



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4865

Introduced 2/18/2020, by Rep. Kambium Buckner - Jehan Gordon-Booth - Mary E. Flowers, La Shawn K. Ford and Camille Y. Lilly

SYNOPSIS AS INTRODUCED:

5 ILCS 315/9.5 new	
30 ILCS 575/2	
30 ILCS 575/4	from Ch. 127, par. 132.604
30 ILCS 575/4f	
30 ILCS 575/6	from Ch. 127, par. 132.606
30 ILCS 575/7	from Ch. 127, par. 132.607
30 ILCS 575/8f	

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that it shall be established as an aspirational goal to award State contracts to businesses owned by Descendants of American Slavery in a total dollar amount that is proportionate to the percentage of such persons who are residents of this State. Provides further requirements concerning the awarding of State contracts to businesses owned by Descendants of American Slavery. Requires reporting concerning the disparity between the representation of Descendants of American Slavery in State contracts compared to the percentage of such persons who are residents of this State. Specifies further requirements concerning waiver requests under the Act. Amends the Illinois Public Labor Relations Act. Requires labor organizations to establish and maintain membership that includes Descendants of American Slavery that is proportionate to the percentage of such persons who are residents of this State, and report those actions. Defines the term "minority person" to include a Descendant of American Slavery. Makes conforming changes.

LRB101 19316 RJF 68785 b

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 Public Labor Relations Act is
5 amended by adding Section 9.5 as follows:

6 (5 ILCS 315/9.5 new)

7 Sec. 9.5. Labor organization diverse membership. Any labor
8 organization that is selected as the exclusive representative
9 of the employees of a bargaining unit and subject to the
10 provisions of this Act shall take actions to establish and
11 maintain membership that includes Descendants of American
12 Slavery that is proportionate to the percentage of such persons
13 who are residents of this State, and shall report those actions
14 to the Business Enterprise Council for Minorities, Women, and
15 Persons with Disabilities. For the purposes of this Section,
16 "Descendants of American Slavery" means a person as described
17 within the meaning of "minority person" under Section 2 of the
18 Business Enterprise for Minorities, Women, and Persons with
19 Disabilities Act.

20 Section 10. The Business Enterprise for Minorities, Women,
21 and Persons with Disabilities Act is amended by changing
22 Sections 2, 4, 4f, 6, 7, and 8f as follows:

1 (30 ILCS 575/2)

2 (Section scheduled to be repealed on June 30, 2024)

3 Sec. 2. Definitions.

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

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

9 (a) American Indian or Alaska Native (a person
10 having origins in any of the original peoples of North
11 and South America, including Central America, and who
12 maintains tribal affiliation or community attachment).

13 (b) Asian (a person having origins in any of the
14 original peoples of the Far East, Southeast Asia, or
15 the Indian subcontinent, including, but not limited
16 to, Cambodia, China, India, Japan, Korea, Malaysia,
17 Pakistan, the Philippine Islands, Thailand, and
18 Vietnam).

19 (c) Black or African American (a person having
20 origins in any of the black racial groups of Africa).

21 (c-5) Descendant of American Slavery (a person
22 having direct ancestral lineage to victims of slavery
23 in the United States of America).

24 (d) Hispanic or Latino (a person of Cuban, Mexican,
25 Puerto Rican, South or Central American, or other

1 Spanish culture or origin, regardless of race).

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

5 (2) "Woman" shall mean a person who is a citizen or
6 lawful permanent resident of the United States and who is
7 of the female gender.

8 (2.05) "Person with a disability" means a person who is
9 a citizen or lawful resident of the United States and is a
10 person qualifying as a person with a disability under
11 subdivision (2.1) of this subsection (A).

12 (2.1) "Person with a disability" means a person with a
13 severe physical or mental disability that:

14 (a) results from:
15 amputation,
16 arthritis,
17 autism,
18 blindness,
19 burn injury,
20 cancer,
21 cerebral palsy,
22 Crohn's disease,
23 cystic fibrosis,
24 deafness,
25 head injury,
26 heart disease,

1 hemiplegia,
2 hemophilia,
3 respiratory or pulmonary dysfunction,
4 an intellectual disability,
5 mental illness,
6 multiple sclerosis,
7 muscular dystrophy,
8 musculoskeletal disorders,
9 neurological disorders, including stroke and
10 epilepsy,
11 paraplegia,
12 quadriplegia and other spinal cord conditions,
13 sickle cell anemia,
14 ulcerative colitis,
15 specific learning disabilities, or
16 end stage renal failure disease; and
17 (b) substantially limits one or more of the
18 person's major life activities.

