a racetrack in Madison County, the Board shall award racing dates and such organization licensee shall run at least 700 thoroughbred races at the racetrack in Madison County each year.

Notwithstanding Section 7.7 of the Illinois Gambling Act or any provision of this Act other than subsection (e-4.5), for each calendar year for which an organization gaming licensee located in Madison County requests racing dates resulting in less than 700 live thoroughbred races at its racetrack facility, the organization gaming licensee may not

conduct gaming pursuant to an organization gaming license issued under the Illinois Gambling Act for the calendar year of such requested live races.

(e-4) Notwithstanding the provisions of Section 7.7 of the Illinois Gambling Act or any provision of this Act other than subsections (e-3) and (e-4.5), for each calendar year for which an organization gaming licensee requests thoroughbred racing dates which results in a number of live races under its organization license that is less than the total number of live races which it conducted in 2017 at its racetrack facility, the organization gaming licensee may not conduct gaming pursuant to its organization gaming license for the calendar year of such requested live races.

(e-4.1) Notwithstanding the provisions of Section 7.7 of the Illinois Gambling Act or any provision of this Act other than subsections (e-3) and (e-4.5), for each calendar year for which an organization licensee requests racing dates for standardbred racing which results in a number of live races that is less than the total number of live races required in subsection (e-1), the organization gaming licensee may not conduct gaming pursuant to its organization gaming license for the calendar year of such requested live races.

(e-4.5) The Board shall award the minimum live racing guarantees contained in subsections (e-1), (e-2), and (e-3) to ensure that each organization licensee shall individually run a sufficient number of races per year to qualify for an

organization gaming license under this Act. The General Assembly finds that the minimum live racing guarantees contained in subsections (e-1), (e-2), and (e-3) are in the best interest of the sport of horse racing, and that such guarantees may only be reduced in the calendar year in which they will be conducted in the limited circumstances described in this subsection. The Board may decrease the number of racing days without affecting an organization licensee's ability to conduct gaming pursuant to an organization gaming license issued under the Illinois Gambling Act only if the Board determines, after notice and hearing, that:

(i) a decrease is necessary to maintain a sufficient number of betting interests per race to ensure the integrity of racing;

(ii) there are unsafe track conditions due to weather or acts of God;

(iii) there is an agreement between an organization licensee and the breed association that is applicable to the involved live racing guarantee, such association representing either the largest number of thoroughbred owners and trainers or the largest number of standardbred owners, trainers and drivers who race horses at the involved organization licensee's racing meeting, so long as the agreement does not compromise the integrity of the sport of horse racing; or

(iv) the horse population or purse levels are

insufficient to provide the number of racing opportunities otherwise required in this Act.

In decreasing the number of racing dates in accordance with this subsection, the Board shall hold a hearing and shall provide the public and all interested parties notice and an opportunity to be heard. The Board shall accept testimony from all interested parties, including any association representing owners, trainers, jockeys, or drivers who will be affected by the decrease in racing dates. The Board shall provide a written explanation of the reasons for the decrease and the Board's findings. The written explanation shall include a listing and content of all communication between any party and any Illinois Racing Board member or staff that does not take place at a public meeting of the Board.

(e-5) In reviewing an application for the purpose of granting an organization license consistent with the best interests of the public and the sport of horse racing, the Board shall consider:

(1) the character, reputation, experience, and financial integrity of the applicant and of any other separate person that either:

(i) controls the applicant, directly or indirectly, or

(ii) is controlled, directly or indirectly, by that applicant or by a person who controls, directly or indirectly, that applicant;

(2) the applicant's facilities or proposed facilities for conducting horse racing;

(3) the total revenue without regard to Section 32.1 to be derived by the State and horsemen from the applicant's conducting a race meeting;

(4) the applicant's good faith positive action ~~affirmative action~~ plan to recruit, train, and upgrade minorities in all employment classifications;

(5) the applicant's financial ability to purchase and maintain adequate liability and casualty insurance;

(6) the applicant's proposed and prior year's promotional and marketing activities and expenditures of the applicant associated with those activities;

(7) an agreement, if any, among organization licensees as provided in subsection (b) of Section 21 of this Act; and

(8) the extent to which the applicant exceeds or meets other standards for the issuance of an organization license that the Board shall adopt by rule.

In granting organization licenses and allocating dates for horse race meetings, the Board shall have discretion to determine an overall schedule, including required simulcasts of Illinois races by host tracks that will, in its judgment, be conducive to the best interests of the public and the sport of horse racing.

(e-10) The Illinois Administrative Procedure Act shall

apply to administrative procedures of the Board under this Act for the granting of an organization license, except that (1) notwithstanding the provisions of subsection (b) of Section 10-40 of the Illinois Administrative Procedure Act regarding cross-examination, the Board may prescribe rules limiting the right of an applicant or participant in any proceeding to award an organization license to conduct cross-examination of witnesses at that proceeding where that cross-examination would unduly obstruct the timely award of an organization license under subsection (e) of Section 20 of this Act; (2) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded under this Act; (3) notwithstanding the provisions of subsection (a) of Section 10-60 of the Illinois Administrative Procedure Act regarding ex parte communications, the Board may prescribe rules allowing ex parte communications with applicants or participants in a proceeding to award an organization license where conducting those communications would be in the best interest of racing, provided all those communications are made part of the record of that proceeding pursuant to subsection (c) of Section 10-60 of the Illinois Administrative Procedure Act; (4) the provisions of Section 14a of this Act and the rules of the Board promulgated under that Section shall apply instead of the provisions of Article 10 of the Illinois Administrative Procedure Act regarding administrative law judges; and (5) the provisions of

subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that prevent summary suspension of a license pending revocation or other action shall not apply.

(f) The Board may allot racing dates to an organization licensee for more than one calendar year but for no more than 3 successive calendar years in advance, provided that the Board shall review such allotment for more than one calendar year prior to each year for which such allotment has been made. The granting of an organization license to a person constitutes a privilege to conduct a horse race meeting under the provisions of this Act, and no person granted an organization license shall be deemed to have a vested interest, property right, or future expectation to receive an organization license in any subsequent year as a result of the granting of an organization license. Organization licenses shall be subject to revocation if the organization licensee has violated any provision of this Act or the rules and regulations promulgated under this Act or has been convicted of a crime or has failed to disclose or has stated falsely any information called for in the application for an organization license. Any organization license revocation proceeding shall be in accordance with Section 16 regarding suspension and revocation of occupation licenses.

(f-5) If, (i) an applicant does not file an acceptance of the racing dates awarded by the Board as required under part (1) of subsection (h) of this Section 20, or (ii) an

organization licensee has its license suspended or revoked under this Act, the Board, upon conducting an emergency hearing as provided for in this Act, may reaward on an emergency basis pursuant to rules established by the Board, racing dates not accepted or the racing dates associated with any suspension or revocation period to one or more organization licensees, new applicants, or any combination thereof, upon terms and conditions that the Board determines are in the best interest of racing, provided, the organization licensees or new applicants receiving the awarded racing dates file an acceptance of those reawarded racing dates as required under paragraph (1) of subsection (h) of this Section 20 and comply with the other provisions of this Act. The Illinois Administrative Procedure Act shall not apply to the administrative procedures of the Board in conducting the emergency hearing and the reallocation of racing dates on an emergency basis.

(g) (Blank).

(h) The Board shall send the applicant a copy of its formally executed order by certified mail addressed to the applicant at the address stated in his application, which notice shall be mailed within 5 days of the date the formal order is executed.

Each applicant notified shall, within 10 days after receipt of the final executed order of the Board awarding racing dates:

(1) file with the Board an acceptance of such award in the form prescribed by the Board;

(2) pay to the Board an additional amount equal to $110 for each racing date awarded; and

(3) file with the Board the bonds required in Sections 21 and 25 at least 20 days prior to the first day of each race meeting.

Upon compliance with the provisions of paragraphs (1), (2), and (3) of this subsection (h), the applicant shall be issued an organization license.

If any applicant fails to comply with this Section or fails to pay the organization license fees herein provided, no organization license shall be issued to such applicant.

(Source: P.A. 101-31, eff. 6-28-19.)

Section 240. The Illinois Gambling Act is amended by changing Sections 5.1, 7, and 7.11 as follows:

(230 ILCS 10/5.1) (from Ch. 120, par. 2405.1)

Sec. 5.1. Disclosure of records.

(a) Notwithstanding any applicable statutory provision to the contrary, the Board shall, on written request from any person, provide information furnished by an applicant or licensee concerning the applicant or licensee, his products, services or gambling enterprises and his business holdings, as follows:

(1) The name, business address and business telephone number of any applicant or licensee.

(2) An identification of any applicant or licensee including, if an applicant or licensee is not an individual, the names and addresses of all stockholders and directors, if the entity is a corporation; the names and addresses of all members, if the entity is a limited liability company; the names and addresses of all partners, both general and limited, if the entity is a partnership; and the names and addresses of all beneficiaries, if the entity is a trust. If an applicant or licensee has a pending registration statement filed with the Securities and Exchange Commission, only the names of those persons or entities holding interest of 5% or more must be provided.

(3) An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant or licensee or an applicant's or licensee's spouse or children has an equity interest of more than 1%. If an applicant or licensee is a corporation, partnership or other business entity, the applicant or licensee shall identify any other corporation, partnership or business entity in which it has an equity interest of 1% or more, including, if applicable, the state of incorporation or registration. This information need not be provided by a corporation,

partnership or other business entity that has a pending registration statement filed with the Securities and Exchange Commission.

(4) Whether an applicant or licensee has been indicted, convicted, pleaded guilty or nolo contendere, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor (except for traffic violations), including the date, the name and location of the court, arresting agency and prosecuting agency, the case number, the offense, the disposition and the location and length of incarceration.

(5) Whether an applicant or licensee has had any license or certificate issued by a licensing authority in Illinois or any other jurisdiction denied, restricted, suspended, revoked or not renewed and a statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation or non-renewal, including the licensing authority, the date each such action was taken, and the reason for each such action.

(6) Whether an applicant or licensee has ever filed or had filed against it a proceeding in bankruptcy or has ever been involved in any formal process to adjust, defer, suspend or otherwise work out the payment of any debt including the date of filing, the name and location of the court, the case and number of the disposition.

(7) Whether an applicant or licensee has filed, or been served with a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, State or local law, including the amount, type of tax, the taxing agency and time periods involved.

(8) A statement listing the names and titles of all public officials or officers of any unit of government, and relatives of said public officials or officers who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with, an applicant or licensee.

(9) Whether an applicant or licensee has made, directly or indirectly, any political contribution, or any loans, donations or other payments, to any candidate or office holder, within 5 years from the date of filing the application, including the amount and the method of payment.

(10) The name and business telephone number of the counsel representing an applicant or licensee in matters before the Board.

(11) A description of any proposed or approved gambling operation, including the type of boat, home dock,

or casino or gaming location, expected economic benefit to the community, anticipated or actual number of employees, any statement from an applicant or licensee regarding compliance with federal and State affirmative action and positive action guidelines, projected or actual admissions and projected or actual adjusted gross gaming receipts.

(12) A description of the product or service to be supplied by an applicant for a supplier's license.

(b) Notwithstanding any applicable statutory provision to the contrary, the Board shall, on written request from any person, also provide the following information:

(1) The amount of the wagering tax and admission tax paid daily to the State of Illinois by the holder of an owner's license.

