



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2562

Introduced 4/18/2023, by Sen. Willie Preston

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3105/21 new  
30 ILCS 105/8s new  
605 ILCS 10/40 new

Amends the Capital Development Board Act and the Toll Highway Act. Provides that the Capital Development Board and the Illinois Highway Toll Authority may make low-interest loans from the Working Capital Revolving Loan Fund to disadvantaged business enterprises or minority-owned businesses. Establishes a loan selection committee to review applications and select eligible businesses. Provides that the Board and Authority may set eligibility requirements for loans by administrative rule. Provides that loans shall not be used for: (1) the refinancing or payment of existing long-term debt; (2) the payment of non-current taxes; (3) the payment, advance, or loan to a stockholder, officer, director, partner, or member owner of a limited liability company; or (4) the purchase or lease of non-construction motor vehicles or equipment. Provides that loans may be made with interest. Limits the number of loans a business may receive. Provides that the Board and Authority shall give annual reports to the Governor and the General Assembly on the program. Provides that the authority to issue loans expires on June 1, 2028. Amends the State Finance Act. Establishes the Working Capital Revolving Loan Fund. Provides that transfers shall not exceed \$20,000,000 a year, for a period of 5 years, from the Road Fund to the Working Capital Revolving Loan Fund as requested by the Commissioner of the Board or the Director of the Authority. Provides that no transfer will occur if the available balance in the Working Capital Revolving Loan Fund is equal to or greater than \$40,000,000.

LRB103 31695 MXP 60231 b

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 5. The Capital Development Board Act is amended by  
5 adding Section 21 as follows:

6 (20 ILCS 3105/21 new)

7 Sec. 21. Disadvantaged business revolving loan and grant  
8 program.

9 (a) As used in this Section is to provide for assistance to  
10 disadvantaged business enterprises and minority-owned  
11 businesses with project financing costs for those firms that  
12 are ready, willing, and able to participate on Board  
13 construction contracts. The Board's disparity study recommends  
14 and supports a financing program to address this barrier faced  
15 by disadvantaged business enterprises and minority-owned  
16 businesses.

17 (b) As used in this Section:

18 "Construction" means building, altering, repairing,  
19 improving, or demolishing any public structure or building, or  
20 making improvements of any kind to public real property.  
21 "Construction" does not include the routine operation, routine  
22 repair, or routine maintenance of existing structures,  
23 buildings, or real property.

1       "Construction-related services" includes construction  
2 design, layout, inspection, support, feasibility or location  
3 study, research, development, planning, or other investigative  
4 study undertaken by a construction agency concerning  
5 construction or potential construction.

6       "Disadvantaged business enterprise" has the meaning given  
7 to that term in 49 CFR Part 26.

8       "Escrow account" means a fiduciary account established  
9 with:

10           (1) a banking corporation which is both organized  
11 under the Illinois Banking Act and authorized to accept  
12 and administer trusts in this State; or

13           (2) a national banking association that has its  
14 principal place of business in this State and that is  
15 authorized to accept and administer trusts in this State.

16       "Fund Control Agent" means a person who provides  
17 managerial and technical assistance to disadvantaged business  
18 enterprises or minority-owned businesses and holds the  
19 authority to manage a loan under this Section. The Fund  
20 Control Agent will be procured by the Board under a request for  
21 proposal process governed by the Illinois Procurement Code and  
22 rules adopted under that Code.

23       "Loan" or "loan assistance funds" means a low-interest  
24 line of credit made available to a selected disadvantaged  
25 business enterprise or minority-owned business under this  
26 program for the purposes set forth in subsection (f).

1       "Minority-owned business" means a business which is at  
2       least 51% owned by one or more minority persons, or in the case  
3       of a corporation, at least 51% of the stock in which is owned  
4       by one or more minority persons; and the management and daily  
5       business operations of which are controlled by one or more of  
6       the minority individuals who own it, as defined by Section 2 of  
7       the Business Enterprise for Minorities, Women, and Persons  
8       with Disabilities Act.

9       (c) The Board may enter into agreements to make loans to  
10       disadvantaged business enterprises or minority-owned  
11       businesses certified by the Board for participation on  
12       Board-procured construction and construction-related  
13       contracts.

