

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 State Finance Act is amended by adding
5 Section 45 as follows:

6 (30 ILCS 105/45 new)

7 Sec. 45. Award or appropriation of capital funds. Each
8 award by grant, contract, or capital agreement, and each line
9 item appropriation, of State funds of \$250,000 or more for
10 capital construction, capital supplies, or capital services is
11 conditioned upon the recipient's written certification that
12 the recipient shall comply with the business enterprise program
13 practices for minority-owned businesses, female-owned
14 businesses, and businesses owned by persons with disabilities
15 of the Business Enterprise for Minorities, Females, and Persons
16 with Disabilities Act and the equal employment practices of
17 Section 2-105 of the Illinois Human Rights Act. Each recipient
18 of funds subject to this Section shall submit the business
19 enterprise program plan for minority-owned businesses,
20 female-owned businesses, and businesses owned by persons with
21 disabilities with the relevant contract or capital or grant
22 agreement or with the first voucher for the appropriated funds,
23 as the case may be.

1 Each business enterprise program plan shall apply only to
2 the State-funded portion of the relevant capital project and
3 must be in compliance with all certification and other
4 requirements of the Business Enterprise for Minorities,
5 Females, and Persons with Disabilities Act. Final disbursement
6 of funds subject to this Section is conditioned on successful
7 compliance with the recipient's submitted business enterprise
8 program plan.

9 Section 10. The Business Enterprise for Minorities,
10 Females, and Persons with Disabilities Act is amended by
11 changing Section 7 as follows:

12 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

13 (Section scheduled to be repealed on June 30, 2010)

14 Sec. 7. Exemptions and waivers; publication of data.

15 (1) Individual contract exemptions. The Council, on its own
16 initiative or at the request of the affected agency or
17 university, may permit an individual contract or contract
18 package, (related contracts being bid or awarded
19 simultaneously for the same project or improvements) be made
20 wholly or partially exempt from State contracting goals for
21 businesses owned by minorities, females, and persons with
22 disabilities prior to the advertisement for bids or
23 solicitation of proposals whenever there has been a
24 determination, reduced to writing and based on the best

1 information available at the time of the determination, that
2 there is an insufficient number of businesses owned by
3 minorities, females, and persons with disabilities to ensure
4 adequate competition and an expectation of reasonable prices on
5 bids or proposals solicited for the individual contract or
6 contract package in question.

7 (2) Class exemptions. (a) Creation. The Council, on its own
8 initiative or at the request of the affected agency or
9 university, may permit an entire class of contracts be made
10 exempt from State contracting goals for businesses owned by
11 minorities, females, and persons with disabilities whenever
12 there has been a determination, reduced to writing and based on
13 the best information available at the time of the
14 determination, that there is an insufficient number of
15 qualified businesses owned by minorities, females, and persons
16 with disabilities to ensure adequate competition and an
17 expectation of reasonable prices on bids or proposals within
18 that class.

19 (b) Limitation. Any such class exemption shall not be
20 permitted for a period of more than one year at a time.

21 (3) Waivers. Where a particular contract requires a
22 contractor to meet a goal established pursuant to this Act, the
23 contractor shall have the right to request a waiver from such
24 requirements. The Council shall grant the waiver where the
25 contractor demonstrates that there has been made a good faith
26 effort to comply with the goals for participation by businesses

1 owned by minorities, females, and persons with disabilities.

2 (4) Conflict with other laws. In the event that any State
3 contract, which otherwise would be subject to the provisions of
4 this Act, is or becomes subject to federal laws or regulations
5 which conflict with the provisions of this Act or actions of
6 the State taken pursuant hereto, the provisions of the federal
7 laws or regulations shall apply and the contract shall be
8 interpreted and enforced accordingly.

9 (5) Each chief procurement officer, as defined in the
10 Illinois Procurement Code, shall maintain on his or her
11 official Internet website a database of waivers granted under
12 this Section with respect to contracts under his or her
13 jurisdiction. The database, which shall be updated
14 periodically as necessary, shall be searchable by contractor
15 name and by contracting State agency.

16 Each public notice required by law of the award of a State
17 contract shall include for each bid submitted for that contract
18 the following: (i) the bidder's name, (ii) the bid amount,
19 (iii) the bid's percentage of disadvantaged business
20 utilization plan, and (iv) the bid's percentage of business
21 enterprise program utilization plan.

22 (Source: P.A. 88-597, eff. 8-28-94.)

23 Section 99. Effective date. This Act takes effect July 1,
24 2011.