

1 AN ACT concerning finance.

2 WHEREAS, Generation after generation of Illinois' citizens
3 has served our nation and the State of Illinois by serving in
4 America's armed forces, often at great sacrifice; and military
5 service by their citizenry is fundamental to the continuing
6 freedom that America and the State of Illinois enjoy; and

7 WHEREAS, Accordingly, honoring the service of Illinois'
8 military veterans, past, present, and future, must be a
9 primary, cornerstone commitment of Illinois; and

10 WHEREAS, Inasmuch as the State of Illinois acknowledges the
11 past and ongoing commitment of Illinois' military veterans, it
12 is the intent of this Act to (i) foster economic opportunities
13 for Illinois' military veterans by encouraging the
14 establishment of service-disabled veteran-owned small
15 businesses (SDVOSB) and veteran-owned small businesses (VOSB)
16 and (ii) establish an annual, ongoing, percentage goal for all
17 State agencies' award of goods and services contracts and
18 construction-related State spending that shall be set aside for
19 competitive bidding by verified Illinois SDVOSB and VOSB; and

20 WHEREAS, It is further intended that appropriate
21 administrative procedures for the verification of SDVOSB,
22 VOSB, bid solicitations, awards, and all matters pertaining
23 thereto shall be established and implemented by the Department
24 of Central Management Services; therefore

25 **Be it enacted by the People of the State of Illinois,**

1 **represented in the General Assembly:**

2 Section 5. The Illinois Procurement Code is amended by
3 changing Section 45-57 as follows:

4 (30 ILCS 500/45-57)

5 Sec. 45-57. Veterans ~~Disabled veterans~~.

6 (a) Set-aside goal. It is the goal of the State to promote
7 and encourage the continued economic development of small
8 businesses owned and controlled by qualified ~~service-disabled~~
9 veterans and that qualified service-disabled ~~service-disabled~~
10 veteran-owned small businesses (referred to as SDVOSB ~~SDVOB~~)
11 and veteran-owned small businesses (referred to as VOSB)
12 participate in the State's procurement process as ~~both~~ prime
13 contractors, and subcontractors, and businesses contracted by
14 the State to perform professional services in architecture or
15 engineering. Not less than 3% of the total dollar amount of
16 State contracts, as defined by the Director of Central
17 Management Services, shall be established as a goal to be
18 awarded to SDVOSB and VOSB. A Task Force shall be established,
19 ~~appointed by the Directors or Secretaries of, and made up of~~
20 ~~representatives of, the Illinois Department of Veterans'~~
21 ~~Affairs, the Illinois Department of Transportation, the~~
22 ~~Department of Central Management Services, the Business~~
23 ~~Enterprise Program, and the Business Enterprise Council. The~~
24 ~~Department of Central Management Services shall provide~~

1 ~~administrative support to the Task Force. The purpose of this~~
2 ~~Task Force shall be to determine the appropriate percentage~~
3 ~~goal for award each fiscal year of the State's total~~
4 ~~expenditures for contracts awarded under this Code to SDVOB.~~
5 That portion of a contract under which the contractor
6 subcontracts with a SDVOSB or VOSB ~~SDVOB~~ may be counted toward
7 the goal of this subsection. The Department of Central
8 Management Services shall adopt rules to implement compliance
9 with this subsection by all State agencies. ~~In making that~~
10 ~~determination the Task Force shall consult with statewide~~
11 ~~veterans' service organizations and the business community,~~
12 ~~including businesses owned by qualified disabled veterans. The~~
13 ~~Task Force shall submit its report to the General Assembly~~
14 ~~concerning its recommendations regarding the appropriate~~
15 ~~percentage goal for award each fiscal year of the State's total~~
16 ~~expenditures for contracts awarded under this Code to qualified~~
17 ~~service disabled veterans no later than 90 days after the~~
18 ~~effective date of this amendatory Act of the 96th General~~
19 ~~Assembly.~~

20 (b) Fiscal year reports. ~~By Once the appropriate goal is~~
21 ~~established, then by~~ each September 1, each chief procurement
22 officer shall report to the Department of Central Management
23 Services on all of the following for the immediately preceding
24 fiscal year, and by each October 1 the Department of Central
25 Management Services shall compile and report that information
26 to the General Assembly:

1 (1) The total number of VOSB, and the number of SDVOSB,
2 ~~SDVOB~~ who submitted bids ~~a bid~~ for contracts ~~a contract~~
3 under this Code.