14       The Board shall establish a loan selection committee to  
15       review applications and select eligible disadvantaged business  
16       enterprises or minority-owned businesses for low-interest  
17       loans under this program. A selection committee shall be  
18       comprised of at least 3 members appointed by the Commissioner  
19       of the Board and shall include at least one public member from  
20       the construction or financing industry. The public member may  
21       not be employed or associated with any disadvantaged business  
22       enterprise or minority-owned business holding a contract with  
23       the Board nor may the public member's firm be considered for a  
24       contract with the Board while he or she is serving as a public  
25       member of the committee. Terms of service for public members  
26       shall not exceed 5 years. No public member of the loan

1 selection committee shall hold consecutive terms, nor shall  
2 any member receive any compensation other than for reasonable  
3 expenses for service related to this committee.

4 The Board shall establish through administrative rules the  
5 requirements for eligibility and criteria for loan  
6 applications, approved use of funds, amount of loans, interest  
7 rates, collateral, and terms. The Board is authorized to adopt  
8 rules to implement this Section.

9 The Board shall notify the prime contractor on a project  
10 that a subcontractor on the same project has been awarded a  
11 loan from the Working Capital Revolving Loan Fund. If the loan  
12 agreement is amended by the parties of the loan agreement, the  
13 prime contractor shall not be a party to any disadvantaged  
14 business enterprise or minority-owned business loan agreement  
15 between the Board and participating subcontractor and shall  
16 not incur any liability for loan debt accrued as a result of  
17 the loan agreement.

18 (d) Loan funds shall be disbursed to the escrow account,  
19 subject to appropriation, from the Working Capital Revolving  
20 Loan Fund established as a special fund in the State treasury.  
21 Loaned funds that are repaid to the Board shall be deposited  
22 into the Working Capital Revolving Loan Fund. Other  
23 appropriations, grants, awards, and donations to the Board for  
24 the purpose of the revolving loan program established by this  
25 Section shall be deposited into the Working Capital Revolving  
26 Loan Fund.

1       (e) A funds control process shall be established to serve  
2       as an intermediary between the Board and the contractor to  
3       verify payments and to ensure paperwork is properly filed. The  
4       Fund Control Agent and contractor shall enter into an  
5       agreement regarding the control and disbursement of all  
6       payments to be made by the Fund Control Agent under the  
7       contract. The Board shall authorize and direct the Fund  
8       Control Agent to review all disbursement requests and  
9       supporting documents received from the contractor. The Fund  
10       Control Agent shall direct the escrow account to disburse  
11       escrow funds to the subcontractor, material supplier, and  
12       other appropriate entities by written request for the  
13       disbursement. The disadvantaged business enterprise or  
14       minority-owned business shall maintain control over its  
15       business operations by directing the payments of the loan  
16       funds through its relationship with the Funds Control Agent.  
17       The funds control process shall require the Fund Control Agent  
18       to intercept payments made from a contractor to a  
19       subcontractor receiving a loan made under this Act and allow  
20       the Fund Control Agent to deduct any unpaid loan repayments  
21       owed to the State before releasing the payment to the  
22       subcontractor.

23       (f) Loan assistance funds shall be allowed for current  
24       liabilities or working capital expenses associated with  
25       participation in the performance of contracts procured and  
26       awarded by the Board for transportation construction and

1 construction-related purposes. Loan funds shall not be used  
2 for:

3 (1) the refinancing or payment of existing long-term  
4 debt;

5 (2) the payment of non-current taxes;

6 (3) the payment, advance, or loan to a stockholder,  
7 officer, director, partner, or member owner of a limited  
8 liability company; or

9 (4) the purchase or lease of non-construction motor  
10 vehicles or equipment.

11 The loan agreement shall provide for the terms and  
12 conditions of repayment which shall not extend repayment  
13 longer than final payment made by the Board following  
14 completion and acceptance of the work authorized for loan  
15 assistance under the program. The funds shall be loaned with  
16 interest.

17 (g) The number of loans one disadvantaged business  
18 enterprise or minority-owned business may receive under this  
19 program is limited to 3. Loans shall not be granted  
20 simultaneously. An applicant shall not be permitted to obtain  
21 a loan under this program for a different and additional  
22 project until payment in full of any outstanding loans granted  
23 under this program has been received by the Board.

24 (h) The rate of interest for any loan shall be set by rule.

