



Sen. Cristina Castro

Filed: 4/10/2024

10300SB3731sam001

LRB103 38346 HLH 72002 a

1 AMENDMENT TO SENATE BILL 3731

2 AMENDMENT NO. _____. Amend Senate Bill 3731 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Section 45-45 and by adding Section 45-46 as follows:

6 (30 ILCS 500/45-45)

7 Sec. 45-45. Small businesses.

8 (a) Set-asides. Each chief procurement officer has
9 authority to designate as small business set-asides a fair
10 proportion of construction, supply, and service contracts for
11 award to small businesses in Illinois. Advertisements for bids
12 or offers for those contracts shall specify designation as
13 small business set-asides. In awarding the contracts, only
14 bids or offers from qualified small businesses shall be
15 considered.

16 (b) Small business. "Small business" means a business that

1 is independently owned and operated and that is not dominant
2 in its field of operation. The chief procurement officer shall
3 establish a detailed definition by rule, using in addition to
4 the foregoing criteria other criteria, including the number of
5 employees and the dollar volume of business. When computing
6 the size status of a potential contractor, annual sales and
7 receipts of the potential contractor and all of its affiliates
8 shall be included. The maximum number of employees and the
9 maximum dollar volume that a small business may have under the
10 rules promulgated by the chief procurement officer may vary
11 from industry to industry to the extent necessary to reflect
12 differing characteristics of those industries, subject to the
13 following limitations:

14 (1) No wholesale business is a small business if its
15 annual sales for its most recently completed fiscal year
16 exceed \$13,000,000.

17 (2) No retail business or business selling services is
18 a small business if its annual sales and receipts exceed
19 \$8,000,000.

20 (3) No manufacturing business is a small business if
21 it employs more than 250 persons.

22 (4) No construction business is a small business if
23 its annual sales and receipts exceed \$45,000,000
24 ~~\$14,000,000~~.

25 (c) Fair proportion. For the purpose of subsection (a),
26 for State agencies of the executive branch, a fair proportion

1 of construction contracts shall be no less than 25% nor more
2 than 40% of the annual total contracts for construction.

3 (d) Withdrawal of designation. A small business set-aside
4 designation may be withdrawn by the purchasing agency when
5 deemed in the best interests of the State. Upon withdrawal,
6 all bids or offers shall be rejected, and the bidders or
7 offerors shall be notified of the reason for rejection. The
8 contract shall then be awarded in accordance with this Code
9 without the designation of small business set-aside. Each
10 chief procurement officer shall make the annual report
11 available on his or her official website. Each chief
12 procurement officer shall also issue a press release in
13 conjunction with the small business annual report that
14 includes an executive summary of the annual report and a link
15 to the annual report on the chief procurement officer's
16 website.

17 (e) Small business specialist. Each chief procurement
18 officer shall designate one or more individuals to serve as
19 its small business specialist. The small business specialists
20 shall collectively work together to accomplish the following
21 duties:

22 (1) Compiling and maintaining a comprehensive list of
23 potential small contractors. In this duty, he or she shall
24 cooperate with the Federal Small Business Administration
25 in locating potential sources for various products and
26 services.

1 (2) Assisting small businesses in complying with the
2 procedures for bidding on State contracts.

3 (3) Examining requests from State agencies for the
4 purchase of property or services to help determine which
5 invitations to bid are to be designated small business
6 set-asides.

7 (4) Making recommendations to the chief procurement
8 officer for the simplification of specifications and terms
9 in order to increase the opportunities for small business
10 participation.

11 (5) Assisting in investigations by purchasing agencies
12 to determine the responsibility of bidders or offerors on
13 small business set-asides.

14 (f) Small business annual report. Each small business
15 specialist designated under subsection (e) shall annually
16 before November 1 report in writing to the General Assembly
17 concerning the awarding of contracts to small businesses. The
18 report shall include the total value of awards made in the
19 preceding fiscal year under the designation of small business
20 set-aside. The report shall also include the total value of
21 awards made to businesses owned by minorities, women, and
22 persons with disabilities, as defined in the Business
23 Enterprise for Minorities, Women, and Persons with
24 Disabilities Act, in the preceding fiscal year under the
25 designation of small business set-aside.

26 The requirement for reporting to the General Assembly

1 shall be satisfied by filing copies of the report as required
2 by Section 3.1 of the General Assembly Organization Act.

3 (Source: P.A. 103-570, eff. 1-1-24.)

4 (30 ILCS 500/45-46 new)

5 Sec. 45-46. Mid-size businesses.

6 (a) As used in the Section, "mid-size business" means a
7 business that is independently owned and operated and that is
8 not dominant in its field of operation. "Mid-size business"
9 includes a construction business with annual sales and
10 receipts in excess of \$45,000,000 but not over \$67,500,000.

11 (a-5) This Section applies only to procurements by the
12 Illinois State Toll Highway Authority for construction
13 contracts, construction-related contracts, and construction
14 support contracts.

15 (b) The chief procurement officer shall adopt rules to
16 establish additional criteria to designate mid-size businesses
17 for the purposes of the mid-size business set-asides described
18 in subsection (c), including the number of employees and
19 dollar volume of the business. When computing the size status
20 of a potential contractor, annual sales and receipts of the
21 potential contractor and all of its affiliates shall be
22 included. The maximum number of employees and the maximum
23 annual sales and receipts that a mid-size business may have
24 under the rules adopted by the chief procurement officer may
25 vary from industry to industry, to the extent necessary to

1 reflect differing characteristics of those industries, subject
2 to the limitation that no business shall qualify as a mid-size
3 business if its annual sales and receipts exceed \$67,500,000.

4 (c) The applicable chief procurement officer shall
5 designate a fair proportion, as determined by the applicable
6 chief procurement officer in consultation with the Illinois
7 State Toll Highway Authority, of construction,
8 construction-related, and construction support contracts as
9 mid-size business set-asides for award to mid-size businesses
10 in Illinois. Advertisements for bids or offers for these
11 contracts shall specify designation as mid-size business
12 set-asides. In awarding the contracts, only bids or offers
13 from qualified mid-size businesses shall be considered. The
14 Illinois State Toll Highway Authority shall prepare an annual
15 report setting forth the use of this Section during the
16 preceding fiscal year and shall provide that report to the
17 applicable chief procurement officer no later than March 1 of
18 each calendar year. This Section is repealed on January 1,
19 2029."