



Rep. Curtis J. Tarver, II

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1 AMENDMENT TO HOUSE BILL 4846

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4846 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 2, 5, and 8 and by adding Section 3.5 as follows:

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2029)

9 Sec. 2. Definitions.

10 (A) For the purpose of this Act, the following terms shall  
11 have the following definitions:

12 (1) "Minority person" shall mean a person who is a  
13 citizen or lawful permanent resident of the United States  
14 and who is any of the following:

15 (a) American Indian or Alaska Native (a person  
16 having origins in any of the original peoples of North

1 and South America, including Central America, and who  
2 maintains tribal affiliation or community attachment).

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

9 (c) Black or African American (a person having  
10 origins in any of the black racial groups of Africa).

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

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

17 (2) "Woman" shall mean a person who is a citizen or  
18 lawful permanent resident of the United States and who is  
19 of the female gender.

20 (2.05) "Person with a disability" means a person who  
21 is a citizen or lawful resident of the United States and is  
22 a person qualifying as a person with a disability under  
23 subdivision (2.1) of this subsection (A).

24 (2.1) "Person with a disability" means a person with a  
25 severe physical or mental disability that:

26 (a) results from:

1           amputation,  
2           arthritis,  
3           autism,  
4           blindness,  
5           burn injury,  
6           cancer,  
7           cerebral palsy,  
8           Crohn's disease,  
9           cystic fibrosis,  
10          deafness,  
11          head injury,  
12          heart disease,  
13          hemiplegia,  
14          hemophilia,  
15          respiratory or pulmonary dysfunction,  
16          an intellectual disability,  
17          mental illness,  
18          multiple sclerosis,  
19          muscular dystrophy,  
20          musculoskeletal disorders,  
21          neurological disorders, including stroke and  
22          epilepsy,  
23          paraplegia,  
24          quadriplegia and other spinal cord conditions,  
25          sickle cell anemia,  
26          ulcerative colitis,

1           specific learning disabilities, or  
2           end stage renal failure disease; and

3           (b) substantially limits one or more of the  
4           person's major life activities.

5           Another disability or combination of disabilities may  
6           also be considered as a severe disability for the purposes  
7           of item (a) of this subdivision (2.1) if it is determined  
8           by an evaluation of rehabilitation potential to cause a  
9           comparable degree of substantial functional limitation  
10          similar to the specific list of disabilities listed in  
11          item (a) of this subdivision (2.1).

12          (3) "Minority-owned business" means a business which  
13          is at least 51% owned by one or more minority persons, or  
14          in the case of a corporation, at least 51% of the stock in  
15          which is owned by one or more minority persons; and the  
16          management and daily business operations of which are  
17          controlled by one or more of the minority individuals who  
18          own it.

19          (4) "Women-owned business" means a business which is  
20          at least 51% owned by one or more women, or, in the case of  
21          a corporation, at least 51% of the stock in which is owned  
22          by one or more women; and the management and daily  
23          business operations of which are controlled by one or more  
24          of the women who own it.

25          (4.1) "Business owned by a person with a disability"  
26          means a business that is at least 51% owned by one or more

1 persons with a disability and the management and daily  
2 business operations of which are controlled by one or more  
3 of the persons with disabilities who own it. A  
4 not-for-profit agency for persons with disabilities that  
5 is exempt from taxation under Section 501 of the Internal  
6 Revenue Code of 1986 is also considered a "business owned  
7 by a person with a disability".

8 (4.2) "Council" means the Business Enterprise Council  
9 for Minorities, Women, and Persons with Disabilities  
10 created under Section 5 of this Act.

11 (4.3) "Commission" means, unless the context clearly  
12 indicates otherwise, the Commission on Equity and  
13 Inclusion created under the Commission on Equity and  
14 Inclusion Act.

15 (4.4) "Certified vendor" means a minority-owned  
16 business, women-owned business, or business owned by a  
17 person with a disability that is certified by the Business  
18 Enterprise Program.