4 (2) The total number of VOSB, and the number of SDVOSB,
5 ~~SDVOB~~ who entered into contracts with the State under this
6 Code and the total value of those contracts.

7 (c) Yearly review and recommendations. Each year, each
8 chief procurement officer shall review the progress of all
9 State agencies under its jurisdiction in meeting the goal
10 described in subsection (a), with input from statewide
11 veterans' service organizations and from the business
12 community, including businesses owned by qualified ~~disabled~~
13 veterans, and shall make recommendations to be included in the
14 Department of Central Management Services' report to the
15 General Assembly regarding continuation, increases, or
16 decreases of the percentage goal. The recommendations shall be
17 based upon the number of businesses that are owned by qualified
18 ~~disabled~~ veterans and on the continued need to encourage and
19 promote businesses owned by qualified ~~disabled~~ veterans.

20 (d) Governor's recommendations. To assist the State in
21 reaching the goal described in subsection (a), the Governor
22 shall recommend to the General Assembly changes in programs to
23 assist businesses owned by qualified ~~disabled~~ veterans.

24 (e) Definitions. As used in this Section:

25 "Armed forces of the United States" means the United States
26 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in

1 active duty as defined under 38 U.S.C. Section 101. Service in
2 the Merchant Marine that constitutes active duty under Section
3 401 of federal Public Act 95-202 shall also be considered
4 service in the armed forces for purposes of this Section.

5 ~~"Business" means a business that has average annual gross~~
6 ~~sales over the 3 most recent calendar years of less than~~
7 ~~\$31,000,000 as evidenced by the federal income tax returns of~~
8 ~~the business.~~

9 "Certification" means a determination made by the Illinois
10 Department of Veterans' Affairs and the Department of Central
11 Management Services that a business entity is a qualified
12 service-disabled veteran-owned small business or a qualified
13 veteran-owned small business for whatever purpose. A SDVOSB or
14 VOSB owned and controlled by females, minorities, or persons
15 with disabilities, as those terms are defined in Section 2 of
16 the Business Enterprise for Minorities, Females, and Persons
17 with Disabilities Act, shall select and designate whether that
18 business is to be certified as a "female-owned business",
19 "minority-owned business", or "business owned by a person with
20 a disability", as defined in Section 2 of the Business
21 Enterprise for Minorities, Females, and Persons with
22 Disabilities Act, or as a qualified SDVOSB or qualified VOSB
23 under this Section.

24 "Control" means the exclusive, ultimate, majority, or sole
25 control of the business, including but not limited to capital
26 investment and all other financial matters, property,

1 acquisitions, contract negotiations, legal matters,
2 officer-director-employee selection and comprehensive hiring,
3 operation responsibilities, cost-control matters, income and
4 dividend matters, financial transactions, and rights of other
5 shareholders or joint partners. Control shall be real,
6 substantial, and continuing, not pro forma. Control shall
7 include the power to direct or cause the direction of the
8 management and policies of the business and to make the
9 day-to-day as well as major decisions in matters of policy,
10 management, and operations. Control shall be exemplified by
11 possessing the requisite knowledge and expertise to run the
12 particular business, and control shall not include simple
13 majority or absentee ownership.

14 "Qualified service-disabled ~~service-disabled~~ veteran"
15 means a veteran who has been found to have 10% or more a
16 service-connected disability by the United States Department
17 of Veterans Affairs or the United States Department of Defense.

18 "Qualified service-disabled veteran-owned small business"
19 or "SDVOSB" means a small business (i) that is at least 51%
20 owned by one or more qualified service-disabled veterans living
21 in Illinois or, in the case of a corporation, at least 51% of
22 the stock of which is owned by one or more qualified
23 service-disabled veterans living in Illinois; (ii) that has its
24 home office in Illinois; and (iii) for which items (i) and (ii)
25 are factually verified annually by the Department of Central
26 Management Services.

1 "Qualified veteran-owned small business" or "VOSB" means a
2 small business (i) that is at least 51% owned by one or more
3 qualified veterans living in Illinois or, in the case of a
4 corporation, at least 51% of the stock of which is owned by one
5 or more qualified veterans living in Illinois; (ii) that has
6 its home office in Illinois; and (iii) for which items (i) and
7 (ii) are factually verified annually by the Department of
8 Central Management Services.