19 Another disability or combination of disabilities may
20 also be considered as a severe disability for the purposes
21 of item (a) of this subdivision (2.1) if it is determined
22 by an evaluation of rehabilitation potential to cause a
23 comparable degree of substantial functional limitation
24 similar to the specific list of disabilities listed in item
25 (a) of this subdivision (2.1).

26 (3) "Minority-owned business" means a business which

1 is at least 51% owned by one or more minority persons, or
2 in the case of a corporation, at least 51% of the stock in
3 which is owned by one or more minority persons; and the
4 management and daily business operations of which are
5 controlled by one or more of the minority individuals who
6 own it.

7 (4) "Women-owned business" means a business which is at
8 least 51% owned by one or more women, or, in the case of a
9 corporation, at least 51% of the stock in which is owned by
10 one or more women; and the management and daily business
11 operations of which are controlled by one or more of the
12 women who own it.

13 (4.1) "Business owned by a person with a disability"
14 means a business that is at least 51% owned by one or more
15 persons with a disability and the management and daily
16 business operations of which are controlled by one or more
17 of the persons with disabilities who own it. A
18 not-for-profit agency for persons with disabilities that
19 is exempt from taxation under Section 501 of the Internal
20 Revenue Code of 1986 is also considered a "business owned
21 by a person with a disability".

22 (4.2) "Council" means the Business Enterprise Council
23 for Minorities, Women, and Persons with Disabilities
24 created under Section 5 of this Act.

25 (5) "State contracts" means all contracts entered into
26 by the State, any agency or department thereof, or any

1 public institution of higher education, including
2 community college districts, regardless of the source of
3 the funds with which the contracts are paid, which are not
4 subject to federal reimbursement. "State contracts" does
5 not include contracts awarded by a retirement system,
6 pension fund, or investment board subject to Section
7 1-109.1 of the Illinois Pension Code. This definition shall
8 control over any existing definition under this Act or
9 applicable administrative rule.

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

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

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

4 (7) "Public institutions of higher education" means
5 the University of Illinois, Southern Illinois University,
6 Chicago State University, Eastern Illinois University,
7 Governors State University, Illinois State University,
8 Northeastern Illinois University, Northern Illinois
9 University, Western Illinois University, the public
10 community colleges of the State, and any other public
11 universities, colleges, and community colleges now or
12 hereafter established or authorized by the General
13 Assembly.

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

24 (9) "Control" means the exclusive or ultimate and sole
25 control of the business including, but not limited to,
26 capital investment and all other financial matters,

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

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

25 (11) "Utilization plan" means a form and additional
26 documentations included in all bids or proposals that

1 demonstrates a vendor's proposed utilization of vendors
2 certified by the Business Enterprise Program to meet the
3 targeted goal. The utilization plan shall demonstrate that
4 the Vendor has either: (1) met the entire contract goal or
5 (2) requested a full or partial waiver and made good faith
6 efforts towards meeting the goal.

7 (12) "Business Enterprise Program" means the Business
8 Enterprise Program of the Department of Central Management
9 Services.

10 (B) When a business is owned at least 51% by any
11 combination of minority persons, women, or persons with
12 disabilities, even though none of the 3 classes alone holds at
13 least a 51% interest, the ownership requirement for purposes of
14 this Act is considered to be met. The certification category
15 for the business is that of the class holding the largest
16 ownership interest in the business. If 2 or more classes have
17 equal ownership interests, the certification category shall be
18 determined by the business.

19 (Source: P.A. 100-391, eff. 8-25-17; 101-601, eff. 1-1-20.)

20 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

21 (Section scheduled to be repealed on June 30, 2024)

22 Sec. 4. Award of State contracts.

23 (a) Except as provided in subsections ~~subsection~~ (b) and
24 (b-5), not less than 20% of the total dollar amount of State
25 contracts, as defined by the Secretary of the Council and

1 approved by the Council, shall be established as an
2 aspirational goal to be awarded to businesses owned by
3 minorities, women, and persons with disabilities; provided,
4 however, that of the total amount of all State contracts
5 awarded to businesses owned by minorities, women, and persons
6 with disabilities pursuant to this Section, contracts
7 representing at least 11% shall be awarded to businesses owned
8 by minorities, contracts representing at least 7% shall be
9 awarded to women-owned businesses, and contracts representing
10 at least 2% shall be awarded to businesses owned by persons
11 with disabilities.

12 The above percentage relates to the total dollar amount of
13 State contracts during each State fiscal year, calculated by
14 examining independently each type of contract for each agency
15 or public institutions of higher education which lets such
16 contracts. Only that percentage of arrangements which
17 represents the participation of businesses owned by
18 minorities, women, and persons with disabilities on such
19 contracts shall be included. State contracts subject to the
20 requirements of this Act shall include the requirement that
21 only expenditures to businesses owned by minorities, women, and
22 persons with disabilities that perform a commercially useful
23 function may be counted toward the goals set forth by this Act.
24 Contracts shall include a definition of "commercially useful
25 function" that is consistent with 49 CFR 26.55(c).

