

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 of capital funds. Each award by grant or
8 loan of State funds of \$250,000 or more for capital
9 construction costs or professional services is conditioned
10 upon the recipient's written certification that the recipient
11 shall comply with the business enterprise program practices for
12 minority-owned businesses, female-owned businesses, and
13 businesses owned by persons with disabilities of the Business
14 Enterprise for Minorities, Females, and Persons with
15 Disabilities Act (30 ILCS 575/) and the equal employment
16 practices of Section 2-105 of the Illinois Human Rights Act
17 (775 ILCS 5/2-105). This Section, however, does not apply to
18 any grant or loan (i) for which a grant or loan agreement was
19 executed before the effective date of this amendatory Act of
20 the 96th General Assembly, (ii) for which prior-incurred costs
21 are being reimbursed, or (iii) for a federally funded program
22 under which the requirement of this Section would contravene
23 federal law. Each recipient shall submit the written

1 certification and business enterprise program plan for
2 minority-owned businesses, female-owned businesses, and
3 businesses owned by persons with disabilities before signing
4 the relevant grant or loan agreement. Each grant or loan
5 agreement shall include a provision that the grant or loan
6 recipient agrees to comply with the provisions of the Business
7 Enterprise for Minorities, Females, and Persons with
8 Disabilities Act (30 ILCS 575/) and the equal employment
9 practices of Section 2-105 of the Illinois Human Rights Act
10 (775 ILCS 5/2-105).

11 Each business enterprise program plan shall apply only to
12 the State-funded portion of the relevant capital project and
13 must be in compliance with all certification and other
14 requirements of the Business Enterprise for Minorities,
15 Females, and Persons with Disabilities Act.

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

19 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

20 (Section scheduled to be repealed on June 30, 2010)

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

22 (1) Individual contract exemptions. The Council, on its own
23 initiative or at the request of the affected agency, ~~or~~
24 university, or recipient of a grant or loan of State funds of

1 \$250,000 or more complying with Section 45 of the State Finance
2 Act, may permit an individual contract or contract package,
3 (related contracts being bid or awarded simultaneously for the
4 same project or improvements) be made wholly or partially
5 exempt from State contracting goals for businesses owned by
6 minorities, females, and persons with disabilities prior to the
7 advertisement for bids or solicitation of proposals whenever
8 there has been a determination, reduced to writing and based on
9 the best information available at the time of the
10 determination, that there is an insufficient number of
11 businesses owned by minorities, females, and persons with
12 disabilities to ensure adequate competition and an expectation
13 of reasonable prices on bids or proposals solicited for the
14 individual contract or contract package in question.

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

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

3 (3) Waivers. Where a particular contract requires a
4 contractor to meet a goal established pursuant to this Act, the
5 contractor shall have the right to request a waiver from such
6 requirements. The Council shall grant the waiver where the
7 contractor demonstrates that there has been made a good faith
8 effort to comply with the goals for participation by businesses
9 owned by minorities, females, and persons with disabilities.

10 (4) Conflict with other laws. In the event that any State
11 contract, which otherwise would be subject to the provisions of
12 this Act, is or becomes subject to federal laws or regulations
13 which conflict with the provisions of this Act or actions of
14 the State taken pursuant hereto, the provisions of the federal
15 laws or regulations shall apply and the contract shall be
16 interpreted and enforced accordingly.

17 (5) Each chief procurement officer, as defined in the
18 Illinois Procurement Code, shall maintain on his or her
19 official Internet website a database of waivers granted under
20 this Section with respect to contracts under his or her
21 jurisdiction. The database, which shall be updated
22 periodically as necessary, shall be searchable by contractor
23 name and by contracting State agency.

24 Each public notice required by law of the award of a State
25 contract shall include for each bid submitted for that contract
26 the following: (i) the bidder's name, (ii) the bid amount,

1 (iii) the bid's percentage of disadvantaged business
2 utilization plan, and (iv) the bid's percentage of business
3 enterprise program utilization plan.

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.