



Rep. William "Will" Davis

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LRB103 25706 DTM 58336 a

1 AMENDMENT TO HOUSE BILL 1409

2 AMENDMENT NO. _____. Amend House Bill 1409 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act is amended by changing
6 Sections 4 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8 (Section scheduled to be repealed on June 30, 2024)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,

1 women, and persons with disabilities pursuant to this Section,
2 contracts representing at least 16% shall be awarded to
3 businesses owned by minorities, contracts representing at
4 least 10% shall be awarded to women-owned businesses, and
5 contracts representing at least 4% shall be awarded to
6 businesses owned by persons with disabilities.

7 (a-5) In addition to the aspirational goals in awarding
8 State contracts set under subsection (a), the Commission shall
9 by rule further establish targeted efforts to encourage the
10 participation of businesses owned by minorities, women, and
11 persons with disabilities on State contracts. Such efforts
12 shall include, but not be limited to, further concerted
13 outreach efforts to businesses owned by minorities, women, and
14 persons with disabilities.

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

1 this Act. Contracts shall include a definition of
2 "commercially useful function" that is consistent with 49 CFR
3 26.55(c).

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

16 (c) (Blank).

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

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

1 whether to adjust the goals for minority and women
2 participation established in this Act. Copies of this report
3 and the social scientific study shall be filed with the
4 Governor and the General Assembly.

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

19 (e) All State contract solicitations that include Business
20 Enterprise Program participation goals shall require bidders
21 or offerors to include utilization plans. Utilization plans
22 are due at the time of bid or offer submission. Failure to
23 complete and include a utilization plan, including
24 documentation demonstrating good faith efforts when requesting
25 a waiver, shall render the bid or offer non-responsive.

26 Except as permitted under this Act or as otherwise

1 mandated by federal regulation, a bidder or offeror whose bid
2 or offer is accepted and who included in that bid a completed
3 utilization plan but who fails to meet the goals set forth in
4 the plan shall be notified of the deficiency by the
5 contracting agency or public institution of higher education
6 and shall be given a period of 10 calendar days to cure the
7 deficiency by contracting with additional subcontractors who
8 are certified by the Business Enterprise Program or by
9 increasing the work to be performed by previously identified
10 vendors certified by the Business Enterprise Program.

11 Deficiencies that may be cured include: (i) scrivener's
12 errors, such as transposed numbers; (ii) information submitted
13 in an incorrect form or format; (iii) mistakes resulting from
14 failure to follow instructions or to identify and adequately
15 document good faith efforts taken to comply with the
16 utilization plan; or (iv) a proposal to use a firm whose
17 Business Enterprise Program certification has lapsed or is not
18 yet recognized. Cure is not authorized if the bidder or
19 offeror submits a blank utilization plan, a utilization plan
20 that shows lack of reasonable effort to complete the form on
21 time, or a utilization plan that states the contract will be
22 self-performed, by a non-certified vendor, without showing
23 good faith efforts or a request for a waiver. All cure activity
24 shall address the deficiencies identified by the purchasing
25 agency and shall require clear documentation, including that
26 of good faith efforts, to address those deficiencies. Any

1 increase in cost to a contract for the addition of a
2 subcontractor to cure a bid's deficiency shall not affect the
3 bid price and shall not be used in the request for an exemption
4 under this Act, and, in no case, shall an identified
5 subcontractor with a Business Enterprise Program certification
6 made under this Act be terminated from a contract without the
7 written consent of the State agency or public institution of
8 higher education entering into the contract. The purchasing
9 agency or public institution of higher education shall make
10 the determination whether the cure is adequate.

11 Vendors certified with the Business Enterprise Program at
12 the time and date submittals are due and who do not submit a
13 utilization plan or have utilization plan deficiencies shall
14 have 10 business days to submit a utilization plan or to
15 correct the utilization plan deficiencies.

16 (f) (Blank).

17 (g) (Blank).

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

21 (i) All goals established under this Section apply to
22 architectural, engineering, and land surveying contracts under
23 the Architectural, Engineering, and Land Surveying
24 Qualifications Based Selection Act.

25 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;
26 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article

1 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21;
2 102-558, eff. 8-20-21; 102-1119, eff. 1-23-23.)

