



Sen. Toi W. Hutchinson

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1 AMENDMENT TO SENATE BILL 405

2 AMENDMENT NO. _____. Amend Senate Bill 405 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 adding Section 50-80 as follows:

6 (30 ILCS 500/50-80 new)

7 Sec. 50-80. Sexual harassment policy. Each bidder who
8 submits a bid or offer for a State contract under this Code
9 shall have a sexual harassment policy in accordance with
10 paragraph (4) of subsection (A) of Section 2-105 of the
11 Illinois Human Rights Act. A copy of the policy shall be
12 provided to the State agency entering into the contract upon
13 request.

14 Section 10. The Economic Development for a Growing Economy
15 Tax Credit Act is amended by changing Section 5-20 and by

1 adding Section 5-58 as follows:

2 (35 ILCS 10/5-20)

3 Sec. 5-20. Application for a project to create and retain
4 new jobs.

5 (a) Any Taxpayer proposing a project located or planned to
6 be located in Illinois may request consideration for
7 designation of its project, by formal written letter of request
8 or by formal application to the Department, in which the
9 Applicant states its intent to make at least a specified level
10 of investment and intends to hire or retain a specified number
11 of full-time employees at a designated location in Illinois. As
12 circumstances require, the Department may require a formal
13 application from an Applicant and a formal letter of request
14 for assistance.

15 (b) In order to qualify for Credits under this Act, an
16 Applicant's project must:

17 (1) if the Applicant has more than 100 employees,
18 involve an investment of at least \$2,500,000 in capital
19 improvements to be placed in service within the State as a
20 direct result of the project; if the Applicant has 100 or
21 fewer employees, then there is no capital investment
22 requirement; ~~and~~

23 (1.5) if the Applicant has more than 100 employees,
24 employ a number of new employees in the State equal to the
25 lesser of (A) 10% of the number of full-time employees

1 employed by the applicant world-wide on the date the
2 application is filed with the Department or (B) 50 New
3 Employees; and, if the Applicant has 100 or fewer
4 employees, employ a number of new employees in the State
5 equal to the lesser of (A) 5% of the number of full-time
6 employees employed by the applicant world-wide on the date
7 the application is filed with the Department or (B) 50 New
8 Employees; and

9 (2) (blank);

10 (3) (blank); ~~and~~

11 (4) include an annual sexual harassment policy report
12 as provided under Section 5-58.

13 (c) After receipt of an application, the Department may
14 enter into an Agreement with the Applicant if the application
15 is accepted in accordance with Section 5-25.

16 (Source: P.A. 100-511, eff. 9-18-17.)

17 (35 ILCS 10/5-58 new)

18 Sec. 5-58. Sexual harassment policy report. Each taxpayer
19 claiming a credit under this Act shall, no later than April 15
20 of each taxable year for which the taxpayer claims a credit
21 under this Act, submit to the Department of Commerce and
22 Economic Opportunity a report detailing that taxpayer's sexual
23 harassment policy, which contains, at a minimum, the following
24 information: (i) the illegality of sexual harassment; (ii) the
25 definition of sexual harassment under State law; (iii) a

1 description of sexual harassment, utilizing examples; (iv) the
2 vendor's internal complaint process, including penalties; (v)
3 the legal recourse, and investigative and complaint processes
4 available through the Department; (vi) directions on how to
5 contact the Department; and (vii) protection against
6 retaliation as provided by Section 6-101 of the Illinois Human
7 Rights Act. A copy of the policy shall be provided to the
8 Department upon request. The reports required under this
9 Section shall be submitted in a form and manner determined by
10 the Department of Commerce and Economic Opportunity.

11 Section 15. The Illinois Human Rights Act is amended by
12 changing Section 2-105 as follows:

13 (775 ILCS 5/2-105) (from Ch. 68, par. 2-105)

14 Sec. 2-105. Equal Employment Opportunities; Affirmative
15 Action.

16 (A) Public Contracts. Every party to a public contract and
17 every eligible bidder shall:

18 (1) Refrain from unlawful discrimination and
19 discrimination based on citizenship status in employment
20 and undertake affirmative action to assure equality of
21 employment opportunity and eliminate the effects of past
22 discrimination;

23 (2) Comply with the procedures and requirements of the
24 Department's regulations concerning equal employment

1 opportunities and affirmative action;

2 (3) Provide such information, with respect to its
3 employees and applicants for employment, and assistance as
4 the Department may reasonably request;

5 (4) Have written sexual harassment policies that shall
6 include, at a minimum, the following information: (i) the
7 illegality of sexual harassment; (ii) the definition of
8 sexual harassment under State law; (iii) a description of
9 sexual harassment, utilizing examples; (iv) the vendor's
10 internal complaint process including penalties; (v) the
11 legal recourse, investigative and complaint process
12 available through the Department and the Commission; (vi)
13 directions on how to contact the Department and Commission;
14 and (vii) protection against retaliation as provided by
15 Section 6-101 of this Act. A copy of the policies shall be
16 provided to the Department upon request. Additionally,
17 each bidder who submits a bid or offer for a State contract
18 under the Illinois Procurement Code shall have a written
19 copy of the bidder's sexual harassment policy as required
20 under this paragraph (4). A copy of the policy shall be
21 provided to the State agency entering into the contract
22 upon request.

