

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. Not less than 3% of the total  
14 dollar amount of State contracts, as defined by the Director of  
15 Central Management Services, shall be established as a goal to  
16 be awarded to SDVOSB and VOSB. ~~A Task Force shall be~~  
17 ~~established, appointed by the Directors or Secretaries of, and~~  
18 ~~made up of representatives of, the Illinois Department of~~  
19 ~~Veterans' Affairs, the Illinois Department of Transportation,~~  
20 ~~the Department of Central Management Services, the Business~~  
21 ~~Enterprise Program, and the Business Enterprise Council. The~~  
22 ~~Department of Central Management Services shall provide~~  
23 ~~administrative support to the Task Force. The purpose of this~~  
24 ~~Task Force shall be to determine the appropriate percentage~~

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

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

- 25 (1) The total number of VOSB, and the number of SDVOSB,  
26 ~~SDVOB~~ who submitted bids ~~a bid~~ for contracts ~~a contract~~

1 under this Code.

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

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

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

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

23 "Armed forces of the United States" means the United States  
24 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in  
25 active duty as defined under 38 U.S.C. Section 101. Service in  
26 the Merchant Marine that constitutes active duty under Section

1 401 of federal Public Act 95-202 shall also be considered  
2 service in the armed forces for purposes of this Section.

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

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

22 "Control" means the exclusive, ultimate, majority, or sole  
23 control of the business, including but not limited to capital  
24 investment and all other financial matters, property,  
25 acquisitions, contract negotiations, legal matters,  
26 officer-director-employee selection and comprehensive hiring,

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

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

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

25 "Qualified veteran-owned small business" or "VOSB" means a  
26 small business (i) that is at least 51% owned by one or more

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

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

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

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

26 "State agency" has the same meaning as in Section 2 of the

1 Business Enterprise for Minorities, Females, and Persons with  
2 Disabilities Act.

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

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

25 (f) Certification program. The Illinois Department of  
26 Veterans' Affairs and the Department of Central Management



1 Services ~~Business Enterprise Program~~ shall work together to  
2 devise a certification procedure to assure that businesses  
3 taking advantage of this Section Act are legitimately  
4 classified as qualified service-disabled ~~service-disabled~~  
5 veteran-owned small businesses or qualified veteran-owned  
6 small businesses.

7 (g) Penalties.

8 (1) Administrative penalties. The Department of  
9 Central Management Services shall suspend any person who  
10 commits a violation of Section 17-10.3 or subsection (d) of  
11 Section 33E-6 of the Criminal Code of 1961 relating to this  
12 Section from bidding on, or participating as a contractor,  
13 subcontractor, or supplier in, any State contract or  
14 project for a period of not less than 3 years, and, if the  
15 person is certified as a service-disabled veteran-owned  
16 small business or a veteran-owned small business, then the  
17 Department shall revoke the business's certification for a  
18 period of not less than 3 years. An additional or  
19 subsequent violation shall extend the periods of  
20 suspension and revocation for a period of not less than 5  
21 years. The suspension and revocation shall apply to the  
22 principals of the business and any subsequent business  
23 formed or financed by, or affiliated with, those  
24 principals.

25 (2) Reports of violations. Each State agency shall  
26 report any alleged violation of Section 17-10.3 or

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

8 (3) List of suspended persons. The Department of  
9 Central Management Services shall monitor the status of all  
10 reported violations of Section 17-10.3 or subsection (d) of  
11 Section 33E-6 of the Criminal Code of 1961 relating to this  
12 Section and shall maintain and make available to all State  
13 agencies a central listing of all persons that committed  
14 violations resulting in suspension.

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

20 (5) Duty to check list. Each State agency shall check  
21 the central listing provided by the Department of Central  
22 Management Services under paragraph (3) of this subsection  
23 to verify that a person being awarded a contract by that  
24 State agency, or to be used as a subcontractor or supplier  
25 on a contract being awarded by that State agency, is not  
26 under suspension pursuant to paragraph (1) of this

1           subsection.

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

3           Section 10. The Criminal Code of 1961 is amended by  
4           changing Sections 17-10.3, 33E-2, and 33E-6 as follows:

5           (720 ILCS 5/17-10.3)

6           (This Section may contain text from a Public Act with a  
7           delayed effective date)

8           Sec. 17-10.3. Deception relating to certification of  
9           disadvantaged business enterprises.

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

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

24           (c) Willfully obstructing or impeding an official or

1 employee of any agency in his or her investigation. Any person  
2 who, in the course of business, willfully obstructs or impedes  
3 an official or employee of any State agency or the Minority and  
4 Female Business Enterprise Council who is investigating the  
5 qualifications of a business entity which has requested  
6 certification as a minority owned business, ~~or a~~ female owned  
7 business, service-disabled veteran-owned small business, or  
8 veteran-owned small business commits a Class 2 felony.

9 (d) Fraudulently obtaining public moneys reserved for  
10 disadvantaged business enterprises. Any person who, in the  
11 course of business, fraudulently obtains public moneys  
12 reserved for, or allocated or available to, minority owned  
13 businesses, ~~or~~ female owned businesses, service-disabled  
14 veteran-owned small businesses, or veteran-owned small  
15 businesses commits a Class 2 felony.