26 (b) Except as provided in subsection (b-5), not ~~Not~~ less

1 than 20% of the total dollar amount of State construction
2 contracts is established as an aspirational goal to be awarded
3 to businesses owned by minorities, women, and persons with
4 disabilities; provided that, contracts representing at least
5 11% of the total dollar amount of State construction contracts
6 shall be awarded to businesses owned by minorities; contracts
7 representing at least 7% of the total dollar amount of State
8 construction contracts shall be awarded to women-owned
9 businesses; and contracts representing at least 2% of the total
10 dollar amount of State construction contracts shall be awarded
11 to businesses owned by persons with disabilities.

12 (b-5) Notwithstanding the provisions of subsections (a)
13 and (b), it shall be established as an aspirational goal to
14 award State contracts to businesses owned by Descendants of
15 American Slavery in a total dollar amount that is proportionate
16 to the percentage of such persons who are residents of this
17 State.

18 Those who submit bids or proposals for State contracts
19 subject to the provisions of this Act, whose bids or proposals
20 are successful, but that fail to meet the goals set forth in
21 this subsection (b-5), shall be notified of that deficiency and
22 shall be afforded a period not to exceed 10 calendar days from
23 the date of notification to cure that deficiency in the bid or
24 proposal. The deficiency in the bid or proposal may only be
25 cured by contracting with additional subcontractors who are
26 owned by Descendants of American Slavery. Any increase in cost

1 to a contract for the addition of a subcontractor to cure a
2 bid's deficiency shall not affect the bid price, shall not be
3 used in the request for an exemption in this Act, and in no
4 case shall an identified subcontractor with a certification
5 made pursuant to this Act be terminated from the contract
6 without the written consent of the State agency or public
7 institution of higher education entering into the contract.

8 A contractor submitting bids or proposals for State
9 contracts subject to the provisions of this Act shall submit a
10 plan to the Council outlining its efforts to utilize
11 subcontractors owned by Descendants of American Slavery for the
12 purposes of fulfilling the goals and requirements established
13 under this Act.

14 (c) (Blank).

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

26 By December 1, 2020, the Department of Central Management

1 Services shall conduct a new social scientific study that
2 measures the impact of discrimination on minority and women
3 business development in Illinois. By June 1, 2022, the
4 Department shall issue a report of its findings and any
5 recommendations on whether to adjust the goals for minority and
6 women participation established in this Act. Copies of this
7 report and the social scientific study shall be filed with the
8 Governor, the Advisory Board, and the General Assembly. By
9 December 1, 2022, the Department of Central Management Services
10 Business Enterprise Program shall develop a model for social
11 scientific disparity study sourcing for local governmental
12 units to adapt and implement to address regional disparities in
13 public procurement.

14 (e) Except as permitted under this Act or as otherwise
15 mandated by federal law or regulation, those who submit bids or
16 proposals for State contracts subject to the provisions of this
17 Act, whose bids or proposals are successful and include a
18 utilization plan but that fail to meet the goals set forth in
19 subsection (b) of this Section, shall be notified of that
20 deficiency and shall be afforded a period not to exceed 10
21 calendar days from the date of notification to cure that
22 deficiency in the bid or proposal. The deficiency in the bid or
23 proposal may only be cured by contracting with additional
24 subcontractors who are owned by minorities or women. Any
25 increase in cost to a contract for the addition of a
26 subcontractor to cure a bid's deficiency shall not affect the

1 bid price, shall not be used in the request for an exemption in
2 this Act, and in no case shall an identified subcontractor with
3 a certification made pursuant to this Act be terminated from
4 the contract without the written consent of the State agency or
5 public institution of higher education entering into the
6 contract.

7 (f) Non-construction solicitations that include Business
8 Enterprise Program participation goals shall require bidders
9 and offerors to include utilization plans. Utilization plans
10 are due at the time of bid or offer submission. Failure to
11 complete and include a utilization plan, including
12 documentation demonstrating good faith effort when requesting
13 a waiver, shall render the bid or offer non-responsive.

14 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
15 101-601, eff. 1-1-20.)

