

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2653

Introduced 4/25/2025, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

30 ILCS 575/3.5

30 ILCS 575/4

30 ILCS 575/7

30 ILCS 575/8g

from Ch. 127, par. 132.604

from Ch. 127, par. 132.607

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that the Business Enterprise Program shall (currently, may) establish uniform standards for calculating contract specific Business Enterprise Program goals for all State contracts and State construction contracts subject to the Act. Removes language providing that the dollar amount of certain contracts is defined by the Secretary of the Business Enterprise Council for Minorities, Women, and Persons with Disabilities and approved by the Council. Provides that the Business Enterprise Council for Minorities, Women, and Persons with Disabilities may permit, on its own initiative, an entire class of contracts to be exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities if there has been a written determination that there is an insufficient number of qualified businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within the class. Makes changes concerning deficiencies in utilization plans that may be cured.

LRB104 09811 HLH 22568 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 Sections 3.5, 4, 7, and 8g as follows:

7 (30 ILCS 575/3.5)

8 Sec. 3.5. Uniform standard of contract goals.

9 (a) The Business Enterprise Program shall ~~may~~ establish
10 uniform standards for calculating contract specific Business
11 Enterprise Program goals for all State contracts and State
12 construction contracts subject to this Act. In establishing
13 those standards, the Business Enterprise Program may consider
14 normal industry practice, the scope of the work to be
15 performed under a contract, the availability of vendors that
16 are able to perform the scope of the work to be performed under
17 a contract, the availability of certified vendors that are
18 able to perform the work to be performed under a contract, and
19 the State's progress to date toward meeting the aspirational
20 goals set forth in this Act.

21 (b) Each State agency that is subject to this Act and each
22 public institution of higher education that is subject to this
23 Act shall ~~may~~, in accordance with the provisions of this Act,

1 set goals concerning participation in State contracts,
2 including State construction contracts, to which the State
3 agency or public institution of higher education is party.
4 Goals involving State contracts above the small purchase
5 threshold, as defined in Section 20-20 of the Illinois
6 Procurement Code, shall ~~may~~ be submitted to the Business
7 Enterprise Program for approval, denial, or modification.

8 (c) As used in this Section, the terms "State contract"
9 and "State construction contract" do not include grants from
10 State agencies to grantees for capital improvements or
11 operational expenses.

12 (Source: P.A. 103-865, eff. 1-1-25.)

13 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

14 (Section scheduled to be repealed on June 30, 2030)

15 Sec. 4. Award of State contracts.

16 (a) Except as provided in subsection (b), not less than
17 30% of the total dollar amount of State contracts, ~~as defined~~
18 ~~by the Secretary of the Council and approved by the Council,~~
19 shall be established as an aspirational goal to be awarded to
20 businesses owned by minorities, women, and persons with
21 disabilities; provided, however, that of the total amount of
22 all State contracts awarded to businesses owned by minorities,
23 women, and persons with disabilities pursuant to this Section,
24 contracts representing at least 16% shall be awarded to
25 businesses owned by minorities, contracts representing at

1 least 10% shall be awarded to women-owned businesses, and
2 contracts representing at least 4% shall be awarded to
3 businesses owned by persons with disabilities.

4 (a-5) In addition to the aspirational goals in awarding
5 State contracts set under subsection (a), the Commission shall
6 by rule further establish targeted efforts to encourage the
7 participation of businesses owned by minorities, women, and
8 persons with disabilities on State contracts. Such efforts
9 shall include, but not be limited to, further concerted
10 outreach efforts to businesses owned by minorities, women, and
11 persons 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,
22 and persons with disabilities that perform a commercially
23 useful function may be counted toward the goals set forth by
24 this Act. Contracts shall include a definition of
25 "commercially useful function" that is consistent with 49 CFR
26 26.55(c).