(2) Whenever the Board finds an applicant for an owner's license unsuitable for licensing, a copy of the written letter outlining the reasons for the denial.

(3) Whenever the Board has refused to grant leave for an applicant to withdraw his application, a copy of the letter outlining the reasons for the refusal.

(c) Subject to the above provisions, the Board shall not disclose any information which would be barred by:

(1) Section 7 of the Freedom of Information Act; or

(2) The statutes, rules, regulations or intergovernmental agreements of any jurisdiction.

(d) The Board may assess fees for the copying of

information in accordance with Section 6 of the Freedom of Information Act.

(Source: P.A. 101-31, eff. 6-28-19.)

(230 ILCS 10/7) (from Ch. 120, par. 2407)

Sec. 7. Owners licenses.

(a) The Board shall issue owners licenses to persons or entities that apply for such licenses upon payment to the Board of the non-refundable license fee as provided in subsection (e) or (e-5) and upon a determination by the Board that the applicant is eligible for an owners license pursuant to this Act and the rules of the Board. From December 15, 2008 (the effective date of Public Act 95-1008) ~~this amendatory Act of the 95th General Assembly~~ until (i) 3 years after December 15, 2008 (the effective date of Public Act 95-1008) ~~this amendatory Act of the 95th General Assembly~~, (ii) the date any organization licensee begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, (iii) the date that payments begin under subsection (c-5) of Section 13 of this Act, (iv) the wagering tax imposed under Section 13 of this Act is increased by law to reflect a tax rate that is at least as stringent or more stringent than the tax rate contained in subsection (a-3) of Section 13, or (v) when an owners licensee holding a license issued pursuant to Section 7.1 of this Act begins conducting gaming, whichever occurs first, as a condition of licensure

and as an alternative source of payment for those funds payable under subsection (c-5) of Section 13 of this Act, any owners licensee that holds or receives its owners license on or after May 26, 2006 (the effective date of Public Act 94-804) ~~this amendatory Act of the 94th General Assembly~~, other than an owners licensee operating a riverboat with adjusted gross receipts in calendar year 2004 of less than $200,000,000, must pay into the Horse Racing Equity Trust Fund, in addition to any other payments required under this Act, an amount equal to 3% of the adjusted gross receipts received by the owners licensee. The payments required under this Section shall be made by the owners licensee to the State Treasurer no later than 3:00 o'clock p.m. of the day after the day when the adjusted gross receipts were received by the owners licensee. A person or entity is ineligible to receive an owners license if:

(1) the person has been convicted of a felony under the laws of this State, any other state, or the United States;

(2) the person has been convicted of any violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012, or substantially similar laws of any other jurisdiction;

(3) the person has submitted an application for a license under this Act which contains false information;

(4) the person is a member of the Board;

(5) a person defined in (1), (2), (3), or (4) is an officer, director, or managerial employee of the entity;

(6) the entity employs a person defined in (1), (2), (3), or (4) who participates in the management or operation of gambling operations authorized under this Act;

(7) (blank); or

(8) a license of the person or entity issued under this Act, or a license to own or operate gambling facilities in any other jurisdiction, has been revoked.

The Board is expressly prohibited from making changes to the requirement that licensees make payment into the Horse Racing Equity Trust Fund without the express authority of the Illinois General Assembly and making any other rule to implement or interpret Public Act 95-1008 ~~this amendatory Act of the 95th General Assembly~~. For the purposes of this paragraph, "rules" is given the meaning given to that term in Section 1-70 of the Illinois Administrative Procedure Act.

(b) In determining whether to grant an owners license to an applicant, the Board shall consider:

(1) the character, reputation, experience, and financial integrity of the applicants and of any other or separate person that either:

(A) controls, directly or indirectly, such applicant; ~~,~~ or

(B) is controlled, directly or indirectly, by such

applicant or by a person which controls, directly or indirectly, such applicant;

(2) the facilities or proposed facilities for the conduct of gambling;

(3) the highest prospective total revenue to be derived by the State from the conduct of gambling;

(4) the extent to which the ownership of the applicant reflects the diversity of the State by including minority persons, women, and persons with a disability and the good faith positive action ~~affirmative action~~ plan of each applicant to recruit, train and upgrade minority persons, women, and persons with a disability in all employment classifications; the Board shall further consider granting an owners license and giving preference to an applicant under this Section to applicants in which minority persons and women hold ownership interest of at least 16% and 4%, respectively;~~.~~

(4.5) the extent to which the ownership of the applicant includes veterans of service in the armed forces of the United States, and the good faith positive action ~~affirmative action~~ plan of each applicant to recruit, train, and upgrade veterans of service in the armed forces of the United States in all employment classifications;

(5) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;

(6) whether the applicant has adequate capitalization

to provide and maintain, for the duration of a license, a riverboat or casino;

(7) the extent to which the applicant exceeds or meets other standards for the issuance of an owners license which the Board may adopt by rule;

(8) the amount of the applicant's license bid;

(9) the extent to which the applicant or the proposed host municipality plans to enter into revenue sharing agreements with communities other than the host municipality; and

(10) the extent to which the ownership of an applicant includes the most qualified number of minority persons, women, and persons with a disability.

(c) Each owners license shall specify the place where the casino shall operate or the riverboat shall operate and dock.

(d) Each applicant shall submit with his or her application, on forms provided by the Board, 2 sets of his or her fingerprints.

(e) In addition to any licenses authorized under subsection (e-5) of this Section, the Board may issue up to 10 licenses authorizing the holders of such licenses to own riverboats. In the application for an owners license, the applicant shall state the dock at which the riverboat is based and the water on which the riverboat will be located. The Board shall issue 5 licenses to become effective not earlier than January 1, 1991. Three of such licenses shall authorize

riverboat gambling on the Mississippi River, or, with approval by the municipality in which the riverboat was docked on August 7, 2003 and with Board approval, be authorized to relocate to a new location, in a municipality that (1) borders on the Mississippi River or is within 5 miles of the city limits of a municipality that borders on the Mississippi River and (2) on August 7, 2003, had a riverboat conducting riverboat gambling operations pursuant to a license issued under this Act; one of which shall authorize riverboat gambling from a home dock in the city of East St. Louis; and one of which shall authorize riverboat gambling from a home dock in the City of Alton. One other license shall authorize riverboat gambling on the Illinois River in the City of East Peoria or, with Board approval, shall authorize land-based gambling operations anywhere within the corporate limits of the City of Peoria. The Board shall issue one additional license to become effective not earlier than March 1, 1992, which shall authorize riverboat gambling on the Des Plaines River in Will County. The Board may issue 4 additional licenses to become effective not earlier than March 1, 1992. In determining the water upon which riverboats will operate, the Board shall consider the economic benefit which riverboat gambling confers on the State, and shall seek to assure that all regions of the State share in the economic benefits of riverboat gambling.

In granting all licenses, the Board may give favorable

consideration to economically depressed areas of the State, to applicants presenting plans which provide for significant economic development over a large geographic area, and to applicants who currently operate non-gambling riverboats in Illinois. The Board shall review all applications for owners licenses, and shall inform each applicant of the Board's decision. The Board may grant an owners license to an applicant that has not submitted the highest license bid, but if it does not select the highest bidder, the Board shall issue a written decision explaining why another applicant was selected and identifying the factors set forth in this Section that favored the winning bidder. The fee for issuance or renewal of a license pursuant to this subsection (e) shall be $250,000.

(e-5) In addition to licenses authorized under subsection (e) of this Section:

(1) the Board may issue one owners license authorizing the conduct of casino gambling in the City of Chicago;

(2) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Danville;

(3) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Waukegan;

(4) the Board may issue one owners license authorizing the conduct of riverboat gambling in the City of Rockford;

(5) the Board may issue one owners license authorizing the conduct of riverboat gambling in a municipality that

is wholly or partially located in one of the following townships of Cook County: Bloom, Bremen, Calumet, Rich, Thornton, or Worth Township; and

(6) the Board may issue one owners license authorizing the conduct of riverboat gambling in the unincorporated area of Williamson County adjacent to the Big Muddy River.

Except for the license authorized under paragraph (1), each application for a license pursuant to this subsection (e-5) shall be submitted to the Board no later than 120 days after June 28, 2019 (the effective date of Public Act 101-31). All applications for a license under this subsection (e-5) shall include the nonrefundable application fee and the nonrefundable background investigation fee as provided in subsection (d) of Section 6 of this Act. In the event that an applicant submits an application for a license pursuant to this subsection (e-5) prior to June 28, 2019 (the effective date of Public Act 101-31), such applicant shall submit the nonrefundable application fee and background investigation fee as provided in subsection (d) of Section 6 of this Act no later than 6 months after June 28, 2019 (the effective date of Public Act 101-31).

The Board shall consider issuing a license pursuant to paragraphs (1) through (6) of this subsection only after the corporate authority of the municipality or the county board of the county in which the riverboat or casino shall be located has certified to the Board the following:

(i) that the applicant has negotiated with the corporate authority or county board in good faith;

(ii) that the applicant and the corporate authority or county board have mutually agreed on the permanent location of the riverboat or casino;

(iii) that the applicant and the corporate authority or county board have mutually agreed on the temporary location of the riverboat or casino;

(iv) that the applicant and the corporate authority or the county board have mutually agreed on the percentage of revenues that will be shared with the municipality or county, if any;

(v) that the applicant and the corporate authority or county board have mutually agreed on any zoning, licensing, public health, or other issues that are within the jurisdiction of the municipality or county;

(vi) that the corporate authority or county board has passed a resolution or ordinance in support of the riverboat or casino in the municipality or county;

(vii) the applicant for a license under paragraph (1) has made a public presentation concerning its casino proposal; and

(viii) the applicant for a license under paragraph (1) has prepared a summary of its casino proposal and such summary has been posted on a public website of the municipality or the county.

At least 7 days before the corporate authority of a municipality or county board of the county submits a certification to the Board concerning items (i) through (viii) of this subsection, it shall hold a public hearing to discuss items (i) through (viii), as well as any other details concerning the proposed riverboat or casino in the municipality or county. The corporate authority or county board must subsequently memorialize the details concerning the proposed riverboat or casino in a resolution that must be adopted by a majority of the corporate authority or county board before any certification is sent to the Board. The Board shall not alter, amend, change, or otherwise interfere with any agreement between the applicant and the corporate authority of the municipality or county board of the county regarding the location of any temporary or permanent facility.

In addition, within 10 days after June 28, 2019 (the effective date of Public Act 101-31), the Board, with consent and at the expense of the City of Chicago, shall select and retain the services of a nationally recognized casino gaming feasibility consultant. Within 45 days after June 28, 2019 (the effective date of Public Act 101-31), the consultant shall prepare and deliver to the Board a study concerning the feasibility of, and the ability to finance, a casino in the City of Chicago. The feasibility study shall be delivered to the Mayor of the City of Chicago, the Governor, the President of the Senate, and the Speaker of the House of

Representatives. Ninety days after receipt of the feasibility study, the Board shall make a determination, based on the results of the feasibility study, whether to recommend to the General Assembly that the terms of the license under paragraph (1) of this subsection (e-5) should be modified. The Board may begin accepting applications for the owners license under paragraph (1) of this subsection (e-5) upon the determination to issue such an owners license.