16 (30 ILCS 575/4f)

17 (Section scheduled to be repealed on June 30, 2024)

18 Sec. 4f. Award of State contracts.

19 (1) It is hereby declared to be the public policy of the
20 State of Illinois to promote and encourage each State agency
21 and public institution of higher education to use businesses
22 owned by minorities, women, and persons with disabilities in
23 the area of goods and services, including, but not limited to,
24 insurance services, investment management services,
25 information technology services, accounting services,

1 architectural and engineering services, and legal services.
2 Furthermore, each State agency and public institution of higher
3 education shall utilize such firms to the greatest extent
4 feasible within the bounds of financial and fiduciary prudence,
5 and take affirmative steps to remove any barriers to the full
6 participation of such firms in the procurement and contracting
7 opportunities afforded.

8 (a) When a State agency or public institution of higher
9 education, other than a community college, awards a
10 contract for insurance services, for each State agency or
11 public institution of higher education, it shall be the
12 aspirational goal to use insurance brokers owned by
13 minorities, women, and persons with disabilities as
14 defined by this Act, for not less than 20% of the total
15 annual premiums or fees; provided that, contracts
16 representing at least 11% of the total annual premiums or
17 fees shall be awarded to businesses owned by minorities;
18 contracts representing at least 7% of the total annual
19 premiums or fees shall be awarded to women-owned
20 businesses; and contracts representing at least 2% of the
21 total annual premiums or fees shall be awarded to
22 businesses owned by persons with disabilities.

23 (a-5) Notwithstanding subsection (a), when a State
24 agency or public institution of higher education awards a
25 contract for insurance services, for each State agency or
26 public institution of higher education, it shall be the

1 aspirational goal to use insurance brokers owned by
2 Descendants of American Slavery in a percentage of the
3 total annual premiums or fees that is proportionate to the
4 percentage of such persons who are residents of this State.

5 (b) When a State agency or public institution of higher
6 education, other than a community college, awards a
7 contract for investment services, for each State agency or
8 public institution of higher education, it shall be the
9 aspirational goal to use emerging investment managers
10 owned by minorities, women, and persons with disabilities
11 as defined by this Act, for not less than 20% of the total
12 funds under management; provided that, contracts
13 representing at least 11% of the total funds under
14 management shall be awarded to businesses owned by
15 minorities; contracts representing at least 7% of the total
16 funds under management shall be awarded to women-owned
17 businesses; and contracts representing at least 2% of the
18 total funds under management shall be awarded to businesses
19 owned by persons with disabilities. Furthermore, it is the
20 aspirational goal that not less than 20% of the direct
21 asset managers of the State funds be minorities, women, and
22 persons with disabilities.

23 (b-5) Notwithstanding subsection (b), when a State
24 agency or public institution of higher education awards a
25 contract for investment services, for each State agency or
26 public institution of higher education, it shall be the

1 aspirational goal to use emerging investment managers
2 owned by Descendants of American Slavery in a percentage of
3 the total funds under management that is proportionate to
4 the percentage of such persons who are residents of this
5 State.

6 (c) When a State agency or public institution of higher
7 education, other than a community college, awards
8 contracts for information technology services, accounting
9 services, architectural and engineering services, and
10 legal services, for each State agency and public
11 institution of higher education, it shall be the
12 aspirational goal to use such firms owned by minorities,
13 women, and persons with disabilities as defined by this Act
14 and lawyers who are minorities, women, and persons with
15 disabilities as defined by this Act, for not less than 20%
16 of the total dollar amount of State contracts; provided
17 that, contracts representing at least 11% of the total
18 dollar amount of State contracts shall be awarded to
19 businesses owned by minorities or minority lawyers;
20 contracts representing at least 7% of the total dollar
21 amount of State contracts shall be awarded to women-owned
22 businesses or women who are lawyers; and contracts
23 representing at least 2% of the total dollar amount of
24 State contracts shall be awarded to businesses owned by
25 persons with disabilities or persons with disabilities who
26 are lawyers.

1 (c-5) Notwithstanding subsection (c), when a State
2 agency or public institution of higher education awards
3 contracts for information technology services, accounting
4 services, architectural and engineering services, and
5 legal services, for each State agency or public institution
6 of higher education, it shall be the aspirational goal to
7 use such firms owned by Descendants of American Slavery and
8 lawyers who are Descendants of American Slavery in a
9 percentage of the total dollar amount of State contracts
10 that is proportionate to the percentage of such persons who
11 are residents of this State.

