



Sen. James F. Clayborne, Jr.

Filed: 3/10/2015

09900SB1334sam001

LRB099 10713 SXM 32255 a

1 AMENDMENT TO SENATE BILL 1334

2 AMENDMENT NO. _____. Amend Senate Bill 1334 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Business Enterprise for Minorities,
5 Females, and Persons with Disabilities Act is amended by
6 changing Sections 2, 3, 4, 5, 6, 6a, 7, 8, and 8f and by adding
7 Section 4f as follows:

8 (30 ILCS 575/2)

9 (Section scheduled to be repealed on June 30, 2016)

10 Sec. 2. Definitions.

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

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

16 (a) American Indian or Alaska Native (a person

1 having origins in any of the original peoples of North
2 and South America, including Central America, and who
3 maintains tribal affiliation or community attachment).

4 (b) Asian (a person having origins in any of the
5 original peoples of the Far East, Southeast Asia, or
6 the Indian subcontinent, including, but not limited
7 to, Cambodia, China, India, Japan, Korea, Malaysia,
8 Pakistan, the Philippine Islands, Thailand, and
9 Vietnam).

10 (c) Black or African American (a person having
11 origins in any of the black racial groups of Africa).
12 Terms such as "Haitian" or "Negro" can be used in
13 addition to "Black or African American".

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

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

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

23 (2.05) "Person with a disability" means a person who is
24 a citizen or lawful resident of the United States and is a
25 person qualifying as being disabled under subdivision
26 (2.1) of this subsection (A).

1 (2.1) "Disabled" means a severe physical or mental
2 disability that:

3 (a) results from:

4 amputation,

5 arthritis,

6 autism,

7 blindness,

8 burn injury,

9 cancer,

10 cerebral palsy,

11 Crohn's disease,

12 cystic fibrosis,

13 deafness,

14 head injury,

15 heart disease,

16 hemiplegia,

17 hemophilia,

18 respiratory or pulmonary dysfunction,

19 an intellectual disability,

20 mental illness,

21 multiple sclerosis,

22 muscular dystrophy,

23 musculoskeletal disorders,

24 neurological disorders, including stroke and

25 epilepsy,

26 paraplegia,

1 quadriplegia and other spinal cord conditions,
2 sickle cell anemia,
3 ulcerative colitis,
4 specific learning disabilities, or
5 end stage renal failure disease; and

6 (b) substantially limits one or more of the
7 person's major life activities.

8 Another disability or combination of disabilities may
9 also be considered as a severe disability for the purposes
10 of item (a) of this subdivision (2.1) if it is determined
11 by an evaluation of rehabilitation potential to cause a
12 comparable degree of substantial functional limitation
13 similar to the specific list of disabilities listed in item
14 (a) of this subdivision (2.1).

15 (3) "Minority owned business" means a business ~~concern~~
16 which is at least 51% owned by one or more minority
17 persons, or in the case of a corporation, at least 51% of
18 the stock in which is owned by one or more minority
19 persons; and the management and daily business operations
20 of which are controlled by one or more of the minority
21 individuals who own it.

22 (4) "Female owned business" means a business ~~concern~~
23 which is at least 51% owned by one or more females, or, in
24 the case of a corporation, at least 51% of the stock in
25 which is owned by one or more females; and the management
26 and daily business operations of which are controlled by

1 one or more of the females who own it.

2 (4.1) "Business owned by a person with a disability"
3 means a business ~~concern~~ that is at least 51% owned by one
4 or more persons with a disability and the management and
5 daily business operations of which are controlled by one or
6 more of the persons with disabilities who own it. A
7 not-for-profit agency for persons with disabilities that
8 is exempt from taxation under Section 501 of the Internal
9 Revenue Code of 1986 is also considered a "business owned
10 by a person with a disability".

11 (4.2) "Council" means the Business Enterprise Council
12 for Minorities, Females, and Persons with Disabilities
13 created under Section 5 of this Act.

