



Sen. M. Maggie Crotty

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1 AMENDMENT TO SENATE BILL 1270

2 AMENDMENT NO. _____. Amend Senate Bill 1270 by replacing
3 everything after the enacting clause with the following:

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

6 (30 ILCS 500/45-57)

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

8 (a) Set-aside goal. It is the goal of the State to promote
9 and encourage the continued economic development of small
10 businesses owned and controlled by qualified ~~service-disabled~~
11 veterans and that qualified service-disabled ~~service-disabled~~
12 veteran-owned small businesses (referred to as SDVOSB ~~SDVOB~~)
13 and veteran-owned small businesses (referred to as VOSB)
14 participate in the State's procurement process as both prime
15 contractors and subcontractors. Not less than 3% of the total
16 dollar amount of State contracts, as defined by the Director of

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

1 ~~Assembly.~~

2 (b) Fiscal year reports. By ~~Once the appropriate goal is~~
3 ~~established, then by~~ each September 1, each chief procurement
4 officer shall report to the Department of Central Management
5 Services on all of the following for the immediately preceding
6 fiscal year, and by each October 1 the Department of Central
7 Management Services shall compile and report that information
8 to the General Assembly:

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

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

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

1 promote businesses owned by qualified ~~disabled~~ veterans.

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

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

7 "Armed forces of the United States" means the United States
8 Army, Navy, Air Force, Marine Corps, or Coast Guard. Service in
9 the Merchant Marine that constitutes active duty under Section
10 401 of federal Public Act 95-202 shall also be considered
11 service in the armed forces for purposes of this Section.

12 ~~"Business" means a business that has average annual gross~~
13 ~~sales over the 3 most recent calendar years of less than~~
14 ~~\$31,000,000 as evidenced by the federal income tax returns of~~
15 ~~the business.~~

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

1 a disability", as defined in Section 2 of the Business
2 Enterprise for Minorities, Females, and Persons with
3 Disabilities Act, or as a qualified SDVOSB or qualified VOSB
4 under this Section.

5 "Control" means the exclusive, ultimate, majority, or sole
6 control of the business, including but not limited to capital
7 investment and all other financial matters, property,
8 acquisitions, contract negotiations, legal matters,
9 officer-director-employee selection and comprehensive hiring,
10 operation responsibilities, cost-control matters, income and
11 dividend matters, financial transactions, and rights of other
12 shareholders or joint partners. Control shall be real,
13 substantial, and continuing, not pro forma. Control shall
14 include the power to direct or cause the direction of the
15 management and policies of the business and to make the
16 day-to-day as well as major decisions in matters of policy,
17 management, and operations. Control shall be exemplified by
18 possessing the requisite knowledge and expertise to run the
19 particular business, and control shall not include simple
20 majority or absentee ownership.

21 "Qualified service-disabled ~~service-disabled~~ veteran"
22 means a veteran who has been found to have 10% or more a
23 service-connected disability by the United States Department
24 of Veterans Affairs or the United States Department of Defense.

25 "Qualified service-disabled veteran-owned small business"
26 or "SDVOSB" means a small business (i) that is at least 51%

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

8 "Qualified veteran-owned small business" or "VOSB" means a
9 small business (i) that is at least 51% owned by one or more
10 qualified veterans living in Illinois or, in the case of a
11 corporation, at least 51% of the stock of which is owned by one
12 or more qualified veterans living in Illinois; (ii) that has
13 its home office in Illinois; and (iii) for which items (i) and
14 (ii) are factually verified annually by the Department of
15 Central Management Services.

16 ~~"Qualified disabled veteran owned business" means a~~
17 ~~business entity that is at least 51% owned by one or more~~
18 ~~qualified disabled veterans, or in the case of a corporation,~~
19 ~~at least 51% of the stock of which is owned by one or more~~
20 ~~qualified disabled veterans; and the management and daily~~
21 ~~business operations of which are controlled by one or more of~~
22 ~~the qualified disabled veterans who own it.~~

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

26 "Small business" means a business that has annual gross

1 sales of less than \$75,000,000 as evidenced by the federal
2 income tax return of the business. A firm with gross sales in
3 excess of this cap may apply to the Department of Central
4 Management Services for certification for a particular
5 contract if the firm can demonstrate that the contract would
6 have significant impact on SDVOSB or VOSB as suppliers or
7 subcontractors or in employment of veterans or
8 service-disabled veterans.

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

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

20 "Veteran" means a person who (i) has been a member of the
21 armed forces of the United States or, while a citizen of the
22 United States, was a member of the armed forces of allies of
23 the United States in time of hostilities with a foreign country
24 and (ii) has served under one or more of the following
25 conditions: (a) the veteran served a total of at least 6
26 months; (b) the veteran served for the duration of hostilities

1 regardless of the length of the engagement; (c) the veteran was
2 discharged on the basis of hardship; or (d) the veteran was
3 released from active duty because of a service connected
4 disability and was discharged under honorable conditions.
5 ~~served in the active military, naval, or air service and who~~
6 ~~was discharged or released from his or her service under~~
7 ~~conditions other than dishonorable.~~

8 (f) Certification program. The Illinois Department of
9 Veterans' Affairs and the Department of Central Management
10 Services ~~Business Enterprise Program~~ shall work together to
11 devise a certification procedure to assure that businesses
12 taking advantage of this Section ~~Act~~ are legitimately
13 classified as qualified service-disabled ~~service disabled~~
14 veteran-owned small businesses or qualified veteran-owned
15 small businesses.