In addition, prior to the Board issuing the owners license authorized under paragraph (4) of subsection (e-5), an impact study shall be completed to determine what location in the city will provide the greater impact to the region, including the creation of jobs and the generation of tax revenue.

(e-10) The licenses authorized under subsection (e-5) of this Section shall be issued within 12 months after the date the license application is submitted. If the Board does not issue the licenses within that time period, then the Board shall give a written explanation to the applicant as to why it has not reached a determination and when it reasonably expects to make a determination. The fee for the issuance or renewal of a license issued pursuant to this subsection (e-10) shall be $250,000. Additionally, a licensee located outside of Cook County shall pay a minimum initial fee of $17,500 per gaming position, and a licensee located in Cook County shall pay a minimum initial fee of $30,000 per gaming position. The initial fees payable under this subsection (e-10) shall be

deposited into the Rebuild Illinois Projects Fund. If at any point after June 1, 2020 there are no pending applications for a license under subsection (e-5) and not all licenses authorized under subsection (e-5) have been issued, then the Board shall reopen the license application process for those licenses authorized under subsection (e-5) that have not been issued. The Board shall follow the licensing process provided in subsection (e-5) with all time frames tied to the last date of a final order issued by the Board under subsection (e-5) rather than the effective date of the amendatory Act.

(e-15) Each licensee of a license authorized under subsection (e-5) of this Section shall make a reconciliation payment 3 years after the date the licensee begins operating in an amount equal to 75% of the adjusted gross receipts for the most lucrative 12-month period of operations, minus an amount equal to the initial payment per gaming position paid by the specific licensee. Each licensee shall pay a $15,000,000 reconciliation fee upon issuance of an owners license. If this calculation results in a negative amount, then the licensee is not entitled to any reimbursement of fees previously paid. This reconciliation payment may be made in installments over a period of no more than 6 years.

All payments by licensees under this subsection (e-15) shall be deposited into the Rebuild Illinois Projects Fund.

(e-20) In addition to any other revocation powers granted to the Board under this Act, the Board may revoke the owners

license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application if the Board determines that license revocation is in the best interests of the State.

(f) The first 10 owners licenses issued under this Act shall permit the holder to own up to 2 riverboats and equipment thereon for a period of 3 years after the effective date of the license. Holders of the first 10 owners licenses must pay the annual license fee for each of the 3 years during which they are authorized to own riverboats.

(g) Upon the termination, expiration, or revocation of each of the first 10 licenses, which shall be issued for a 3-year period, all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules. However, for licenses renewed on or after May 1, 1998, renewal shall be for a period of 4 years, unless the Board sets a shorter period.

(h) An owners license, except for an owners license issued under subsection (e-5) of this Section, shall entitle the licensee to own up to 2 riverboats.

An owners licensee of a casino or riverboat that is located in the City of Chicago pursuant to paragraph (1) of subsection (e-5) of this Section shall limit the number of gaming positions to 4,000 for such owner. An owners licensee authorized under subsection (e) or paragraph (2), (3), (4), or

(5) of subsection (e-5) of this Section shall limit the number of gaming positions to 2,000 for any such owners license. An owners licensee authorized under paragraph (6) of subsection (e-5) of this Section shall limit the number of gaming positions to 1,200 for such owner. The initial fee for each gaming position obtained on or after June 28, 2019 (the effective date of Public Act 101-31) shall be a minimum of $17,500 for licensees not located in Cook County and a minimum of $30,000 for licensees located in Cook County, in addition to the reconciliation payment, as set forth in subsection (e-15) of this Section. The fees under this subsection (h) shall be deposited into the Rebuild Illinois Projects Fund. The fees under this subsection (h) that are paid by an owners licensee authorized under subsection (e) shall be paid by July 1, 2021.

Each owners licensee under subsection (e) of this Section shall reserve its gaming positions within 30 days after June 28, 2019 (the effective date of Public Act 101-31). The Board may grant an extension to this 30-day period, provided that the owners licensee submits a written request and explanation as to why it is unable to reserve its positions within the 30-day period.

Each owners licensee under subsection (e-5) of this Section shall reserve its gaming positions within 30 days after issuance of its owners license. The Board may grant an extension to this 30-day period, provided that the owners

licensee submits a written request and explanation as to why it is unable to reserve its positions within the 30-day period.

A licensee may operate both of its riverboats concurrently, provided that the total number of gaming positions on both riverboats does not exceed the limit established pursuant to this subsection. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least 400 persons.

(h-5) An owners licensee who conducted gambling operations prior to January 1, 2012 and obtains positions pursuant to Public Act 101-31 shall make a reconciliation payment 3 years after any additional gaming positions begin operating in an amount equal to 75% of the owners licensee's average gross receipts for the most lucrative 12-month period of operations minus an amount equal to the initial fee that the owners licensee paid per additional gaming position. For purposes of this subsection (h-5), "average gross receipts" means (i) the increase in adjusted gross receipts for the most lucrative 12-month period of operations over the adjusted gross receipts for 2019, multiplied by (ii) the percentage derived by dividing the number of additional gaming positions that an owners licensee had obtained by the total number of gaming positions operated by the owners licensee. If this calculation

results in a negative amount, then the owners licensee is not entitled to any reimbursement of fees previously paid. This reconciliation payment may be made in installments over a period of no more than 6 years. These reconciliation payments shall be deposited into the Rebuild Illinois Projects Fund.

(i) A licensed owner is authorized to apply to the Board for and, if approved therefor, to receive all licenses from the Board necessary for the operation of a riverboat or casino, including a liquor license, a license to prepare and serve food for human consumption, and other necessary licenses. All use, occupation, and excise taxes which apply to the sale of food and beverages in this State and all taxes imposed on the sale or use of tangible personal property apply to such sales aboard the riverboat or in the casino.

(j) The Board may issue or re-issue a license authorizing a riverboat to dock in a municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the municipality in which the riverboat will dock has by a majority vote approved the docking of riverboats in the municipality. The Board may issue or re-issue a license authorizing a riverboat to dock in areas of a county outside any municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the county has by a majority vote approved of the docking of riverboats within such areas.

(k) An owners licensee may conduct land-based gambling operations upon approval by the Board and payment of a fee of $250,000, which shall be deposited into the State Gaming Fund.

(l) An owners licensee may conduct gaming at a temporary facility pending the construction of a permanent facility or the remodeling or relocation of an existing facility to accommodate gaming participants for up to 24 months after the temporary facility begins to conduct gaming. Upon request by an owners licensee and upon a showing of good cause by the owners licensee, the Board shall extend the period during which the licensee may conduct gaming at a temporary facility by up to 12 months. The Board shall make rules concerning the conduct of gaming from temporary facilities.

(Source: P.A. 100-391, eff. 8-25-17; 100-1152, eff. 12-14-18; 101-31, eff. 6-28-19; 101-648, eff. 6-30-20; revised 8-19-20.)

(230 ILCS 10/7.11)

Sec. 7.11. Annual report on diversity.

(a) Each licensee that receives a license under Sections 7, 7.1, and 7.7 shall execute and file a report with the Board no later than December 31 of each year that shall contain, but not be limited to, the following information:

(i) a good faith positive action ~~affirmative action~~ plan to recruit, train, and upgrade minority persons, women, and persons with a disability in all employment classifications;

(ii) the total dollar amount of contracts that were awarded to businesses owned by minority persons, women, and persons with a disability;

(iii) the total number of businesses owned by minority persons, women, and persons with a disability that were utilized by the licensee;

(iv) the utilization of businesses owned by minority persons, women, and persons with disabilities during the preceding year; and

(v) the outreach efforts used by the licensee to attract investors and businesses consisting of minority persons, women, and persons with a disability.

(b) The Board shall forward a copy of each licensee's annual reports to the General Assembly no later than February 1 of each year. The reports to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(Source: P.A. 101-31, eff. 6-28-19.)

Section 245. The O'Hare Modernization Act is amended by changing Section 27 as follows:

(620 ILCS 65/27)

Sec. 27. Minority and women-owned businesses and workers. All City contracts for the O'Hare Modernization Program shall

be subject to all applicable ordinances of the City governing contracting with minority and women-owned businesses and prohibiting discrimination and requiring appropriate positive action ~~affirmative action~~ with respect to minority and women participants in the work force, including but not limited to Section 2-92-330 of the Municipal Code of the City of Chicago (relating to hiring of Chicago residents), Section 2-92-390 of the Municipal Code of the City of Chicago (relating to hiring of women and minorities), and Sections 2-92-420 through 2-92-570 of the Municipal Code of the City of Chicago (relating to contracting with minority-owned and women-owned business enterprises), to the extent permitted by law and federal funding restrictions. The City of Chicago shall file semi-annual reports with the General Assembly documenting compliance with such ordinances with respect to work performed as part of the O'Hare Modernization Program and disclosing the extent to which that work is performed by minority and women workers and minority-owned and women-owned business enterprises.

(Source: P.A. 93-450, eff. 8-6-03.)

Section 250. The Illinois Human Rights Act is amended by changing Sections 1-101.1, 1-102, 1-103, 2-105, 2-106, 7-101, 7-105, 7-105a, and 10-102 as follows:

(775 ILCS 5/1-101.1)

Sec. 1-101.1. Construction. Nothing in this Act shall be construed as requiring any employer, employment agency, or labor organization to give preferential treatment or special rights based on sexual orientation or to implement positive action ~~affirmative action~~ policies or programs based on sexual orientation.

(Source: P.A. 93-1078, eff. 1-1-06.)

(775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

Sec. 1-102. Declaration of Policy. It is the public policy of this State:

(A) Freedom from Unlawful Discrimination. To secure for all individuals within Illinois the freedom from discrimination against any individual because of his or her race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

(B) Freedom from Sexual Harassment-Employment and Elementary, Secondary, and Higher Education. To prevent sexual harassment in employment and sexual harassment in elementary, secondary, and higher education.

(C) Freedom from Discrimination Based on Citizenship Status-Employment. To prevent discrimination based on

citizenship status in employment.

(D) Freedom from Discrimination Based on Familial Status-Real Estate Transactions. To prevent discrimination based on familial status in real estate transactions.

(E) Public Health, Welfare and Safety. To promote the public health, welfare and safety by protecting the interest of all people in Illinois in maintaining personal dignity, in realizing their full productive capacities, and in furthering their interests, rights and privileges as citizens of this State.

(F) Implementation of Constitutional Guarantees. To secure and guarantee the rights established by Sections 17, 18 and 19 of Article I of the Illinois Constitution of 1970.

(G) Equal Opportunity, Positive Action ~~Affirmative Action~~. To establish Equal Opportunity and Positive Action ~~Affirmative Action~~ as the policies of this State in all of its decisions, programs and activities, and to assure that all State departments, boards, commissions and instrumentalities rigorously take positive action ~~affirmative action~~ to provide equality of opportunity and eliminate the effects of past discrimination in the internal affairs of State government and in their relations with the public.

(H) Unfounded Charges. To protect citizens of this State against unfounded charges of unlawful discrimination, sexual harassment in employment and sexual harassment in elementary, secondary, and higher education, and discrimination based on

citizenship status in employment.

(Source: P.A. 98-1050, eff. 1-1-15.)

(775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

Sec. 1-103. General definitions. When used in this Act, unless the context requires otherwise, the term:

(A) Age. "Age" means the chronological age of a person who is at least 40 years old, except with regard to any practice described in Section 2-102, insofar as that practice concerns training or apprenticeship programs. In the case of training or apprenticeship programs, for the purposes of Section 2-102, "age" means the chronological age of a person who is 18 but not yet 40 years old.