3 (30 ILCS 575/4f)

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

5 Sec. 4f. Award of State contracts.

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

20 (a) When a State agency or public institution of
21 higher education, other than a community college, awards a
22 contract for insurance services, for each State agency or
23 public institution of higher education, it shall be the
24 aspirational goal to use insurance brokers owned by
25 minorities, women, and persons with disabilities as

1 defined by this Act, for not less than 20% of the total
2 annual premiums or fees; provided that, contracts
3 representing at least 11% of the total annual premiums or
4 fees shall be awarded to businesses owned by minorities;
5 contracts representing at least 7% of the total annual
6 premiums or fees shall be awarded to women-owned
7 businesses; and contracts representing at least 2% of the
8 total annual premiums or fees shall be awarded to
9 businesses owned by persons with disabilities.

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

1 minorities, women, and persons with disabilities.

2 (c) When a State agency or public institution of
3 higher education, other than a community college, awards
4 contracts for information technology services, accounting
5 services, ~~architectural and engineering services,~~ and legal
6 services, for each State agency and public institution of
7 higher education, it shall be the aspirational goal to use
8 such firms owned by minorities, women, and persons with
9 disabilities as defined by this Act and lawyers who are
10 minorities, women, and persons with disabilities as
11 defined by this Act, for not less than 20% of the total
12 dollar amount of State contracts; provided that, contracts
13 representing at least 11% of the total dollar amount of
14 State contracts shall be awarded to businesses owned by
15 minorities or minority lawyers; contracts representing at
16 least 7% of the total dollar amount of State contracts
17 shall be awarded to women-owned businesses or women who
18 are lawyers; and contracts representing at least 2% of the
19 total dollar amount of State contracts shall be awarded to
20 businesses owned by persons with disabilities or persons
21 with disabilities who are lawyers.

22 (d) When a community college awards a contract for
23 insurance services, investment services, information
24 technology services, accounting services, ~~architectural~~
25 ~~and engineering services,~~ and legal services, it shall be
26 the aspirational goal of each community college to use

1 businesses owned by minorities, women, and persons with
2 disabilities as defined in this Act for not less than 20%
3 of the total amount spent on contracts for these services
4 collectively; provided that, contracts representing at
5 least 11% of the total amount spent on contracts for these
6 services shall be awarded to businesses owned by
7 minorities; contracts representing at least 7% of the
8 total amount spent on contracts for these services shall
9 be awarded to women-owned businesses; and contracts
10 representing at least 2% of the total amount spent on
11 contracts for these services shall be awarded to
12 businesses owned by persons with disabilities. When a
13 community college awards contracts for investment
14 services, contracts awarded to investment managers who are
15 not emerging investment managers as defined in this Act
16 shall not be considered businesses owned by minorities,
17 women, or persons with disabilities for the purposes of
18 this Section.

19 (2) As used in this Section:

20 "Accounting services" means the measurement,
21 processing and communication of financial information
22 about economic entities including, but is not limited to,
23 financial accounting, management accounting, auditing,
24 cost containment and auditing services, taxation and
25 accounting information systems.

26 ~~"Architectural and engineering services" means~~

1 ~~professional services of an architectural or engineering~~
2 ~~nature, or incidental services, that members of the~~
3 ~~architectural and engineering professions, and individuals~~
4 ~~in their employ, may logically or justifiably perform,~~
5 ~~including studies, investigations, surveying and mapping,~~
6 ~~tests, evaluations, consultations, comprehensive~~
7 ~~planning, program management, conceptual designs, plans~~
8 ~~and specifications, value engineering, construction phase~~
9 ~~services, soils engineering, drawing reviews, preparation~~
10 ~~of operating and maintenance manuals, and other related~~
11 ~~services.~~

12 "Emerging investment manager" means an investment
13 manager or claims consultant having assets under
14 management below \$10 billion or otherwise adjudicating
15 claims.

16 "Information technology services" means, but is not
17 limited to, specialized technology-oriented solutions by
18 combining the processes and functions of software,
19 hardware, networks, telecommunications, web designers,
20 cloud developing resellers, and electronics.

21 "Insurance broker" means an insurance brokerage firm,
22 claims administrator, or both, that procures, places all
23 lines of insurance, or administers claims with annual
24 premiums or fees of at least \$5,000,000 but not more than
25 \$10,000,000.

26 "Legal services" means work performed by a lawyer

1 including, but not limited to, contracts in anticipation
2 of litigation, enforcement actions, or investigations.

3 (3) Each State agency and public institution of higher
4 education shall adopt policies that identify its plan and
5 implementation procedures for increasing the use of service
6 firms owned by minorities, women, and persons with
7 disabilities. All plan and implementation procedures for
8 increasing the use of service firms owned by minorities,
9 women, and persons with disabilities must be submitted to and
10 approved by the Commission on Equity and Inclusion on an
11 annual basis.

