



State Government Administration Committee

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1 AMENDMENT TO SENATE BILL 3249

2 AMENDMENT NO. _____. Amend Senate Bill 3249 by replacing
3 everything after the enacting clause with the following:

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

1 (775 ILCS 5/2-105). This Section, however, does not apply to
2 any grant or loan (i) for which a grant or loan agreement was
3 executed before the effective date of this amendatory Act of
4 the 96th General Assembly, (ii) for which prior-incurred costs
5 are being reimbursed, or (iii) for a federally funded program
6 under which the requirement of this Section would contravene
7 federal law. Each recipient shall submit the written
8 certification and business enterprise program plan for
9 minority-owned businesses, female-owned businesses, and
10 businesses owned by persons with disabilities before signing
11 the relevant grant or loan agreement. Each grant or loan
12 agreement shall include a provision that the grant or loan
13 recipient agrees to comply with the provisions 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).

18 Each business enterprise program plan shall apply only to
19 the State-funded portion of the relevant capital project and
20 must be in compliance with all certification and other
21 requirements of the Business Enterprise for Minorities,
22 Females, and Persons with Disabilities Act.

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

1 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

2 (Section scheduled to be repealed on June 30, 2010)

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

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

21 (2) Class exemptions. (a) Creation. The Council, on its own
22 initiative or at the request of the affected agency or
23 university, may permit an entire class of contracts be made
24 exempt from State contracting goals for businesses owned by
25 minorities, females, and persons with disabilities whenever

1 there has been a determination, reduced to writing and based on
2 the best information available at the time of the
3 determination, that there is an insufficient number of
4 qualified businesses owned by minorities, females, and persons
5 with disabilities to ensure adequate competition and an
6 expectation of reasonable prices on bids or proposals within
7 that class.

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

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

17 (4) Conflict with other laws. In the event that any State
18 contract, which otherwise would be subject to the provisions of
19 this Act, is or becomes subject to federal laws or regulations
20 which conflict with the provisions of this Act or actions of
21 the State taken pursuant hereto, the provisions of the federal
22 laws or regulations shall apply and the contract shall be
23 interpreted and enforced accordingly.

24 (5) Each chief procurement officer, as defined in the
25 Illinois Procurement Code, shall maintain on his or her
26 official Internet website a database of waivers granted under

1 this Section with respect to contracts under his or her
2 jurisdiction. The database, which shall be updated
3 periodically as necessary, shall be searchable by contractor
4 name and by contracting State agency.

5 Each public notice required by law of the award of a State
6 contract shall include for each bid submitted for that contract
7 the following: (i) the bidder's name, (ii) the bid amount,
8 (iii) the bid's percentage of disadvantaged business
9 utilization plan, and (iv) the bid's percentage of business
10 enterprise program utilization plan.

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

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".