

**HB1560**



**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

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8           (Section scheduled to be repealed on June 30, 2029)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

fiscal years;

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

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

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

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

(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.