

SB1494



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1494

Introduced 2/20/2015, by Sen. Thomas Cullerton

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Procurement Code. Provides that 3% of the total dollar amount of State contracts shall be established as a goal to be awarded to qualified service-disabled veteran-owned small businesses.

LRB099 10374 SXM 30601 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 Illinois Procurement Code is amended by
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. 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 veterans and that
11 qualified service-disabled veteran-owned small businesses
12 (referred to as SDVOSB) and veteran-owned small businesses
13 (referred to as VOSB) participate in the State's procurement
14 process as both prime contractors and subcontractors. Not less
15 than 3% of the total dollar amount of State contracts, as
16 defined by the Director of Central Management Services, shall
17 be established as a goal to be awarded to SDVOSB and VOSB. An
18 additional 3% of the total dollar amount of State contracts
19 shall be established as a goal to be awarded to SDVOSB. That
20 portion of a contract under which the contractor subcontracts
21 with a SDVOSB or VOSB may be counted toward the goal of this
22 subsection. The Department of Central Management Services
23 shall adopt rules to implement compliance with this subsection

1 by all State agencies.

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

8 (1) The total number of VOSB, and the number of SDVOSB,
9 who submitted bids for contracts under this Code.

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

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

26 (d) Governor's recommendations. To assist the State in

1 reaching the goal described in subsection (a), the Governor
2 shall recommend to the General Assembly changes in programs to
3 assist businesses owned by qualified veterans.

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

5 "Armed forces of the United States" means the United States
6 Army, Navy, Air Force, Marine Corps, Coast Guard, or service in
7 active duty as defined under 38 U.S.C. Section 101. Service in
8 the Merchant Marine that constitutes active duty under Section
9 401 of federal Public Act 95-202 shall also be considered
10 service in the armed forces for purposes of this Section.

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

25 "Control" means the exclusive, ultimate, majority, or sole
26 control of the business, including but not limited to capital

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

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

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

1 Management Services.

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

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

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

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

25 "Time of hostilities with a foreign country" means any
26 period of time in the past, present, or future during which a

1 declaration of war by the United States Congress has been or is
2 in effect or during which an emergency condition has been or is
3 in effect that is recognized by the issuance of a Presidential
4 proclamation or a Presidential executive order and in which the
5 armed forces expeditionary medal or other campaign service
6 medals are awarded according to Presidential executive order.

7 "Veteran" means a person who (i) has been a member of the
8 armed forces of the United States or, while a citizen of the
9 United States, was a member of the armed forces of allies of
10 the United States in time of hostilities with a foreign country
11 and (ii) has served under one or more of the following
12 conditions: (a) the veteran served a total of at least 6
13 months; (b) the veteran served for the duration of hostilities
14 regardless of the length of the engagement; (c) the veteran was
15 discharged on the basis of hardship; or (d) the veteran was
16 released from active duty because of a service connected
17 disability and was discharged under honorable conditions.

18 (f) Certification program. The Illinois Department of
19 Veterans' Affairs and the Department of Central Management
20 Services shall work together to devise a certification
21 procedure to assure that businesses taking advantage of this
22 Section are legitimately classified as qualified
23 service-disabled veteran-owned small businesses or qualified
24 veteran-owned small businesses.

25 (g) Penalties.

26 (1) Administrative penalties. The chief procurement

1 officers appointed pursuant to Section 10-20 shall suspend
2 any person who commits a violation of Section 17-10.3 or
3 subsection (d) of Section 33E-6 of the Criminal Code of
4 2012 relating to this Section from bidding on, or
5 participating as a contractor, subcontractor, or supplier
6 in, any State contract or project for a period of not less
7 than 3 years, and, if the person is certified as a
8 service-disabled veteran-owned small business or a
9 veteran-owned small business, then the Department shall
10 revoke the business's certification for a period of not
11 less than 3 years. An additional or subsequent violation
12 shall extend the periods of suspension and revocation for a
13 period of not less than 5 years. The suspension and
14 revocation shall apply to the principals of the business
15 and any subsequent business formed or financed by, or
16 affiliated with, those principals.

17 (2) Reports of violations. Each State agency shall
18 report any alleged violation of Section 17-10.3 or
19 subsection (d) of Section 33E-6 of the Criminal Code of
20 2012 relating to this Section to the chief procurement
21 officers appointed pursuant to Section 10-20. The chief
22 procurement officers appointed pursuant to Section 10-20
23 shall subsequently report all such alleged violations to
24 the Attorney General, who shall determine whether to bring
25 a civil action against any person for the violation.

26 (3) List of suspended persons. The chief procurement

1 officers appointed pursuant to Section 10-20 shall monitor
2 the status of all reported violations of Section 17-10.3 or
3 subsection (d) of Section 33E-6 of the Criminal Code of
4 1961 or the Criminal Code of 2012 relating to this Section
5 and shall maintain and make available to all State agencies
6 a central listing of all persons that committed violations
7 resulting in suspension.

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

13 (5) Duty to check list. Each State agency shall check
14 the central listing provided by the chief procurement
15 officers appointed pursuant to Section 10-20 under
16 paragraph (3) of this subsection to verify that a person
17 being awarded a contract by that State agency, or to be
18 used as a subcontractor or supplier on a contract being
19 awarded by that State agency, is not under suspension
20 pursuant to paragraph (1) of this subsection.

21 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;
22 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)