



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2629

Introduced 2/19/2021, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

30 ILCS 575/2	
30 ILCS 575/4	from Ch. 127, par. 132.604
30 ILCS 575/7	from Ch. 127, par. 132.607
30 ILCS 575/8	from Ch. 127, par. 132.608
30 ILCS 575/8f	

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. Provides that not less than 40% of the total dollar amount of State contracts shall be established as an aspirational goal to be awarded to businesses owned by minorities. Provides that of the total amount of all State contracts awarded to businesses owned by minorities, contracts representing at least 20% shall be awarded to businesses owned by black or African American persons. Removes provisions allowing for a waiver from contract goals established under the Act. Requires the return of specified funds for failing to accomplish contract goals established under the Act. Makes conforming changes.

LRB102 12939 RJF 18282 b

1 AN ACT concerning government.

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 2, 4, 7, 8, and 8f as follows:

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 2. Definitions.

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

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

15 (a) American Indian or Alaska Native (a person
16 having origins in any of the original peoples of North
17 and South America, including Central America, and who
18 maintains tribal affiliation or community attachment).

19 (b) Asian (a person having origins in any of the
20 original peoples of the Far East, Southeast Asia, or
21 the Indian subcontinent, including, but not limited
22 to, Cambodia, China, India, Japan, Korea, Malaysia,
23 Pakistan, the Philippine Islands, Thailand, and

1 Vietnam).

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

4 (d) Hispanic or Latino (a person of Cuban,
5 Mexican, Puerto Rican, South or Central American, or
6 other Spanish culture or origin, regardless of race).

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

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

13 (2.05) "Person with a disability" means a person who
14 is a citizen or lawful resident of the United States and is
15 a person qualifying as a person with a disability under
16 subdivision (2.1) of this subsection (A).

17 (2.1) "Person with a disability" means a person with a
18 severe physical or mental disability that:

19 (a) results from:

20 amputation,

21 arthritis,

22 autism,

23 blindness,

24 burn injury,

25 cancer,

26 cerebral palsy,

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

24 Another disability or combination of disabilities may
25 also be considered as a severe disability for the purposes
26 of item (a) of this subdivision (2.1) if it is determined

1 by an evaluation of rehabilitation potential to cause a
2 comparable degree of substantial functional limitation
3 similar to the specific list of disabilities listed in
4 item (a) of this subdivision (2.1).

5 (3) "Minority-owned business" means a business which
6 is at least 51% owned by one or more minority persons, or
7 in the case of a corporation, at least 51% of the stock in
8 which is owned by one or more minority persons; and the
9 management and daily business operations of which are
10 controlled by one or more of the minority individuals who
11 own it.

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

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

1 (4.2) "Council" means the Business Enterprise Council
2 for Minorities, Women, and Persons with Disabilities
3 created under Section 5 of this Act.

4 (5) "State contracts" means all contracts entered into
5 by the State, any agency or department thereof, or any
6 public institution of higher education, including
7 community college districts, regardless of the source of
8 the funds with which the contracts are paid, which are not
9 subject to federal reimbursement. "State contracts" does
10 not include contracts awarded by a retirement system,
11 pension fund, or investment board subject to Section
12 1-109.1 of the Illinois Pension Code. This definition
13 shall control over any existing definition under this Act
14 or applicable administrative rule.

15 "State construction contracts" means all State
16 contracts entered into by a State agency or public
17 institution of higher education for the repair,
18 remodeling, renovation or construction of a building or
19 structure, or for the construction or maintenance of a
20 highway defined in Article 2 of the Illinois Highway Code.

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

1 of Trustees of Eastern Illinois University, the Board of
2 Trustees of Governors State University, the Board of
3 Trustees of Illinois State University, the Board of
4 Trustees of Northeastern Illinois University, the Board of
5 Trustees of Northern Illinois University, the Board of
6 Trustees of Western Illinois University, municipalities or
7 other local governmental units, or other State
8 constitutional officers.

