

SB2320



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2320

Introduced 2/15/2013, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

30 ILCS 575/2

Amends the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. Provides that a business owned and controlled by females shall be certified as a "Female owned business". A business owned and controlled by females who are also minorities shall be certified as both a "Female owned business" and a "Minority owned business". Effective immediately.

LRB098 06362 OMW 36404 b

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 Business Enterprise for Minorities,
5 Females, and Persons with Disabilities Act is amended by
6 changing Section 2 as follows:

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2016)

9 Sec. 2. Definitions.

10 (A) For the purpose of this Act, the following terms shall
11 have the following definitions:

12 (1) "Minority person" shall mean a person who is a
13 citizen or lawful permanent resident of the United States
14 and who is any of the following:

15 (a) American Indian or Alaska Native (a person
16 having origins in any of the original peoples of North
17 and South America, including Central America, and who
18 maintains tribal affiliation or community attachment).

19 (b) Asian (a person having origins in any of the
20 original peoples of the Far East, Southeast Asia, or
21 the Indian subcontinent, including, but not limited
22 to, Cambodia, China, India, Japan, Korea, Malaysia,
23 Pakistan, the Philippine Islands, Thailand, and

1 Vietnam).

2 (c) Black or African American (a person having
3 origins in any of the black racial groups of Africa).
4 Terms such as "Haitian" or "Negro" can be used in
5 addition to "Black or African American".

6 (d) Hispanic or Latino (a person of Cuban, Mexican,
7 Puerto Rican, South or Central American, or other
8 Spanish culture or origin, regardless of race).

9 (e) Native Hawaiian or Other Pacific Islander (a
10 person having origins in any of the original peoples of
11 Hawaii, Guam, Samoa, or other Pacific Islands).

12 (2) "Female" shall mean a person who is a citizen or
13 lawful permanent resident of the United States and who is
14 of the female gender.

15 (2.05) "Person with a disability" means a person who is
16 a citizen or lawful resident of the United States and is a
17 person qualifying as being disabled under subdivision
18 (2.1) of this subsection (A).

19 (2.1) "Disabled" means a severe physical or mental
20 disability that:

21 (a) results from:

22 amputation,

23 arthritis,

24 autism,

25 blindness,

26 burn injury,

1 cancer,
2 cerebral palsy,
3 Crohn's disease,
4 cystic fibrosis,
5 deafness,
6 head injury,
7 heart disease,
8 hemiplegia,
9 hemophilia,
10 respiratory or pulmonary dysfunction,
11 an intellectual disability,
12 mental illness,
13 multiple sclerosis,
14 muscular dystrophy,
15 musculoskeletal disorders,
16 neurological disorders, including stroke and
17 epilepsy,
18 paraplegia,
19 quadriplegia and other spinal cord conditions,
20 sickle cell anemia,
21 ulcerative colitis,
22 specific learning disabilities, or
23 end stage renal failure disease; and
24 (b) substantially limits one or more of the
25 person's major life activities.
26 Another disability or combination of disabilities may

1 also be considered as a severe disability for the purposes
2 of item (a) of this subdivision (2.1) if it is determined
3 by an evaluation of rehabilitation potential to cause a
4 comparable degree of substantial functional limitation
5 similar to the specific list of disabilities listed in item
6 (a) of this subdivision (2.1).

7 (3) "Minority owned business" means a business concern
8 which is at least 51% owned by one or more minority
9 persons, or in the case of a corporation, at least 51% of
10 the stock in which is owned by one or more minority
11 persons; and the management and daily business operations
12 of which are controlled by one or more of the minority
13 individuals who own it.

14 (4) "Female owned business" means a business concern
15 which is at least 51% owned by one or more females, or, in
16 the case of a corporation, at least 51% of the stock in
17 which is owned by one or more females; and the management
18 and daily business operations of which are controlled by
19 one or more of the females who own it.

