

1 AN ACT concerning finance.

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

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

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

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 4. Award of State contracts.

10 (a) Except as provided in subsection (b), not less than
11 30% of the total dollar amount of State contracts, as defined
12 by the Secretary of the Council and approved by the Council,
13 shall be established as an aspirational goal to be awarded to
14 businesses owned by minorities, women, and persons with
15 disabilities; provided, however, that of the total amount of
16 all State contracts awarded to businesses owned by minorities,
17 women, and persons with disabilities pursuant to this Section,
18 contracts representing at least 16% shall be awarded to
19 businesses owned by minorities, contracts representing at
20 least 10% shall be awarded to women-owned businesses, and
21 contracts representing at least 4% shall be awarded to
22 businesses owned by persons with disabilities.

23 (a-5) In addition to the aspirational goals in awarding

1 State contracts set under subsection (a), the Commission shall
2 by rule further establish targeted efforts to encourage the
3 participation of businesses owned by minorities, women, and
4 persons with disabilities on State contracts. Such efforts
5 shall include, but not be limited to, further concerted
6 outreach efforts to businesses owned by minorities, women, and
7 persons with disabilities.

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

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

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

9 (c) (Blank).

10 (c-5) All goals established under this Section shall be
11 contingent upon the results of the most recent disparity study
12 conducted by the State.

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

24 By December 1, 2020, the Department of Central Management
25 Services shall conduct a new social scientific study that
26 measures the impact of discrimination on minority and women

1 business development in Illinois. By June 1, 2022, the
2 Department shall issue a report of its findings and any
3 recommendations on whether to adjust the goals for minority
4 and women participation established in this Act. Copies of
5 this report and the social scientific study shall be filed
6 with the Governor and the General Assembly. By December 1,
7 2022, the Commission on Equity and Inclusion Business
8 Enterprise Program shall develop a model for social scientific
9 disparity study sourcing for local governmental units to adapt
10 and implement to address regional disparities in public
11 procurement.

12 (e) All State contract solicitations that include Business
13 Enterprise Program participation goals shall require bidders
14 or offerors to include utilization plans. Utilization plans
15 are due at the time of bid or offer submission. Failure to
16 complete and include a utilization plan, including
17 documentation demonstrating good faith efforts when requesting
18 a waiver, shall render the bid or offer non-responsive.

19 Except as permitted under this Act or as otherwise
20 mandated by federal regulation, a bidder or offeror whose bid
21 or offer is accepted and who included in that bid a completed
22 utilization plan but who fails to meet the goals set forth in
23 the plan shall be notified of the deficiency by the
24 contracting agency or public institution of higher education
25 and shall be given a period of 10 calendar days to cure the
26 deficiency by contracting with additional subcontractors who

1 are certified by the Business Enterprise Program or by
2 increasing the work to be performed by previously identified
3 vendors certified by the Business Enterprise Program.

4 Deficiencies that may be cured include: (i) scrivener's
5 errors, such as transposed numbers; (ii) information submitted
6 in an incorrect form or format; (iii) mistakes resulting from
7 failure to follow instructions or to identify and adequately
8 document good faith efforts taken to comply with the
9 utilization plan; or (iv) a proposal to use a firm whose
10 Business Enterprise Program certification has lapsed or is not
11 yet recognized. Cure is not authorized if the bidder or
12 offeror submits a blank utilization plan, a utilization plan
13 that shows lack of reasonable effort to complete the form on
14 time, or a utilization plan that states the contract will be
15 self-performed, by a non-certified vendor, without showing
16 good faith efforts or a request for a waiver. All cure activity
17 shall address the deficiencies identified by the purchasing
18 agency and shall require clear documentation, including that
19 of good faith efforts, to address those deficiencies. Any
20 increase in cost to a contract for the addition of a
21 subcontractor to cure a bid's deficiency shall not affect the
22 bid price and shall not be used in the request for an exemption
23 under this Act, and, in no case, shall an identified
24 subcontractor with a Business Enterprise Program certification
25 made under this Act be terminated from a contract without the
26 written consent of the State agency or public institution of

1 higher education entering into the contract. The purchasing
2 agency or public institution of higher education shall make
3 the determination whether the cure is adequate.