(B) Aggrieved party. "Aggrieved party" means a person who is alleged or proved to have been injured by a civil rights violation or believes he or she will be injured by a civil rights violation under Article 3 that is about to occur.

(B-5) Arrest record. "Arrest record" means:

(1) an arrest not leading to a conviction;

(2) a juvenile record; or

(3) criminal history record information ordered expunged, sealed, or impounded under Section 5.2 of the Criminal Identification Act.

(C) Charge. "Charge" means an allegation filed with the Department by an aggrieved party or initiated by the Department under its authority.

(D) Civil rights violation. "Civil rights violation" includes and shall be limited to only those specific acts set forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103, 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102, 6-101, and 6-102 of this Act.

(E) Commission. "Commission" means the Human Rights Commission created by this Act.

(F) Complaint. "Complaint" means the formal pleading filed by the Department with the Commission following an investigation and finding of substantial evidence of a civil rights violation.

(G) Complainant. "Complainant" means a person including the Department who files a charge of civil rights violation with the Department or the Commission.

(H) Department. "Department" means the Department of Human Rights created by this Act.

(I) Disability. "Disability" means a determinable physical or mental characteristic of a person, including, but not limited to, a determinable physical characteristic which necessitates the person's use of a guide, hearing or support dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic:

(1) For purposes of Article 2, is unrelated to the person's ability to perform the duties of a particular job

or position and, pursuant to Section 2-104 of this Act, a person's illegal use of drugs or alcohol is not a disability;

(2) For purposes of Article 3, is unrelated to the person's ability to acquire, rent, or maintain a housing accommodation;

(3) For purposes of Article 4, is unrelated to a person's ability to repay;

(4) For purposes of Article 5, is unrelated to a person's ability to utilize and benefit from a place of public accommodation;

(5) For purposes of Article 5, also includes any mental, psychological, or developmental disability, including autism spectrum disorders.

(J) Marital status. "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(J-1) Military status. "Military status" means a person's status on active duty in or status as a veteran of the armed forces of the United States, status as a current member or veteran of any reserve component of the armed forces of the United States, including the United States Army Reserve, United States Marine Corps Reserve, United States Navy Reserve, United States Air Force Reserve, and United States Coast Guard Reserve, or status as a current member or veteran of the Illinois Army National Guard or Illinois Air National

Guard.

(K) National origin. "National origin" means the place in which a person or one of his or her ancestors was born.

(K-5) "Order of protection status" means a person's status as being a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986, Article 112A of the Code of Criminal Procedure of 1963, the Stalking No Contact Order Act, or the Civil No Contact Order Act, or an order of protection issued by a court of another state.

(L) Person. "Person" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, or union labor associations, corporations, the State of Illinois and its instrumentalities, political subdivisions, units of local government, legal representatives, trustees in bankruptcy or receivers.

(L-3) Positive action. "Positive action" has the same meaning as provided under Section 5 of the Positive Action Act.

(L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.

(M) Public contract. "Public contract" includes every contract to which the State, any of its political subdivisions, or any municipal corporation is a party.

(N) Religion. "Religion" includes all aspects of religious observance and practice, as well as belief, except that with respect to employers, for the purposes of Article 2, "religion" has the meaning ascribed to it in paragraph (F) of Section 2-101.

(O) Sex. "Sex" means the status of being male or female.

(O-1) Sexual orientation. "Sexual orientation" means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity, whether or not traditionally associated with the person's designated sex at birth. "Sexual orientation" does not include a physical or sexual attraction to a minor by an adult.

(P) Unfavorable military discharge. "Unfavorable military discharge" includes discharges from the Armed Forces of the United States, their Reserve components, or any National Guard or Naval Militia which are classified as RE-3 or the equivalent thereof, but does not include those characterized as RE-4 or "Dishonorable".

(Q) Unlawful discrimination. "Unlawful discrimination" means discrimination against a person because of his or her actual or perceived: race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service as those terms are defined in this Section.

(Source: P.A. 100-714, eff. 1-1-19; 101-81, eff. 7-12-19;

101-221, eff. 1-1-20; 101-565, eff. 1-1-20; revised 9-18-19.)

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

Sec. 2-105. Equal Employment Opportunities; Positive Action ~~Affirmative Action~~.

(A) Public Contracts. Every party to a public contract and every eligible bidder shall:

(1) Refrain from unlawful discrimination and discrimination based on citizenship status in employment and undertake positive action ~~affirmative action~~ to assure equality of employment opportunity and eliminate the effects of past discrimination;

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

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

(4) Have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the vendor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi)

directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. A copy of the policies shall be provided to the Department upon request. Additionally, each bidder who submits a bid or offer for a State contract under the Illinois Procurement Code shall have a written copy of the bidder's sexual harassment policy as required under this paragraph (4). A copy of the policy shall be provided to the State agency entering into the contract upon request.

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

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

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

(3) Establish, maintain, and carry out a continuing positive action ~~affirmative action~~ plan consistent with this Act and the regulations of the Department designed to promote equal opportunity for all State residents in every aspect of agency personnel policy and practice. For purposes of these positive action ~~affirmative action~~ plans, the race and national origin categories to be included in the plans are: American Indian or Alaska Native, Asian, Black or African American, Hispanic or

Latino, Native Hawaiian or Other Pacific Islander.

This plan shall include a current detailed status report:

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

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

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

(d) indicating progress and problems toward meeting equal employment opportunity goals, including, if applicable, but not limited to, Department of Central Management Services recruitment efforts, publicity, promotions, and use of options designating positions by linguistic abilities;

(e) establishing a numerical hiring goal for the employment of qualified persons with disabilities in

the agency as a whole, to be based on the proportion of people with work disabilities in the Illinois labor force as reflected in the most recent employment data made available by the United States Census Bureau.

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

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

(b) Evaluating in writing each fiscal year the sufficiency of the total agency program for equal employment opportunity and reporting thereon to the head of the agency with recommendations as to any improvement or correction in recruiting, hiring or promotion needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed to cooperate fully or who are in violation of the program.

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

(d) Evaluating tests, employment policies,

practices and qualifications and reporting to the head of the agency and to the Department any policies, practices and qualifications that have unequal impact by race, national origin as required by Department rule, sex or disability or any other category that the Department may require by rule, and to assist in the recruitment of people in underrepresented classifications. This function shall be performed in cooperation with the State Department of Central Management Services.

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

In any meeting, investigation, negotiation, conference, or other proceeding between a State employee and an Equal Employment Opportunity officer, a State employee (1) who is not covered by a collective bargaining agreement and (2) who is the complaining party or the subject of such proceeding may be accompanied, advised and represented by (1) an attorney licensed to practice law in the State of Illinois or (2) a representative of an employee organization whose membership is composed of employees of the State and of which the employee is a member. A representative of an employee, other than an attorney, may observe but may not actively participate, or

advise the State employee during the course of such meeting, investigation, negotiation, conference or other proceeding. Nothing in this Section shall be construed to permit any person who is not licensed to practice law in Illinois to deliver any legal services or otherwise engage in any activities that would constitute the unauthorized practice of law. Any representative of an employee who is present with the consent of the employee, shall not, during or after termination of the relationship permitted by this Section with the State employee, use or reveal any information obtained during the course of the meeting, investigation, negotiation, conference or other proceeding without the consent of the complaining party and any State employee who is the subject of the proceeding and pursuant to rules and regulations governing confidentiality of such information as promulgated by the appropriate State agency. Intentional or reckless disclosure of information in violation of these confidentiality requirements shall constitute a Class B misdemeanor.

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

(a) Develop a written sexual harassment policy that includes at a minimum the following information:

(i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the agency's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department and the Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of this Act. The policy shall be reviewed annually.

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

(c) Provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

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

(a) No layoff may be effective earlier than 10

working days after notice to the Department, unless an emergency layoff situation exists.

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

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

(d) The State executive department, State agency, board, commission, or instrumentality in which the layoffs are to occur should notify each employee targeted for layoff that transitional assistance may be available to him or her under the Economic Dislocation and Worker Adjustment Assistance Act administered by the Department of Commerce and Economic Opportunity. Failure to give such notice shall not invalidate the layoff or postpone its effective date.

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

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

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

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

(D) As used in this Section:

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

(2) "Asian" means a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to,

Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

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

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

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

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

(775 ILCS 5/2-106)

Sec. 2-106. Interagency Committee on Employees with Disabilities.

(A) As used in this Section:

"State agency" means all officers, boards, commissions, and agencies created by the Constitution in the executive branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of

election commissioners; all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor.

"State employee" means an employee of a State agency.

(B) The Interagency Committee on Employees with Disabilities, created under repealed Section 19a of the Personnel Code, is continued as set forth in this Section. The Committee is composed of 18 members as follows: the Chairperson of the Civil Service Commission or his or her designee, the Director of Veterans' Affairs or his or her designee, the Director of Central Management Services or his or her designee, the Secretary of Human Services or his or her designee, the Director of Human Rights or his or her designee, the Director of the Illinois Council on Developmental Disabilities or his or her designee, the Lieutenant Governor or his or her designee, the Attorney General or his or her designee, the Secretary of State or his or her designee, the State Comptroller or his or her designee, the State Treasurer or his or her designee, and 7 State employees with disabilities appointed by and serving at the pleasure of the Governor.

(C) The Director of Human Rights and the Secretary of Human Services shall serve as co-chairpersons of the Committee. The Committee shall meet as often as it deems necessary, but in no case less than 6 times annually at the call of the co-chairpersons. Notice shall be given to the

members in writing in advance of a scheduled meeting.

(D) The Department of Human Rights shall provide administrative support to the Committee.

(E) The purposes and functions of the Committee are: (1) to provide a forum where problems of general concern to State employees with disabilities can be raised and methods of their resolution can be suggested to the appropriate State agencies; (2) to provide a clearinghouse of information for State employees with disabilities by working with those agencies to develop and retain such information; (3) to promote positive action ~~affirmative action~~ efforts pertaining to the employment of persons with disabilities by State agencies; and (4) to recommend, where appropriate, means of strengthening the positive action ~~affirmative action~~ programs for employees with disabilities in State agencies.

(F) The Committee shall annually make a complete report to the General Assembly on the Committee's achievements and accomplishments. Such report may also include an evaluation by the Committee of the effectiveness of the hiring and advancement practices in State government.

(G) This amendatory Act of the 99th General Assembly is not intended to disqualify any current member of the Committee from continued membership on the Committee in accordance with the terms of this Section or the member's appointment.

(Source: P.A. 99-314, eff. 8-7-15.)

(775 ILCS 5/7-101) (from Ch. 68, par. 7-101)

Sec. 7-101. Powers and Duties. In addition to other powers and duties prescribed in this Act, the Department shall have the following powers:

(A) Rules and Regulations. To adopt, promulgate, amend, and rescind rules and regulations not inconsistent with the provisions of this Act pursuant to the Illinois Administrative Procedure Act.

(B) Charges. To issue, receive, investigate, conciliate, settle, and dismiss charges filed in conformity with this Act.

(C) Compulsory Process. To request subpoenas as it deems necessary for its investigations.

(D) Complaints. To file complaints with the Commission in conformity with this Act.

(E) Judicial Enforcement. To seek temporary relief and to enforce orders of the Commission in conformity with this Act.