19 (4.5) "Subcontractor" means a person or entity that  
20 enters into a contractual agreement with a prime vendor to  
21 provide, on behalf of the prime vendor, goods, services,  
22 real property, or remuneration or other monetary  
23 consideration that is the subject of the primary State  
24 contract. "Subcontractor" includes a sublessee under a  
25 State contract.

26 (4.6) "Prime vendor" means any person or entity having

1 a contract that is subject to this Act with a State agency  
2 or public institution of higher education.

3 (5) "State contracts" means all contracts entered into  
4 by the State, any agency or department thereof, or any  
5 public institution of higher education, including  
6 community college districts, regardless of the source of  
7 the funds with which the contracts are paid, which are not  
8 subject to federal reimbursement. "State contracts" does  
9 not include contracts awarded by a retirement system,  
10 pension fund, or investment board subject to Section  
11 1-109.1 of the Illinois Pension Code. This definition  
12 shall control over any existing definition under this Act  
13 or applicable administrative rule.

14 "State construction contracts" means all State  
15 contracts entered into by a State agency or public  
16 institution of higher education for the repair,  
17 remodeling, renovation or construction of a building or  
18 structure, or for the construction or maintenance of a  
19 highway defined in Article 2 of the Illinois Highway Code.

20 (6) "State agencies" shall mean all departments,  
21 officers, boards, commissions, institutions and bodies  
22 politic and corporate of the State, but does not include  
23 the Board of Trustees of the University of Illinois, the  
24 Board of Trustees of Southern Illinois University, the  
25 Board of Trustees of Chicago State University, the Board  
26 of Trustees of Eastern Illinois University, the Board of

1 Trustees of Governors State University, the Board of  
2 Trustees of Illinois State University, the Board of  
3 Trustees of Northeastern Illinois University, the Board of  
4 Trustees of Northern Illinois University, the Board of  
5 Trustees of Western Illinois University, municipalities or  
6 other local governmental units, or other State  
7 constitutional officers.

8 (7) "Public institutions of higher education" means  
9 the University of Illinois, Southern Illinois University,  
10 Chicago State University, Eastern Illinois University,  
11 Governors State University, Illinois State University,  
12 Northeastern Illinois University, Northern Illinois  
13 University, Western Illinois University, the public  
14 community colleges of the State, and any other public  
15 universities, colleges, and community colleges now or  
16 hereafter established or authorized by the General  
17 Assembly.

18 (8) "Certification" means a determination made by the  
19 Council or by one delegated authority from the Council to  
20 make certifications, or by a State agency with statutory  
21 authority to make such a certification, that a business  
22 entity is a business owned by a minority, woman, or person  
23 with a disability for whatever purpose. A business owned  
24 and controlled by women shall be certified as a  
25 "woman-owned business". A business owned and controlled by  
26 women who are also minorities shall be certified as both a

1 "women-owned business" and a "minority-owned business".

2 (9) "Control" means the exclusive or ultimate and sole  
3 control of the business including, but not limited to,  
4 capital investment and all other financial matters,  
5 property, acquisitions, contract negotiations, legal  
6 matters, officer-director-employee selection and  
7 comprehensive hiring, operating responsibilities,  
8 cost-control matters, income and dividend matters,  
9 financial transactions and rights of other shareholders or  
10 joint partners. Control shall be real, substantial and  
11 continuing, not pro forma. Control shall include the power  
12 to direct or cause the direction of the management and  
13 policies of the business and to make the day-to-day as  
14 well as major decisions in matters of policy, management  
15 and operations. Control shall be exemplified by possessing  
16 the requisite knowledge and expertise to run the  
17 particular business and control shall not include simple  
18 majority or absentee ownership.

