

# HB3868



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB3868**

Introduced 10/27/2011, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-45  
30 ILCS 503/5  
30 ILCS 503/10

Amends the Illinois Procurement Code. Provides that no service business is a small business if its average annual gross revenue for its 3 most recently completed fiscal years equals or exceeds \$6,000,000. Amends the Small Business Contracts Act. Defines "very small business". Provides that not less than 1% of the total dollar amount of State contracts shall be established as a goal to be awarded to very small businesses. Effective immediately.

LRB097 13616 PJG 58152 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

6 (30 ILCS 500/45-45)

7 Sec. 45-45. Small businesses.

8 (a) Set-asides. The 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 bids  
14 or offers from qualified small businesses shall be considered.

15 (b) Small business. "Small business" means a business that  
16 is independently owned and operated and that is not dominant in  
17 its field of operation. The chief procurement officer shall  
18 establish a detailed definition by rule, using in addition to  
19 the foregoing criteria other criteria, including the number of  
20 employees and the dollar volume of business. When computing the  
21 size status of a bidder, annual sales and receipts of the  
22 bidder and all of its affiliates shall be included. The maximum  
23 number of employees and the maximum dollar volume that a small

1 business may have under the rules promulgated by the chief  
2 procurement officer may vary from industry to industry to the  
3 extent necessary to reflect differing characteristics of those  
4 industries, subject to the following limitations:

5 (1) No wholesale business is a small business if its  
6 annual sales for its most recently completed fiscal year  
7 exceed \$10,000,000.

8 (2) No retail business or business selling services is  
9 a small business if its annual sales and receipts exceed  
10 \$6,000,000.

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

13 (4) No construction business is a small business if its  
14 annual sales and receipts exceed \$10,000,000.

15 (5) No service business is a small business if its  
16 average annual gross revenue for its 3 most recently  
17 completed fiscal years equals or exceeds \$6,000,000.

18 (c) Fair proportion. For the purpose of subsection (a), for  
19 State agencies of the executive branch, a fair proportion of  
20 construction contracts shall be no less than 25% nor more than  
21 40% of the annual total contracts for construction.

22 (d) Withdrawal of designation. A small business set-aside  
23 designation may be withdrawn by the purchasing agency when  
24 deemed in the best interests of the State. Upon withdrawal, all  
25 bids or offers shall be rejected, and the bidders or offerors  
26 shall be notified of the reason for rejection. The contract

1 shall then be awarded in accordance with this Code without the  
2 designation of small business set-aside.

3 (e) Small business specialist. The chief procurement  
4 officer shall designate a State purchasing officer who will be  
5 responsible for engaging an experienced contract negotiator to  
6 serve as its small business specialist, whose duties shall  
7 include:

8 (1) Compiling and maintaining a comprehensive bidders  
9 list of small businesses. In this duty, he or she shall  
10 cooperate with the Federal Small Business Administration  
11 in locating potential sources for various products and  
12 services.

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

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

19 (4) Making recommendations to the chief procurement  
20 officer for the simplification of specifications and terms  
21 in order to increase the opportunities for small business  
22 participation.

23 (5) Assisting in investigations by purchasing agencies  
24 to determine the responsibility of bidders on small  
25 business set-asides.

26 (f) Small business annual report. The State purchasing

1 officer designated under subsection (e) shall annually before  
2 December 1 report in writing to the General Assembly concerning  
3 the awarding of contracts to small businesses. The report shall  
4 include the total value of awards made in the preceding fiscal  
5 year under the designation of small business set-aside. The  
6 report shall also include the total value of awards made to  
7 businesses owned by minorities, females, and persons with  
8 disabilities, as defined in the Business Enterprise for  
9 Minorities, Females, and Persons with Disabilities Act, in the  
10 preceding fiscal year under the designation of small business  
11 set-aside.

12 The requirement for reporting to the General Assembly shall  
13 be satisfied by filing copies of the report as required by  
14 Section 3.1 of the General Assembly Organization Act.

15 (Source: P.A. 92-60, eff. 7-12-01; 93-769, eff. 1-1-05.)

16 Section 10. The Small Business Contracts Act is amended by  
17 changing Sections 5 and 10 as follows:

18 (30 ILCS 503/5)

19 Sec. 5. Definitions. For the purposes of this Act, the  
20 following terms shall have the following definitions:

21 "Small business" means a small business as defined in the  
22 Illinois Procurement Code.

23 "State contract" means a State contract, as defined in the  
24 Illinois Procurement Code, funded with State or federal funds,

1 whether competitively bid or negotiated.

2 "State official or agency" means a department, officer,  
3 board, commission, institution, or body politic or corporate of  
4 the State.

5 "Very small business" means a small business with an  
6 average annual gross revenue of less than \$500,000 over its 3  
7 most recently completed fiscal years.

8 (Source: P.A. 97-307, eff. 8-11-11.)

9 (30 ILCS 503/10)

10 Sec. 10. Award of State contracts.

11 (a) Not less than 10% of the total dollar amount of State  
12 contracts shall be established as a goal to be awarded to small  
13 businesses.

14 (a-5) Not less than 1% of the total dollar amount of State  
15 contracts shall be established as a goal to be awarded to very  
16 small businesses.

17 (b) The percentages ~~percentage~~ in subsections ~~subsection~~  
18 (a) and (a-5) relate ~~relates~~ to the total dollar amount of  
19 State contracts during each State fiscal year, calculated by  
20 examining independently each type of contract for each State  
21 official or agency which lets such contracts.

22 (Source: P.A. 97-307, eff. 8-11-11.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.