14 (5) "State contracts" means all State contracts
15 regardless of the source of the funds with which the
16 contracts are paid. This definition shall control over any
17 existing definition under this Act or applicable
18 administrative rule. ~~"State contracts" shall mean all~~
19 ~~State contracts, funded exclusively with State funds which~~
20 ~~are not subject to federal reimbursement, whether~~
21 ~~competitively bid or negotiated as defined by the Secretary~~
22 ~~of the Council and approved by the Council.~~

23 "State construction contracts" means all State
24 contracts entered into by a State agency or public
25 institution of higher education ~~State university~~ for the
26 repair, remodeling, renovation or construction of a

1 building or structure, or for the construction or
2 maintenance of a highway defined in Article 2 of the
3 Illinois Highway Code.

4 (6) "State agencies" shall mean all departments,
5 officers, boards, commissions, institutions and bodies
6 politic and corporate of the State, but does not include
7 the Board of Trustees of the University of Illinois, the
8 Board of Trustees of Southern Illinois University, the
9 Board of Trustees of Chicago State University, the Board of
10 Trustees of Eastern Illinois University, the Board of
11 Trustees of Governors State University, the Board of
12 Trustees of Illinois State University, the Board of
13 Trustees of Northeastern Illinois University, the Board of
14 Trustees of Northern Illinois University, the Board of
15 Trustees of Western Illinois University, municipalities or
16 other local governmental units, or other State
17 constitutional officers.

18 (7) "Public institutions of higher education" means
19 the University of Illinois, Southern Illinois University,
20 Chicago State University, Eastern Illinois University,
21 Governors State University, Illinois State University,
22 Northeastern Illinois University, Northern Illinois
23 University, Western Illinois University, the public
24 community colleges of the State, and any other public
25 universities, colleges and community colleges now or
26 hereafter established or authorized by the General

1 ~~Assembly. "State universities" shall mean the Board of~~
2 ~~Trustees of the University of Illinois, the Board of~~
3 ~~Trustees of Southern Illinois University, the Board of~~
4 ~~Trustees of Chicago State University, the Board of Trustees~~
5 ~~of Eastern Illinois University, the Board of Trustees of~~
6 ~~Governors State University, the Board of Trustees of~~
7 ~~Illinois State University, the Board of Trustees of~~
8 ~~Northeastern Illinois University, the Board of Trustees of~~
9 ~~Northern Illinois University, and the Board of Trustees of~~
10 ~~Western Illinois University.~~

11 (8) "Certification" means a determination made by the
12 Council or by one delegated authority from the Council to
13 make certifications, or by a State agency with statutory
14 authority to make such a certification, that a business
15 entity is a business owned by a minority, female, or person
16 with a disability for whatever purpose. A business owned
17 and controlled by females shall be certified as a "female
18 owned business". A business owned and controlled by females
19 who are also minorities shall be certified as both a
20 "female owned business" and a "minority owned business".

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

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

12 (10) (Blank). ~~"Business concern or business" means a~~
13 ~~business that has annual gross sales of less than~~
14 ~~\$75,000,000 as evidenced by the federal income tax return~~
15 ~~of the business. A firm with gross sales in excess of this~~
16 ~~cap may apply to the Council for certification for a~~
17 ~~particular contract if the firm can demonstrate that the~~
18 ~~contract would have significant impact on businesses owned~~
19 ~~by minorities, females, or persons with disabilities as~~
20 ~~suppliers or subcontractors or in employment of~~
21 ~~minorities, females, or persons with disabilities.~~

22 (B) When a business ~~concern~~ is owned at least 51% by any
23 combination of minority persons, females, or persons with
24 disabilities, even though none of the 3 classes alone holds at
25 least a 51% interest, the ownership requirement for purposes of
26 this Act is considered to be met. The certification category

1 for the business is that of the class holding the largest
2 ownership interest in the business. If 2 or more classes have
3 equal ownership interests, the certification category shall be
4 determined by the business ~~concern~~.

5 (Source: P.A. 97-227, eff. 1-1-12; 97-396, eff. 1-1-12; 97-813,
6 eff. 7-13-12; 98-95, eff. 7-17-13.)

7 (30 ILCS 575/3) (from Ch. 127, par. 132.603)

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

9 Sec. 3. Implementation and applicability. This Act shall be
10 applied to all State agencies and public institutions of higher
11 education ~~State universities~~.

12 (Source: P.A. 85-729.)