1 (b) Not less than 20% of the total dollar amount of State
2 construction contracts is established as an aspirational goal
3 to be awarded to businesses owned by minorities, women, and
4 persons with disabilities; provided that, contracts
5 representing at least 11% of the total dollar amount of State
6 construction contracts shall be awarded to businesses owned by
7 minorities; contracts representing at least 7% of the total
8 dollar amount of State construction contracts shall be awarded
9 to women-owned businesses; and contracts representing at least
10 2% of the total dollar amount of State construction contracts
11 shall be awarded to businesses owned by persons with
12 disabilities.

13 (c) (Blank).

14 (c-5) All goals established under this Section shall be
15 contingent upon the results of the most recent disparity study
16 conducted by the State.

17 (d) By December 31, 2028, the Commission on Equity and
18 Inclusion shall conduct a new social scientific study that
19 measures the impact of discrimination on minority and women
20 business development in Illinois. By June 30, 2029, the
21 Commission shall issue a report of its findings and any
22 recommendations on whether to adjust the goals for minority
23 and women participation established in this Act. Copies of
24 this report and the social scientific study shall be filed
25 with the Governor and the General Assembly. By December 31,
26 2029, the Commission on Equity and Inclusion Business

1 Enterprise Program shall develop a model for social scientific
2 disparity study sourcing for local governmental units to adapt
3 and implement to address regional disparities in public
4 procurement.

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

12 Except as permitted under this Act or as otherwise
13 mandated by federal regulation, a bidder or offeror whose bid
14 or offer is accepted and who included in that bid a completed
15 utilization plan but who fails to meet the goals set forth in
16 the plan shall be notified of the deficiency by the
17 contracting agency or public institution of higher education
18 and shall be given a period of 10 business ~~calendar~~ days to
19 cure the deficiency by contracting with additional
20 subcontractors who are certified by the Business Enterprise
21 Program or by increasing the work to be performed by
22 previously identified vendors certified by the Business
23 Enterprise Program.

24 Deficiencies that may be cured include, but are not
25 limited to: (i) failure to contract with sufficient
26 subcontractors that are certified by the Business Enterprise

1 Program to meet the stated contract goals; (ii) failure to
2 allocate sufficient work to be performed by previously
3 identified subcontractors certified by the Business Enterprise
4 Program to meet the stated contract goals; (iii) mistakes in
5 the utilization plan, such as scrivener's errors, ~~such as~~
6 ~~transposed numbers; (ii) information submitted in an incorrect~~
7 ~~form or format, and ; (iii) mistakes resulting from~~ failure to
8 ~~follow instructions or to identify and~~ adequately document
9 ~~good faith efforts taken to comply with the utilization plan;~~
10 ~~or (iv) a proposal to use a firm whose Business Enterprise~~
11 ~~Program certification has lapsed or is not yet recognized.~~

12 Cure is not authorized if the bidder or offeror submits a blank
13 utilization plan, a utilization plan that shows a lack of
14 reasonable effort to complete the form on time, or a
15 utilization plan that states the contract will be
16 self-performed, by a non-certified vendor, without showing
17 good faith efforts or a request for a waiver. All cure activity
18 shall address the deficiencies identified by the purchasing
19 agency or public institution of higher education and shall
20 require clear documentation, including that of good faith
21 efforts, to address those deficiencies. Any increase in cost
22 to a contract for the addition of a subcontractor to cure a
23 bid's deficiency shall not affect the bid price and shall not
24 be used in the request for an exemption under this Act, and, in
25 no case, shall an identified subcontractor with a Business
26 Enterprise Program certification made under this Act be

1 terminated from a contract without the written consent of the
2 State agency or public institution of higher education
3 entering into the contract. The purchasing agency or public
4 institution of higher education shall make the determination
5 whether the cure is adequate.

6 ~~Vendors certified with the Business Enterprise Program at~~
7 ~~the time and date submittals are due and who do not submit a~~
8 ~~utilization plan or have utilization plan deficiencies shall~~
9 ~~have 10 business days to submit a utilization plan or to~~
10 ~~correct the utilization plan deficiencies.~~

11 (f) (Blank).

12 (g) (Blank).

13 (h) State agencies and public institutions of higher
14 education shall notify the Commission on Equity and Inclusion
15 of all ~~non-responsive~~ bids or proposals for State contracts
16 deemed non-responsive due to deficient utilization plan
17 submissions.