9 ~~"Qualified disabled veteran owned business" means a~~
10 ~~business entity that is at least 51% owned by one or more~~
11 ~~qualified disabled veterans, or in the case of a corporation,~~
12 ~~at least 51% of the stock of which is owned by one or more~~
13 ~~qualified disabled veterans; and the management and daily~~
14 ~~business operations of which are controlled by one or more of~~
15 ~~the qualified disabled veterans who own it.~~

16 "Service-connected disability" means a disability incurred
17 in the line of duty in the active military, naval, or air
18 service as described in 38 U.S.C. 101(16).

19 "Small business" means a business that has annual gross
20 sales of less than \$75,000,000 as evidenced by the federal
21 income tax return of the business. A firm with gross sales in
22 excess of this cap may apply to the Department of Central
23 Management Services for certification for a particular
24 contract if the firm can demonstrate that the contract would
25 have significant impact on SDVOSB or VOSB as suppliers or
26 subcontractors or in employment of veterans or

1 service-disabled veterans.

2 "State agency" has the same meaning as in Section 2 of the
3 Business Enterprise for Minorities, Females, and Persons with
4 Disabilities Act.

5 "Time of hostilities with a foreign country" means any
6 period of time in the past, present, or future during which a
7 declaration of war by the United States Congress has been or is
8 in effect or during which an emergency condition has been or is
9 in effect that is recognized by the issuance of a Presidential
10 proclamation or a Presidential executive order and in which the
11 armed forces expeditionary medal or other campaign service
12 medals are awarded according to Presidential executive order.

13 "Veteran" means a person who (i) has been a member of the
14 armed forces of the United States or, while a citizen of the
15 United States, was a member of the armed forces of allies of
16 the United States in time of hostilities with a foreign country
17 and (ii) has served under one or more of the following
18 conditions: (a) the veteran served a total of at least 6
19 months; (b) the veteran served for the duration of hostilities
20 regardless of the length of the engagement; (c) the veteran was
21 discharged on the basis of hardship; or (d) the veteran was
22 released from active duty because of a service connected
23 disability and was discharged under honorable conditions.
24 ~~served in the active military, naval, or air service and who~~
25 ~~was discharged or released from his or her service under~~
26 ~~conditions other than dishonorable.~~

1 (f) Certification program. The Illinois Department of
2 Veterans' Affairs and the Department of Central Management
3 Services ~~Business Enterprise Program~~ shall work together to
4 devise a certification procedure to assure that businesses
5 taking advantage of this Section ~~Act~~ are legitimately
6 classified as qualified service-disabled ~~service-disabled~~
7 veteran-owned small businesses or qualified veteran-owned
8 small businesses.

9 (g) Penalties.

10 (1) Administrative penalties. The Department of
11 Central Management Services shall suspend any person who
12 commits a violation of Article 33C or subsection (d) of
13 Section 33E-6 of the Criminal Code of 1961 relating to this
14 Section from bidding on, or participating as a contractor,
15 subcontractor, or supplier in, any State contract or
16 project for a period of not less than 3 years, and, if the
17 person is certified as a service-disabled veteran-owned
18 small business or a veteran-owned small business, then the
19 Department shall revoke the business's certification for a
20 period of not less than 3 years. An additional or
21 subsequent violation shall extend the periods of
22 suspension and revocation for a period of not less than 5
23 years. The suspension and revocation shall apply to the
24 principals of the business and any subsequent business
25 formed or financed by, or affiliated with, those
26 principals.

1 (2) Reports of violations. Each State agency shall
2 report any alleged violation of Article 33C or subsection
3 (d) of Section 33E-6 of the Criminal Code of 1961 relating
4 to this Section to the Department of Central Management
5 Services. The Department of Central Management Services
6 shall subsequently report all such alleged violations to
7 the Attorney General, who shall determine whether to bring
8 a civil action against any person for the violation.

9 (3) List of suspended persons. The Department of
10 Central Management Services shall monitor the status of all
11 reported violations of Article 33C or subsection (d) of
12 Section 33E-6 of the Criminal Code of 1961 relating to this
13 Section and shall maintain and make available to all State
14 agencies a central listing of all persons that committed
15 violations resulting in suspension.

16 (4) Use of suspended persons. During the period of a
17 person's suspension under paragraph (1) of this
18 subsection, a State agency shall not enter into any
19 contract with that person or with any contractor using the
20 services of that person as a subcontractor.