12 (d) When a community college awards a contract for
13 insurance services, investment services, information
14 technology services, accounting services, architectural
15 and engineering services, and legal services, it shall be
16 the aspirational goal of each community college to use
17 businesses owned by minorities, women, and persons with
18 disabilities as defined in this Act for not less than 20%
19 of the total amount spent on contracts for these services
20 collectively; provided that, contracts representing at
21 least 11% of the total amount spent on contracts for these
22 services shall be awarded to businesses owned by
23 minorities; contracts representing at least 7% of the total
24 amount spent on contracts for these services shall be
25 awarded to women-owned businesses; and contracts
26 representing at least 2% of the total amount spent on

1 contracts for these services shall be awarded to businesses
2 owned by persons with disabilities. When a community
3 college awards contracts for investment services,
4 contracts awarded to investment managers who are not
5 emerging investment managers as defined in this Act shall
6 not be considered businesses owned by minorities, women, or
7 persons with disabilities for the purposes of this Section.

8 (2) As used in this Section:

9 "Accounting services" means the measurement,
10 processing and communication of financial information
11 about economic entities including, but is not limited to,
12 financial accounting, management accounting, auditing,
13 cost containment and auditing services, taxation and
14 accounting information systems.

15 "Architectural and engineering services" means
16 professional services of an architectural or engineering
17 nature, or incidental services, that members of the
18 architectural and engineering professions, and individuals
19 in their employ, may logically or justifiably perform,
20 including studies, investigations, surveying and mapping,
21 tests, evaluations, consultations, comprehensive planning,
22 program management, conceptual designs, plans and
23 specifications, value engineering, construction phase
24 services, soils engineering, drawing reviews, preparation
25 of operating and maintenance manuals, and other related
26 services.

1 "Emerging investment manager" means an investment
2 manager or claims consultant having assets under
3 management below \$10 billion or otherwise adjudicating
4 claims.

5 "Information technology services" means, but is not
6 limited to, specialized technology-oriented solutions by
7 combining the processes and functions of software,
8 hardware, networks, telecommunications, web designers,
9 cloud developing resellers, and electronics.

10 "Insurance broker" means an insurance brokerage firm,
11 claims administrator, or both, that procures, places all
12 lines of insurance, or administers claims with annual
13 premiums or fees of at least \$5,000,000 but not more than
14 \$10,000,000.

15 "Legal services" means work performed by a lawyer
16 including, but not limited to, contracts in anticipation of
17 litigation, enforcement actions, or investigations.

18 (3) Each State agency and public institution of higher
19 education shall adopt policies that identify its plan and
20 implementation procedures for increasing the use of service
21 firms owned by minorities, women, and persons with
22 disabilities.

23 (4) Except as provided in subsection (5), the Council shall
24 file no later than March 1 of each year an annual report to the
25 Governor, the Bureau on Apprenticeship Programs, and the
26 General Assembly. The report filed with the General Assembly

1 shall be filed as required in Section 3.1 of the General
2 Assembly Organization Act. This report shall: (i) identify the
3 service firms used by each State agency and public institution
4 of higher education, (ii) identify the actions it has
5 undertaken to increase the use of service firms owned by
6 minorities, women, and persons with disabilities, including
7 encouraging non-minority-owned firms to use other service
8 firms owned by minorities, women, and persons with disabilities
9 as subcontractors when the opportunities arise, (iii) state any
10 recommendations made by the Council to each State agency and
11 public institution of higher education to increase
12 participation by the use of service firms owned by minorities,
13 women, and persons with disabilities, and (iv) include the
14 following:

15 (A) For insurance services: the names of the insurance
16 brokers or claims consultants used, the total of risk
17 managed by each State agency and public institution of
18 higher education by insurance brokers, the total
19 commissions, fees paid, or both, the lines or insurance
20 policies placed, and the amount of premiums placed; and the
21 percentage of the risk managed by insurance brokers, the
22 percentage of total commission, fees paid, or both, the
23 lines or insurance policies placed, and the amount of
24 premiums placed with each by the insurance brokers owned by
25 minorities, women, and persons with disabilities by each
26 State agency and public institution of higher education.

1 (B) For investment management services: the names of
2 the investment managers used, the total funds under
3 management of investment managers; the total commissions,
4 fees paid, or both; the total and percentage of funds under
5 management of emerging investment managers owned by
6 minorities, women, and persons with disabilities,
7 including the total and percentage of total commissions,
8 fees paid, or both by each State agency and public
9 institution of higher education.