18 (Source: P.A. 102-29, eff. 6-25-21; 102-558, eff. 8-20-21;
19 102-1119, eff. 1-23-23; 103-961, eff. 8-9-24.)

20 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

23 (1) Individual contract exemptions. The Council, at the
24 written request of the affected agency, public institution of
25 higher education, or recipient of a grant or loan of State

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

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

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

23 (ii) a clear demonstration that the number of
24 eligible businesses identified in subparagraph (i)
25 above is insufficient to ensure adequate 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 public institution of higher education's
4 expectations of reasonable prices on bids or proposals
5 within that class; and

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

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

13 (i) the justification for the requested exemption,
14 including whether diligent efforts were undertaken to
15 identify and solicit eligible businesses owned by
16 minorities, women, and persons with disabilities;

17 (ii) the total number of exemptions granted to the
18 affected agency, public institution of higher
19 education, or recipient of a grant or loan of State
20 funds of \$250,000 or more complying with Section 45 of
21 the State Finance Act that have been granted by the
22 Council in the current and prior fiscal years; and

23 (iii) the percentage of contracts awarded by the
24 agency or public institution of higher education to
25 eligible businesses owned by minorities, women, and
26 persons with disabilities in the current and prior

1 fiscal years.

2 (2) Class exemptions.

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

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

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

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

26 (iii) the difference in cost between the contract

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

6 (iv) the number of class exemptions the affected
7 agency or public institution of higher education
8 requested in the current and prior fiscal years.

9 (a-2) Determination. The Council's determination
10 concerning class exemptions must consider, at a minimum,
11 the following:

12 (i) the justification for the requested exemption,
13 including whether diligent efforts were undertaken to
14 identify and solicit eligible businesses owned by
15 minorities, women, and persons with disabilities;

16 (ii) the total number of class exemptions granted
17 to the requesting agency or public institution of
18 higher education that have been granted by the Council
19 in the current and prior fiscal years; and

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 the current and prior fiscal
24 years.

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

1 (3) Waivers. Where a particular contract requires a vendor
2 to meet a goal established pursuant to this Act, the vendor
3 shall have the right to request a waiver from such
4 requirements prior to the contract award. The Business
5 Enterprise Program shall evaluate a vendor's request for a
6 waiver based on the vendor's documented good faith efforts to
7 meet the contract-specific Business Enterprise Program goal.
8 The Council shall grant the waiver when the contractor
9 demonstrates that there has been made a good faith effort to
10 comply with the goals for participation by businesses owned by
11 minorities, women, and persons with disabilities. Any such
12 waiver shall also be transmitted in writing to the Bureau on
13 Apprenticeship Programs and Clean Energy Jobs.

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

17 (i) a list of eligible businesses owned by
18 minorities, women, and persons with disabilities that
19 pertain to ~~the~~ the class of contracts in the requested
20 waiver that were contacted by the vendor. Eligible
21 businesses are only eligible if the business is
22 certified for the products or work advertised in the
23 solicitation or bid;

24 (ii) (blank);

25 (iia) a clear demonstration that the vendor
26 selected portions of the work to be performed by

1 certified vendors to facilitate meeting the contract
2 specific goal, and that certified vendors that have
3 the capability to perform the work of the contract
4 were solicited through all reasonable and available
5 means;

6 (iib) documentation demonstrating that certified
7 vendors are not rejected as being unqualified without
8 sound reasons based on a thorough investigation of
9 their capabilities. The certified vendor's standing
10 within its industry, membership in specific groups,
11 organizations, or associations, and political or
12 social affiliations are not legitimate causes for
13 rejecting or not contacting or negotiating with a
14 certified vendor;

15 (iic) proof that the prime vendor solicited
16 eligible certified vendors with: (1) sufficient time
17 to respond; (2) adequate information about the scope,
18 specifications, and requirements of the solicitation
19 or bid, including plans, drawings, and addenda, to
20 allow eligible businesses an opportunity to respond to
21 the solicitation or bid; and (3) sufficient follow up
22 with certified vendors;