4 Vendors certified with the Business Enterprise Program at
5 the time and date submittals are due and who do not submit a
6 utilization plan or have utilization plan deficiencies shall
7 have 10 business days to submit a utilization plan or to
8 correct the utilization plan deficiencies.

9 (f) (Blank).

10 (g) (Blank).

11 (h) State agencies and public institutions of higher
12 education shall notify the Commission on Equity and Inclusion
13 of all non-responsive bids or proposals for State contracts.

14 (i) All goals established under this Section apply to
15 architectural, engineering, and land surveying contracts under
16 the Architectural, Engineering, and Land Surveying
17 Qualifications Based Selection Act.

18 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;
19 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article
20 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21;
21 102-558, eff. 8-20-21; 102-1119, eff. 1-23-23.)

22 (30 ILCS 575/4f)

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

24 Sec. 4f. Award of State contracts.

25 (1) It is hereby declared to be the public policy of the

1 State of Illinois to promote and encourage each State agency
2 and public institution of higher education to use businesses
3 owned by minorities, women, and persons with disabilities in
4 the area of goods and services, including, but not limited to,
5 insurance services, investment management services,
6 information technology services, accounting
7 services, ~~architectural and engineering services,~~ and legal
8 services. Furthermore, each State agency and public
9 institution of higher education shall utilize such firms to
10 the greatest extent feasible within the bounds of financial
11 and fiduciary prudence, and take affirmative steps to remove
12 any barriers to the full participation of such firms in the
13 procurement and contracting opportunities afforded.

14 (a) When a State agency or public institution of
15 higher education, other than a community college, awards a
16 contract for insurance services, for each State agency or
17 public institution of higher education, it shall be the
18 aspirational goal to use insurance brokers owned by
19 minorities, women, and persons with disabilities as
20 defined by this Act, for not less than 20% of the total
21 annual premiums or fees; provided that, contracts
22 representing at least 11% of the total annual premiums or
23 fees shall be awarded to businesses owned by minorities;
24 contracts representing at least 7% of the total annual
25 premiums or fees shall be awarded to women-owned
26 businesses; and contracts representing at least 2% of the

1 total annual premiums or fees shall be awarded to
2 businesses owned by persons with disabilities.

3 (b) When a State agency or public institution of
4 higher education, other than a community college, awards a
5 contract for investment services, for each State agency or
6 public institution of higher education, it shall be the
7 aspirational goal to use emerging investment managers
8 owned by minorities, women, and persons with disabilities
9 as defined by this Act, for not less than 20% of the total
10 funds under management; provided that, contracts
11 representing at least 11% of the total funds under
12 management shall be awarded to businesses owned by
13 minorities; contracts representing at least 7% of the
14 total funds under management shall be awarded to
15 women-owned businesses; and contracts representing at
16 least 2% of the total funds under management shall be
17 awarded to businesses owned by persons with disabilities.
18 Furthermore, it is the aspirational goal that not less
19 than 20% of the direct asset managers of the State funds be
20 minorities, women, and persons with disabilities.

21 (c) When a State agency or public institution of
22 higher education, other than a community college, awards
23 contracts for information technology services, accounting
24 services, ~~architectural and engineering services,~~ and legal
25 services, for each State agency and public institution of
26 higher education, it shall be the aspirational goal to use

1 such firms owned by minorities, women, and persons with
2 disabilities as defined by this Act and lawyers who are
3 minorities, women, and persons with disabilities as
4 defined by this Act, for not less than 20% of the total
5 dollar amount of State contracts; provided that, contracts
6 representing at least 11% of the total dollar amount of
7 State contracts shall be awarded to businesses owned by
8 minorities or minority lawyers; contracts representing at
9 least 7% of the total dollar amount of State contracts
10 shall be awarded to women-owned businesses or women who
11 are lawyers; and contracts representing at least 2% of the
12 total dollar amount of State contracts shall be awarded to
13 businesses owned by persons with disabilities or persons
14 with disabilities who are lawyers.

