

HB3888



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3888

Introduced 2/17/2023, by Rep. Lilian Jiménez

SYNOPSIS AS INTRODUCED:

New Act
220 ILCS 5/5-117

Creates the Diversity in Not-for-Profit Act. Allows any State agency, county, or unit of local government of the State of Illinois that certifies entities under a disadvantaged business enterprise program to certify organizations as minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability under the Act. Amends the Public Utilities Act. Provides that specified supplier diversity goal requirements under the Act apply to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Defines terms.

LRB103 29718 DTM 56123 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Diversity in Not-for-Profit Act.

6 Section 5. Definitions. As used in this Act:

7 "Board of directors" has the same meaning as provided
8 under subsection (d) of Section 101.80 of the General Not For
9 Profit Corporation Act of 1986.

10 "Certification" means a determination that a
11 not-for-profit organization meets the defined classifications
12 of a "minority-led not-for-profit organization", a "woman-led
13 not-for-profit organization", or a "not-for-profit
14 organization led by a person with a disability".

15 "Key employees" means an employee of the organization who
16 is:

17 (1) the person who has ultimate responsibility for
18 implementing the decisions of the board of directors or
19 for supervising the management, administration, or
20 operation of the organization;

21 (2) the person who has ultimate responsibility for
22 managing the organization's finances; or

23 (3) the person who:

1 (A) has responsibilities, powers, or influence
2 over the organization as a whole that is similar to the
3 persons described in paragraphs (1) and (2);

4 (B) manages a discrete segment or activity of the
5 organizations that represents 25% or more of the
6 activities, assets, income, or expenses of the
7 organization, as compared to the organization as a
8 whole, or has or shares authority to control or
9 determine 25% or more of the organization's capital
10 expenditures, operating budget, or compensation for
11 employees; and

12 (C) is one of the 5 highest compensated employees
13 in the organization.

14 "Minority-led not-for-profit organization" means an
15 organization that is tax-exempt under Sections 501(c)(3) or
16 501(c)(4) of the Internal Revenue Code of 1986, has filed all
17 required forms under the Solicitation for Charity Act, and for
18 which:

19 (1) at least 51% of the members of the organization's
20 board of directors are minority persons, or at least 51%
21 of the members of the organization's board of directors
22 and key employees are minority persons;

23 (2) the organization is regularly and actively engaged
24 in the activity for which it is formed;

25 (3) the organization is not dependent upon or
26 influenced by another non-eligible person or organization;

1 and

2 (4) the organization has not been established or
3 reorganized for the specific purpose of obtaining a
4 certification under this Act.

5 "Not-for-profit organization led by a person with a
6 disability" means an organization that is tax-exempt under
7 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code
8 of 1986, has filed all required forms under the Solicitation
9 for Charity Act, and for which:

10 (1) at least 51% of the members of the organization's
11 board of directors are persons with a disability, or at
12 least 51% of the members of the organization's board of
13 directors and key employees are persons with a disability;

14 (2) the organization is regularly and actively engaged
15 in the activity for which it is formed;

16 (3) the organization is not dependent upon or
17 influenced by another non-eligible person or organization;
18 and

19 (4) the organization has not been established or
20 reorganized for the specific purpose of obtaining a
21 certification under this Act.

22 "Woman-led not-for-profit organization" means an
23 organization that is tax-exempt under Sections 501(c)(3) or
24 501(c)(4) of the Internal Revenue Code of 1986, has filed all
25 required forms under the Solicitation for Charity Act, and for
26 which:

1 (1) at least 51% of the members of the organization's
2 board of directors are women, or at least 51% of the
3 members of the organization's board of directors and key
4 employees are women;

5 (2) the organization is regularly and actively engaged
6 in the activity for which it is formed;

7 (3) the organization is not dependent upon or
8 influenced by another non-eligible person or organization;
9 and

10 (4) the organization has not been established or
11 reorganized for the specific purpose of obtaining a
12 certification under this Act.

13 Section 10. Certification.

14 (a) For the purpose of assuring that a not-for-profit
15 organization taking advantage of this Act is legitimately
16 classified as a minority-led not-for-profit organization, a
17 woman-led not-for-profit organization, or a not-for-profit
18 organization led by a person with a disability, any State
19 agency, county, or unit of local government of the State of
20 Illinois that, on the effective date of this Act, certifies
21 entities under a disadvantaged business enterprise program
22 created under (i) the Business Enterprise for Minorities,
23 Women, and Persons with Disabilities Act, (ii) home rule
24 authorization under the Illinois Constitution, or (iii) any
25 similar statutory or home rule authorizations, may also

1 certify the organizations defined under this Act. Any such
2 State agency, county, or unit of local government, if it
3 elects to certify hereunder, shall also maintain a list of all
4 not-for-profit organizations legitimately classified as a
5 minority-led not-for-profit organization, a woman-led
6 not-for-profit organization, or a not-for-profit organization
7 led by a person with a disability.