13 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

15 Sec. 4. Award of State contracts.

16 (a) Except as provided in subsections (b) and (c), not less
17 than 20% of the total dollar amount of State contracts, as
18 defined by the Secretary of the Council and approved by the
19 Council, shall be established as a goal to be awarded to
20 businesses owned by minorities, females, and persons with
21 disabilities; provided, however, that of the total amount of
22 all State contracts awarded to businesses owned by minorities,
23 females, and persons with disabilities pursuant to this
24 Section, contracts representing at least 11% shall be awarded

1 to businesses owned by minorities, contracts representing at
2 least 7% shall be awarded to female-owned businesses, and
3 contracts representing at least 2% shall be awarded to
4 businesses owned by persons with disabilities.

5 The above percentage relates to the total dollar amount of
6 State contracts during each State fiscal year, calculated by
7 examining independently each type of contract for each agency
8 or public institution of higher education ~~university~~ which lets
9 such contracts. Only that percentage of arrangements which
10 represents the participation of businesses owned by
11 minorities, females, and persons with disabilities on such
12 contracts shall be included.

13 (b) In the case of State construction contracts, the
14 provisions of subsection (a) requiring a portion of State
15 contracts to be awarded to businesses owned and controlled by
16 persons with disabilities do not apply. Not less than 10% of
17 the total dollar amount of State construction contracts is
18 established as a goal to be awarded to minority and female
19 owned businesses, and contracts representing 50% of the amount
20 of all State construction contracts awarded to minority and
21 female owned businesses shall be awarded to female owned
22 businesses.

23 (c) In the case of all work undertaken by the University of
24 Illinois related to the planning, organization, and staging of
25 the games, the University of Illinois shall establish a goal of
26 awarding not less than 25% of the annual dollar value of all

1 contracts, purchase orders, and other agreements (collectively
2 referred to as "the contracts") to minority-owned businesses or
3 businesses owned by a person with a disability and 5% of the
4 annual dollar value the contracts to female-owned businesses.
5 For purposes of this subsection, the term "games" has the
6 meaning set forth in the Olympic Games and Paralympic Games
7 (2016) Law.

8 (d) Within one year after April 28, 2009 (the effective
9 date of Public Act 96-8), the Department of Central Management
10 Services shall conduct a social scientific study that measures
11 the impact of discrimination on minority and female business
12 development in Illinois. Within 18 months after April 28, 2009
13 (the effective date of Public Act 96-8), the Department shall
14 issue a report of its findings and any recommendations on
15 whether to adjust the goals for minority and female
16 participation established in this Act. Copies of this report
17 and the social scientific study shall be filed with the
18 Governor and the General Assembly.

19 (e) Those who submit bids or proposals for State contracts
20 shall not be given a period after the bid or proposal is
21 submitted to cure deficiencies in the bid or proposal under
22 this Act unless mandated by federal law or regulation.

23 (Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; 96-706,
24 eff. 8-25-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
25 for the effective date of changes made by P.A. 96-795);
26 96-1000, eff. 7-2-10.)

1 (30 ILCS 575/4f new)

2 Sec. 4f. Award of State contracts.

3 (1) It is hereby declared to be the public policy of
4 the State of Illinois to promote and encourage each State
5 agency and public institution of higher education to use
6 businesses owned by minorities, females, and persons with
7 disabilities in the area of professional services,
8 including, but not limited to, insurance services,
9 investment management services, information technology
10 services, accounting services, and legal services.
11 Furthermore, each State agency and public institution of
12 higher education shall utilize such firms to the greatest
13 extent feasible within the bounds of financial and
14 fiduciary prudence, and take affirmative steps to remove
15 any barriers to the full participation of such firms in the
16 procurement and placement opportunities afforded.

17 (a) When a State agency and public institution of
18 higher education enters into a contract for insurance
19 services, each State agency and public institution of
20 higher education is encouraged to use emerging
21 insurance brokers owned by minorities, females, and
22 persons with disabilities as defined by this Act, for
23 not less than 20% of the total annual premiums or fees.

24 (b) When a State agency and public institution of
25 higher education enters into a contract for insurance

1 services, each State agency and public institution of
2 higher education is encouraged to use emerging
3 investment managers owned by minorities, females, and
4 persons with disabilities as defined by this Act, for
5 not less than 20% of the total funds under management.
6 Furthermore, it is the goal that not less than 20% of
7 the direct asset managers of the State funds be
8 minorities, females, and persons with disabilities.