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

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

1 women who are also minorities shall be certified as both a
2 "women-owned business" and a "minority-owned business".

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

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

1 persons with disabilities as suppliers or subcontractors
2 or in employment of minorities, women, or persons with
3 disabilities.

4 (11) "Utilization plan" means a form and additional
5 documentations included in all bids or proposals that
6 demonstrates a vendor's proposed utilization of vendors
7 certified by the Business Enterprise Program to meet the
8 targeted goal. The utilization plan shall demonstrate that
9 the Vendor has ~~either: (1) met the entire contract goal or~~
10 ~~(2) requested a full or partial waiver and made good faith~~
11 ~~efforts towards meeting the goal.~~

12 (12) "Business Enterprise Program" means the Business
13 Enterprise Program of the Department of Central Management
14 Services.

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

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

25 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

2 Sec. 4. Award of State contracts.

3 (a) Except as provided in subsection (b), not less than
4 20% of the total dollar amount of State contracts, as defined
5 by the Secretary of the Council and approved by the Council,
6 shall be established as an aspirational goal to be awarded to
7 businesses owned by ~~minorities~~, women, and persons with
8 disabilities; provided, however, that of the total amount of
9 all State contracts awarded to businesses owned by ~~minorities~~,
10 women, and persons with disabilities pursuant to this Section,
11 ~~contracts representing at least 11% shall be awarded to~~
12 ~~businesses owned by minorities~~, contracts representing at
13 least 10% ~~7%~~ shall be awarded to women-owned businesses, and
14 contracts representing at least 10% ~~2%~~ shall be awarded to
15 businesses owned by persons with disabilities.

16 Additionally, not less than 40% of the total dollar amount
17 of State contracts shall be established as an aspirational
18 goal to be awarded to businesses owned by minorities;
19 provided, however, that of the total amount of all State
20 contracts awarded to businesses owned by minorities, contracts
21 representing at least 20% shall be awarded to businesses owned
22 by black or African American persons.

23 The above percentage relates to the total dollar amount of
24 State contracts during each State fiscal year, calculated by
25 examining independently each type of contract for each agency
26 or public institutions of higher education which lets such

1 contracts. Only that percentage of arrangements which
2 represents the participation of businesses owned by
3 minorities, women, and persons with disabilities on such
4 contracts shall be included. State contracts subject to the
5 requirements of this Act shall include the requirement that
6 only expenditures to businesses owned by minorities, women,
7 and persons with disabilities that perform a commercially
8 useful function may be counted toward the goals set forth by
9 this Act. Contracts shall include a definition of
10 "commercially useful function" that is consistent with 49 CFR
11 26.55(c).

12 (b) Not less than 20% of the total dollar amount of State
13 construction contracts is established as an aspirational goal
14 to be awarded to businesses owned by minorities, women, and
15 persons with disabilities; provided that, contracts
16 representing at least 11% of the total dollar amount of State
17 construction contracts shall be awarded to businesses owned by
18 minorities; contracts representing at least 7% of the total
19 dollar amount of State construction contracts shall be awarded
20 to women-owned businesses; and contracts representing at least
21 2% of the total dollar amount of State construction contracts
22 shall be awarded to businesses owned by persons with
23 disabilities.

24 (c) (Blank).

25 (d) Within one year after April 28, 2009 (the effective
26 date of Public Act 96-8), the Department of Central Management

1 Services shall conduct a social scientific study that measures
2 the impact of discrimination on minority and women business
3 development in Illinois. Within 18 months after April 28, 2009
4 (the effective date of Public Act 96-8), the Department shall
5 issue a report of its findings and any recommendations on
6 whether to adjust the goals for minority and women
7 participation established in this Act. Copies of this report
8 and the social scientific study shall be filed with the
9 Governor and the General Assembly.