23 (iid) a clear demonstration that the prime vendor
24 communicated with certified vendors;

25 (iie) evidence that the prime vendor negotiated
26 with certified vendors to enter into subcontracts to

1 provide a commercially useful function of the contract
2 for a reasonable cost;

3 (iii) documentation demonstrating that the
4 difference in cost between the contract proposals
5 being offered by certified vendors is excessive or
6 unreasonable;

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

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

19 (vi) documentation that the vendor used the
20 services of: (1) the State; (2) organizations or
21 contractors' groups representing or composed of
22 minorities, women, or persons with disabilities; (3)
23 local, State, or federal assistance offices
24 representing or assisting minorities, women, or
25 persons with disabilities; and (4) other organizations
26 that provide assistance in the recruitment and

1 engagement of certified vendors.

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

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

9 (i) the justification for the requested waiver,
10 including whether the requesting vendor made a good
11 faith effort to identify and solicit certified vendors
12 based on the criteria set forth in this Section;

13 (ii) the total number of waivers the vendor has
14 been granted by the Council in the current and prior
15 fiscal years;

16 (iii) (blank); and

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

20 (c) Waivers after contract execution. If a particular
21 contract requires a vendor to meet a goal established
22 pursuant to this Act, the vendor shall have the right to
23 request a waiver from that requirement after the contract
24 award if no BEP-certified vendor is available to replace a
25 non-performing BEP-certified vendor.

26 (3.5) (Blank).

1 (4) Conflict with other laws. In the event that any State
2 contract, which otherwise would be subject to the provisions
3 of this Act, is or becomes subject to federal laws or
4 regulations which conflict with the provisions of this Act or
5 actions of the State taken pursuant hereto, the provisions of
6 the federal laws or regulations shall apply and the contract
7 shall be interpreted and enforced accordingly.

8 (5) Each chief procurement officer, as defined in the
9 Illinois Procurement Code, shall maintain on his or her
10 official Internet website a database of the following: (i)
11 waivers granted under this Section with respect to contracts
12 under his or her jurisdiction; (ii) a State agency or public
13 institution of higher education's written request for an
14 exemption of an individual contract or an entire class of
15 contracts; and (iii) the Council's written determination
16 granting or denying a request for an exemption of an
17 individual contract or an entire class of contracts. The
18 database, which shall be updated periodically as necessary,
19 shall be searchable by contractor name and by contracting
20 State agency.

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

26 Each public notice required by law of the award of a State

1 contract shall include for each bid or offer submitted for
2 that contract the following: (i) the bidder's or offeror's
3 name, (ii) the bid amount, (iii) the name or names of the
4 certified vendors identified in the bidder's or offeror's
5 submitted utilization plan, and (iv) the percentage of the
6 contract awarded to each certified vendor that is a business
7 owned by minorities, women, and persons with disabilities
8 identified in the utilization plan.

9 (Source: P.A. 102-29, eff. 6-25-21; 102-662, eff. 9-15-21;
10 103-570, eff. 1-1-24.)

11 (30 ILCS 575/8g)

12 (Section scheduled to be repealed on June 30, 2030)

13 Sec. 8g. Business Enterprise Program Council reports.

14 (a) The Commission on Equity and Inclusion shall provide a
15 report to the Council identifying all State agency
16 non-construction solicitations that exceed \$20,000,000 and
17 that have less than a 30% ~~20%~~ established goal prior to
18 publication.

19 (b) The Commission on Equity and Inclusion shall provide a
20 report to the Council identifying all State agency
21 non-construction awards that exceed \$20,000,000. The report
22 shall contain the following: (i) the name of the awardee; (ii)
23 the total bid amount; (iii) the established Business
24 Enterprise Program goal; (iv) the dollar amount and percentage
25 of participation by businesses owned by minorities, women, and

1 persons with disabilities; and (v) the names of the certified
2 firms identified in the utilization plan.
3 (Source: P.A. 103-961, eff. 8-9-24.)