20 (4.1) "Business owned by a person with a disability"
21 means a business concern that is at least 51% owned by one
22 or more persons with a disability and the management and
23 daily business operations of which are controlled by one or
24 more of the persons with disabilities who own it. A
25 not-for-profit agency for persons with disabilities that
26 is exempt from taxation under Section 501 of the Internal

1 Revenue Code of 1986 is also considered a "business owned
2 by a person with a disability".

3 (4.2) "Council" means the Business Enterprise Council
4 for Minorities, Females, and Persons with Disabilities
5 created under Section 5 of this Act.

6 (5) "State contracts" shall mean all State contracts,
7 funded exclusively with State funds which are not subject
8 to federal reimbursement, whether competitively bid or
9 negotiated as defined by the Secretary of the Council and
10 approved by the Council.

11 "State construction contracts" means all State
12 contracts entered into by a State agency or State
13 university for the repair, remodeling, renovation or
14 construction of a building or structure, or for the
15 construction or maintenance of a highway defined in Article
16 2 of the Illinois Highway Code.

17 (6) "State agencies" shall mean all departments,
18 officers, boards, commissions, institutions and bodies
19 politic and corporate of the State, but does not include
20 the Board of Trustees of the University of Illinois, the
21 Board of Trustees of Southern Illinois University, the
22 Board of Trustees of Chicago State University, the Board of
23 Trustees of Eastern Illinois University, the Board of
24 Trustees of Governors State University, the Board of
25 Trustees of Illinois State University, the Board of
26 Trustees of Northeastern Illinois University, the Board of

1 Trustees of Northern Illinois University, the Board of
2 Trustees of Western Illinois University, municipalities or
3 other local governmental units, or other State
4 constitutional officers.

5 (7) "State universities" shall mean the Board of
6 Trustees of the University of Illinois, the Board of
7 Trustees of Southern Illinois University, the Board of
8 Trustees of Chicago State University, the Board of Trustees
9 of Eastern Illinois University, the Board of Trustees of
10 Governors State University, the Board of Trustees of
11 Illinois State University, the Board of Trustees of
12 Northeastern Illinois University, the Board of Trustees of
13 Northern Illinois University, and the Board of Trustees of
14 Western Illinois University.

15 (8) "Certification" means a determination made by the
16 Council or by one delegated authority from the Council to
17 make certifications, or by a State agency with statutory
18 authority to make such a certification, that a business
19 entity is a business owned by a minority, female, or person
20 with a disability for whatever purpose. A business owned
21 and controlled by females shall be certified as a "Female
22 owned business". A business owned and controlled by females
23 who are also minorities shall be certified as both a
24 "Female owned business" and a "Minority owned business".
25 ~~shall select and designate whether such business is to be~~
26 ~~certified as a "Female owned business" or "Minority owned~~

1 ~~business" if the females are also minorities.~~

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

19 (10) "Business concern or business" means a business
20 that has annual gross sales of less than \$75,000,000 as
21 evidenced by the federal income tax return of the business.
22 A firm with gross sales in excess of this cap may apply to
23 the Council for certification for a particular contract if
24 the firm can demonstrate that the contract would have
25 significant impact on businesses owned by minorities,
26 females, or persons with disabilities as suppliers or

1 subcontractors or in employment of minorities, females, or
2 persons with disabilities.

3 (B) When a business concern is owned at least 51% by any
4 combination of minority persons, females, or persons with
5 disabilities, even though none of the 3 classes alone holds at
6 least a 51% interest, the ownership requirement for purposes of
7 this Act is considered to be met. The certification category
8 for the business is that of the class holding the largest
9 ownership interest in the business. If 2 or more classes have
10 equal ownership interests, the certification category shall be
11 determined by the business concern.

12 (Source: P.A. 96-453, eff. 8-14-09; 96-795, eff. 7-1-10 (see
13 Section 5 of P.A. 96-793 for effective date of changes made by
14 P.A. 96-795); 96-1000, eff. 7-2-10; 97-227, eff. 1-1-12;
15 97-396, eff. 1-1-12; 97-813, eff. 7-13-12.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.