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

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

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

24 (5) For community college districts, the Business
25 Enterprise Council shall only report the following information
26 for each community college district: (i) the name of the

1 community colleges in the district, (ii) the name and contact
2 information of a person at each community college appointed to
3 be the single point of contact for vendors owned by minorities,
4 women, or persons with disabilities, (iii) the policy of the
5 community college district concerning certified vendors, (iv)
6 the certifications recognized by the community college
7 district for determining whether a business is owned or
8 controlled by a minority, woman, or person with a disability,
9 (v) outreach efforts conducted by the community college
10 district to increase the use of certified vendors, (vi) the
11 total expenditures by the community college district in the
12 prior fiscal year in the divisions of work specified in
13 paragraphs (a), (b), and (c) of subsection (1) of this Section
14 and the amount paid to certified vendors in those divisions of
15 work, and (vii) the total number of contracts entered into for
16 the divisions of work specified in paragraphs (a), (b), and (c)
17 of subsection (1) of this Section and the total number of
18 contracts awarded to certified vendors providing these
19 services to the community college district. The Business
20 Enterprise Council shall not make any utilization reports under
21 this Act for community college districts for Fiscal Year 2015
22 and Fiscal Year 2016, but shall make the report required by
23 this subsection for Fiscal Year 2017 and for each fiscal year
24 thereafter. The Business Enterprise Council shall report the
25 information in items (i), (ii), (iii), and (iv) of this
26 subsection beginning in September of 2016. The Business

1 Enterprise Council may collect the data needed to make its
2 report from the Illinois Community College Board.

3 (6) The status of the utilization of services shall be
4 discussed at each of the regularly scheduled Business
5 Enterprise Council meetings. Time shall be allotted for the
6 Council to receive, review, and discuss the progress of the use
7 of service firms owned by minorities, women, and persons with
8 disabilities by each State agency and public institution of
9 higher education; and any evidence regarding past or present
10 racial, ethnic, or gender-based discrimination which directly
11 impacts a State agency or public institution of higher
12 education contracting with such firms. If after reviewing such
13 evidence the Council finds that there is or has been such
14 discrimination against a specific group, race or sex, the
15 Council shall establish sheltered markets or adjust existing
16 sheltered markets tailored to address the Council's specific
17 findings for the divisions of work specified in paragraphs (a),
18 (b), and (c) of subsection (1) of this Section.

19 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20.)

20 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

21 (Section scheduled to be repealed on June 30, 2024)

22 Sec. 6. Agency compliance plans. Each State agency and
23 public institutions of higher education under the jurisdiction
24 of this Act shall file with the Council an annual compliance
25 plan which shall outline the goals of the State agency or

1 public institutions of higher education for contracting with
2 businesses owned by minorities, women, and persons with
3 disabilities for the then current fiscal year, the manner in
4 which the agency intends to reach these goals and a timetable
5 for reaching these goals. The Council shall review and approve
6 the plan of each State agency and public institutions of higher
7 education and may reject any plan that does not comply with
8 this Act or any rules or regulations promulgated pursuant to
9 this Act.

10 (a) The compliance plan shall also include, but not be
11 limited to, (1) a policy statement, signed by the State agency
12 or public institution of higher education head, expressing a
13 commitment to encourage the use of businesses owned by
14 minorities, women, and persons with disabilities, (2) the
15 designation of the liaison officer provided for in Section 5 of
16 this Act, (3) procedures to distribute to potential contractors
17 and vendors the list of all businesses legitimately classified
18 as businesses owned by minorities, women, and persons with
19 disabilities and so certified under this Act, (4) procedures to
20 set separate contract goals on specific prime contracts and
21 purchase orders with subcontracting possibilities based upon
22 the type of work or services and subcontractor availability,
23 (5) procedures to assure that contractors and vendors make good
24 faith efforts to meet contract goals, (6) procedures for
25 contract goal exemption, modification and waiver, and (7) the
26 delineation of separate contract goals for businesses owned by

1 minorities, women, and persons with disabilities.

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

9 (c) Each State agency and public institution of higher
10 education under the jurisdiction of this Act shall file with
11 the Council an annual report of its utilization of businesses
12 owned by minorities, women, and persons with disabilities
13 during the preceding fiscal year including lapse period
14 spending and a mid-fiscal year report of its utilization to
15 date for the then current fiscal year. The reports shall
16 include a self-evaluation of the efforts of the State agency or
17 public institution of higher education to meet its goals under
18 the Act.

19 (d) Notwithstanding any provisions to the contrary in this
20 Act, any State agency or public institution of higher education
21 which administers a construction program, for which federal law
22 or regulations establish standards and procedures for the
23 utilization of minority-owned and women-owned businesses and
24 disadvantaged businesses, shall implement a disadvantaged
25 business enterprise program to include minority-owned and
26 women-owned businesses and disadvantaged businesses, using the

1 federal standards and procedures for the establishment of goals
2 and utilization procedures for the State-funded, as well as the
3 federally assisted, portions of the program. In such cases,
4 these goals shall not exceed those established pursuant to the
5 relevant federal statutes or regulations. Notwithstanding the
6 provisions of Section 8b, the Illinois Department of
7 Transportation is authorized to establish sheltered markets
8 for the State-funded portions of the program consistent with
9 federal law and regulations. Additionally, a compliance plan
10 which is filed by such State agency or public institution of
11 higher education pursuant to this Act, which incorporates
12 equivalent terms and conditions of its federally-approved
13 compliance plan, shall be deemed approved under this Act.