16 (g) VOSBA network. The Director of Central Management
17 Services shall administer a State network of Veteran-Owned
18 Small Business Advocates (VOSBA), who shall report to the
19 Director's appointee and shall do all of the following:

20 (1) Oversee, promote, and coordinate the VOSBA
21 program.

22 (2) Manage appointment and oversight of all VOSBA
23 members.

24 (3) Submit to the Director's appointee an annual report
25 to document the VOSBA program.

26 (4) Coordinate with State agencies and with existing

1 and potential veteran-owned small businesses to achieve
2 the goal described in subsection (a).

3 (h) State agency VOSBA. Each State agency shall appoint and
4 support at least one State agency VOSBA. The Department of
5 Central Management Services shall maintain an online database
6 of all VOSBA, including their telephone numbers, facsimile
7 numbers, electronic mail addresses, and postal addresses. Each
8 State agency VOSBA shall do all of the following:

9 (1) Assist certified veteran-owned small businesses in
10 participating in the State agency's contracting process.

11 (2) Assist the State agency's State purchasing officer
12 in seeking veteran-owned small businesses to participate
13 in the State agency's contract and procurement activities
14 by any feasible means, including without limitation by
15 performing outreach efforts to recruit veteran-owned small
16 businesses to be prime contractors or subcontractors on
17 contracts proposed by the State agency that require
18 veteran-owned small business participation.

19 (3) Meet regularly with the contract and procurement
20 staffs of his or her State agency to disseminate
21 information about the veteran-owned small business
22 set-aside program.

23 (4) Advocate for the veteran-owned small businesses
24 that are used as the State agency's contractors or
25 subcontractors.

26 (5) Report to the Department of Central Management

1 Services regarding any violation of this Section.

2 (6) Coordinate and meet, on a regular basis, with the
3 Illinois Department of Veterans' Affairs in an effort to
4 meet the goal described in subsection (a).

5 (i) Penalties.

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

23 (2) Reports of violations. Each State agency shall
24 report any alleged violation of Article 33C or subsection
25 (d) of Section 33E-6 of the Criminal Code of 1961 relating
26 to this Section to the Department of Central Management

1 Services. The Department of Central Management Services
2 shall subsequently report all such alleged violations to
3 the Attorney General, who shall determine whether to bring
4 a civil action against any person for the violation.

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

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

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

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

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

4 (720 ILCS 5/33C-1) (from Ch. 38, par. 33C-1)

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

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

12 (720 ILCS 5/33C-2) (from Ch. 38, par. 33C-2)

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

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

1 (720 ILCS 5/33C-3) (from Ch. 38, par. 33C-3)

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

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

12 (720 ILCS 5/33C-4) (from Ch. 38, par. 33C-4)

13 Sec. 33C-4. Fraudulently obtaining public moneys reserved
14 for disadvantaged business enterprises. Any person who, in the
15 course of business, fraudulently obtains public moneys
16 reserved for, or allocated or available to, minority owned
17 businesses, ~~or~~ female owned businesses, service-disabled
18 veteran-owned small businesses, or veteran-owned small
19 businesses commits a Class 2 felony.

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

21 (720 ILCS 5/33C-5) (from Ch. 38, par. 33C-5)

22 Sec. 33C-5. Definitions. As used in this Article, "minority
23 owned business", "female owned business", "State agency" with
24 respect to minority owned businesses and female owned

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

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

13 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

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

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

18 (b) "Unit of State or local government" means the State,
19 any unit of state government or agency thereof, any county or
20 municipal government or committee or agency thereof, or any
21 other entity which is funded by or expends tax dollars or the
22 proceeds of publicly guaranteed bonds.

23 (c) "Change order" means a change in a contract term other
24 than as specifically provided for in the contract which
25 authorizes or necessitates any increase or decrease in the cost

1 of the contract or the time to completion.

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

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

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

18 (g) "Kickback" means any money, fee, commission, credit,
19 gift, gratuity, thing of value, or compensation of any kind
20 which is provided, directly or indirectly, to any prime
21 contractor, prime contractor employee, subcontractor, or
22 subcontractor employee for the purpose of improperly obtaining
23 or rewarding favorable treatment in connection with a prime
24 contract or in connection with a subcontract relating to a
25 prime contract.

26 (h) "Prime contractor" means any person who has entered

1 into a public contract.

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

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

7 (j) "Subcontract" means a contract or contractual action
8 entered into by a prime contractor or subcontractor for the
9 purpose of obtaining goods or services of any kind under a
10 prime contract.

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

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

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

21 (720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

22 Sec. 33E-6. Interference with contract submission and
23 award by public official. (a) Any person who is an official of
24 or employed by any unit of State or local government who
25 knowingly conveys, either directly or indirectly, outside of

1 the publicly available official invitation to bid, pre-bid
2 conference, solicitation for contracts procedure or such
3 procedure used in any sheltered market procurement adopted
4 pursuant to law or ordinance by that unit of government, to any
5 person any information concerning the specifications for such
6 contract or the identity of any particular potential
7 subcontractors, when inclusion of such information concerning
8 the specifications or contractors in the bid or offer would
9 influence the likelihood of acceptance of such bid or offer,
10 commits a Class 4 felony. It shall not constitute a violation
11 of this subsection to convey information intended to clarify
12 plans or specifications regarding a public contract where such
13 disclosure of information is also made generally available to
14 the public.

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

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

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

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

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

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

21 Section 99. Effective date. This Act takes effect July 1,
22 2011."