10 By December 1, 2020, the Department of Central Management
11 Services shall conduct a new social scientific study that
12 measures the impact of discrimination on minority and women
13 business development in Illinois. By June 1, 2022, the
14 Department shall issue a report of its findings and any
15 recommendations on whether to adjust the goals for minority
16 and women participation established in this Act. Copies of
17 this report and the social scientific study shall be filed
18 with the Governor, ~~the Advisory Board,~~ and the General
19 Assembly. By December 1, 2022, the Department of Central
20 Management Services Business Enterprise Program shall develop
21 a model for social scientific disparity study sourcing for
22 local governmental units to adapt and implement to address
23 regional disparities in public procurement.

24 (e) Except as permitted under this Act or as otherwise
25 mandated by federal law or regulation, those who submit bids
26 or proposals for State contracts subject to the provisions of

1 this Act, whose bids or proposals are successful and include a
2 utilization plan but that fail to meet the goals set forth in
3 subsection (b) of this Section, shall be notified of that
4 deficiency and shall be afforded a period not to exceed 10
5 calendar days from the date of notification to cure that
6 deficiency in the bid or proposal. The deficiency in the bid or
7 proposal may only be cured by contracting with additional
8 subcontractors who are owned by minorities or women. Any
9 increase in cost to a contract for the addition of a
10 subcontractor to cure a bid's deficiency shall not affect the
11 bid price, shall not be used in the request for an exemption in
12 this Act, and in no case shall an identified subcontractor
13 with a certification made pursuant to this Act be terminated
14 from the contract without the written consent of the State
15 agency or public institution of higher education entering into
16 the contract.

17 (f) Non-construction solicitations that include Business
18 Enterprise Program participation goals shall require bidders
19 and offerors to include utilization plans. Utilization plans
20 are due at the time of bid or offer submission. Failure to
21 complete and include a utilization plan, ~~including~~
22 ~~documentation demonstrating good faith effort when requesting~~
23 ~~a waiver,~~ shall render the bid or offer non-responsive.

24 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
25 101-601, eff. 1-1-20; revised 10-26-20.)

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
20 on 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:

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 businesses owned by
7 minorities, women, and persons with disabilities and
8 the agency or public institution of higher education's
9 expectations of reasonable prices on bids or proposals
10 within that class; and

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

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

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

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

1 Council in the current and prior fiscal years; and

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

7 (2) Class exemptions.

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

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

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

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

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

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

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

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

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

24 (iii) the percentage of contracts awarded by the
25 agency or public institution of higher education to
26 eligible businesses owned by minorities, women, and

1 persons with disabilities the current and prior fiscal
2 years.

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

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

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

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

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

24 ~~(iii) the difference in cost between the contract~~
25 ~~proposals being offered by businesses owned by~~
26 ~~minorities, women, and persons with disabilities and~~

1 ~~the agency or the public institution of higher~~
2 ~~education's expectations of reasonable prices on bids~~
3 ~~or proposals within that class; and~~

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

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

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

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

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

23 ~~(iv) the contractor's use of businesses owned by~~
24 ~~minorities, women, and persons with disabilities in~~
25 ~~the current and prior fiscal years.~~

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 firms 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 firms identified in the bidder's or offeror's
5 submitted utilization plan, and (iv) the bid's amount and
6 percentage of the contract awarded to businesses owned by
7 minorities, women, and persons with disabilities identified in
8 the utilization plan.

9 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
10 101-601, eff. 1-1-20.)

11 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

13 Sec. 8. Enforcement.

14 (1) The Council shall make such findings, recommendations
15 and proposals to the Governor as are necessary and appropriate
16 to enforce this Act. If, as a result of its monitoring
17 activities, the Council determines that its goals and policies
18 are not being met by any State agency or public institution of
19 higher education, the Council may recommend any or all of the
20 following actions:

21 (a) Establish enforcement procedures whereby the
22 Council may recommend to the appropriate State agency,
23 public institutions of higher education, or law
24 enforcement officer that legal or administrative remedies
25 be initiated for violations of contract provisions or

1 rules issued hereunder or by a contracting State agency or
2 public institutions of higher education. State agencies
3 and public institutions of higher education shall be
4 authorized to adopt remedies for such violations which
5 shall include (1) termination of the contract involved,
6 (2) prohibition of participation of the respondents in
7 public contracts for a period not to exceed one year, (3)
8 imposition of a penalty not to exceed any profit acquired
9 as a result of violation, or (4) any combination thereof.