19 (10) "Business" means a business that has annual gross  
20 sales of less than \$150,000,000 as evidenced by the  
21 federal income tax return of the business. A certified  
22 vendor with gross sales in excess of this cap may apply to  
23 the Council for certification for a particular contract if  
24 the vendor can demonstrate that the contract would have  
25 significant impact on businesses owned by minorities,  
26 women, or persons with disabilities as suppliers or



1 subcontractors or in employment of minorities, women, or  
2 persons with disabilities. Firms with gross sales in  
3 excess of this cap that are granted certification by the  
4 Council shall be granted certification for the life of the  
5 contract, including available renewals.

6 (11) "Utilization plan" means an attachment that is  
7 made to all bids or proposals and that demonstrates the  
8 bidder's or offeror's efforts to meet the  
9 contract-specific Business Enterprise Program goal. The  
10 utilization plan shall indicate whether the prime vendor  
11 intends to meet the Business Enterprise Program goal  
12 through its own performance, if it is a certified vendor,  
13 or through the use of subcontractors that are certified  
14 vendors. The utilization plan shall demonstrate that the  
15 Vendor has either: (1) met the entire contract goal or (2)  
16 requested a full or partial waiver of the contract goal.  
17 If the prime vendor intends to use a subcontractor that is  
18 a certified vendor to fulfill the contract goal, a  
19 participation agreement executed between the prime vendor  
20 and the certified subcontractor must be included with the  
21 utilization plan.

22 (12) "Business Enterprise Program" means the Business  
23 Enterprise Program of the Commission on Equity and  
24 Inclusion.

25 (13) "Good faith effort" means actions undertaken by a  
26 vendor to achieve a contract specific Business Enterprise

1 Program goal that, by scope, intensity, and  
2 appropriateness to the objective, can reasonably be  
3 expected to fulfill the program's requirements.

4 (14) "Goal" means the participation levels of  
5 certified vendors on State contracts.

6 (B) When a business is owned at least 51% by any  
7 combination of minority persons, women, or persons with  
8 disabilities, even though none of the 3 classes alone holds at  
9 least a 51% interest, the ownership requirement for purposes  
10 of this Act is considered to be met. The certification  
11 category for the business is that of the class holding the  
12 largest ownership interest in the business. If 2 or more  
13 classes have equal ownership interests, the certification  
14 category shall be determined by the business.

15 (Source: P.A. 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23;  
16 103-570, eff. 1-1-24.)

17 (30 ILCS 575/3.5 new)

18 Sec. 3.5. Uniform standard of contract goals.

19 (a) The Business Enterprise Program may establish uniform  
20 standards for calculating contract specific Business  
21 Enterprise Program goals for all State contracts and State  
22 construction contracts subject to this Act. In establishing  
23 those standards, the Business Enterprise Program may consider  
24 normal industry practice, the scope of the work to be  
25 performed under a contract, the availability of vendors that

1 are able to perform the scope of the work to be performed under  
2 a contract, the availability of certified vendors that are  
3 able to perform the work to be performed under a contract, and  
4 the State's progress to date toward meeting the aspirational  
5 goals set forth in this Act.

6 (b) Each State agency that is subject to this Act and each  
7 public institution of higher education that is subject to this  
8 Act may, in accordance with the provisions of this Act, set  
9 goals concerning participation in State contracts, including  
10 State construction contracts, to which the State agency or  
11 public institution of higher education is party. Goals  
12 involving State contracts above the small purchase threshold,  
13 as defined in Section 20-20 of the Illinois Procurement Code,  
14 may be submitted to the Business Enterprise Program for  
15 approval, denial, or modification.

16 (c) As used in this Section, the terms "State contract"  
17 and "State construction contract" do not include grants from  
18 State agencies to grantees for capital improvements or  
19 operational expenses.