9 (c) When a State agency or public institution of
10 higher education into contracts for information
11 technology services, accounting services, and legal
12 services, each State agency and public institution of
13 higher education is encouraged to use such firms owned
14 by minorities, females, and persons with disabilities
15 as defined by this Act and lawyers who are minorities,
16 females, and persons with disabilities as defined by
17 this Act, for not less than 20% of State contracts.

18 (2) As used in this Section:

19 "Accounting services" means the measurement,
20 processing and communication of financial information
21 about economic entities including, but is not limited
22 to, financial accounting, management accounting,
23 auditing, taxation and accounting information systems.

24 "Emerging insurance broker" means an insurance
25 brokerage firm, claims administrator, or both, that
26 procures, places all lines of insurance, or

1 administers claims with annual premiums or fees of at
2 least \$5,000,000 but not more than \$10,000,000.

3 "Emerging investment manager" means an investment
4 manager having assets under management below \$20
5 billion.

6 "Information technology services" means
7 specialized technology-oriented solutions by combining
8 the processes and functions of software, hardware,
9 networks, telecommunications and electronics.

10 "Legal services" means work performed by a lawyer
11 including, but not limited to, contracts in
12 anticipation of litigation, enforcement actions, or
13 investigations.

14 (3) Each professional services program managed by each
15 State agency and public institution of higher education
16 shall adopt policies that identify the plan and
17 implementation procedures for increasing the use of
18 professional services firms owned by minorities, females,
19 and persons with disabilities.

20 (4) The Council shall file no later than March 1 of
21 each year an annual report to the Governor and the General
22 Assembly. This report shall: (i) identify the professional
23 services firms used by each State agency and public
24 institution of higher education, (ii) identify the actions
25 it has undertaken to increase the use of professional
26 services firms owned by minorities, females, and persons

1 with disabilities, including encouraging non-minority
2 owned firms to use other professional services firms owned
3 by minorities, females, and persons with disabilities as
4 subcontractors when the opportunities arise, (iii) state
5 any recommendations made by the Council to each State
6 agency and public institution of higher education to
7 increase participation by professional services firms
8 owned by minorities, females, and persons with
9 disabilities, and (iv) include the following:

10 (A) For insurance services: the names of the
11 insurance brokers used, the total of risk managed by
12 each State agency and public institution of higher
13 education by insurance brokers, the total commissions,
14 fees paid, or both, the lines or insurance policies
15 placed, and the amount of premiums placed; and the
16 percentage of the risk managed by emerging insurance
17 brokers, the percentage of total commission, fees
18 paid, or both, the lines or insurance policies placed,
19 and the amount of premiums placed with each by the
20 emerging insurance brokers owned by minorities,
21 females, and persons with disabilities by each State
22 agency and public institution of higher education.

23 (B) For investment management services: the names
24 of the investment managers used, the total funds under
25 management of investment managers; the total
26 commissions, fees paid, or both; the total and

1 percentage of funds under management of emerging
2 investment managers owned by minorities, females, and
3 persons with disabilities, including the total and
4 percentage of total commissions, fees paid, or both by
5 each State agency and public institution of higher
6 education.

7 (C) The names of professional services firms, the
8 percentage and total dollar amount paid for
9 professional services by category by each State agency
10 and public institution of higher education.

11 (D) The names of professional services firms, the
12 percentage and total dollar amount paid for
13 professional services by category to firms owned by
14 minorities, females, and persons with disabilities by
15 each State agency and public institution of higher
16 education.

17 (E) The total number of contracts awarded for
18 professional services by category and the total number
19 of contracts awarded to firms owned by minorities,
20 females, and persons with disabilities by each State
21 agency and public institution of higher education.

22 (5) The status of the utilization of professional
23 services shall be discussed at each of the regularly
24 scheduled Business Enterprise Council meetings. Time shall
25 be allotted for the Council to receive, review and discuss
26 the progress of the use of professional services firms

1 owned by minorities, females, and persons with
2 disabilities by each State agency and public institution of
3 higher education; and any evidence regarding past or
4 present racial, ethnic or gender based discrimination
5 which directly impacts State agency or public institution
6 of higher education contracting with such firms. If after
7 reviewing such evidence the Council finds that there is or
8 has been such discrimination against a specific group, race
9 or sex, the Council shall establish sheltered markets or
10 adjust existing sheltered markets tailored to address the
11 Council's specific findings for these divisions of work.