25 (i) The loan amount to any successful applicant shall not  
26 exceed 55% of the contract or subcontract supporting the loan.

1       (j) Nothing in this Section shall impair the contractual  
2 rights of the Board and the prime contractor or the  
3 contractual rights between a prime contractor and  
4 subcontractor.

5       (k) Nothing in this Section is intended nor shall be  
6 construed to vest applicants denied funds by the Board in  
7 accordance with this Section a right to challenge, protest, or  
8 contest the awarding of funds by the Board to successful  
9 applicants or any loan or agreement executed in connection  
10 with it.

11       (l) The debt delinquency prohibition under Section 50-11  
12 of the Illinois Procurement Code applies to any future  
13 contracts or subcontracts in the event of a loan default.

14       (m) Investment income which is attributable to the  
15 investment of moneys in the Working Capital Revolving Loan  
16 Fund shall be retained in the Working Capital Revolving Loan  
17 Fund.

18       (n) By January 1, 2024 and January 1 of each succeeding  
19 year, the Board shall report to the Governor and the General  
20 Assembly on the utilization and status of the revolving loan  
21 program. The report shall, at a minimum, include the amount  
22 transferred from the Road Fund to the Working Capital  
23 Revolving Loan Fund, the number and size of approved loans,  
24 the amounts disbursed to and from the escrow account, the  
25 amounts, if any, repaid to the Working Capital Revolving Loan  
26 Fund, the interest and fees paid by loan recipients, and the



1 interest earned on balances in the Working Capital Revolving  
2 Loan Fund, and the names of any contractors who are delinquent  
3 or in default of payment. The January 1, 2027 report shall  
4 include an evaluation of the program by the Board to determine  
5 the program's viability and progress towards its stated  
6 purpose.

7 (o) The authorization to execute additional loans or  
8 request transfers to the Working Capital Revolving Loan Fund  
9 expires on June 1, 2028. The Comptroller shall order  
10 transferred and the Treasurer shall transfer any available  
11 balance remaining in the Working Capital Revolving Loan Fund  
12 to the Road Fund on January 1, 2029, or as soon thereafter as  
13 may be practical. Any loan repayments, interest, or fees that  
14 are by the terms of a loan agreement payable to the Working  
15 Capital Revolving Loan Fund after June 20, 2028 shall instead  
16 be paid into the Road Fund as the successor fund to the Working  
17 Capital Revolving Loan Fund.

18 Section 10. The State Finance Act is amended by adding  
19 Section 8s as follows:

20 (30 ILCS 105/8s new)

21 Sec. 8s. Transfer to the Working Capital Revolving Loan  
22 Fund.

23 (a) The Working Capital Revolving Loan Fund is created as  
24 a special fund in the State treasury.

1       (b) Except as provided in subsection (c), upon the written  
2 request of the Commissioner of the Capital Development Board  
3 or the Director of the Illinois Highway Toll Authority, the  
4 State Comptroller shall order transferred and the State  
5 Treasurer shall transfer amounts not to exceed \$20,000,000 in  
6 aggregate during a fiscal year, for a period of 5 years, from  
7 the Road Fund to the Working Capital Revolving Loan Fund as  
8 requested by the Commissioner of the Board or the Director of  
9 the Authority or as soon thereafter as may be practical.

10       (c) No transfer may be requested or ordered if the  
11 available balance in the Working Capital Revolving Loan Fund  
12 is equal to or greater than \$40,000,000.

13       Section 15. The Toll Highway Act is amended by adding  
14 Section 40 as follows:

15       (605 ILCS 10/40 new)

16       Sec. 40. Disadvantaged business revolving loan and grant  
17 program.

18       (a) The purpose of this Section is to provide for  
19 assistance to disadvantaged business enterprises or  
20 minority-owned businesses with project financing costs for  
21 those firms that are ready, willing, and able to participate  
22 on Authority construction contracts. The Authority's disparity  
23 study recommends and supports a financing program to address  
24 this barrier faced by disadvantaged business enterprises or

1 minority-owned businesses.

2 (b) As used in this Section:

3 "Construction" means building, altering, repairing,  
4 improving, or demolishing any public structure or building, or  
5 making improvements of any kind to public real property.

6 "Construction" does not include the routine operation, routine  
7 repair, or routine maintenance of existing structures,  
8 buildings, or real property.