20 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

21 (Section scheduled to be repealed on June 30, 2029)

22 Sec. 5. Business Enterprise Council.

23 (1) To help implement, monitor, and enforce the goals of  
24 this Act, there is created the Business Enterprise Council for  
25 Minorities, Women, and Persons with Disabilities, hereinafter

1 referred to as the Council, composed of the Chairperson of the  
2 Commission on Equity and Inclusion, the Secretary of Human  
3 Services and the Directors of the Department of Human Rights,  
4 the Department of Commerce and Economic Opportunity, the  
5 Department of Central Management Services, the Department of  
6 Transportation and the Capital Development Board, or their  
7 duly appointed representatives, with the Comptroller, or his  
8 or her designee, serving as an advisory member of the Council.  
9 Ten individuals representing businesses that are  
10 minority-owned, women-owned, or owned by persons with  
11 disabilities, 2 individuals representing the business  
12 community, and a representative of public institutions of  
13 higher education shall be appointed by the Governor. These  
14 members shall serve 2-year terms and shall be eligible for  
15 reappointment. Any vacancy occurring on the Council shall also  
16 be filled by the Governor. Any member appointed to fill a  
17 vacancy occurring prior to the expiration of the term for  
18 which his or her predecessor was appointed shall be appointed  
19 for the remainder of such term. Members of the Council shall  
20 serve without compensation but shall be reimbursed for any  
21 ordinary and necessary expenses incurred in the performance of  
22 their duties.

23 The Chairperson of the Commission shall serve as the  
24 Council chairperson and shall select, subject to approval of  
25 the Council, a Secretary responsible for the operation of the  
26 program who shall serve as the Division Manager of the

1 Business Enterprise for Minorities, Women, and Persons with  
2 Disabilities Division of the Commission on Equity and  
3 Inclusion.

4 The Director of each State agency and the chief executive  
5 officer of each public institution of higher education shall  
6 appoint a liaison to the Council. The liaison shall be  
7 responsible for submitting to the Council any reports and  
8 documents necessary under this Act.

9 (2) The Council's authority and responsibility shall be  
10 to:

11 (a) Devise a certification procedure to assure that  
12 businesses taking advantage of this Act are legitimately  
13 classified as businesses owned by minorities, women, or  
14 persons with disabilities and a registration procedure to  
15 recognize, without additional evidence of Business  
16 Enterprise Program eligibility, the certification of  
17 businesses owned by minorities, women, or persons with  
18 disabilities certified by the City of Chicago, Cook  
19 County, or other jurisdictional programs with requirements  
20 and procedures equaling or exceeding those in this Act.

21 (b) Maintain a list of all businesses legitimately  
22 classified as businesses owned by minorities, women, or  
23 persons with disabilities to provide to State agencies and  
24 public institutions of higher education.

25 (c) Review rules and regulations for the  
26 implementation of the program for businesses owned by

1 minorities, women, and persons with disabilities.

2 (d) Review compliance plans submitted by each State  
3 agency and public institution of higher education pursuant  
4 to this Act.

5 (e) Make annual reports as provided in Section 8f to  
6 the Governor and the General Assembly on the status of the  
7 program.

8 (f) Serve as a central clearinghouse for information  
9 on State contracts, including the maintenance of a list of  
10 all pending State contracts upon which businesses owned by  
11 minorities, women, and persons with disabilities may bid.  
12 At the Council's discretion, maintenance of the list may  
13 include 24-hour electronic access to the list along with  
14 the bid and application information.

15 (g) Establish a toll-free telephone number to  
16 facilitate information requests concerning the  
17 certification process and pending contracts.

18 (h) Adopt a procedure to grant automatic certification  
19 to businesses holding a certification from at least one of  
20 the following entities: (i) the Illinois Unified  
21 Certification Program; (ii) the Women's Business  
22 Development Center in Chicago; (iii) the Chicago Minority  
23 Supplier Development Council; or (iv) any other similar  
24 entity offering such certification to businesses.

25 (i) Develop and maintain a repository for  
26 non-certified vendors that: (i) have applied for

1 certification and have been denied; (ii) have started, but  
2 not completed, the certification process; (iii) have  
3 achieved certification, but did not seek renewal; or (iv)  
4 are known businesses owned by minorities, women, or  
5 persons with disabilities.