12 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

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

14 Sec. 5. Business Enterprise Council.

15 (1) To help implement, monitor and enforce the goals of
16 this Act, there is created the Business Enterprise Council for
17 Minorities, Females, and Persons with Disabilities,
18 hereinafter referred to as the Council, composed of the
19 Secretary of Human Services and the Directors of the Department
20 of Human Rights, the Department of Commerce and Economic
21 Opportunity, the Department of Central Management Services,
22 the Department of Transportation and the Capital Development
23 Board, or their duly appointed representatives. Ten
24 individuals representing businesses that are minority or
25 female owned or owned by persons with disabilities, 2

1 individuals representing the business community, and a
2 representative of public institutions of higher education
3 ~~public universities~~ shall be appointed by the Governor. These
4 members shall serve 2 year terms and shall be eligible for
5 reappointment. Any vacancy occurring on the Council shall also
6 be filled by the Governor. Any member appointed to fill a
7 vacancy occurring prior to the expiration of the term for which
8 his predecessor was appointed shall be appointed for the
9 remainder of such term. Members of the Council shall serve
10 without compensation but shall be reimbursed for any ordinary
11 and necessary expenses incurred in the performance of their
12 duties.

13 The Director of the Department of Central Management
14 Services shall serve as the Council chairperson and shall
15 select, subject to approval of the council, a Secretary
16 responsible for the operation of the program who shall serve as
17 the Division Manager of the Business Enterprise for Minorities,
18 Females, and Persons with Disabilities Division of the
19 Department of Central Management Services.

20 The Director of each State agency and the chief executive
21 officer of each public institutions of higher education ~~State~~
22 ~~university~~ shall appoint a liaison to the Council. The liaison
23 shall be responsible for submitting to the Council any reports
24 and documents necessary under this Act.

25 (2) The Council's authority and responsibility shall be to:

26 (a) Devise a certification procedure to assure that

1 businesses taking advantage of this Act are legitimately
2 classified as businesses owned by minorities, females, or
3 persons with disabilities.

4 (b) Maintain a list of all businesses legitimately
5 classified as businesses owned by minorities, females, or
6 persons with disabilities to provide to State agencies and
7 public institutions of higher education ~~State~~
8 ~~universities~~.

9 (c) Review rules and regulations for the
10 implementation of the program for businesses owned by
11 minorities, females, and persons with disabilities.

12 (d) Review compliance plans submitted by each State
13 agency and public institution of higher education ~~State~~
14 ~~university~~ pursuant to this Act.

15 (e) Make annual reports as provided in Section 8f to
16 the Governor and the General Assembly on the status of the
17 program.

18 (f) Serve as a central clearinghouse for information on
19 State contracts, including the maintenance of a list of all
20 pending State contracts upon which businesses owned by
21 minorities, females, and persons with disabilities may
22 bid. At the Council's discretion, maintenance of the list
23 may include 24-hour electronic access to the list along
24 with the bid and application information.

25 (g) Establish a toll free telephone number to
26 facilitate information requests concerning the

1 certification process and pending contracts.

2 (3) No premium bond rate of a surety company for a bond
3 required of a business owned by a minority, female, or person
4 with a disability bidding for a State contract shall be higher
5 than the lowest rate charged by that surety company for a
6 similar bond in the same classification of work that would be
7 written for a business not owned by a minority, female, or
8 person with a disability.

9 (4) Any Council member who has direct financial or personal
10 interest in any measure pending before the Council shall
11 disclose this fact to the Council and refrain from
12 participating in the determination upon such measure.

13 (5) The Secretary shall have the following duties and
14 responsibilities:

15 (a) To be responsible for the day-to-day operation of
16 the Council.

17 (b) To serve as a coordinator for all of the State's
18 programs for businesses owned by minorities, females, and
19 persons with disabilities and as the information and
20 referral center for all State initiatives for businesses
21 owned by minorities, females, and persons with
22 disabilities.

23 (c) To establish an enforcement procedure whereby the
24 Council may recommend to the appropriate State legal
25 officer that the State exercise its legal remedies which
26 shall include (1) termination of the contract involved, (2)

1 prohibition of participation by the respondent in public
2 contracts for a period not to exceed one year, (3)
3 imposition of a penalty not to exceed any profit acquired
4 as a result of violation, or (4) any combination thereof.
5 Such procedures shall require prior approval by Council.