23 (B) State Agencies. Every State executive department,
24 State agency, board, commission, and instrumentality shall:

25 (1) Comply with the procedures and requirements of the
26 Department's regulations concerning equal employment

1 opportunities and affirmative action;

2 (2) Provide such information and assistance as the
3 Department may request.

4 (3) Establish, maintain, and carry out a continuing
5 affirmative action plan consistent with this Act and the
6 regulations of the Department designed to promote equal
7 opportunity for all State residents in every aspect of
8 agency personnel policy and practice. For purposes of these
9 affirmative action plans, the race and national origin
10 categories to be included in the plans are: American Indian
11 or Alaska Native, Asian, Black or African American,
12 Hispanic or Latino, Native Hawaiian or Other Pacific
13 Islander.

14 This plan shall include a current detailed status
15 report:

16 (a) indicating, by each position in State service,
17 the number, percentage, and average salary of
18 individuals employed by race, national origin, sex and
19 disability, and any other category that the Department
20 may require by rule;

21 (b) identifying all positions in which the
22 percentage of the people employed by race, national
23 origin, sex and disability, and any other category that
24 the Department may require by rule, is less than
25 four-fifths of the percentage of each of those
26 components in the State work force;

1 (c) specifying the goals and methods for
2 increasing the percentage by race, national origin,
3 sex and disability, and any other category that the
4 Department may require by rule, in State positions;

5 (d) indicating progress and problems toward
6 meeting equal employment opportunity goals, including,
7 if applicable, but not limited to, Department of
8 Central Management Services recruitment efforts,
9 publicity, promotions, and use of options designating
10 positions by linguistic abilities;

11 (e) establishing a numerical hiring goal for the
12 employment of qualified persons with disabilities in
13 the agency as a whole, to be based on the proportion of
14 people with work disabilities in the Illinois labor
15 force as reflected in the most recent employment data
16 made available by the United States Census Bureau.

17 (4) If the agency has 1000 or more employees, appoint a
18 full-time Equal Employment Opportunity officer, subject to
19 the Department's approval, whose duties shall include:

20 (a) Advising the head of the particular State
21 agency with respect to the preparation of equal
22 employment opportunity programs, procedures,
23 regulations, reports, and the agency's affirmative
24 action plan.

25 (b) Evaluating in writing each fiscal year the
26 sufficiency of the total agency program for equal

1 employment opportunity and reporting thereon to the
2 head of the agency with recommendations as to any
3 improvement or correction in recruiting, hiring or
4 promotion needed, including remedial or disciplinary
5 action with respect to managerial or supervisory
6 employees who have failed to cooperate fully or who are
7 in violation of the program.

8 (c) Making changes in recruitment, training and
9 promotion programs and in hiring and promotion
10 procedures designed to eliminate discriminatory
11 practices when authorized.

12 (d) Evaluating tests, employment policies,
13 practices and qualifications and reporting to the head
14 of the agency and to the Department any policies,
15 practices and qualifications that have unequal impact
16 by race, national origin as required by Department
17 rule, sex or disability or any other category that the
18 Department may require by rule, and to assist in the
19 recruitment of people in underrepresented
20 classifications. This function shall be performed in
21 cooperation with the State Department of Central
22 Management Services.

23 (e) Making any aggrieved employee or applicant for
24 employment aware of his or her remedies under this Act.