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

1 higher education to increase participation by the use of
2 service firms owned by minorities, women, and persons with
3 disabilities, and (iv) include the following:

4 (A) For insurance services: the names of the insurance
5 brokers or claims consultants used, the total of risk
6 managed by each State agency and public institution of
7 higher education by insurance brokers, the total
8 commissions, fees paid, or both, the lines or insurance
9 policies placed, and the amount of premiums placed; and
10 the percentage of the risk managed by insurance brokers,
11 the percentage of total commission, fees paid, or both,
12 the lines or insurance policies placed, and the amount of
13 premiums placed with each by the insurance brokers owned
14 by minorities, women, and persons with disabilities by
15 each State agency and public institution of higher
16 education.

17 (B) For investment management services: the names of
18 the investment managers used, the total funds under
19 management of investment managers; the total commissions,
20 fees paid, or both; the total and percentage of funds
21 under management of emerging investment managers owned by
22 minorities, women, and persons with disabilities,
23 including the total and percentage of total commissions,
24 fees paid, or both by each State agency and public
25 institution of higher education.

26 (C) The names of service firms, the percentage and

1 total dollar amount paid for professional services by
2 category by each State agency and public institution of
3 higher education.

4 (D) The names of service firms, the percentage and
5 total dollar amount paid for services by category to firms
6 owned by minorities, women, and persons with disabilities
7 by each State agency and public institution of higher
8 education.

9 (E) The total number of contracts awarded for services
10 by category and the total number of contracts awarded to
11 firms owned by minorities, women, and persons with
12 disabilities by each State agency and public institution
13 of higher education.

14 (5) For community college districts, the Business
15 Enterprise Council shall only report the following information
16 for each community college district: (i) the name of the
17 community colleges in the district, (ii) the name and contact
18 information of a person at each community college appointed to
19 be the single point of contact for vendors owned by
20 minorities, women, or persons with disabilities, (iii) the
21 policy of the community college district concerning certified
22 vendors, (iv) the certifications recognized by the community
23 college district for determining whether a business is owned
24 or controlled by a minority, woman, or person with a
25 disability, (v) outreach efforts conducted by the community
26 college district to increase the use of certified vendors,

1 (vi) the total expenditures by the community college district
2 in the prior fiscal year in the divisions of work specified in
3 paragraphs (a), (b), and (c) of subsection (1) of this Section
4 and the amount paid to certified vendors in those divisions of
5 work, and (vii) the total number of contracts entered into for
6 the divisions of work specified in paragraphs (a), (b), and
7 (c) of subsection (1) of this Section and the total number of
8 contracts awarded to certified vendors providing these
9 services to the community college district. The Business
10 Enterprise Council shall not make any utilization reports
11 under this Act for community college districts for Fiscal Year
12 2015 and Fiscal Year 2016, but shall make the report required
13 by this subsection for Fiscal Year 2017 and for each fiscal
14 year thereafter. The Business Enterprise Council shall report
15 the information in items (i), (ii), (iii), and (iv) of this
16 subsection beginning in September of 2016. The Business
17 Enterprise Council may collect the data needed to make its
18 report from the Illinois Community College Board.

19 (6) The status of the utilization of services shall be
20 discussed at each of the regularly scheduled Business
21 Enterprise Council meetings. Time shall be allotted for the
22 Council to receive, review, and discuss the progress of the
23 use of service firms owned by minorities, women, and persons
24 with disabilities by each State agency and public institution
25 of higher education; and any evidence regarding past or
26 present racial, ethnic, or gender-based discrimination which

1 directly impacts a State agency or public institution of
2 higher education contracting with such firms. If after
3 reviewing such evidence the Council finds that there is or has
4 been such discrimination against a specific group, race or
5 sex, the Council shall establish sheltered markets or adjust
6 existing sheltered markets tailored to address the Council's
7 specific findings for the divisions of work specified in
8 paragraphs (a), (b), and (c) of subsection (1) of this
9 Section.

10 (Source: P.A. 101-170, eff. 1-1-20; 101-657, Article 5,
11 Section 5-10, eff. 7-1-21 (See Section 25 of P.A. 102-29 for
12 effective date of P.A. 101-657, Article 5, Section 5-10);
13 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff.
14 6-25-21; 102-662, eff. 9-15-21.)".