6 (3) No premium bond rate of a surety company for a bond  
7 required of a business owned by a minority, woman, or person  
8 with a disability bidding for a State contract shall be higher  
9 than the lowest rate charged by that surety company for a  
10 similar bond in the same classification of work that would be  
11 written for a business not owned by a minority, woman, or  
12 person with a disability.

13 (4) Any Council member who has direct financial or  
14 personal interest in any measure pending before the Council  
15 shall disclose this fact to the Council and refrain from  
16 participating in the determination upon such measure.

17 (5) The Secretary shall have the following duties and  
18 responsibilities:

19 (a) To be responsible for the day-to-day operation of  
20 the Council.

21 (b) To serve as a coordinator for all of the State's  
22 programs for businesses owned by minorities, women, and  
23 persons with disabilities and as the information and  
24 referral center for all State initiatives for businesses  
25 owned by minorities, women, and persons with disabilities.

26 (c) To establish an enforcement procedure whereby the

1 Council may recommend to the appropriate State legal  
2 officer that the State exercise its legal remedies which  
3 shall include (1) termination of the contract involved,  
4 (2) prohibition of participation by the respondent in  
5 State public contracts for a period not to exceed 3 years,  
6 (3) imposition of a penalty in the amount of the  
7 discrepancy between the commitment contained in the  
8 utilization plan, as such amount may be amended over the  
9 term of the contract, and the qualifying payments made to  
10 the eligible certified vendors listed in the utilization  
11 plan ~~a penalty not to exceed any profit acquired as a~~  
12 ~~result of violation~~, or (4) any combination thereof. Such  
13 procedures shall require prior approval by Council. All  
14 funds collected as penalties under this subsection shall  
15 be used exclusively for maintenance and further  
16 development of the Business Enterprise Program and  
17 encouragement of participation in State procurement by  
18 minorities, women, and persons with disabilities.

19 (d) To devise appropriate policies, regulations, and  
20 procedures for including participation by businesses owned  
21 by minorities, women, and persons with disabilities as  
22 prime contractors, including, but not limited to: (i)  
23 encouraging the inclusions of qualified businesses owned  
24 by minorities, women, and persons with disabilities on  
25 solicitation lists, (ii) investigating the potential of  
26 blanket bonding programs for small construction jobs, and



1 (iii) investigating and making recommendations concerning  
2 the use of the sheltered market process.

3 (e) To devise procedures for the waiver of the  
4 participation goals in appropriate circumstances.

5 (f) To accept donations and, with the approval of the  
6 Council or the Chairperson of the Commission on Equity and  
7 Inclusion, grants related to the purposes of this Act; to  
8 conduct seminars related to the purpose of this Act and to  
9 charge reasonable registration fees; and to sell  
10 directories, vendor lists, and other such information to  
11 interested parties, except that forms necessary to become  
12 eligible for the program shall be provided free of charge  
13 to a business or individual applying for the Business  
14 Enterprise Program.

15 (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;  
16 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff.  
17 1-1-23.)

18 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

19 (Section scheduled to be repealed on June 30, 2029)

20 Sec. 8. Enforcement.

21 (1) The Commission on Equity and Inclusion shall make such  
22 findings, recommendations and proposals to the Governor as are  
23 necessary and appropriate to enforce this Act. If, as a result  
24 of its monitoring activities, the Commission determines that  
25 its goals and policies are not being met by any State agency or

1 public institution of higher education, the Commission may  
2 recommend any or all of the following actions:

3 (a) Establish enforcement procedures whereby the  
4 Commission may recommend to the appropriate State agency,  
5 public institutions of higher education, or law  
6 enforcement officer that legal or administrative remedies  
7 be initiated for violations of contract provisions or  
8 rules issued hereunder or by a contracting State agency or  
9 public institutions of higher education. State agencies  
10 and public institutions of higher education shall be  
11 authorized to adopt remedies for such violations which  
12 shall include (1) termination of the contract involved,  
13 (2) prohibition of participation of the respondents in  
14 public contracts for a period not to exceed one year, (3)  
15 the assessment of a penalty in the amount of the  
16 discrepancy between the commitment contained in the  
17 utilization plan, as such amount may be amended over the  
18 term of the contract, and the qualifying payments made to  
19 the certified vendors listed in the utilization plan  
20 ~~imposition of a penalty not to exceed any profit acquired~~  
21 ~~as a result of violation~~, or (4) any combination thereof.