6 (d) To devise appropriate policies, regulations and
7 procedures for including participation by businesses owned
8 by minorities, females, and persons with disabilities as
9 prime contractors including, but not limited to, (i)
10 encouraging the inclusions of qualified businesses owned
11 by minorities, females, and persons with disabilities on
12 solicitation lists, (ii) investigating the potential of
13 blanket bonding programs for small construction jobs,
14 (iii) investigating and making recommendations concerning
15 the use of the sheltered market process.

16 (e) To devise procedures for the waiver of the
17 participation goals in appropriate circumstances.

18 (f) To accept donations and, with the approval of the
19 Council or the Director of Central Management Services,
20 grants related to the purposes of this Act; to conduct
21 seminars related to the purpose of this Act and to charge
22 reasonable registration fees; and to sell directories,
23 vendor lists and other such information to interested
24 parties, except that forms necessary to become eligible for
25 the program shall be provided free of charge to a business
26 or individual applying for the program.

1 (Source: P.A. 94-793, eff. 5-19-06.)

2 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

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

4 Sec. 6. Agency compliance plans. Each State agency and
5 public institution of higher education ~~State university~~ under
6 the jurisdiction of this Act shall file with the Council an
7 annual compliance plan which shall outline the goals of the
8 State agency or public institution of higher education ~~State~~
9 ~~university~~ for contracting with businesses owned by
10 minorities, females, and persons with disabilities for the then
11 current fiscal year, the manner in which the agency intends to
12 reach these goals and a timetable for reaching these goals. The
13 Council shall review and approve the plan of each State agency
14 and public institution of higher education ~~State university~~ and
15 may reject any plan that does not comply with this Act or any
16 rules or regulations promulgated pursuant to this Act.

17 (a) The compliance plan shall also include, but not be
18 limited to, (1) a policy statement, signed by the State agency
19 or public institution of higher education ~~State university~~
20 head, expressing a commitment to encourage the use of
21 businesses owned by minorities, females, and persons with
22 disabilities, (2) the designation of the liaison officer
23 provided for in Section 5 of this Act, (3) procedures to
24 distribute to potential contractors and vendors the list of all
25 businesses legitimately classified as businesses owned by

1 minorities, females, and persons with disabilities and so
2 certified under this Act, (4) procedures to set separate
3 contract goals on specific prime contracts and purchase orders
4 with subcontracting possibilities based upon the type of work
5 or services and subcontractor availability, (5) procedures to
6 assure that contractors and vendors make good faith efforts to
7 meet contract goals, (6) procedures for contract goal
8 exemption, modification and waiver, and (7) the delineation of
9 separate contract goals for businesses owned by minorities,
10 females, and persons with disabilities.

11 (b) Approval of the compliance plans shall include such
12 delegation of responsibilities to the requesting State agency
13 or public institution of higher education ~~State university~~ as
14 the Council deems necessary and appropriate to fulfill the
15 purpose of this Act. Such responsibilities may include, but
16 need not be limited to those outlined in subsections (1), (2)
17 and (3) of Section 7 and paragraph (a) of Section 8.

18 (c) Each State agency and public institution of higher
19 education ~~State university~~ under the jurisdiction of this Act
20 shall file with the Council an annual report of its utilization
21 of businesses owned by minorities, females, and persons with
22 disabilities during the preceding fiscal year including lapse
23 period spending and a mid-fiscal year report of its utilization
24 to date for the then current fiscal year. The reports shall
25 include a self-evaluation of the efforts of the State agency or
26 public institution of higher education ~~State university~~ to meet

1 its goals under the Act.

2 (d) Notwithstanding any provisions to the contrary in this
3 Act, any State agency or public institution of higher education
4 ~~State university~~ which administers a construction program, for
5 which federal law or regulations establish standards and
6 procedures for the utilization of minority, disadvantaged, and
7 female-owned business, shall implement a disadvantaged
8 business enterprise program to include minority, disadvantaged
9 and female-owned businesses, using the federal standards and
10 procedures for the establishment of goals and utilization
11 procedures for the State-funded, as well as the federally
12 assisted, portions of the program. In such cases, these goals
13 shall not exceed those established pursuant to the relevant
14 federal statutes or regulations. Notwithstanding the
15 provisions of Section 8b, the Illinois Department of
16 Transportation is authorized to establish sheltered markets
17 for the State-funded portions of the program consistent with
18 federal law and regulations. Additionally, a compliance plan
19 which is filed by such State agency or public institution of
20 higher education ~~State university~~ pursuant to this Act, which
21 incorporates equivalent terms and conditions of its
22 federally-approved compliance plan, shall be deemed approved
23 under this Act.

