



Sen. Antonio Muñoz

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1 AMENDMENT TO SENATE BILL 857

2 AMENDMENT NO. _____. Amend Senate Bill 857 by replacing
3 everything after the enacting clause with the following:

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

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

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

9 (A) Public Contracts. Every party to a public contract and
10 every eligible bidder shall:

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

16 (2) Comply with the procedures and requirements of the

1 Department's regulations concerning equal employment
2 opportunities and affirmative action;

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

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

24 The Department, by rule, shall establish a reasonable
25 opportunity to cure any noncompliance with this subsection by
26 a bidder prior to the awarding of a contract.

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

3 (1) Comply with the procedures and requirements of the
4 Department's regulations concerning equal employment
5 opportunities and affirmative action;

6 (2) Provide such information and assistance as the
7 Department may request.

8 (3) Establish, maintain, and carry out a continuing
9 affirmative action plan consistent with this Act and the
10 regulations of the Department designed to promote equal
11 opportunity for all State residents in every aspect of
12 agency personnel policy and practice. For purposes of
13 these affirmative action plans, the race and national
14 origin categories to be included in the plans are:
15 American Indian or Alaska Native, Asian, Black or African
16 American, Hispanic or Latino, Native Hawaiian or Other
17 Pacific Islander.

18 This plan shall include a current detailed status
19 report:

20 (a) indicating, by each position in State service,
21 the number, percentage, and average salary of
22 individuals employed by race, national origin, sex and
23 disability, and any other category that the Department
24 may require by rule;

25 (b) identifying all positions in which the
26 percentage of the people employed by race, national

1 origin, sex and disability, and any other category
2 that the Department may require by rule, is less than
3 four-fifths of the percentage of each of those
4 components in the State work force;

5 (c) specifying the goals and methods for
6 increasing the percentage by race, national origin,
7 sex and disability, and any other category that the
8 Department may require by rule, in State positions;

9 (d) indicating progress and problems toward
10 meeting equal employment opportunity goals, including,
11 if applicable, but not limited to, Department of
12 Central Management Services recruitment efforts,
13 publicity, promotions, and use of options designating
14 positions by linguistic abilities;

15 (e) establishing a numerical hiring goal for the
16 employment of qualified persons with disabilities in
17 the agency as a whole, to be based on the proportion of
18 people with work disabilities in the Illinois labor
19 force as reflected in the most recent employment data
20 made available by the United States Census Bureau.

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

24 (a) Advising the head of the particular State
25 agency with respect to the preparation of equal
26 employment opportunity programs, procedures,

1 regulations, reports, and the agency's affirmative
2 action plan.

3 (b) Evaluating in writing each fiscal year the
4 sufficiency of the total agency program for equal
5 employment opportunity and reporting thereon to the
6 head of the agency with recommendations as to any
7 improvement or correction in recruiting, hiring or
8 promotion needed, including remedial or disciplinary
9 action with respect to managerial or supervisory
10 employees who have failed to cooperate fully or who
11 are in violation of the program.

12 (c) Making changes in recruitment, training and
13 promotion programs and in hiring and promotion
14 procedures designed to eliminate discriminatory
15 practices when authorized.

16 (d) Evaluating tests, employment policies,
17 practices and qualifications and reporting to the head
18 of the agency and to the Department any policies,
19 practices and qualifications that have unequal impact
20 by race, national origin as required by Department
21 rule, sex or disability or any other category that the
22 Department may require by rule, and to assist in the
23 recruitment of people in underrepresented
24 classifications. This function shall be performed in
25 cooperation with the State Department of Central
26 Management Services.