9 "Construction-related services" includes construction  
10 design, layout, inspection, support, feasibility or location  
11 study, research, development, planning, or other investigative  
12 study undertaken by a construction agency concerning  
13 construction or potential construction.

14 "Disadvantaged business enterprise" has the meaning given  
15 to that term in 49 CFR Part 26.

16 "Escrow account" means a fiduciary account established  
17 with:

18 (1) a banking corporation which is both organized  
19 under the Illinois Banking Act and authorized to accept  
20 and administer trusts in this State; or

21 (2) a national banking association that has its  
22 principal place of business in this State and that is  
23 authorized to accept and administer trusts in this State.

24 "Fund Control Agent" means a person who provides  
25 managerial and technical assistance to disadvantaged business  
26 enterprises or minority-owned businesses and holds the

1 authority to manage a loan under this Section. The Fund  
2 Control Agent will be procured by the Authority under a  
3 request for proposal process governed by the Illinois  
4 Procurement Code and rules adopted under that Code.

5 "Loan" or "loan assistance funds" means a low-interest  
6 line of credit made available to a selected disadvantaged  
7 business enterprise or minority-owned business under this  
8 program for the purposes set forth in subsection (f).

9 "Minority-owned business" means a business which is at  
10 least 51% owned by one or more minority persons, or in the case  
11 of a corporation, at least 51% of the stock in which is owned  
12 by one or more minority persons; and the management and daily  
13 business operations of which are controlled by one or more of  
14 the minority individuals who own it, as defined by Section 2 of  
15 the Business Enterprise for Minorities, Women, and Persons  
16 with Disabilities Act.

17 (c) The Authority may enter into agreements to make loans  
18 to disadvantaged business enterprises or minority-owned  
19 businesses certified by the Authority for participation on  
20 Authority-procured construction and construction-related  
21 contracts.

22 The Authority shall establish a loan selection committee  
23 to review applications and select eligible disadvantaged  
24 business enterprises or minority-owned businesses for  
25 low-interest loans under this program. A selection committee  
26 shall be comprised of at least 3 members appointed by the

1 Director of the Authority and shall include at least one  
2 public member from the construction or financing industry. The  
3 public member may not be employed or associated with any  
4 disadvantaged business enterprises or minority-owned business  
5 holding a contract with the Authority nor may the public  
6 member's firm be considered for a contract with the Authority  
7 while he or she is serving as a public member of the committee.  
8 Terms of service for public members shall not exceed 5 years.  
9 No public member of the loan selection committee shall hold  
10 consecutive terms, nor shall any member receive any  
11 compensation other than for reasonable expenses for service  
12 related to this committee.

13 The Authority shall establish through administrative rules  
14 the requirements for eligibility and criteria for loan  
15 applications, approved use of funds, amount of loans, interest  
16 rates, collateral, and terms. The Authority is authorized to  
17 adopt rules to implement this Section.

18 The Authority shall notify the prime contractor on a  
19 project that a subcontractor on the same project has been  
20 awarded a loan from the Working Capital Revolving Loan Fund.  
21 If the loan agreement is amended by the parties of the loan  
22 agreement, the prime contractor shall not be a party to any  
23 disadvantaged business enterprise or minority-owned business  
24 loan agreement between the Authority and participating  
25 subcontractor and shall not incur any liability for loan debt  
26 accrued as a result of the loan agreement.

1       (d) Loan funds shall be disbursed to the escrow account,  
2 subject to appropriation, from the Working Capital Revolving  
3 Loan Fund established as a special fund in the State treasury.  
4 Loaned funds that are repaid to the Authority shall be  
5 deposited into the Working Capital Revolving Loan Fund. Other  
6 appropriations, grants, awards, and donations to the Authority  
7 for the purpose of the revolving loan program established by  
8 this Section shall be deposited into the Working Capital  
9 Revolving Loan Fund.