24 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

25 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

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

2 Sec. 6a. Notice of contracts to Council. Except in case of
3 emergency as defined in the Illinois Purchasing Act, or as
4 authorized by rule promulgated by the Department of Central
5 Management Services, each agency and public institution of
6 higher education ~~State university~~ under the jurisdiction of
7 this Act shall notify the Secretary of the Council of proposed
8 contracts for professional and artistic services and provide
9 the information in the form and detail as required by rule
10 promulgated by the Department of Central Management Services.
11 Notification may be made through direct written communication
12 to the Secretary to be received at least 14 days before
13 execution of the contract (or the solicitation response date,
14 if applicable) or by advertising in the official State
15 newspaper for at least 3 days, the last of which must be at
16 least 10 days after the first publication. The agency or public
17 institution of higher education ~~university~~ must consider any
18 vendor referred by the Secretary before execution of the
19 contract. The provisions of this Section shall not apply to any
20 State agency or public institution of higher education ~~State~~
21 ~~university~~ that has awarded contracts for professional and
22 artistic services to businesses owned by minorities, females,
23 and persons with disabilities totalling in the aggregate
24 \$5,000,000 or more during the preceding fiscal year.

25 (Source: P.A. 87-628; 88-377; 88-597, eff. 8-28-94.)

1 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

3 Sec. 7. Exemptions and waivers; publication of data.

4 (1) Individual contract exemptions. The Council, on its
5 public institution of higher education own initiative or at the
6 request of the affected agency, public institutions of higher
7 education university, or recipient of a grant or loan of State
8 funds of \$250,000 or more complying with Section 45 of the
9 State Finance Act, may permit an individual contract or
10 contract package, (related contracts being bid or awarded
11 simultaneously for the same project or improvements) be made
12 wholly or partially exempt from State contracting goals for
13 businesses owned by minorities, females, and persons with
14 disabilities prior to the advertisement for bids or
15 solicitation of proposals whenever there has been a
16 determination, reduced to writing and based on the best
17 information available at the time of the determination, that
18 there is an insufficient number of businesses owned by
19 minorities, females, and persons with disabilities to ensure
20 adequate competition and an expectation of reasonable prices on
21 bids or proposals solicited for the individual contract or
22 contract package in question.

23 (2) Class exemptions.

24 (a) Creation. The Council, on its own initiative or at
25 the request of the affected agency or public institution of
26 higher education university, may permit an entire class of

1 contracts be made exempt from State contracting goals for
2 businesses owned by minorities, females, and persons with
3 disabilities whenever there has been a determination,
4 reduced to writing and based on the best information
5 available at the time of the determination, that there is
6 an insufficient number of qualified businesses owned by
7 minorities, females, and persons with disabilities to
8 ensure adequate competition and an expectation of
9 reasonable prices on bids or proposals within that class.

10 (b) Limitation. Any such class exemption shall not be
11 permitted for a period of more than one year at a time.

12 (3) Waivers. Where a particular contract requires a
13 contractor to meet a goal established pursuant to this Act, the
14 contractor shall have the right to request a waiver from such
15 requirements. The Council shall grant the waiver where the
16 contractor demonstrates that there has been made a good faith
17 effort to comply with the goals for participation by businesses
18 owned by minorities, females, and persons with disabilities.

19 (4) Conflict with other laws. In the event that any State
20 contract, which otherwise would be subject to the provisions of
21 this Act, is or becomes subject to federal laws or regulations
22 which conflict with the provisions of this Act or actions of
23 the State taken pursuant hereto, the provisions of the federal
24 laws or regulations shall apply and the contract shall be
25 interpreted and enforced accordingly.

26 (5) Each chief procurement officer, as defined in the

1 Illinois Procurement Code, shall maintain on his or her
2 official Internet website a database of waivers granted under
3 this Section with respect to contracts under his or her
4 jurisdiction. The database, which shall be updated
5 periodically as necessary, shall be searchable by contractor
6 name and by contracting State agency.