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

4 In any meeting, investigation, negotiation,
5 conference, or other proceeding between a State
6 employee and an Equal Employment Opportunity officer,
7 a State employee (1) who is not covered by a collective
8 bargaining agreement and (2) who is the complaining
9 party or the subject of such proceeding may be
10 accompanied, advised and represented by (1) an
11 attorney licensed to practice law in the State of
12 Illinois or (2) a representative of an employee
13 organization whose membership is composed of employees
14 of the State and of which the employee is a member. A
15 representative of an employee, other than an attorney,
16 may observe but may not actively participate, or
17 advise the State employee during the course of such
18 meeting, investigation, negotiation, conference or
19 other proceeding. Nothing in this Section shall be
20 construed to permit any person who is not licensed to
21 practice law in Illinois to deliver any legal services
22 or otherwise engage in any activities that would
23 constitute the unauthorized practice of law. Any
24 representative of an employee who is present with the
25 consent of the employee, shall not, during or after
26 termination of the relationship permitted by this

1 Section with the State employee, use or reveal any
2 information obtained during the course of the meeting,
3 investigation, negotiation, conference or other
4 proceeding without the consent of the complaining
5 party and any State employee who is the subject of the
6 proceeding and pursuant to rules and regulations
7 governing confidentiality of such information as
8 promulgated by the appropriate State agency.
9 Intentional or reckless disclosure of information in
10 violation of these confidentiality requirements shall
11 constitute a Class B misdemeanor.

12 (5) Establish, maintain and carry out a continuing
13 sexual harassment program that shall include the
14 following:

15 (a) Develop a written sexual harassment policy
16 that includes at a minimum the following information:
17 (i) the illegality of sexual harassment; (ii) the
18 definition of sexual harassment under State law; (iii)
19 a description of sexual harassment, utilizing
20 examples; (iv) the agency's internal complaint process
21 including penalties; (v) the legal recourse,
22 investigative and complaint process available through
23 the Department and the Commission; (vi) directions on
24 how to contact the Department and Commission; and
25 (vii) protection against retaliation as provided by
26 Section 6-101 of this Act. The policy shall be

1 reviewed annually.

2 (b) Post in a prominent and accessible location
3 and distribute in a manner to assure notice to all
4 agency employees without exception the agency's sexual
5 harassment policy. Such documents may meet, but shall
6 not exceed, the 6th grade literacy level. Distribution
7 shall be effectuated within 90 days of the effective
8 date of this amendatory Act of 1992 and shall occur
9 annually thereafter.

10 (c) Provide training on sexual harassment
11 prevention and the agency's sexual harassment policy
12 as a component of all ongoing or new employee training
13 programs.

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

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

19 (b) The State executive department, State agency,
20 board, commission, or instrumentality in which the
21 layoffs are to occur must notify each employee
22 targeted for layoff, the employee's union
23 representative (if applicable), and the State
24 Dislocated Worker Unit at the Department of Commerce
25 and Economic Opportunity.

26 (c) The State executive department, State agency,

1 board, commission, or instrumentality in which the
2 layoffs are to occur must conform to applicable
3 collective bargaining agreements.

4 (d) The State executive department, State agency,
5 board, commission, or instrumentality in which the
6 layoffs are to occur should notify each employee
7 targeted for layoff that transitional assistance may
8 be available to him or her under the Economic
9 Dislocation and Worker Adjustment Assistance Act
10 administered by the Department of Commerce and
11 Economic Opportunity. Failure to give such notice
12 shall not invalidate the layoff or postpone its
13 effective date.

14 As used in this subsection (B), "disability" shall be
15 defined in rules promulgated under the Illinois Administrative
16 Procedure Act.

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

19 (1) fail to comply with the public contractor's or
20 eligible bidder's duty to refrain from unlawful
21 discrimination and discrimination based on citizenship
22 status in employment under subsection (A)(1) of this
23 Section; or

24 (2) fail to comply with the public contractor's or
25 eligible bidder's duties of affirmative action under
26 subsection (A) of this Section, provided however, that the

1 Department has notified the public contractor or eligible
2 bidder in writing by certified mail that the public
3 contractor or eligible bidder may not be in compliance
4 with affirmative action requirements of subsection (A). A
5 minimum of 60 days to comply with the requirements shall
6 be afforded to the public contractor or eligible bidder
7 before the Department may issue formal notice of
8 non-compliance.

9 (D) As used in this Section:

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

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

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

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

26 (5) "Native Hawaiian or Other Pacific Islander" means

1 a person having origins in any of the original peoples of
2 Hawaii, Guam, Samoa, or other Pacific Islands.
3 (Source: P.A. 99-933, eff. 1-27-17; 100-698, eff. 1-1-19.)".