(F) Equal Employment Opportunities. To take such action as may be authorized to provide for equal employment opportunities and positive action ~~affirmative action~~.

(G) Recruitment; Research; Public Communication; Advisory Councils. To engage in such recruitment, research and public communication and create such advisory councils as may be authorized to effectuate the purposes of this Act.

(H) Coordination with other Agencies. To coordinate its activities with federal, state, and local agencies in conformity with this Act.

(I) Public Grants; Private Gifts. To accept public grants and private gifts as may be authorized.

(J) Education and Training. To implement a formal and unbiased program of education and training for all employees assigned to investigate and conciliate charges under Articles 7A and 7B. The training program shall include the following:

(1) substantive and procedural aspects of the investigation and conciliation positions;

(2) current issues in human rights law and practice;

(3) lectures by specialists in substantive areas related to human rights matters;

(4) orientation to each operational unit of the Department and Commission;

(5) observation of experienced Department investigators and attorneys conducting conciliation conferences, combined with the opportunity to discuss evidence presented and rulings made;

(6) the use of hypothetical cases requiring the Department investigator and conciliation conference attorney to issue judgments as a means to evaluating knowledge and writing ability;

(7) writing skills;

(8) computer skills, including but not limited to word processing and document management.

A formal, unbiased and ongoing professional development program including, but not limited to, the above-noted areas

shall be implemented to keep Department investigators and attorneys informed of recent developments and issues and to assist them in maintaining and enhancing their professional competence.

(Source: P.A. 99-74, eff. 7-20-15.)

(775 ILCS 5/7-105) (from Ch. 68, par. 7-105)

Sec. 7-105. Equal Employment Opportunities; Positive Action ~~Affirmative Action~~. In order to establish and effectuate the policies of equal employment opportunity and positive action ~~affirmative action~~, the Department shall, with respect to state executive departments, boards, commissions and instrumentalities and any party to a public contract:

(A) Policies; Rules; Regulations. Establish equal employment opportunity and positive action ~~affirmative action~~ policies, rules and regulations which specify plans, programs and reporting procedures. Such rules may provide for exemptions or modifications as may be necessary to assure the continuity of federal requirements in State agencies supported in whole or in part by federal funds.

(B) Minimum Compliance Criteria. Establish minimum compliance criteria and procedures for evaluating equal employment opportunity and positive action ~~affirmative action~~ programs and plans.

(C) Technical Assistance. Provide technical assistance, training, and advice for the establishment and implementation

of required programs.

(D) Meetings. Hold meetings at least annually with the head of each State agency and when necessary with any party to a public contract to:

(1) Review equal employment opportunity plans and progress, performance and problems in meeting equal opportunity goals.

(2) Recommend appropriate changes to the plans and procedures and the methods employed to implement the plans.

(E) Report. Include within its annual report, filed pursuant to Section 5-650 of the Departments of State Government Law (20 ILCS 5/5-650), the progress, performance, and problems of meeting equal opportunity goals, and the identity of any State agency which fails to comply with the requirements of this Act and the circumstances surrounding such violation.

(F) Personnel Operations. Periodically review personnel operations of State agencies to assure their conformity with this Act and the agency's plan.

(G) Equal Employment Opportunity Officers. Approve the appointment of equal employment opportunity officers hired pursuant to subparagraph (4) of paragraph (B) of Section 2-105.

(H) Enforcement. Require State agencies which fail to meet their positive action ~~affirmative action~~ and equal employment

opportunity goals by equal employment opportunity category to establish necessary training programs for preparation and promotion of the category of individuals affected by the failure. An agency required to establish training programs under this subsection shall do so in cooperation with the Department of Central Management Services as provided in Section 405-125 of the Department of Central Management Services Law (20 ILCS 405/405-125).

The Department by rule or regulation shall provide for the implementation of this subsection. Such rules or regulations shall prescribe but not be limited to the following:

(1) the circumstances and conditions which constitute an agency's failure to meet its positive action ~~affirmative action~~ and equal employment opportunity goals;

(2) the time period for measuring success or failure in reaching positive action ~~affirmative action~~ and equal employment opportunity goals; and

(3) that training programs shall be limited to State employees.

This subsection shall not be construed to conflict with any contract between the State and any party which is approved and ratified by or on September 11, 1990.

(Source: P.A. 91-239, eff. 1-1-00.)

(775 ILCS 5/7-105a) (from Ch. 68, par. 7-105a)

Sec. 7-105a. (a) In order to facilitate the implementation

of the policies of equal employment opportunity and positive action ~~affirmative action~~, the State executive departments, boards, commissions and instrumentalities shall, on and after the effective date of this amendatory Act of 1983, on all forms used to collect information from individuals for official purposes, when such forms request information concerning the race or ethnicity of an individual by providing spaces for the designation of that individual as "white" or "black", or the semantic equivalent thereof, provide an additional space for a designation as "Hispanic".

(b) Whenever a State executive department, board, commission or instrumentality is required to supply information to the Department concerning the racial or ethnic composition of its employees, clients or other groups of individuals on or after the effective date of this amendatory Act of 1983, the agency supplying such information shall supply the information by categories of "white", "black", and "Hispanic", or the semantic equivalent thereof, unless otherwise required by the Department.

(Source: P.A. 83-648.)

(775 ILCS 5/10-102) (from Ch. 68, par. 10-102)

Sec. 10-102. Court Actions. (A) Circuit Court Actions. (1) An aggrieved party may commence a civil action in an appropriate Circuit Court not later than 2 years after the occurrence or the termination of an alleged civil rights

violation or the breach of a conciliation or settlement agreement entered into under this Act, whichever occurs last, to obtain appropriate relief with respect to the alleged civil rights violation or breach. Venue for such civil action shall be determined under Section 8-111(B)(6).

(2) The computation of such 2-year period shall not include any time during which an administrative proceeding under this Act was pending with respect to a complaint or charge under this Act based upon the alleged civil rights violation. This paragraph does not apply to actions arising from a breach of a conciliation or settlement agreement.

(3) An aggrieved party may commence a civil action under this subsection whether or not a charge has been filed under Section 7B-102 and without regard to the status of any such charge, however, if the Department or local agency has obtained a conciliation or settlement agreement with the consent of an aggrieved party, no action may be filed under this subsection by such aggrieved party with respect to the alleged civil rights violation practice which forms the basis for such complaint except for the purpose of enforcing the terms of such conciliation or settlement agreement.

(4) An aggrieved party shall not commence a civil action under this subsection with respect to an alleged civil rights violation which forms the basis of a complaint issued by the Department if a hearing officer has commenced a hearing on the record under Article 3 of this Act with respect to such

complaint.

(B) Appointment of Attorney by Court. Upon application by a person alleging a civil rights violation or a person against whom the civil rights violation is alleged, if in the opinion of the court such person is financially unable to bear the costs of such action, the court may:

(1) appoint an attorney for such person, any attorney so appointed may petition for an award of attorneys fees pursuant to subsection (C)(2) of this Section; or

(2) authorize the commencement or continuation of a civil action under subsection (A) without the payment of fees, costs, or security.

(C) Relief which may be granted. (1) In a civil action under subsection (A) if the court finds that a civil rights violation has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and may grant as relief, as the court deems appropriate, any permanent or preliminary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such civil rights violation or ordering such positive action ~~affirmative action~~ as may be appropriate.

(2) In a civil action under subsection (A), the court, in its discretion, may allow the prevailing party, other than the State of Illinois, reasonable attorneys fees and costs. The State of Illinois shall be liable for such fees and costs to the same extent as a private person.

(D) Intervention By The Department. The Attorney General of Illinois may intervene on behalf of the Department if the Department certifies that the case is of general public importance. Upon such intervention the court may award such relief as is authorized to be granted to a plaintiff in a civil action under Section 10-102(C).

(Source: P.A. 86-910.)

Section 255. The Motor Vehicle Franchise Act is amended by changing Section 4 as follows:

(815 ILCS 710/4) (from Ch. 121 1/2, par. 754)

Sec. 4. Unfair competition and practices.

(a) The unfair methods of competition and unfair and deceptive acts or practices listed in this Section are hereby declared to be unlawful. In construing the provisions of this Section, the courts may be guided by the interpretations of the Federal Trade Commission Act (15 U.S.C. 45 et seq.), as from time to time amended.

(b) It shall be deemed a violation for any manufacturer, factory branch, factory representative, distributor or wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action with respect to a franchise which is arbitrary, in bad faith or unconscionable and which causes damage to any of the parties or to the public.

(c) It shall be deemed a violation for a manufacturer, a

distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof, to coerce, or attempt to coerce, any motor vehicle dealer:

(1) to accept, buy or order any motor vehicle or vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities or service or services which such motor vehicle dealer has not voluntarily ordered or requested except items required by applicable local, state or federal law; or to require a motor vehicle dealer to accept, buy, order or purchase such items in order to obtain any motor vehicle or vehicles or any other commodity or commodities which have been ordered or requested by such motor vehicle dealer;

(2) to order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof, except items required by applicable law; or

(3) to order for anyone any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever, except items required by applicable law.

(d) It shall be deemed a violation for a manufacturer, a distributor, a wholesaler, a distributor branch or division, or officer, agent or other representative thereof:

(1) to adopt, change, establish or implement a plan or

system for the allocation and distribution of new motor vehicles to motor vehicle dealers which is arbitrary or capricious or to modify an existing plan so as to cause the same to be arbitrary or capricious;

(2) to fail or refuse to advise or disclose to any motor vehicle dealer having a franchise or selling agreement, upon written request therefor, the basis upon which new motor vehicles of the same line make are allocated or distributed to motor vehicle dealers in the State and the basis upon which the current allocation or distribution is being made or will be made to such motor vehicle dealer;

(3) to refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order, to any motor vehicle dealer having a franchise or selling agreement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division, any such motor vehicles as are covered by such franchise or selling agreement specifically publicly advertised in the State by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division to be available for immediate delivery. However, the failure to deliver any motor vehicle shall not be considered a violation of this Act if

such failure is due to an act of God, a work stoppage or delay due to a strike or labor difficulty, a shortage of materials, a lack of manufacturing capacity, a freight embargo or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof has no control;

(4) to coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to the dealer by threatening to reduce his allocation of motor vehicles or cancel any franchise or any selling agreement existing between such manufacturer, distributor, wholesaler, distributor branch or division, or factory branch or division, or wholesale branch or division, and the dealer. However, notice in good faith to any motor vehicle dealer of the dealer's violation of any terms or provisions of such franchise or selling agreement or of any law or regulation applicable to the conduct of a motor vehicle dealer shall not constitute a violation of this Act;

(5) to require a franchisee to participate in an advertising campaign or contest or any promotional campaign, or to purchase or lease any promotional materials, training materials, show room or other display

decorations or materials at the expense of the franchisee;

(6) to cancel or terminate the franchise or selling agreement of a motor vehicle dealer without good cause and without giving notice as hereinafter provided; to fail or refuse to extend the franchise or selling agreement of a motor vehicle dealer upon its expiration without good cause and without giving notice as hereinafter provided; or, to offer a renewal, replacement or succeeding franchise or selling agreement containing terms and provisions the effect of which is to substantially change or modify the sales and service obligations or capital requirements of the motor vehicle dealer arbitrarily and without good cause and without giving notice as hereinafter provided notwithstanding any term or provision of a franchise or selling agreement.