10 (b) If the Council concludes that a compliance plan
11 submitted under Section 6 is unlikely to produce the
12 participation goals for businesses owned by minorities,
13 women, and persons with disabilities within the then
14 current fiscal year, the Council may recommend that the
15 State agency or public institution of higher education
16 revise its plan to provide additional opportunities for
17 participation by businesses owned by minorities, women,
18 and persons with disabilities. Such recommended revisions
19 may include, but shall not be limited to, the following:

20 (i) assurances of stronger and better focused
21 solicitation efforts to obtain more businesses owned
22 by minorities, women, and persons with disabilities as
23 potential sources of supply;

24 (ii) division of job or project requirements, when
25 economically feasible, into tasks or quantities to
26 permit participation of businesses owned by

1 minorities, women, and persons with disabilities;

2 (iii) elimination of extended experience or
3 capitalization requirements, when programmatically
4 feasible, to permit participation of businesses owned
5 by minorities, women, and persons with disabilities;

6 (iv) identification of specific proposed contracts
7 as particularly attractive or appropriate for
8 participation by businesses owned by minorities,
9 women, and persons with disabilities, such
10 identification to result from and be coupled with the
11 efforts of subparagraphs (i) through (iii);

12 (v) implementation of those regulations
13 established for the use of the sheltered market
14 process.

15 (2) State agencies and public institutions of higher
16 education shall review a vendor's compliance with its
17 utilization plan and the terms of its contract. Without
18 limitation, a vendor's failure to comply with its contractual
19 commitments as contained in the utilization plan; failure to
20 cooperate in providing information regarding its compliance
21 with its utilization plan; or the provision of false or
22 misleading information or statements concerning compliance,
23 certification status, or eligibility of the Business
24 Enterprise Program-certified vendor, good faith efforts, or
25 any other material fact or representation shall constitute a
26 material breach of the contract and entitle the State agency

1 or public institution of higher education to declare a
2 default, terminate the contract, or exercise those remedies
3 provided for in the contract, at law, or in equity.

4 (3) A vendor shall be in breach of the contract and may be
5 subject to penalties for failure to meet contract goals
6 established under this Act. Any vendor failing to meet the
7 contract goals established under this Act shall return all
8 funds which were allocated for, but not awarded to, black or
9 African owned businesses. The vendor shall have 60 days after
10 completion of any project to return such funds, unless the
11 vendor can show that it made good faith efforts to meet the
12 contract goals.

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

14 (30 ILCS 575/8f)

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

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

21 (1) a summary detailing expenditures subject to the
22 goals, the actual goals specified, and the goals attained
23 by each State agency and public institution of higher
24 education;

25 (2) a summary of the number of contracts awarded and

1 the average contract amount by each State agency and
2 public institution of higher education;

3 (3) an analysis of the level of overall goal
4 achievement concerning purchases from minority-owned
5 businesses, women-owned businesses, and businesses owned
6 by persons with disabilities;

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

11 (5) a summary of the number of contracts awarded to
12 businesses with annual gross sales of less than
13 \$1,000,000; of \$1,000,000 or more, but less than
14 \$5,000,000; of \$5,000,000 or more, but less than
15 \$10,000,000; and of \$10,000,000 or more; ~~and~~

16 (6) the total procurement budget of the State and the
17 percentage of the State budget spent on procurement; and

18 (7) the amount of revenue procured by black or African
19 American owned businesses through State contracts.

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