22 (b) If the Commission concludes that a compliance plan  
23 submitted under Section 6 is unlikely to produce the  
24 participation goals for businesses owned by minorities,  
25 women, and persons with disabilities within the then  
26 current fiscal year, the Commission may recommend that the

1 State agency or public institution of higher education  
2 revise its plan to provide additional opportunities for  
3 participation by businesses owned by minorities, women,  
4 and persons with disabilities. Such recommended revisions  
5 may include, but shall not be limited to, the following:

6 (i) assurances of stronger and better focused  
7 solicitation efforts to obtain more businesses owned  
8 by minorities, women, and persons with disabilities as  
9 potential sources of supply;

10 (ii) division of the scope of work ~~job or project~~  
11 ~~requirements~~, when economically feasible, into tasks  
12 or quantities to permit participation of businesses  
13 owned by minorities, women, and persons with  
14 disabilities;

15 (iii) elimination of extended experience or  
16 capitalization requirements, when programmatically  
17 feasible, to permit participation of businesses owned  
18 by minorities, women, and persons with disabilities;

19 (iv) identification of specific proposed contracts  
20 as particularly attractive or appropriate for  
21 participation by businesses owned by minorities,  
22 women, and persons with disabilities, such  
23 identification to result from and be coupled with the  
24 efforts of subparagraphs (i) through (iii);

25 (v) implementation of those regulations  
26 established for the use of the sheltered market

1 process.

2 (2) State agencies and public institutions of higher  
3 education shall monitor a vendor's compliance with its  
4 utilization plan and the terms of its contract. Without  
5 limitation, a vendor's failure to comply with its contractual  
6 commitments as contained in the utilization plan; failure to  
7 cooperate in providing information regarding its compliance  
8 with its utilization plan; or the provision of false or  
9 misleading information or statements concerning compliance,  
10 certification status, or eligibility of the Business  
11 Enterprise Program-certified vendor, good faith efforts, or  
12 any other material fact or representation shall constitute a  
13 material breach of the contract and entitle the State agency  
14 or public institution of higher education to declare a  
15 default, terminate the contract, or exercise those remedies  
16 provided for in the contract, at law, or in equity.

17 (3) Prior to the expiration or termination of a contract,  
18 State agencies and public institutions of higher education  
19 shall evaluate the contractor's fulfillment of the contract  
20 goals for participation by certified businesses owned by  
21 minorities, women, and persons with disabilities. The agency  
22 or public institution of higher education shall prepare a  
23 report of the vendor's compliance with the contract goals and  
24 file it with the Secretary. If the Secretary determines that  
25 the vendor did not fulfill the contract goals, the vendor  
26 shall be in breach of the contract and may be subject to

1 remedies or sanctions, unless the vendor can show that it made  
2 good faith efforts to meet the contract goals. Such remedies  
3 or sanctions for failing to make good faith efforts may  
4 include (i) disqualification of the contractor from doing  
5 business with the State for a period of no more than one year,  
6 ~~or~~ (ii) cancellation, without any penalty to the State, of any  
7 contract entered into by the vendor, or (iii) the assessment  
8 of a penalty in the amount of the discrepancy between the  
9 commitment contained in the utilization plan, as such amount  
10 may be amended over the term of the contract, and the  
11 qualifying payments made to the certified vendors listed in  
12 the utilization plan. The Business Enterprise Program shall  
13 develop procedures for determining whether a vendor has made  
14 good faith efforts to meet the contract goals upon the  
15 expiration or termination of a contract.

16 (Source: P.A. 101-657, eff. 1-1-22; 102-29, eff. 6-25-21.)".