7 Each public notice required by law of the award of a State
8 contract shall include for each bid submitted for that contract
9 the following: (i) the bidder's name, (ii) the bid amount,
10 (iii) the bid's percentage of disadvantaged business
11 utilization plan, and (iv) the bid's percentage of business
12 enterprise program utilization plan.

13 (Source: P.A. 96-1064, eff. 7-16-10.)

14 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

16 Sec. 8. Enforcement. The Council shall make such findings,
17 recommendations and proposals to the Governor as are necessary
18 and appropriate to enforce this Act. If, as a result of its
19 monitoring activities, the Council determines that its goals
20 and policies are not being met by any State agency or public
21 institution of higher education ~~State university~~, the Council
22 may recommend any or all of the following actions:

23 (a) Establish enforcement procedures whereby the Council
24 may recommend to the appropriate State agency, public
25 institution of higher education ~~State university~~, or law

1 enforcement officer that legal or administrative remedies be
2 initiated for violations of contract provisions or rules issued
3 hereunder or by a contracting State agency or public
4 institution of higher education ~~State university~~. State
5 agencies and public institutions of higher education ~~State~~
6 ~~universities~~ shall be authorized to adopt remedies for such
7 violations which shall include (1) termination of the contract
8 involved, (2) prohibition of participation of the respondents
9 in public contracts for a period not to exceed one year, (3)
10 imposition of a penalty not to exceed any profit acquired as a
11 result of violation, or (4) any combination thereof.

12 (b) If the Council concludes that a compliance plan
13 submitted under Section 6 is unlikely to produce the
14 participation goals for businesses owned by minorities,
15 females, and persons with disabilities within the then current
16 fiscal year, the Council may recommend that the State agency or
17 public institution of higher education ~~State university~~ revise
18 its plan to provide additional opportunities for participation
19 by businesses owned by minorities, females, and persons with
20 disabilities. Such recommended revisions may include, but
21 shall not be limited to, the following:

22 (i) assurances of stronger and better focused
23 solicitation efforts to obtain more businesses owned by
24 minorities, females, and persons with disabilities as
25 potential sources of supply;

26 (ii) division of job or project requirements, when

1 economically feasible, into tasks or quantities to permit
2 participation of businesses owned by minorities, females,
3 and persons with disabilities;

4 (iii) elimination of extended experience or
5 capitalization requirements, when programmatically
6 feasible, to permit participation of businesses owned by
7 minorities, females, and persons with disabilities;

8 (iv) identification of specific proposed contracts as
9 particularly attractive or appropriate for participation
10 by businesses owned by minorities, females, and persons
11 with disabilities, such identification to result from and
12 be coupled with the efforts of subparagraphs (i) through
13 (iii);

14 (v) implementation of those regulations established
15 for the use of the sheltered market process.

16 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

17 (30 ILCS 575/8f)

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

19 Sec. 8f. Annual report. The Council shall file no later
20 than March 1 of each year, an annual report that shall detail
21 the level of achievement toward the goals specified in this Act
22 over the 3 most recent fiscal years. The annual report shall
23 include, but need not be limited to the following:

24 (1) a summary detailing expenditures ~~State~~
25 ~~appropriations~~ subject to the goals, the actual goals

1 specified, and the goals attained by each State agency and
2 public institution of higher education ~~State university~~;

3 (2) a summary of the number of contracts awarded and
4 the average contract amount by each State agency and public
5 institution of higher education ~~State university~~;

6 (3) an analysis of the level of overall goal
7 achievement concerning purchases from minority businesses,
8 female-owned businesses, and businesses owned by persons
9 with disabilities;

10 (4) an analysis of the number of businesses owned by
11 minorities, females, and persons with disabilities that
12 are certified under the program as well as the number of
13 those businesses that received State procurement
14 contracts; and

15 (5) a summary of the number of contracts awarded to
16 businesses with annual gross sales of less than \$1,000,000;
17 of \$1,000,000 or more, but less than \$5,000,000; of
18 \$5,000,000 or more, but less than \$10,000,000; and of
19 \$10,000,000 or more.

20 (Source: P.A. 88-597, eff. 8-28-94.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law."