8 (b) When a not-for-profit organization's board of
9 directors, or the board of directors together with key
10 employees, consists of at least 51% of any combination of
11 minority persons, women, or persons with disabilities, even
12 though none of the 3 classes alone holds at least a 51% share,
13 the 51% membership requirement for purposes of certification
14 under this Act shall be considered met. The certification
15 category for not-for-profit organizations shall be that of the
16 class holding the largest share of positions on the board of
17 directors, or on the board of directors together with key
18 employees, of a not-for-profit organization. If 2 or more
19 classes have an equal share of positions on the board of
20 directors, or on the board of directors together with key
21 employees, the certification category shall be determined by
22 the not-for-profit organization.

23 Section 15. Rules. Any State agency that elects to certify
24 organizations under this Act shall adopt rules necessary to
25 implement and enforce the requirements of this Act.

1 Section 100. The Public Utilities Act is amended by
2 changing Section 5-117 as follows:

3 (220 ILCS 5/5-117)

4 Sec. 5-117. Supplier diversity goals.

5 (a) The public policy of this State is to collaboratively
6 work with companies and not-for-profit organizations that
7 serve Illinois residents to improve their supplier diversity
8 in a non-antagonistic manner.

9 (a-5) For the purposes of this Section, "minority-led
10 not-for-profit organization", "woman-led not-for-profit
11 organization", and "not-for-profit organization led by a
12 person with a disability" shall have the same meanings as
13 provided under the Diversity in Not-for-Profit Act.

14 (b) The Commission shall require all gas, electric, and
15 water utilities with at least 100,000 customers under its
16 authority to submit an annual report by April 15, 2015 and
17 every April 15 thereafter, in a searchable Adobe PDF format,
18 on all procurement goals and actual spending for female-owned,
19 minority-owned, veteran-owned, person with a disability-owned,
20 and small business enterprises, as well as minority-led
21 not-for-profit organizations, woman-led not-for-profit
22 organizations, and not-for-profit organizations led by a
23 person with a disability, in the previous calendar year. These
24 goals shall be expressed as a percentage of the total work

1 performed by the entity submitting the report, and the actual
2 spending for all female-owned, minority-owned, veteran-owned,
3 person with a disability-owned, and small business
4 enterprises, as well as minority-led not-for-profit
5 organizations, woman-led not-for-profit organizations, and
6 not-for-profit organizations led by a person with a
7 disability, shall also be expressed as a percentage of the
8 total work performed by the entity submitting the report.

9 (c) Each participating company in its annual report shall
10 include the following information:

11 (1) an explanation of the plan for the next year to
12 increase participation;

13 (2) an explanation of the plan to increase the goals;

14 (3) the areas of procurement each company shall be
15 actively seeking more participation in the next year;

16 (3.5) a buying plan for the specific goods and
17 services the company intends to buy in the next 6 to 18
18 months, that is either (i) organized by and reported at
19 the level of each applicable North American Industry
20 Classification System code, (ii) provided using a method,
21 system, or description similar to the North American
22 Industry Classification System, or (iii) provided using
23 the major categories of goods and related services
24 utilized in the company's procurement system, and
25 including any procurement codes used by the company, to
26 assist entrepreneurs and diverse companies to understand

1 upcoming opportunities to work with the company, however,
2 a utility shall not be required to include
3 commercially-sensitive data, nonpublic procurement
4 information, or other information that could compromise a
5 utility's ability to negotiate the most advantageous price
6 or terms;

7 (4) an outline of the plan to alert and encourage
8 potential vendors in that area to seek business from the
9 company;

10 (5) an explanation of the challenges faced in finding
11 quality vendors and offer any suggestions for what the
12 Commission could do to be helpful to identify those
13 vendors;

14 (6) a list of the certifications the company
15 recognizes;

16 (7) the point of contact for any potential vendor who
17 wishes to do business with the company and explain the
18 process for a vendor to enroll with the company as a
19 minority-owned, women-owned, ~~or~~ veteran-owned, or person
20 with a disability-owned company, or a minority-led
21 not-for-profit organization, a woman-led not-for-profit
22 organization, or a not-for-profit organization led by a
23 person with a disability; and

24 (8) any particular success stories to encourage other
25 companies to emulate best practices.

26 (d) Each annual report shall include as much

1 State-specific data as possible. If the submitting entity does
2 not submit State-specific data, then the company shall include
3 any national data it does have and explain why it could not
4 submit State-specific data and how it intends to do so in
5 future reports, if possible.

6 (e) Each annual report shall include the rules,
7 regulations, and definitions used for the procurement goals in
8 the company's annual report.

9 (f) The Commission and all participating entities shall
10 hold an annual workshop open to the public in 2015 and every
11 year thereafter on the state of supplier diversity to
12 collaboratively seek solutions to structural impediments to
13 achieving stated goals, including testimony from each
14 participating entity as well as subject matter experts and
15 advocates. The Commission shall publish a database on its
16 website of the point of contact for each participating entity
17 for supplier diversity, along with a list of certifications
18 each company recognizes from the information submitted in each
19 annual report. The Commission shall publish each annual report
20 on its website and shall maintain each annual report for at
21 least 5 years.

22 (Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21;
23 102-673, eff. 11-30-21; 102-1031, eff. 5-27-22.)