21 (5) Duty to check list. Each State agency shall check
22 the central listing provided by the Department of Central
23 Management Services under paragraph (3) of this subsection
24 to verify that a person being awarded a contract by that
25 State agency, or to be used as a subcontractor or supplier
26 on a contract being awarded by that State agency, is not

1 under suspension pursuant to paragraph (1) of this
2 subsection.

3 (Source: P.A. 96-96, eff. 1-1-10.)

4 Section 10. The Criminal Code of 1961 is amended by
5 changing Sections 33C-1, 33C-2, 33C-3, 33C-4, 33C-5, 33E-2, and
6 33E-6 as follows:

7 (720 ILCS 5/33C-1) (from Ch. 38, par. 33C-1)

8 Sec. 33C-1. Fraudulently obtaining or retaining
9 certification. A person who, in the course of business,
10 fraudulently obtains or retains certification as a minority
11 owned business, ~~or~~ female owned business, service-disabled
12 veteran-owned small business, or veteran-owned small business
13 commits a Class 2 felony.

14 (Source: P.A. 84-192.)

15 (720 ILCS 5/33C-2) (from Ch. 38, par. 33C-2)

16 Sec. 33C-2. Willfully making a false statement. A person
17 who, in the course of business, willfully makes a false
18 statement whether by affidavit, report or other
19 representation, to an official or employee of a State agency or
20 the Minority and Female Business Enterprise Council for the
21 purpose of influencing the certification or denial of
22 certification of any business entity as a minority owned
23 business, ~~or~~ female owned business, service-disabled

1 veteran-owned small business, or veteran-owned small business
2 commits a Class 2 felony.
3 (Source: P.A. 84-192.)

4 (720 ILCS 5/33C-3) (from Ch. 38, par. 33C-3)

5 Sec. 33C-3. Willfully obstructing or impeding an official
6 or employee of any agency in his investigation. Any person who,
7 in the course of business, willfully obstructs or impedes an
8 official or employee of any State agency or the Minority and
9 Female Business Enterprise Council who is investigating the
10 qualifications of a business entity which has requested
11 certification as a minority owned business, ~~or a~~ female owned
12 business, service-disabled veteran-owned small business, or
13 veteran-owned small business commits a Class 2 felony.
14 (Source: P.A. 84-192.)

15 (720 ILCS 5/33C-4) (from Ch. 38, par. 33C-4)

16 Sec. 33C-4. Fraudulently obtaining public moneys reserved
17 for disadvantaged business enterprises. Any person who, in the
18 course of business, fraudulently obtains public moneys
19 reserved for, or allocated or available to, minority owned
20 businesses, ~~or~~ female owned businesses, service-disabled
21 veteran-owned small businesses, or veteran-owned small
22 businesses commits a Class 2 felony.
23 (Source: P.A. 84-192.)

1 (720 ILCS 5/33C-5) (from Ch. 38, par. 33C-5)

2 Sec. 33C-5. Definitions. As used in this Article, "minority
3 owned business", "female owned business", "State agency" with
4 respect to minority owned businesses and female owned
5 businesses, and "certification" with respect to minority owned
6 businesses and female owned businesses shall have the meanings
7 ascribed to them in Section 2 of the Business Enterprise for
8 Minorities, Females, and Persons with Disabilities Act. As used
9 in this Article, "service-disabled veteran-owned small
10 business", "veteran-owned small business", "State agency" with
11 respect to service-disabled veteran-owned small businesses and
12 veteran-owned small businesses, and "certification" with
13 respect to service-disabled veteran-owned small businesses and
14 veteran-owned small businesses have the same meanings as in
15 Section 45-57 of the Illinois Procurement Code.

16 (Source: P.A. 92-16, eff. 6-28-01.)

17 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

18 Sec. 33E-2. Definitions. In this Act:

19 (a) "Public contract" means any contract for goods,
20 services or construction let to any person with or without bid
21 by any unit of State or local government.

22 (b) "Unit of State or local government" means the State,
23 any unit of state government or agency thereof, any county or
24 municipal government or committee or agency thereof, or any
25 other entity which is funded by or expends tax dollars or the

1 proceeds of publicly guaranteed bonds.

2 (c) "Change order" means a change in a contract term other
3 than as specifically provided for in the contract which
4 authorizes or necessitates any increase or decrease in the cost
5 of the contract or the time to completion.

6 (d) "Person" means any individual, firm, partnership,
7 corporation, joint venture or other entity, but does not
8 include a unit of State or local government.

9 (e) "Person employed by any unit of State or local
10 government" means any employee of a unit of State or local
11 government and any person defined in subsection (d) who is
12 authorized by such unit of State or local government to act on
13 its behalf in relation to any public contract.

