



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1560

Introduced 1/28/2025, by Rep. Charles Meier

SYNOPSIS AS INTRODUCED:

30 ILCS 575/7

from Ch. 127, par. 132.607

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that a waiver shall be deemed granted if the Business Enterprise Council for Minorities, Women, and Persons with Disabilities does not make a determination on the waiver within 30 business days after the initial request for a waiver by the contractor. Effective immediately.

LRB104 05996 HLH 16029 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 Business Enterprise for Minorities, Women,
5 and Persons with Disabilities Act is amended by changing
6 Section 7 as follows:

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

8 (Section scheduled to be repealed on June 30, 2029)

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

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

1 minorities, women, and persons with disabilities to ensure
2 adequate competition and an expectation of reasonable prices
3 on bids or proposals solicited for the individual contract or
4 contract package in question. Any such exemptions shall be
5 given by the Council to the Bureau on Apprenticeship Programs
6 and Clean Energy Jobs.

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

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

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

15 (iii) the difference in cost between the contract
16 proposals being offered by businesses owned by
17 minorities, women, and persons with disabilities and
18 the agency or public institution of higher education's
19 expectations of reasonable prices on bids or proposals
20 within that class; and

21 (iv) a list of eligible businesses owned by
22 minorities, women, and persons with disabilities that
23 the contractor has used in the current and prior
24 fiscal years.

25 (b) Determination. The Council's determination
26 concerning an individual contract exemption must consider,

1 at a minimum, the following:

2 (i) the justification for the requested exemption,
3 including whether diligent efforts were undertaken to
4 identify and solicit eligible businesses owned by
5 minorities, women, and persons with disabilities;

6 (ii) the total number of exemptions granted to the
7 affected agency, public institution of higher
8 education, or recipient of a grant or loan of State
9 funds of \$250,000 or more complying with Section 45 of
10 the State Finance Act that have been granted by the
11 Council in the current and prior fiscal years; and

12 (iii) the percentage of contracts awarded by the
13 agency or public institution of higher education to
14 eligible businesses owned by minorities, women, and
15 persons with disabilities in the current and prior
16 fiscal years.

17 (2) Class exemptions.

18 (a) Creation. The Council, at the written request of
19 the affected agency or public institution of higher
20 education, may permit an entire class of contracts be made
21 exempt from State contracting goals for businesses owned
22 by minorities, women, and persons with disabilities
23 whenever there has been a determination, reduced to
24 writing and based on the best information available at the
25 time of the determination, that there is an insufficient
26 number of qualified businesses owned by minorities, women,

1 and persons with disabilities to ensure adequate
2 competition and an expectation of reasonable prices on
3 bids or proposals within that class. Any such exemption
4 shall be given by the Council to the Bureau on
5 Apprenticeship Programs and Clean Energy Jobs.

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

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

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

14 (iii) the difference in cost between the contract
15 proposals being offered by eligible businesses owned
16 by minorities, women, and persons with disabilities
17 and the agency or public institution of higher
18 education's expectations of reasonable prices on bids
19 or proposals within that class; and

20 (iv) the number of class exemptions the affected
21 agency or public institution of higher education
22 requested in the current and prior fiscal years.

23 (a-2) Determination. The Council's determination
24 concerning class exemptions must consider, at a minimum,
25 the following:

26 (i) the justification for the requested exemption,

1 including whether diligent efforts were undertaken to
2 identify and solicit eligible businesses owned by
3 minorities, women, and persons with disabilities;

4 (ii) the total number of class exemptions granted
5 to the requesting agency or public institution of
6 higher education that have been granted by the Council
7 in the current and prior fiscal years; and

8 (iii) the percentage of contracts awarded by the
9 agency or public institution of higher education to
10 eligible businesses owned by minorities, women, and
11 persons with disabilities the current and prior fiscal
12 years.

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

15 (3) Waivers. Where a particular contract requires a vendor
16 to meet a goal established pursuant to this Act, the vendor
17 shall have the right to request a waiver from such
18 requirements prior to the contract award. The Business
19 Enterprise Program shall evaluate a vendor's request for a
20 waiver based on the vendor's documented good faith efforts to
21 meet the contract-specific Business Enterprise Program goal.
22 The Council shall grant the waiver when the contractor
23 demonstrates that there has been made a good faith effort to
24 comply with the goals for participation by businesses owned by
25 minorities, women, and persons with disabilities. Any such
26 waiver shall also be transmitted in writing to the Bureau on

1 Apprenticeship Programs and Clean Energy Jobs. A waiver shall
2 be deemed granted if the Council does not make a determination
3 on the waiver within 30 business days after the initial
4 request for a waiver by the contractor.