(A) If a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division intends to cancel or terminate a franchise or selling agreement or intends not to extend or renew a franchise or selling agreement on its expiration, it shall send a letter by certified mail, return receipt requested, to the affected franchisee at least 60 days before the effective date of the proposed action, or not later than 10 days before the proposed action when the reason for the action is based upon either of the

following:

(i) the business operations of the franchisee have been abandoned or the franchisee has failed to conduct customary sales and service operations during customary business hours for at least 7 consecutive business days unless such closing is due to an act of God, strike or labor difficulty or other cause over which the franchisee has no control; or

(ii) the conviction of or plea of nolo contendere by the motor vehicle dealer or any operator thereof in a court of competent jurisdiction to an offense punishable by imprisonment for more than two years.

Each notice of proposed action shall include a detailed statement setting forth the specific grounds for the proposed cancellation, termination, or refusal to extend or renew and shall state that the dealer has only 30 days from receipt of the notice to file with the Motor Vehicle Review Board a written protest against the proposed action.

(B) If a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division intends to change substantially or modify the sales and service obligations or capital requirements of a motor vehicle

dealer as a condition to extending or renewing the existing franchise or selling agreement of such motor vehicle dealer, it shall send a letter by certified mail, return receipt requested, to the affected franchisee at least 60 days before the date of expiration of the franchise or selling agreement. Each notice of proposed action shall include a detailed statement setting forth the specific grounds for the proposed action and shall state that the dealer has only 30 days from receipt of the notice to file with the Motor Vehicle Review Board a written protest against the proposed action.

(C) Within 30 days from receipt of the notice under subparagraphs (A) and (B), the franchisee may file with the Board a written protest against the proposed action.

When the protest has been timely filed, the Board shall enter an order, fixing a date (within 60 days of the date of the order), time, and place of a hearing on the protest required under Sections 12 and 29 of this Act, and send by certified mail, return receipt requested, a copy of the order to the manufacturer that filed the notice of intention of the proposed action and to the protesting dealer or franchisee.

The manufacturer shall have the burden of proof to establish that good cause exists to cancel or

terminate, or fail to extend or renew the franchise or selling agreement of a motor vehicle dealer or franchisee, and to change substantially or modify the sales and service obligations or capital requirements of a motor vehicle dealer as a condition to extending or renewing the existing franchise or selling agreement. The determination whether good cause exists to cancel, terminate, or refuse to renew or extend the franchise or selling agreement, or to change or modify the obligations of the dealer as a condition to offer renewal, replacement, or succession shall be made by the Board under subsection (d) of Section 12 of this Act.

(D) Notwithstanding the terms, conditions, or provisions of a franchise or selling agreement, the following shall not constitute good cause for cancelling or terminating or failing to extend or renew the franchise or selling agreement: (i) the change of ownership or executive management of the franchisee's dealership; or (ii) the fact that the franchisee or owner of an interest in the franchise owns, has an investment in, participates in the management of, or holds a license for the sale of the same or any other line make of new motor vehicles.

(E) The manufacturer may not cancel or terminate, or fail to extend or renew a franchise or selling

agreement or change or modify the obligations of the franchisee as a condition to offering a renewal, replacement, or succeeding franchise or selling agreement before the hearing process is concluded as prescribed by this Act, and thereafter, if the Board determines that the manufacturer has failed to meet its burden of proof and that good cause does not exist to allow the proposed action;

(7) notwithstanding the terms of any franchise agreement, to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement for damages, including, but not limited to, court costs, expert witness fees, reasonable attorneys' fees of the new motor vehicle dealer, and other expenses incurred in the litigation, so long as such fees and costs are reasonable, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or rescission of the sale as defined in Section 2-608 of the Uniform Commercial Code, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, beyond the control of the dealer; provided that, in order to provide an adequate defense, the manufacturer receives notice of the filing of a complaint,

claim, or lawsuit within 60 days after the filing;

(8) to require or otherwise coerce a motor vehicle dealer to underutilize the motor vehicle dealer's facilities by requiring or otherwise coercing the motor vehicle dealer to exclude or remove from the motor vehicle dealer's facilities operations for selling or servicing of any vehicles for which the motor vehicle dealer has a franchise agreement with another manufacturer, distributor, wholesaler, distribution branch or division, or officer, agent, or other representative thereof; provided, however, that, in light of all existing circumstances, (i) the motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle, (ii) the new motor vehicle dealer remains in compliance with any reasonable facilities requirements of the manufacturer, (iii) no change is made in the principal management of the new motor vehicle dealer, and (iv) the addition of the make or line of new motor vehicles would be reasonable. The reasonable facilities requirement set forth in item (ii) of subsection (d)(8) shall not include any requirement that a franchisee establish or maintain exclusive facilities, personnel, or display space. Any decision by a motor vehicle dealer to sell additional makes or lines at the motor vehicle dealer's facility shall be presumed to be reasonable, and the manufacturer shall have the burden to overcome that

presumption. A motor vehicle dealer must provide a written notification of its intent to add a make or line of new motor vehicles to the manufacturer. If the manufacturer does not respond to the motor vehicle dealer, in writing, objecting to the addition of the make or line within 60 days after the date that the motor vehicle dealer sends the written notification, then the manufacturer shall be deemed to have approved the addition of the make or line;

(9) to use or consider the performance of a motor vehicle dealer relating to the sale of the manufacturer's, distributor's, or wholesaler's vehicles or the motor vehicle dealer's ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of the manufacturer's, distributor's, or wholesaler's new vehicles in determining:

(A) the motor vehicle dealer's eligibility to purchase program, certified, or other used motor vehicles from the manufacturer, distributor, or wholesaler;

(B) the volume, type, or model of program, certified, or other used motor vehicles that a motor vehicle dealer is eligible to purchase from the manufacturer, distributor, or wholesaler;

(C) the price of any program, certified, or other used motor vehicle that the dealer is eligible to purchase from the manufacturer, distributor, or

wholesaler; or

(D) the availability or amount of any discount, credit, rebate, or sales incentive that the dealer is eligible to receive from the manufacturer, distributor, or wholesaler for the purchase of any program, certified, or other used motor vehicle offered for sale by the manufacturer, distributor, or wholesaler;

(10) to take any adverse action against a dealer pursuant to an export or sale-for-resale prohibition because the dealer sold or leased a vehicle to a customer who either exported the vehicle to a foreign country or resold the vehicle in violation of the prohibition, unless the export or sale-for-resale prohibition policy was provided to the dealer in writing either electronically or on paper, prior to the sale or lease, and the dealer knew or reasonably should have known of the customer's intent to export or resell the vehicle in violation of the prohibition at the time of the sale or lease. If the dealer causes the vehicle to be registered and titled in this or any other state, and collects or causes to be collected any applicable sales or use tax to this State, a rebuttable presumption is established that the dealer did not have reason to know of the customer's intent to resell the vehicle;

(11) to coerce or require any dealer to construct

improvements to his or her facilities or to install new signs or other franchiser image elements that replace or substantially alter those improvements, signs, or franchiser image elements completed within the past 10 years that were required and approved by the manufacturer or one of its affiliates. The 10-year period under this paragraph (11) begins to run for a dealer, including that dealer's successors and assigns, on the date that the manufacturer gives final written approval of the facility improvements or installation of signs or other franchiser image elements or the date that the dealer receives a certificate of occupancy, whichever is later. For the purpose of this paragraph (11), the term "substantially alter" does not include routine maintenance, including, but not limited to, interior painting, that is reasonably necessary to keep a dealer facility in attractive condition; or

(12) to require a dealer to purchase goods or services to make improvements to the dealer's facilities from a vendor selected, identified, or designated by a manufacturer or one of its affiliates by agreement, program, incentive provision, or otherwise without making available to the dealer the option to obtain the goods or services of substantially similar quality and overall design from a vendor chosen by the dealer and approved by the manufacturer; however, approval by the manufacturer

shall not be unreasonably withheld, and the dealer's option to select a vendor shall not be available if the manufacturer provides substantial reimbursement for the goods or services offered. "Substantial reimbursement" means an amount equal to or greater than the cost savings that would result if the dealer were to utilize a vendor of the dealer's own selection instead of using the vendor identified by the manufacturer. For the purpose of this paragraph (12), the term "goods" does not include movable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer. If signs, other than signs containing the manufacturer's brand or logo or free-standing signs that are not directly attached to a building, or other franchiser image or design elements or trade dress are to be leased to the dealer by a vendor selected, identified, or designated by the manufacturer, the dealer has the right to purchase the signs or other franchiser image or design elements or trade dress of substantially similar quality and design from a vendor selected by the dealer if the signs, franchiser image or design elements, or trade dress are approved by the manufacturer. Approval by the manufacturer shall not be unreasonably withheld. This paragraph (12) shall not be construed to allow a dealer or vendor to impair, infringe upon, or eliminate, directly or indirectly, the intellectual property rights of the

manufacturer, including, but not limited to, the manufacturer's intellectual property rights in any trademarks or trade dress, or other intellectual property interests owned or controlled by the manufacturer. This paragraph (12) shall not be construed to permit a dealer to erect or maintain signs that do not conform to the manufacturer's intellectual property rights or trademark or trade dress usage guidelines.

(e) It shall be deemed a violation for a manufacturer, a distributor, a wholesaler, a distributor branch or division or officer, agent or other representative thereof:

(1) to resort to or use any false or misleading advertisement in connection with his business as such manufacturer, distributor, wholesaler, distributor branch or division or officer, agent or other representative thereof;

(2) to offer to sell or lease, or to sell or lease, any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price or fail to make available to any motor vehicle dealer any preferential pricing, incentive, rebate, finance rate, or low interest loan program offered to competing motor vehicle dealers in

other contiguous states. However, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government, the State or any of its political subdivisions;

(3) to offer to sell or lease, or to sell or lease, any new motor vehicle to any person, except a wholesaler, distributor or manufacturer's employees at a lower actual price therefor than the actual price offered and charged to a motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device which results in such lesser actual price. However, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government, the State or any of its political subdivisions;

(4) to prevent or attempt to prevent by contract or otherwise any motor vehicle dealer or franchisee from changing the executive management control of the motor vehicle dealer or franchisee unless the franchiser, having the burden of proof, proves that such change of executive management will result in executive management control by a person or persons who are not of good moral character or who do not meet the franchiser's existing and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business

experience standards in the market area. However, where the manufacturer rejects a proposed change in executive management control, the manufacturer shall give written notice of his reasons to the dealer within 60 days of notice to the manufacturer by the dealer of the proposed change. If the manufacturer does not send a letter to the franchisee by certified mail, return receipt requested, within 60 days from receipt by the manufacturer of the proposed change, then the change of the executive management control of the franchisee shall be deemed accepted as proposed by the franchisee, and the manufacturer shall give immediate effect to such change;

(5) to prevent or attempt to prevent by contract or otherwise any motor vehicle dealer from establishing or changing the capital structure of his dealership or the means by or through which he finances the operation thereof; provided the dealer meets any reasonable capital standards agreed to between the dealer and the manufacturer, distributor or wholesaler, who may require that the sources, method and manner by which the dealer finances or intends to finance its operation, equipment or facilities be fully disclosed;

(6) to refuse to give effect to or prevent or attempt to prevent by contract or otherwise any motor vehicle dealer or any officer, partner or stockholder of any motor vehicle dealer from selling or transferring any part of

the interest of any of them to any other person or persons or party or parties unless such sale or transfer is to a transferee who would not otherwise qualify for a new motor vehicle dealers license under the Illinois Vehicle Code or unless the franchiser, having the burden of proof, proves that such sale or transfer is to a person or party who is not of good moral character or does not meet the franchiser's existing and reasonable capital standards and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the market area. However, nothing herein shall be construed to prevent a franchiser from implementing positive action ~~affirmative action~~ programs providing business opportunities for minorities or from complying with applicable federal, State or local law:

(A) If the manufacturer intends to refuse to approve the sale or transfer of all or a part of the interest, then it shall, within 60 days from receipt of the completed application forms generally utilized by a manufacturer to conduct its review and a copy of all agreements regarding the proposed transfer, send a letter by certified mail, return receipt requested, advising the franchisee of any refusal to approve the sale or transfer of all or part of the interest and shall state that the dealer only has 30 days from the

receipt of the notice to file with the Motor Vehicle Review Board a written protest against the proposed action. The notice shall set forth specific criteria used to evaluate the prospective transferee and the grounds for refusing to approve the sale or transfer to that transferee. Within 30 days from the franchisee's receipt of the manufacturer's notice, the franchisee may file with the Board a written protest against the proposed action.