15 (d) When a community college awards a contract for
16 insurance services, investment services, information
17 technology services, accounting services, ~~architectural~~
18 ~~and engineering services,~~ and legal services, it shall be
19 the aspirational goal of each community college to use
20 businesses owned by minorities, women, and persons with
21 disabilities as defined in this Act for not less than 20%
22 of the total amount spent on contracts for these services
23 collectively; provided that, contracts representing at
24 least 11% of the total amount spent on contracts for these
25 services shall be awarded to businesses owned by
26 minorities; contracts representing at least 7% of the

1 total amount spent on contracts for these services shall
2 be awarded to women-owned businesses; and contracts
3 representing at least 2% of the total amount spent on
4 contracts for these services shall be awarded to
5 businesses owned by persons with disabilities. When a
6 community college awards contracts for investment
7 services, contracts awarded to investment managers who are
8 not emerging investment managers as defined in this Act
9 shall not be considered businesses owned by minorities,
10 women, or persons with disabilities for the purposes of
11 this Section.

12 (2) As used in this Section:

13 "Accounting services" means the measurement,
14 processing and communication of financial information
15 about economic entities including, but is not limited to,
16 financial accounting, management accounting, auditing,
17 cost containment and auditing services, taxation and
18 accounting information systems.

19 ~~"Architectural and engineering services" means~~
20 ~~professional services of an architectural or engineering~~
21 ~~nature, or incidental services, that members of the~~
22 ~~architectural and engineering professions, and individuals~~
23 ~~in their employ, may logically or justifiably perform,~~
24 ~~including studies, investigations, surveying and mapping,~~
25 ~~tests, evaluations, consultations, comprehensive~~
26 ~~planning, program management, conceptual designs, plans~~

1 ~~and specifications, value engineering, construction phase~~
2 ~~services, soils engineering, drawing reviews, preparation~~
3 ~~of operating and maintenance manuals, and other related~~
4 ~~services.~~

5 "Emerging investment manager" means an investment
6 manager or claims consultant having assets under
7 management below \$10 billion or otherwise adjudicating
8 claims.

9 "Information technology services" means, but is not
10 limited to, specialized technology-oriented solutions by
11 combining the processes and functions of software,
12 hardware, networks, telecommunications, web designers,
13 cloud developing resellers, and electronics.

14 "Insurance broker" means an insurance brokerage firm,
15 claims administrator, or both, that procures, places all
16 lines of insurance, or administers claims with annual
17 premiums or fees of at least \$5,000,000 but not more than
18 \$10,000,000.

19 "Legal services" means work performed by a lawyer
20 including, but not limited to, contracts in anticipation
21 of litigation, enforcement actions, or investigations.

22 (3) Each State agency and public institution of higher
23 education shall adopt policies that identify its plan and
24 implementation procedures for increasing the use of service
25 firms owned by minorities, women, and persons with
26 disabilities. All plan and implementation procedures for

1 increasing the use of service firms owned by minorities,
2 women, and persons with disabilities must be submitted to and
3 approved by the Commission on Equity and Inclusion on an
4 annual basis.

5 (4) Except as provided in subsection (5), the Council
6 shall file no later than March 1 of each year an annual report
7 to the Governor, the Bureau on Apprenticeship Programs and
8 Clean Energy Jobs, and the General Assembly. The report filed
9 with the General Assembly shall be filed as required in
10 Section 3.1 of the General Assembly Organization Act. This
11 report shall: (i) identify the service firms used by each
12 State agency and public institution of higher education, (ii)
13 identify the actions it has undertaken to increase the use of
14 service firms owned by minorities, women, and persons with
15 disabilities, including encouraging non-minority-owned firms
16 to use other service firms owned by minorities, women, and
17 persons with disabilities as subcontractors when the
18 opportunities arise, (iii) state any recommendations made by
19 the Council to each State agency and public institution of
20 higher education to increase participation by the use of
21 service firms owned by minorities, women, and persons with
22 disabilities, and (iv) include the following:

23 (A) For insurance services: the names of the insurance
24 brokers or claims consultants used, the total of risk
25 managed by each State agency and public institution of
26 higher education by insurance brokers, the total

1 commissions, fees paid, or both, the lines or insurance
2 policies placed, and the amount of premiums placed; and
3 the percentage of the risk managed by insurance brokers,
4 the percentage of total commission, fees paid, or both,
5 the lines or insurance policies placed, and the amount of
6 premiums placed with each by the insurance brokers owned
7 by minorities, women, and persons with disabilities by
8 each State agency and public institution of higher
9 education.