14 (e) Each State agency and public institution of higher
15 education under the jurisdiction of this Act shall include,
16 along with the compliance plan filed with the Council under
17 this Section, an annual plan of action to specifically rectify
18 the disparity between the representation of Descendants of
19 American Slavery in State contracts compared to the percentage
20 of such persons who are residents of this State. The plan of
21 action shall outline actions to be taken by the State agency to
22 increase representation of Descendants of American Slavery in
23 State contracting, and include the percentage of contracts
24 entered into between the State agency and businesses owned by
25 Descendants of American Slavery.

26 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)

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

2 (Section scheduled to be repealed on June 30, 2024)

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

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

23 (a) Written request for contract exemption. A written
24 request for an individual contract exemption must include,
25 but is not limited to, the following:

1 (i) a list of eligible businesses owned by
2 minorities, women, and persons with disabilities;

3 (ii) a clear demonstration that the number of
4 eligible businesses identified in subparagraph (i)
5 above is insufficient to ensure adequate competition;

6 (iii) the difference in cost between the contract
7 proposals being offered by businesses owned by
8 minorities, women, and persons with disabilities and
9 the agency or public institution of higher education's
10 expectations of reasonable prices on bids or proposals
11 within that class; and

12 (iv) a list of eligible businesses owned by
13 minorities, women, and persons with disabilities that
14 the contractor has used in the current and prior fiscal
15 years.

16 (b) Determination. The Council's determination
17 concerning an individual contract exemption must consider,
18 at a minimum, the following:

19 (i) the justification for the requested exemption,
20 including whether diligent efforts were undertaken to
21 identify and solicit eligible businesses owned by
22 minorities, women, and persons with disabilities;

23 (ii) the total number of exemptions granted to the
24 affected agency, public institution of higher
25 education, or recipient of a grant or loan of State
26 funds of \$250,000 or more complying with Section 45 of

1 the State Finance Act that have been granted by the
2 Council in the current and prior fiscal years; and

3 (iii) the percentage of contracts awarded by the
4 agency or public institution of higher education to
5 eligible businesses owned by minorities, women, and
6 persons with disabilities in the current and prior
7 fiscal years.

8 (2) Class exemptions.

9 (a) Creation. The Council, at the written request of
10 the affected agency or public institution of higher
11 education, may permit an entire class of contracts be made
12 exempt from State contracting goals for businesses owned by
13 minorities, women, and persons with disabilities whenever
14 there has been a determination, reduced to writing and
15 based on the best information available at the time of the
16 determination, that there is an insufficient number of
17 qualified businesses owned by minorities, women, and
18 persons with disabilities to ensure adequate competition
19 and an expectation of reasonable prices on bids or
20 proposals within that class. Any such exemption shall be
21 given by the Council to the Bureau on Apprenticeship
22 Programs.

23 (a-1) Written request for class exemption. A written
24 request for a class exemption must include, but is not
25 limited to, the following:

26 (i) a list of eligible businesses owned by

1 minorities, women, and persons with disabilities;

2 (ii) a clear demonstration that the number of
3 eligible businesses identified in subparagraph (i)
4 above is insufficient to ensure adequate competition;

5 (iii) the difference in cost between the contract
6 proposals being offered by eligible businesses owned
7 by minorities, women, and persons with disabilities
8 and the agency or public institution of higher
9 education's expectations of reasonable prices on bids
10 or proposals within that class; and

11 (iv) the number of class exemptions the affected
12 agency or public institution of higher education
13 requested in the current and prior fiscal years.

14 (a-2) Determination. The Council's determination
15 concerning class exemptions must consider, at a minimum,
16 the following:

17 (i) the justification for the requested exemption,
18 including whether diligent efforts were undertaken to
19 identify and solicit eligible businesses owned by
20 minorities, women, and persons with disabilities;

21 (ii) the total number of class exemptions granted
22 to the requesting agency or public institution of
23 higher education that have been granted by the Council
24 in the current and prior fiscal years; and

25 (iii) the percentage of contracts awarded by the
26 agency or public institution of higher education to

1 eligible businesses owned by minorities, women, and
2 persons with disabilities the current and prior fiscal
3 years.