When a protest has been timely filed, the Board shall enter an order, fixing the date (within 60 days of the date of such order), time, and place of a hearing on the protest, required under Sections 12 and 29 of this Act, and send by certified mail, return receipt requested, a copy of the order to the manufacturer that filed notice of intention of the proposed action and to the protesting franchisee.

The manufacturer shall have the burden of proof to establish that good cause exists to refuse to approve the sale or transfer to the transferee. The determination whether good cause exists to refuse to approve the sale or transfer shall be made by the Board under subdivisions (6)(B). The manufacturer shall not refuse to approve the sale or transfer by a dealer or an officer, partner, or stockholder of a franchise or any part of the interest to any person or persons

before the hearing process is concluded as prescribed by this Act, and thereafter if the Board determines that the manufacturer has failed to meet its burden of proof and that good cause does not exist to refuse to approve the sale or transfer to the transferee.

(B) Good cause to refuse to approve such sale or transfer under this Section is established when such sale or transfer is to a transferee who would not otherwise qualify for a new motor vehicle dealers license under the Illinois Vehicle Code or such sale or transfer is to a person or party who is not of good moral character or does not meet the franchiser's existing and reasonable capital standards and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the market area.

(7) to obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motor vehicle dealer does business, on account of or in relation to the transactions between the dealer and the other person as compensation, except for services actually rendered, unless such benefit is promptly accounted for and transmitted to the motor vehicle dealer;

(8) to grant an additional franchise in the relevant market area of an existing franchise of the same line make or to relocate an existing motor vehicle dealership within

or into a relevant market area of an existing franchise of the same line make. However, if the manufacturer wishes to grant such an additional franchise to an independent person in a bona fide relationship in which such person is prepared to make a significant investment subject to loss in such a dealership, or if the manufacturer wishes to relocate an existing motor vehicle dealership, then the manufacturer shall send a letter by certified mail, return receipt requested, to each existing dealer or dealers of the same line make whose relevant market area includes the proposed location of the additional or relocated franchise at least 60 days before the manufacturer grants an additional franchise or relocates an existing franchise of the same line make within or into the relevant market area of an existing franchisee of the same line make. Each notice shall set forth the specific grounds for the proposed grant of an additional or relocation of an existing franchise and shall state that the dealer has only 30 days from the date of receipt of the notice to file with the Motor Vehicle Review Board a written protest against the proposed action. Unless the parties agree upon the grant or establishment of the additional or relocated franchise within 30 days from the date the notice was received by the existing franchisee of the same line make or any person entitled to receive such notice, the franchisee or other person may file with the Board a

written protest against the grant or establishment of the proposed additional or relocated franchise.

When a protest has been timely filed, the Board shall enter an order fixing a date (within 60 days of the date of the order), time, and place of a hearing on the protest, required under Sections 12 and 29 of this Act, and send by certified or registered mail, return receipt requested, a copy of the order to the manufacturer that filed the notice of intention to grant or establish the proposed additional or relocated franchise and to the protesting dealer or dealers of the same line make whose relevant market area includes the proposed location of the additional or relocated franchise.

When more than one protest is filed against the grant or establishment of the additional or relocated franchise of the same line make, the Board may consolidate the hearings to expedite disposition of the matter. The manufacturer shall have the burden of proof to establish that good cause exists to allow the grant or establishment of the additional or relocated franchise. The manufacturer may not grant or establish the additional franchise or relocate the existing franchise before the hearing process is concluded as prescribed by this Act, and thereafter if the Board determines that the manufacturer has failed to meet its burden of proof and that good cause does not exist to allow the grant or establishment of the additional

franchise or relocation of the existing franchise.

The determination whether good cause exists for allowing the grant or establishment of an additional franchise or relocated existing franchise, shall be made by the Board under subsection (c) of Section 12 of this Act. If the manufacturer seeks to enter into a contract, agreement or other arrangement with any person, establishing any additional motor vehicle dealership or other facility, limited to the sale of factory repurchase vehicles or late model vehicles, then the manufacturer shall follow the notice procedures set forth in this Section and the determination whether good cause exists for allowing the proposed agreement shall be made by the Board under subsection (c) of Section 12, with the manufacturer having the burden of proof.

A. (Blank).

B. For the purposes of this Section, appointment of a successor motor vehicle dealer at the same location as its predecessor, or within 2 miles of such location, or the relocation of an existing dealer or franchise within 2 miles of the relocating dealer's or franchisee's existing location, shall not be construed as a grant, establishment or the entering into of an additional franchise or selling agreement, or a relocation of an existing franchise. The reopening of a motor vehicle dealership that has not been in

operation for 18 months or more shall be deemed the grant of an additional franchise or selling agreement.

C. This Section does not apply to the relocation of an existing dealership or franchise in a county having a population of more than 300,000 persons when the new location is within the dealer's current relevant market area, provided the new location is more than 7 miles from the nearest dealer of the same line make. This Section does not apply to the relocation of an existing dealership or franchise in a county having a population of less than 300,000 persons when the new location is within the dealer's current relevant market area, provided the new location is more than 12 miles from the nearest dealer of the same line make. A dealer that would be farther away from the new location of an existing dealership or franchise of the same line make after a relocation may not file a written protest against the relocation with the Motor Vehicle Review Board.

D. Nothing in this Section shall be construed to prevent a franchiser from implementing positive action ~~affirmative action~~ programs providing business opportunities for minorities or from complying with applicable federal, State or local law;

(9) to require a motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel which

would relieve any person from liability imposed by this Act;

(10) to prevent or refuse to give effect to the succession to the ownership or management control of a dealership by any legatee under the will of a dealer or to an heir under the laws of descent and distribution of this State unless the franchisee has designated a successor to the ownership or management control under the succession provisions of the franchise. Unless the franchiser, having the burden of proof, proves that the successor is a person who is not of good moral character or does not meet the franchiser's existing and reasonable capital standards and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the market area, any designated successor of a dealer or franchisee may succeed to the ownership or management control of a dealership under the existing franchise if:

(i) The designated successor gives the franchiser written notice by certified mail, return receipt requested, of his or her intention to succeed to the ownership of the dealer within 60 days of the dealer's death or incapacity; and

(ii) The designated successor agrees to be bound by all the terms and conditions of the existing franchise.

Notwithstanding the foregoing, in the event the motor vehicle dealer or franchisee and manufacturer have duly executed an agreement concerning succession rights prior to the dealer's death or incapacitation, the agreement shall be observed.

(A) If the franchiser intends to refuse to honor the successor to the ownership of a deceased or incapacitated dealer or franchisee under an existing franchise agreement, the franchiser shall send a letter by certified mail, return receipt requested, to the designated successor within 60 days from receipt of a proposal advising of its intent to refuse to honor the succession and to discontinue the existing franchise agreement and shall state that the designated successor only has 30 days from the receipt of the notice to file with the Motor Vehicle Review Board a written protest against the proposed action. The notice shall set forth the specific grounds for the refusal to honor the succession and discontinue the existing franchise agreement.

If notice of refusal is not timely served upon the designated successor, the franchise agreement shall continue in effect subject to termination only as otherwise permitted by paragraph (6) of subsection (d) of Section 4 of this Act.

Within 30 days from the date the notice was

received by the designated successor or any other person entitled to notice, the designee or other person may file with the Board a written protest against the proposed action.

When a protest has been timely filed, the Board shall enter an order, fixing a date (within 60 days of the date of the order), time, and place of a hearing on the protest, required under Sections 12 and 29 of this Act, and send by certified mail, return receipt requested, a copy of the order to the franchiser that filed the notice of intention of the proposed action and to the protesting designee or such other person.

The manufacturer shall have the burden of proof to establish that good cause exists to refuse to honor the succession and discontinue the existing franchise agreement. The determination whether good cause exists to refuse to honor the succession shall be made by the Board under subdivision (B) of this paragraph (10). The manufacturer shall not refuse to honor the succession or discontinue the existing franchise agreement before the hearing process is concluded as prescribed by this Act, and thereafter if the Board determines that it has failed to meet its burden of proof and that good cause does not exist to refuse to honor the succession and discontinue the existing franchise agreement.

(B) No manufacturer shall impose any conditions upon honoring the succession and continuing the existing franchise agreement with the designated successor other than that the franchisee has designated a successor to the ownership or management control under the succession provisions of the franchise, or that the designated successor is of good moral character or meets the reasonable capital standards and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the market area;

(11) to prevent or refuse to approve a proposal to establish a successor franchise at a location previously approved by the franchiser when submitted with the voluntary termination by the existing franchisee unless the successor franchisee would not otherwise qualify for a new motor vehicle dealer's license under the Illinois Vehicle Code or unless the franchiser, having the burden of proof, proves that such proposed successor is not of good moral character or does not meet the franchiser's existing and reasonable capital standards and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the market area. However, when such a rejection of a proposal is made, the manufacturer

shall give written notice of its reasons to the franchisee within 60 days of receipt by the manufacturer of the proposal. However, nothing herein shall be construed to prevent a franchiser from implementing positive action ~~affirmative action~~ programs providing business opportunities for minorities, or from complying with applicable federal, State or local law;

(12) to prevent or refuse to grant a franchise to a person because such person owns, has investment in or participates in the management of or holds a franchise for the sale of another make or line of motor vehicles within 7 miles of the proposed franchise location in a county having a population of more than 300,000 persons, or within 12 miles of the proposed franchise location in a county having a population of less than 300,000 persons;

(13) to prevent or attempt to prevent any new motor vehicle dealer from establishing any additional motor vehicle dealership or other facility limited to the sale of factory repurchase vehicles or late model vehicles or otherwise offering for sale factory repurchase vehicles of the same line make at an existing franchise by failing to make available any contract, agreement or other arrangement which is made available or otherwise offered to any person; or

(14) to exercise a right of first refusal or other right to acquire a franchise from a dealer, unless the

manufacturer:

(A) notifies the dealer in writing that it intends to exercise its right to acquire the franchise not later than 60 days after the manufacturer's or distributor's receipt of a notice of the proposed transfer from the dealer and all information and documents reasonably and customarily required by the manufacturer or distributor supporting the proposed transfer;

(B) pays to the dealer the same or greater consideration as the dealer has contracted to receive in connection with the proposed transfer or sale of all or substantially all of the dealership assets, stock, or other ownership interest, including the purchase or lease of all real property, leasehold, or improvements related to the transfer or sale of the dealership. Upon exercise of the right of first refusal or such other right, the manufacturer or distributor shall have the right to assign the lease or to convey the real property;

(C) assumes all of the duties, obligations, and liabilities contained in the agreements that were to be assumed by the proposed transferee and with respect to which the manufacturer or distributor exercised the right of first refusal or other right to acquire the franchise;

(D) reimburses the proposed transferee for all reasonable expenses incurred in evaluating, investigating, and negotiating the transfer of the dealership prior to the manufacturer's or distributor's exercise of its right of first refusal or other right to acquire the dealership. For purposes of this paragraph, "reasonable expenses" includes the usual and customary legal and accounting fees charged for similar work, as well as expenses associated with the evaluation and investigation of any real property on which the dealership is operated. The proposed transferee shall submit an itemized list of its expenses to the manufacturer or distributor not later than 30 days after the manufacturer's or distributor's exercise of the right of first refusal or other right to acquire the motor vehicle franchise. The manufacturer or distributor shall reimburse the proposed transferee for its expenses not later than 90 days after receipt of the itemized list. A manufacturer or distributor may request to be provided with the itemized list of expenses before exercising the manufacturer's or distributor's right of first refusal.