10 (B) For investment management services: the names of
11 the investment managers used, the total funds under
12 management of investment managers; the total commissions,
13 fees paid, or both; the total and percentage of funds
14 under management of emerging investment managers owned by
15 minorities, women, and persons with disabilities,
16 including the total and percentage of total commissions,
17 fees paid, or both by each State agency and public
18 institution of higher education.

19 (C) The names of service firms, the percentage and
20 total dollar amount paid for professional services by
21 category by each State agency and public institution of
22 higher education.

23 (D) The names of service firms, the percentage and
24 total dollar amount paid for services by category to firms
25 owned by minorities, women, and persons with disabilities
26 by each State agency and public institution of higher

1 education.

2 (E) The total number of contracts awarded for services
3 by category and the total number of contracts awarded to
4 firms owned by minorities, women, and persons with
5 disabilities by each State agency and public institution
6 of higher education.

7 (5) For community college districts, the Business
8 Enterprise Council shall only report the following information
9 for each community college district: (i) the name of the
10 community colleges in the district, (ii) the name and contact
11 information of a person at each community college appointed to
12 be the single point of contact for vendors owned by
13 minorities, women, or persons with disabilities, (iii) the
14 policy of the community college district concerning certified
15 vendors, (iv) the certifications recognized by the community
16 college district for determining whether a business is owned
17 or controlled by a minority, woman, or person with a
18 disability, (v) outreach efforts conducted by the community
19 college district to increase the use of certified vendors,
20 (vi) the total expenditures by the community college district
21 in the prior fiscal year in the divisions of work specified in
22 paragraphs (a), (b), and (c) of subsection (1) of this Section
23 and the amount paid to certified vendors in those divisions of
24 work, and (vii) the total number of contracts entered into for
25 the divisions of work specified in paragraphs (a), (b), and
26 (c) of subsection (1) of this Section and the total number of

1 contracts awarded to certified vendors providing these
2 services to the community college district. The Business
3 Enterprise Council shall not make any utilization reports
4 under this Act for community college districts for Fiscal Year
5 2015 and Fiscal Year 2016, but shall make the report required
6 by this subsection for Fiscal Year 2017 and for each fiscal
7 year thereafter. The Business Enterprise Council shall report
8 the information in items (i), (ii), (iii), and (iv) of this
9 subsection beginning in September of 2016. The Business
10 Enterprise Council may collect the data needed to make its
11 report from the Illinois Community College Board.

12 (6) The status of the utilization of services shall be
13 discussed at each of the regularly scheduled Business
14 Enterprise Council meetings. Time shall be allotted for the
15 Council to receive, review, and discuss the progress of the
16 use of service firms owned by minorities, women, and persons
17 with disabilities by each State agency and public institution
18 of higher education; and any evidence regarding past or
19 present racial, ethnic, or gender-based discrimination which
20 directly impacts a State agency or public institution of
21 higher education contracting with such firms. If after
22 reviewing such evidence the Council finds that there is or has
23 been such discrimination against a specific group, race or
24 sex, the Council shall establish sheltered markets or adjust
25 existing sheltered markets tailored to address the Council's
26 specific findings for the divisions of work specified in

1 paragraphs (a), (b), and (c) of subsection (1) of this
2 Section.

3 (Source: P.A. 101-170, eff. 1-1-20; 101-657, Article 5,
4 Section 5-10, eff. 7-1-21 (See Section 25 of P.A. 102-29 for
5 effective date of P.A. 101-657, Article 5, Section 5-10);
6 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff.
7 6-25-21; 102-662, eff. 9-15-21.)