5 (a) Request for waiver. A vendor's request for a
6 waiver under this subsection (3) must include, but is not
7 limited to, the following:

8 (i) a list of eligible businesses owned by
9 minorities, women, and persons with disabilities that
10 pertain to the ~~the~~ class of contracts in the requested
11 waiver that were contacted by the vendor. Eligible
12 businesses are only eligible if the business is
13 certified for the products or work advertised in the
14 solicitation or bid;

15 (ii) (blank);

16 (iia) a clear demonstration that the vendor
17 selected portions of the work to be performed by
18 certified vendors to facilitate meeting the contract
19 specific goal, and that certified vendors that have
20 the capability to perform the work of the contract
21 were solicited through all reasonable and available
22 means;

23 (iib) documentation demonstrating that certified
24 vendors are not rejected as being unqualified without
25 sound reasons based on a thorough investigation of
26 their capabilities. The certified vendor's standing

1 within its industry, membership in specific groups,
2 organizations, or associations, and political or
3 social affiliations are not legitimate causes for
4 rejecting or not contacting or negotiating with a
5 certified vendor;

6 (iic) proof that the prime vendor solicited
7 eligible certified vendors with: (1) sufficient time
8 to respond; (2) adequate information about the scope,
9 specifications, and requirements of the solicitation
10 or bid, including plans, drawings, and addenda, to
11 allow eligible businesses an opportunity to respond to
12 the solicitation or bid; and (3) sufficient follow up
13 with certified vendors;

14 (iid) a clear demonstration that the prime vendor
15 communicated with certified vendors;

16 (iie) evidence that the prime vendor negotiated
17 with certified vendors to enter into subcontracts to
18 provide a commercially useful function of the contract
19 for a reasonable cost;

20 (iii) documentation demonstrating that the
21 difference in cost between the contract proposals
22 being offered by certified vendors is excessive or
23 unreasonable;

24 (iv) a list of certified vendors owned by
25 minorities, women, and persons with disabilities that
26 the contractor has used in the current and prior

1 fiscal years;

2 (v) documentation demonstrating that the vendor
3 made efforts to utilize certified vendors despite the
4 ability or desire of a vendor to perform the work with
5 its own operations by selecting portions of the work
6 to be performed by certified vendors, which may, when
7 appropriate, include breaking out portions of the work
8 to be performed into economically feasible units to
9 facilitate certified vendor participation; and

10 (vi) documentation that the vendor used the
11 services of: (1) the State; (2) organizations or
12 contractors' groups representing or composed of
13 minorities, women, or persons with disabilities; (3)
14 local, State, or federal assistance offices
15 representing or assisting minorities, women, or
16 persons with disabilities; and (4) other organizations
17 that provide assistance in the recruitment and
18 engagement of certified vendors.

19 If any of the information required under this
20 subdivision (a) is not available to the vendor, despite
21 the vendor's good faith efforts to obtain the information,
22 the vendor's request for a waiver must contain a written
23 explanation of why that information is not included.

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

26 (i) the justification for the requested waiver,

1 including whether the requesting vendor made a good
2 faith effort to identify and solicit certified vendors
3 based on the criteria set forth in this Section;

4 (ii) the total number of waivers the vendor has
5 been granted by the Council in the current and prior
6 fiscal years;

7 (iii) (blank); and

8 (iv) the vendor's use of businesses owned by
9 minorities, women, and persons with disabilities in
10 the current and prior fiscal years.

11 (3.5) (Blank).

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

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

1 granting or denying a request for an exemption of an
2 individual contract or an entire class of contracts. The
3 database, which shall be updated periodically as necessary,
4 shall be searchable by contractor name and by contracting
5 State agency.

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

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

20 (Source: P.A. 102-29, eff. 6-25-21; 102-662, eff. 9-15-21;
21 103-570, eff. 1-1-24.)

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