14 (f) "Sheltered market" has the meaning ascribed to it in
15 Section 8b of the Business Enterprise for Minorities, Females,
16 and Persons with Disabilities Act; except that, with respect to
17 State contracts set aside for award to service-disabled
18 veteran-owned small businesses and veteran-owned small
19 businesses pursuant to Section 45-57 of the Illinois
20 Procurement Code, "sheltered market" means procurements
21 pursuant to that Section.

22 (g) "Kickback" means any money, fee, commission, credit,
23 gift, gratuity, thing of value, or compensation of any kind
24 which is provided, directly or indirectly, to any prime
25 contractor, prime contractor employee, subcontractor, or
26 subcontractor employee for the purpose of improperly obtaining

1 or rewarding favorable treatment in connection with a prime
2 contract or in connection with a subcontract relating to a
3 prime contract.

4 (h) "Prime contractor" means any person who has entered
5 into a public contract.

6 (i) "Prime contractor employee" means any officer,
7 partner, employee, or agent of a prime contractor.

8 (i-5) "Stringing" means knowingly structuring a contract
9 or job order to avoid the contract or job order being subject
10 to competitive bidding requirements.

11 (j) "Subcontract" means a contract or contractual action
12 entered into by a prime contractor or subcontractor for the
13 purpose of obtaining goods or services of any kind under a
14 prime contract.

15 (k) "Subcontractor" (1) means any person, other than the
16 prime contractor, who offers to furnish or furnishes any goods
17 or services of any kind under a prime contract or a subcontract
18 entered into in connection with such prime contract; and (2)
19 includes any person who offers to furnish or furnishes goods or
20 services to the prime contractor or a higher tier
21 subcontractor.

22 (l) "Subcontractor employee" means any officer, partner,
23 employee, or agent of a subcontractor.

24 (Source: P.A. 92-16, eff. 6-28-01.)

25 (720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

1 Sec. 33E-6. Interference with contract submission and
2 award by public official. (a) Any person who is an official of
3 or employed by any unit of State or local government who
4 knowingly conveys, either directly or indirectly, outside of
5 the publicly available official invitation to bid, pre-bid
6 conference, solicitation for contracts procedure or such
7 procedure used in any sheltered market procurement adopted
8 pursuant to law or ordinance by that unit of government, to any
9 person any information concerning the specifications for such
10 contract or the identity of any particular potential
11 subcontractors, when inclusion of such information concerning
12 the specifications or contractors in the bid or offer would
13 influence the likelihood of acceptance of such bid or offer,
14 commits a Class 4 felony. It shall not constitute a violation
15 of this subsection to convey information intended to clarify
16 plans or specifications regarding a public contract where such
17 disclosure of information is also made generally available to
18 the public.

19 (b) Any person who is an official of or employed by any
20 unit of State or local government who, either directly or
21 indirectly, knowingly informs a bidder or offeror that the bid
22 or offer will be accepted or executed only if specified
23 individuals are included as subcontractors commits a Class 3
24 felony.

25 (c) It shall not constitute a violation of subsection (a)
26 of this Section where any person who is an official of or

1 employed by any unit of State or local government follows
2 procedures established (i) by federal, State or local minority
3 or female owned business enterprise programs or (ii) pursuant
4 to Section 45-57 of the Illinois Procurement Code.

5 (d) Any bidder or offeror who is the recipient of
6 communications from the unit of government which he reasonably
7 believes to be proscribed by subsections (a) or (b), and fails
8 to inform either the Attorney General or the State's Attorney
9 for the county in which the unit of government is located,
10 commits a Class A misdemeanor.

11 (e) Any public official who knowingly awards a contract
12 based on criteria which were not publicly disseminated via the
13 invitation to bid, when such invitation to bid is required by
14 law or ordinance, the pre-bid conference, or any solicitation
15 for contracts procedure or such procedure used in any sheltered
16 market procurement procedure adopted pursuant to statute or
17 ordinance, commits a Class 3 felony.

18 (f) It shall not constitute a violation of subsection (a)
19 for any person who is an official of or employed by any unit of
20 State or local government to provide to any person a copy of
21 the transcript or other summary of any pre-bid conference where
22 such transcript or summary is also made generally available to
23 the public.

24 (Source: P.A. 86-150.)

25 Section 99. Effective date. This Act takes effect July 1,
26 2011.