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

6 (3) Waivers. Where a particular contract requires a
7 contractor to meet a goal established pursuant to this Act, the
8 contractor shall have the right to request a waiver from such
9 requirements. Except as otherwise provided in this Section, the
10 ~~The~~ Council shall grant the waiver where the contractor
11 demonstrates that there has been made a good faith effort to
12 comply with the goals for participation by businesses owned by
13 minorities, women, and persons with disabilities. Any such
14 waiver shall also be transmitted in writing to the Bureau on
15 Apprenticeship Programs.

16 (a) Request for waiver. A contractor's request for a
17 waiver under this subsection (3) must include, but is not
18 limited to, the following, if available:

19 (i) a list of eligible businesses owned by
20 minorities, women, and persons with disabilities that
21 pertain to the class of contracts in the requested
22 waiver;

23 (ii) a clear demonstration that the number of
24 eligible businesses identified in subparagraph (i)
25 above is insufficient to ensure competition;

26 (iii) the difference in cost between the contract

1 proposals being offered by businesses owned by
2 minorities, women, and persons with disabilities and
3 the agency or the public institution of higher
4 education's expectations of reasonable prices on bids
5 or proposals within that class; and

6 (iv) a list of businesses owned by minorities,
7 women, and persons with disabilities that the
8 contractor has used in the current and prior fiscal
9 years.

10 (b) Determination. The Council's determination
11 concerning waivers must include following:

12 (i) the justification for the requested waiver,
13 including whether the requesting contractor made a
14 good faith effort to identify and solicit eligible
15 businesses owned by minorities, women, and persons
16 with disabilities;

17 (ii) the total number of waivers the contractor has
18 been granted by the Council in the current and prior
19 fiscal years;

20 (iii) the percentage of contracts awarded by the
21 agency or public institution of higher education to
22 eligible businesses owned by minorities, women, and
23 persons with disabilities in the current and prior
24 fiscal years; and

25 (iv) the contractor's use of businesses owned by
26 minorities, women, and persons with disabilities in

1 the current and prior fiscal years.

2 (c) Contract value. Any waiver request submitted under
3 this Section for which the contract has a total dollar
4 amount valued between \$100,000 and \$999,000 must be
5 approved by the Council. Any contract request submitted
6 under this Section for which the contract has a total
7 dollar amount valued at \$1,000,000 or more must be approved
8 by the General Assembly.

9 (3.5) (Blank).

10 (4) Conflict with other laws. In the event that any State
11 contract, which otherwise would be subject to the provisions of
12 this Act, is or becomes subject to federal laws or regulations
13 which conflict with the provisions of this Act or actions of
14 the State taken pursuant hereto, the provisions of the federal
15 laws or regulations shall apply and the contract shall be
16 interpreted and enforced accordingly.

17 (5) Each chief procurement officer, as defined in the
18 Illinois Procurement Code, shall maintain on his or her
19 official Internet website a database of the following: (i)
20 waivers granted under this Section with respect to contracts
21 under his or her jurisdiction; (ii) a State agency or public
22 institution of higher education's written request for an
23 exemption of an individual contract or an entire class of
24 contracts; and (iii) the Council's written determination
25 granting or denying a request for an exemption of an individual
26 contract or an entire class of contracts. The database, which

1 shall be updated periodically as necessary, shall be searchable
2 by contractor name and by contracting State agency.

3 (6) Each chief procurement officer, as defined by the
4 Illinois Procurement Code, shall maintain on its website a list
5 of all firms that have been prohibited from bidding, offering,
6 or entering into a contract with the State of Illinois as a
7 result of violations of this Act.

8 Each public notice required by law of the award of a State
9 contract shall include for each bid or offer submitted for that
10 contract the following: (i) the bidder's or offeror's name,
11 (ii) the bid amount, (iii) the name or names of the certified
12 firms identified in the bidder's or offeror's submitted
13 utilization plan, and (iv) the bid's amount and percentage of
14 the contract awarded to businesses owned by minorities, women,
15 and persons with disabilities identified in the utilization
16 plan.

17 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
18 101-601, eff. 1-1-20.)

19 (30 ILCS 575/8f)

20 (Section scheduled to be repealed on June 30, 2024)

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

1 (1) a summary detailing expenditures subject to the
2 goals, the actual goals specified, and the goals attained
3 by each State agency and public institution of higher
4 education;

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

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

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

16 (5) a summary of the number of contracts awarded to
17 businesses with annual gross sales of less than \$1,000,000;
18 of \$1,000,000 or more, but less than \$5,000,000; of
19 \$5,000,000 or more, but less than \$10,000,000; and of
20 \$10,000,000 or more; and.

21 (6) a summary detailing the disparity between the
22 representation of Descendants of American Slavery in State
23 contracts compared to the percentage of such persons who
24 are residents of this State, and a summary of the efforts
25 to eliminate that disparity based upon the requirements of
26 this Act.

1 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17.)