25 In any meeting, investigation, negotiation,
26 conference, or other proceeding between a State

1 employee and an Equal Employment Opportunity officer,
2 a State employee (1) who is not covered by a collective
3 bargaining agreement and (2) who is the complaining
4 party or the subject of such proceeding may be
5 accompanied, advised and represented by (1) an
6 attorney licensed to practice law in the State of
7 Illinois or (2) a representative of an employee
8 organization whose membership is composed of employees
9 of the State and of which the employee is a member. A
10 representative of an employee, other than an attorney,
11 may observe but may not actively participate, or advise
12 the State employee during the course of such meeting,
13 investigation, negotiation, conference or other
14 proceeding. Nothing in this Section shall be construed
15 to permit any person who is not licensed to practice
16 law in Illinois to deliver any legal services or
17 otherwise engage in any activities that would
18 constitute the unauthorized practice of law. Any
19 representative of an employee who is present with the
20 consent of the employee, shall not, during or after
21 termination of the relationship permitted by this
22 Section with the State employee, use or reveal any
23 information obtained during the course of the meeting,
24 investigation, negotiation, conference or other
25 proceeding without the consent of the complaining
26 party and any State employee who is the subject of the

1 proceeding and pursuant to rules and regulations
2 governing confidentiality of such information as
3 promulgated by the appropriate State agency.
4 Intentional or reckless disclosure of information in
5 violation of these confidentiality requirements shall
6 constitute a Class B misdemeanor.

7 (5) Establish, maintain and carry out a continuing
8 sexual harassment program that shall include the
9 following:

10 (a) Develop a written sexual harassment policy
11 that includes at a minimum the following information:
12 (i) the illegality of sexual harassment; (ii) the
13 definition of sexual harassment under State law; (iii)
14 a description of sexual harassment, utilizing
15 examples; (iv) the agency's internal complaint process
16 including penalties; (v) the legal recourse,
17 investigative and complaint process available through
18 the Department and the Commission; (vi) directions on
19 how to contact the Department and Commission; and (vii)
20 protection against retaliation as provided by Section
21 6-101 of this Act. The policy shall be reviewed
22 annually.

23 (b) Post in a prominent and accessible location and
24 distribute in a manner to assure notice to all agency
25 employees without exception the agency's sexual
26 harassment policy. Such documents may meet, but shall

1 not exceed, the 6th grade literacy level. Distribution
2 shall be effectuated within 90 days of the effective
3 date of this amendatory Act of 1992 and shall occur
4 annually thereafter.

5 (c) Provide training on sexual harassment
6 prevention and the agency's sexual harassment policy
7 as a component of all ongoing or new employee training
8 programs.

9 (6) Notify the Department 30 days before effecting any
10 layoff. Once notice is given, the following shall occur:

11 (a) No layoff may be effective earlier than 10
12 working days after notice to the Department, unless an
13 emergency layoff situation exists.

14 (b) The State executive department, State agency,
15 board, commission, or instrumentality in which the
16 layoffs are to occur must notify each employee targeted
17 for layoff, the employee's union representative (if
18 applicable), and the State Dislocated Worker Unit at
19 the Department of Commerce and Economic Opportunity.

20 (c) The State executive department, State agency,
21 board, commission, or instrumentality in which the
22 layoffs are to occur must conform to applicable
23 collective bargaining agreements.

24 (d) The State executive department, State agency,
25 board, commission, or instrumentality in which the
26 layoffs are to occur should notify each employee

1 targeted for layoff that transitional assistance may
2 be available to him or her under the Economic
3 Dislocation and Worker Adjustment Assistance Act
4 administered by the Department of Commerce and
5 Economic Opportunity. Failure to give such notice
6 shall not invalidate the layoff or postpone its
7 effective date.

8 As used in this subsection (B), "disability" shall be
9 defined in rules promulgated under the Illinois Administrative
10 Procedure Act.

11 (C) Civil Rights Violations. It is a civil rights violation
12 for any public contractor or eligible bidder to:

13 (1) fail to comply with the public contractor's or
14 eligible bidder's duty to refrain from unlawful
15 discrimination and discrimination based on citizenship
16 status in employment under subsection (A)(1) of this
17 Section; or

18 (2) fail to comply with the public contractor's or
19 eligible bidder's duties of affirmative action under
20 subsection (A) of this Section, provided however, that the
21 Department has notified the public contractor or eligible
22 bidder in writing by certified mail that the public
23 contractor or eligible bidder may not be in compliance with
24 affirmative action requirements of subsection (A). A
25 minimum of 60 days to comply with the requirements shall be
26 afforded to the public contractor or eligible bidder before

1 the Department may issue formal notice of non-compliance.

2 (D) As used in this Section:

3 (1) "American Indian or Alaska Native" means a person
4 having origins in any of the original peoples of North and
5 South America, including Central America, and who
6 maintains tribal affiliation or community attachment.

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

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

16 (4) "Hispanic or Latino" means a person of Cuban,
17 Mexican, Puerto Rican, South or Central American, or other
18 Spanish culture or origin, regardless of race.

19 (5) "Native Hawaiian or Other Pacific Islander" means a
20 person having origins in any of the original peoples of
21 Hawaii, Guam, Samoa, or other Pacific Islands.

22 (Source: P.A. 99-933, eff. 1-27-17.)".