16 (e) Definitions. As used in this Article, "minority owned  
17 business", "female owned business", "State agency" with  
18 respect to minority owned businesses and female owned  
19 businesses, and "certification" with respect to minority owned  
20 businesses and female owned businesses shall have the meanings  
21 ascribed to them in Section 2 of the Business Enterprise for  
22 Minorities, Females, and Persons with Disabilities Act. As used  
23 in this Article, "service-disabled veteran-owned small  
24 business", "veteran-owned small business", "State agency" with  
25 respect to service-disabled veteran-owned small businesses and  
26 veteran-owned small businesses, and "certification" with

1 respect to service-disabled veteran-owned small businesses and  
2 veteran-owned small businesses have the same meanings as in  
3 Section 45-57 of the Illinois Procurement Code.

4 (Source: P.A. 96-1551, eff. 7-1-11.)

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

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

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

10 (b) "Unit of State or local government" means the State,  
11 any unit of state government or agency thereof, any county or  
12 municipal government or committee or agency thereof, or any  
13 other entity which is funded by or expends tax dollars or the  
14 proceeds of publicly guaranteed bonds.

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

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

22 (e) "Person employed by any unit of State or local  
23 government" means any employee of a unit of State or local  
24 government and any person defined in subsection (d) who is  
25 authorized by such unit of State or local government to act on

1 its behalf in relation to any public contract.

2 (f) "Sheltered market" has the meaning ascribed to it in  
3 Section 8b of the Business Enterprise for Minorities, Females,  
4 and Persons with Disabilities Act; except that, with respect to  
5 State contracts set aside for award to service-disabled  
6 veteran-owned small businesses and veteran-owned small  
7 businesses pursuant to Section 45-57 of the Illinois  
8 Procurement Code, "sheltered market" means procurements  
9 pursuant to that Section.

10 (g) "Kickback" means any money, fee, commission, credit,  
11 gift, gratuity, thing of value, or compensation of any kind  
12 which is provided, directly or indirectly, to any prime  
13 contractor, prime contractor employee, subcontractor, or  
14 subcontractor employee for the purpose of improperly obtaining  
15 or rewarding favorable treatment in connection with a prime  
16 contract or in connection with a subcontract relating to a  
17 prime contract.

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

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

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

25 (j) "Subcontract" means a contract or contractual action  
26 entered into by a prime contractor or subcontractor for the

1 purpose of obtaining goods or services of any kind under a  
2 prime contract.

3 (k) "Subcontractor" (1) means any person, other than the  
4 prime contractor, who offers to furnish or furnishes any goods  
5 or services of any kind under a prime contract or a subcontract  
6 entered into in connection with such prime contract; and (2)  
7 includes any person who offers to furnish or furnishes goods or  
8 services to the prime contractor or a higher tier  
9 subcontractor.

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

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

13 (720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

14 Sec. 33E-6. Interference with contract submission and  
15 award by public official. (a) Any person who is an official of  
16 or employed by any unit of State or local government who  
17 knowingly conveys, either directly or indirectly, outside of  
18 the publicly available official invitation to bid, pre-bid  
19 conference, solicitation for contracts procedure or such  
20 procedure used in any sheltered market procurement adopted  
21 pursuant to law or ordinance by that unit of government, to any  
22 person any information concerning the specifications for such  
23 contract or the identity of any particular potential  
24 subcontractors, when inclusion of such information concerning  
25 the specifications or contractors in the bid or offer would

1 influence the likelihood of acceptance of such bid or offer,  
2 commits a Class 4 felony. It shall not constitute a violation  
3 of this subsection to convey information intended to clarify  
4 plans or specifications regarding a public contract where such  
5 disclosure of information is also made generally available to  
6 the public.

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

13 (c) It shall not constitute a violation of subsection (a)  
14 of this Section where any person who is an official of or  
15 employed by any unit of State or local government follows  
16 procedures established (i) by federal, State or local minority  
17 or female owned business enterprise programs or (ii) pursuant  
18 to Section 45-57 of the Illinois Procurement Code.

19 (d) Any bidder or offeror who is the recipient of  
20 communications from the unit of government which he reasonably  
21 believes to be proscribed by subsections (a) or (b), and fails  
22 to inform either the Attorney General or the State's Attorney  
23 for the county in which the unit of government is located,  
24 commits a Class A misdemeanor.

25 (e) Any public official who knowingly awards a contract  
26 based on criteria which were not publicly disseminated via the



1 invitation to bid, when such invitation to bid is required by  
2 law or ordinance, the pre-bid conference, or any solicitation  
3 for contracts procedure or such procedure used in any sheltered  
4 market procurement procedure adopted pursuant to statute or  
5 ordinance, commits a Class 3 felony.

6 (f) It shall not constitute a violation of subsection (a)  
7 for any person who is an official of or employed by any unit of  
8 State or local government to provide to any person a copy of  
9 the transcript or other summary of any pre-bid conference where  
10 such transcript or summary is also made generally available to  
11 the public.

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

13 Section 99. Effective date. This Act takes effect July 1,  
14 2011.