Except as provided in this paragraph (14), neither the selling dealer nor the manufacturer or distributor shall have any liability to any person as a result of a

manufacturer or distributor exercising its right of first refusal.

For the purpose of this paragraph, "proposed transferee" means the person to whom the franchise would have been transferred to, or was proposed to be transferred to, had the right of first refusal or other right to acquire the franchise not been exercised by the manufacturer or distributor.

(f) It is deemed a violation for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent, broker, shareholder, except a shareholder of 1% or less of the outstanding shares of any class of securities of a manufacturer, distributor, or wholesaler which is a publicly traded corporation, or other representative, directly or indirectly, to own or operate a place of business as a motor vehicle franchisee or motor vehicle financing affiliate, except that, this subsection shall not prohibit:

(1) the ownership or operation of a place of business by a manufacturer, distributor, or wholesaler for a period, not to exceed 18 months, during the transition from one motor vehicle franchisee to another;

(2) the investment in a motor vehicle franchisee by a manufacturer, distributor, or wholesaler if the investment is for the sole purpose of enabling a partner or shareholder in that motor vehicle franchisee to acquire an

interest in that motor vehicle franchisee and that partner or shareholder is not otherwise employed by or associated with the manufacturer, distributor, or wholesaler and would not otherwise have the requisite capital investment funds to invest in the motor vehicle franchisee, and has the right to purchase the entire equity interest of the manufacturer, distributor, or wholesaler in the motor vehicle franchisee within a reasonable period of time not to exceed 5 years; or

(3) the ownership or operation of a place of business by a manufacturer that manufactures only diesel engines for installation in trucks having a gross vehicle weight rating of more than 16,000 pounds that are required to be registered under the Illinois Vehicle Code, provided that:

(A) the manufacturer does not otherwise manufacture, distribute, or sell motor vehicles as defined under Section 1-217 of the Illinois Vehicle Code;

(B) the manufacturer owned a place of business and it was in operation as of January 1, 2016;

(C) the manufacturer complies with all obligations owed to dealers that are not owned, operated, or controlled by the manufacturer, including, but not limited to those obligations arising pursuant to Section 6;

(D) to further avoid any acts or practices, the

effect of which may be to lessen or eliminate competition, the manufacturer provides to dealers on substantially equal terms access to all support for completing repairs, including, but not limited to, parts and assemblies, training, and technical service bulletins, and other information concerning repairs that the manufacturer provides to facilities that are owned, operated, or controlled by the manufacturer; and

(E) the manufacturer does not require that warranty repair work be performed by a manufacturer-owned repair facility and the manufacturer provides any dealer that has an agreement with the manufacturer to sell and perform warranty repairs on the manufacturer's engines the opportunity to perform warranty repairs on those engines, regardless of whether the dealer sold the truck into which the engine was installed.

(g) Notwithstanding the terms, provisions, or conditions of any agreement or waiver, it shall be deemed a violation for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof, to directly or indirectly condition the awarding of a franchise to a prospective new motor vehicle dealer, the addition of a line make or franchise to an existing

dealer, the renewal of a franchise of an existing dealer, the approval of the relocation of an existing dealer's facility, or the approval of the sale or transfer of the ownership of a franchise on the willingness of a dealer, proposed new dealer, or owner of an interest in the dealership facility to enter into a site control agreement or exclusive use agreement unless separate and reasonable consideration was offered and accepted for that agreement.

For purposes of this subsection (g), the terms "site control agreement" and "exclusive use agreement" include any agreement that has the effect of either (i) requiring that the dealer establish or maintain exclusive dealership facilities; or (ii) restricting the ability of the dealer, or the ability of the dealer's lessor in the event the dealership facility is being leased, to transfer, sell, lease, or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, or other similar agreement. "Site control agreement" and "exclusive use agreement" also include a manufacturer restricting the ability of a dealer to transfer, sell, or lease the dealership premises by right of first refusal to purchase or lease, option to purchase, or option to lease if the transfer, sale, or lease of the dealership premises is to a person who is an immediate family member of the dealer. For the purposes of this subsection (g), "immediate family member" means a spouse, parent, son, daughter, son-in-law, daughter-in-law, brother, and sister.

If a manufacturer exercises any right of first refusal to purchase or lease or option to purchase or lease with regard to a transfer, sale, or lease of the dealership premises to a person who is not an immediate family member of the dealer, then (1) within 60 days from the receipt of the completed application forms generally utilized by a manufacturer to conduct its review and a copy of all agreements regarding the proposed transfer, the manufacturer must notify the dealer of its intent to exercise the right of first refusal to purchase or lease or option to purchase or lease and (2) the exercise of the right of first refusal to purchase or lease or option to purchase or lease must result in the dealer receiving consideration, terms, and conditions that either are the same as or greater than that which they have contracted to receive in connection with the proposed transfer, sale, or lease of the dealership premises.

Any provision contained in any agreement entered into on or after November 25, 2009 (the effective date of Public Act 96-824) that is inconsistent with the provisions of this subsection (g) shall be voidable at the election of the affected dealer, prospective dealer, or owner of an interest in the dealership facility.

(h) For purposes of this subsection:

"Successor manufacturer" means any motor vehicle manufacturer that, on or after January 1, 2009, acquires, succeeds to, or assumes any part of the business of another

manufacturer, referred to as the "predecessor manufacturer", as the result of any of the following:

(i) A change in ownership, operation, or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise.

(ii) The termination, suspension, or cessation of a part or all of the business operations of the predecessor manufacturer.

(iii) The discontinuance of the sale of the product line.

(iv) A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether.

"Former Franchisee" means a new motor vehicle dealer that has entered into a franchise with a predecessor manufacturer and that has either:

(i) entered into a termination agreement or deferred termination agreement with a predecessor or successor manufacturer related to such franchise; or

(ii) has had such franchise canceled, terminated, nonrenewed, noncontinued, rejected, nonassumed, or

otherwise ended.

For a period of 3 years from: (i) the date that a successor manufacturer acquires, succeeds to, or assumes any part of the business of a predecessor manufacturer; (ii) the last day that a former franchisee is authorized to remain in business as a franchised dealer with respect to a particular franchise under a termination agreement or deferred termination agreement with a predecessor or successor manufacturer; (iii) the last day that a former franchisee that was cancelled, terminated, nonrenewed, noncontinued, rejected, nonassumed, or otherwise ended by a predecessor or successor manufacturer is authorized to remain in business as a franchised dealer with respect to a particular franchise; or (iv) November 25, 2009 (the effective date of Public Act 96-824), whichever is latest, it shall be unlawful for such successor manufacturer to enter into a same line make franchise with any person or to permit the relocation of any existing same line make franchise, for a line make of the predecessor manufacturer that would be located or relocated within the relevant market area of a former franchisee who owned or leased a dealership facility in that relevant market area without first offering the additional or relocated franchise to the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or a person with a disability, at no cost and without any requirements or restrictions other than those imposed generally on the

manufacturer's other franchisees at that time, unless one of the following applies:

(1) As a result of the former franchisee's cancellation, termination, noncontinuance, or nonrenewal of the franchise, the predecessor manufacturer had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing dealership facility located within that relevant market area.

(2) The successor manufacturer has paid the former franchisee, or the designated successor of such former franchisee in the event the former franchisee is deceased or a person with a disability, the fair market value of the former franchisee's franchise on (i) the date the franchiser announces the action which results in the termination, cancellation, or nonrenewal; or (ii) the date the action which results in termination, cancellation, or nonrenewal first became general knowledge; or (iii) the day 12 months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher. Payment is due within 90 days of the effective date of the termination, cancellation, or nonrenewal. If the termination, cancellation, or nonrenewal is due to a manufacturer's change in distributors, the manufacturer may avoid paying fair market value to the dealer if the new distributor or the

manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

(3) The successor manufacturer proves that it would have had good cause to terminate the franchise agreement of the former franchisee, or the successor of the former franchisee under item (e)(10) in the event that the former franchisee is deceased or a person with a disability. The determination of whether the successor manufacturer would have had good cause to terminate the franchise agreement of the former franchisee, or the successor of the former franchisee, shall be made by the Board under subsection (d) of Section 12. A successor manufacturer that seeks to assert that it would have had good cause to terminate a former franchisee, or the successor of the former franchisee, must file a petition seeking a hearing on this issue before the Board and shall have the burden of proving that it would have had good cause to terminate the former franchisee or the successor of the former franchisee. No successor dealer, other than the former franchisee, may be appointed or franchised by the successor manufacturer within the relevant market area of the former franchisee until the Board has held a hearing and rendered a determination on the issue of whether the successor manufacturer would have had good cause to terminate the former franchisee.

In the event that a successor manufacturer attempts to

enter into a same line make franchise with any person or to permit the relocation of any existing line make franchise under this subsection (h) at a location that is within the relevant market area of 2 or more former franchisees, then the successor manufacturer may not offer it to any person other than one of those former franchisees unless the successor manufacturer can prove that at least one of the 3 exceptions in items (1), (2), and (3) of this subsection (h) applies to each of those former franchisees.

(Source: P.A. 99-143, eff. 7-27-15; 99-844, eff. 8-19-16; 100-201, eff. 8-18-17; 100-308, eff. 8-24-17; 100-863, eff. 8-14-18.)

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70 ILCS 810/14	from Ch. 96 1/2, par. 6417
70 ILCS 1505/16a	from Ch. 105, par. 333.16a
70 ILCS 2605/11.3	from Ch. 42, par. 331.3
70 ILCS 3205/9	from Ch. 85, par. 6009
70 ILCS 3210/40	
70 ILCS 3615/2.02	from Ch. 111 2/3, par. 702.02
70 ILCS 3615/2.14	from Ch. 111 2/3, par. 702.14
70 ILCS 3615/3A.05	from Ch. 111 2/3, par. 703A.05
70 ILCS 3615/3B.05	from Ch. 111 2/3, par. 703B.05
105 ILCS 5/10-23.5	from Ch. 122, par. 10-23.5
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