10       (e) A funds control process shall be established to serve  
11 as an intermediary between the Authority and the contractor to  
12 verify payments and to ensure paperwork is properly filed. The  
13 Fund Control Agent and contractor shall enter into an  
14 agreement regarding the control and disbursement of all  
15 payments to be made by the Fund Control Agent under the  
16 contract. The Authority shall authorize and direct the Fund  
17 Control Agent to review all disbursement requests and  
18 supporting documents received from the contractor. The Fund  
19 Control Agent shall direct the escrow account to disburse  
20 escrow funds to the subcontractor, material supplier, and  
21 other appropriate entities by written request for the  
22 disbursement. The disadvantaged business enterprise or  
23 minority-owned business shall maintain control over its  
24 business operations by directing the payments of the loan  
25 funds through its relationship with the Funds Control Agent.  
26 The funds control process shall require the Fund Control Agent

1 to intercept payments made from a contractor to a  
2 subcontractor receiving a loan made under this Act and allow  
3 the Fund Control Agent to deduct any unpaid loan repayments  
4 owed to the State before releasing the payment to the  
5 subcontractor.

6 (f) Loan assistance funds shall be allowed for current  
7 liabilities or working capital expenses associated with  
8 participation in the performance of contracts procured and  
9 awarded by the Authority for transportation construction and  
10 construction-related purposes. Loan funds shall not be used  
11 for:

12 (1) the refinancing or payment of existing long-term  
13 debt;

14 (2) the payment of non-current taxes;

15 (3) the payment, advance, or loan to a stockholder,  
16 officer, director, partner, or member owner of a limited  
17 liability company; or

18 (4) the purchase or lease of non-construction motor  
19 vehicles or equipment.

20 The loan agreement shall provide for the terms and  
21 conditions of repayment which shall not extend repayment  
22 longer than final payment made by the Authority following  
23 completion and acceptance of the work authorized for loan  
24 assistance under the program. The funds shall be loaned with  
25 interest.

26 (g) The number of loans one disadvantaged business

1 enterprise or minority-owned business may receive under this  
2 program is limited to 3. Loans shall not be granted  
3 simultaneously. An applicant shall not be permitted to obtain  
4 a loan under this program for a different and additional  
5 project until payment in full of any outstanding loans granted  
6 under this program has been received by the Authority.

7 (h) The rate of interest for any loan shall be set by rule.

8 (i) The loan amount to any successful applicant shall not  
9 exceed 55% of the contract or subcontract supporting the loan.

10 (j) Nothing in this Section shall impair the contractual  
11 rights of the Authority and the prime contractor or the  
12 contractual rights between a prime contractor and  
13 subcontractor.

14 (k) Nothing in this Section is intended nor shall be  
15 construed to vest applicants denied funds by the Authority in  
16 accordance with this Section a right to challenge, protest, or  
17 contest the awarding of funds by the Authority to successful  
18 applicants or any loan or agreement executed in connection  
19 with it.

20 (l) The debt delinquency prohibition under Section 50-11  
21 of the Illinois Procurement Code applies to any future  
22 contracts or subcontracts in the event of a loan default.

23 (m) Investment income which is attributable to the  
24 investment of moneys in the Working Capital Revolving Loan  
25 Fund shall be retained in the Working Capital Revolving Loan  
26 Fund.



1       (n) By January 1, 2024 and January 1 of each succeeding  
2 year, the Authority shall report to the Governor and the  
3 General Assembly on the utilization and status of the  
4 revolving loan program. The report shall, at a minimum,  
5 include the amount transferred from the Road Fund to the  
6 Working Capital Revolving Loan Fund, the number and size of  
7 approved loans, the amounts disbursed to and from the escrow  
8 account, the amounts, if any, repaid to the Working Capital  
9 Revolving Loan Fund, the interest and fees paid by loan  
10 recipients, and the interest earned on balances in the Working  
11 Capital Revolving Loan Fund, and the names of any contractors  
12 who are delinquent or in default of payment. The January 1,  
13 2027 report shall include an evaluation of the program by the  
14 Authority to determine the program's viability and progress  
15 towards its stated purpose.

16       (o) The authorization to execute additional loans or  
17 request transfers to the Working Capital Revolving Loan Fund  
18 expires on June 1, 2028. The Comptroller shall order  
19 transferred and the Treasurer shall transfer any available  
20 balance remaining in the Working Capital Revolving Loan Fund  
21 to the Road Fund on January 1, 2029, or as soon thereafter as  
22 may be practical. Any loan repayments, interest, or fees that  
23 are by the terms of a loan agreement payable to the Working  
24 Capital Revolving Loan Fund after June 20, 2028 shall instead  
25 be paid into the Road Fund as the successor fund to the Working  
26 Capital Revolving Loan Fund.