

**SB1666**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB1666**

Introduced 2/20/2015, by Sen. Christine Radogno

**SYNOPSIS AS INTRODUCED:**

30 ILCS 500/45-57

Amends the Procurement Code. Provides that no less than 6% (now, 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 and veteran-owned small businesses, with each receiving 3%. Effective immediately.

LRB099 10344 SXM 30571 b

FISCAL NOTE ACT  
MAY APPLY

**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 6% ~~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 with 3% to be awarded to SDVOSB and 3%  
18 to be awarded to VOSB. That portion of a contract under which  
19 the contractor subcontracts with a SDVOSB or VOSB may be  
20 counted toward the goal of this subsection. The Department of  
21 Central Management Services shall adopt rules to implement  
22 compliance with this subsection by all State agencies.

23 (b) Fiscal year reports. By each September 1, each chief

1 procurement officer shall report to the Department of Central  
2 Management Services on all of the following for the immediately  
3 preceding fiscal year, and by each March 1 the Department of  
4 Central Management Services shall compile and report that  
5 information to the General Assembly:

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

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

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

24 (d) Governor's recommendations. To assist the State in  
25 reaching the goal described in subsection (a), the Governor  
26 shall recommend to the General Assembly changes in programs to

1 assist businesses owned by qualified veterans.

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

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

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

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

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

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

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

26 "Qualified veteran-owned small business" or "VOSB" means a

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

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

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

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

23 "Time of hostilities with a foreign country" means any  
24 period of time in the past, present, or future during which a  
25 declaration of war by the United States Congress has been or is  
26 in effect or during which an emergency condition has been or is

1 in effect that is recognized by the issuance of a Presidential  
2 proclamation or a Presidential executive order and in which the  
3 armed forces expeditionary medal or other campaign service  
4 medals are awarded according to Presidential executive order.

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

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

23 (g) Penalties.

24 (1) Administrative penalties. The chief procurement  
25 officers appointed pursuant to Section 10-20 shall suspend  
26 any person who commits a violation of Section 17-10.3 or

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

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

24 (3) List of suspended persons. The chief procurement  
25 officers appointed pursuant to Section 10-20 shall monitor  
26 the status of all reported violations of Section 17-10.3 or



1 subsection (d) of Section 33E-6 of the Criminal Code of  
2 1961 or the Criminal Code of 2012 relating to this Section  
3 and shall maintain and make available to all State agencies  
4 a central listing of all persons that committed violations  
5 resulting in suspension.

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

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

19 (Source: P.A. 97-260, eff. 8-5-11; 97-1150, eff. 1-25-13;  
20 98-307, eff. 8-12-13; 98-1076, eff. 1-1-15.)

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