



Rep. William Davis

Filed: 3/22/2021

10200HB2629ham001

LRB102 12939 RJF 23997 a

1 AMENDMENT TO HOUSE BILL 2629

2 AMENDMENT NO. _____. Amend House Bill 2629 by replacing
3 everything after the enacting clause with the following:

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8 (Section scheduled to be repealed on June 30, 2024)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

1 and South America, including Central America, and who
2 maintains tribal affiliation or community attachment).

3 (b) Asian (a person having origins in any of the
4 original peoples of the Far East, Southeast Asia, or
5 the Indian subcontinent, including, but not limited
6 to, Cambodia, China, India, Japan, Korea, Malaysia,
7 Pakistan, the Philippine Islands, Thailand, and
8 Vietnam).

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

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

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

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

20 (2.05) "Person with a disability" means a person who
21 is a citizen or lawful resident of the United States and is
22 a person qualifying as a person with a disability under
23 subdivision (2.1) of this subsection (A).

24 (2.1) "Person with a disability" means a person with a
25 severe physical or mental disability that:

26 (a) results from:

1 amputation,
2 arthritis,
3 autism,
4 blindness,
5 burn injury,
6 cancer,
7 cerebral palsy,
8 Crohn's disease,
9 cystic fibrosis,
10 deafness,
11 head injury,
12 heart disease,
13 hemiplegia,
14 hemophilia,
15 respiratory or pulmonary dysfunction,
16 an intellectual disability,
17 mental illness,
18 multiple sclerosis,
19 muscular dystrophy,
20 musculoskeletal disorders,
21 neurological disorders, including stroke and
22 epilepsy,
23 paraplegia,
24 quadriplegia and other spinal cord conditions,
25 sickle cell anemia,
26 ulcerative colitis,

1 specific learning disabilities, or
2 end stage renal failure disease; and

3 (b) substantially limits one or more of the
4 person's major life activities.

5 Another disability or combination of disabilities may
6 also be considered as a severe disability for the purposes
7 of item (a) of this subdivision (2.1) if it is determined
8 by an evaluation of rehabilitation potential to cause a
9 comparable degree of substantial functional limitation
10 similar to the specific list of disabilities listed in
11 item (a) of this subdivision (2.1).

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

19 (4) "Women-owned business" means a business which is
20 at least 51% owned by one or more women, or, in the case of
21 a corporation, at least 51% of the stock in which is owned
22 by one or more women; and the management and daily
23 business operations of which are controlled by one or more
24 of the women who own it.

25 (4.1) "Business owned by a person with a disability"
26 means a business that is at least 51% owned by one or more

1 persons with a disability and the management and daily
2 business operations of which are controlled by one or more
3 of the persons with disabilities who own it. A
4 not-for-profit agency for persons with disabilities that
5 is exempt from taxation under Section 501 of the Internal
6 Revenue Code of 1986 is also considered a "business owned
7 by a person with a disability".

8 (4.2) "Council" means the Business Enterprise Council
9 for Minorities, Women, and Persons with Disabilities
10 created under Section 5 of this Act.

11 (5) "State contracts" means all contracts entered into
12 by the State, any agency or department thereof, or any
13 public institution of higher education, including
14 community college districts, regardless of the source of
15 the funds with which the contracts are paid, which are not
16 subject to federal reimbursement. "State contracts" does
17 not include contracts awarded by a retirement system,
18 pension fund, or investment board subject to Section
19 1-109.1 of the Illinois Pension Code. This definition
20 shall control over any existing definition under this Act
21 or applicable administrative rule.

22 "State construction contracts" means all State
23 contracts entered into by a State agency or public
24 institution of higher education for the repair,
25 remodeling, renovation or construction of a building or
26 structure, or for the construction or maintenance of a

1 highway defined in Article 2 of the Illinois Highway Code.

2 (6) "State agencies" shall mean all departments,
3 officers, boards, commissions, institutions and bodies
4 politic and corporate of the State, but does not include
5 the Board of Trustees of the University of Illinois, the
6 Board of Trustees of Southern Illinois University, the
7 Board of Trustees of Chicago State University, the Board
8 of Trustees of Eastern Illinois University, the Board of
9 Trustees of Governors State University, the Board of
10 Trustees of Illinois State University, the Board of
11 Trustees of Northeastern Illinois University, the Board of
12 Trustees of Northern Illinois University, the Board of
13 Trustees of Western Illinois University, municipalities or
14 other local governmental units, or other State
15 constitutional officers.

16 (7) "Public institutions of higher education" means
17 the University of Illinois, Southern Illinois University,
18 Chicago State University, Eastern Illinois University,
19 Governors State University, Illinois State University,
20 Northeastern Illinois University, Northern Illinois
21 University, Western Illinois University, the public
22 community colleges of the State, and any other public
23 universities, colleges, and community colleges now or
24 hereafter established or authorized by the General
25 Assembly.

26 (8) "Certification" means a determination made by the

1 Council or by one delegated authority from the Council to
2 make certifications, or by a State agency with statutory
3 authority to make such a certification, that a business
4 entity is a business owned by a minority, woman, or person
5 with a disability for whatever purpose. A business owned
6 and controlled by women shall be certified as a
7 "woman-owned business". A business owned and controlled by
8 women who are also minorities shall be certified as both a
9 "women-owned business" and a "minority-owned business".

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

1 (10) "Business" means a business that has annual gross
2 sales of less than \$75,000,000 as evidenced by the federal
3 income tax return of the business. A firm with gross sales
4 in excess of this cap may apply to the Council for
5 certification for a particular contract if the firm can
6 demonstrate that the contract would have significant
7 impact on businesses owned by minorities, women, or
8 persons with disabilities as suppliers or subcontractors
9 or in employment of minorities, women, or persons with
10 disabilities.

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

19 (12) "Business Enterprise Program" means the Business
20 Enterprise Program of the Department of Central Management
21 Services.

22 (B) When a business is owned at least 51% by any
23 combination of minority persons, women, or persons with
24 disabilities, even though none of the 3 classes alone holds at
25 least a 51% interest, the ownership requirement for purposes
26 of this Act is considered to be met. The certification

1 category for the business is that of the class holding the
2 largest ownership interest in the business. If 2 or more
3 classes have equal ownership interests, the certification
4 category shall be determined by the business.

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

6 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

8 Sec. 4. Award of State contracts.

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

25 Additionally, not less than 40% of the total dollar amount

1 of State Contracts, as defined by the Secretary of the Council
2 and approved by the Council, shall be established as an
3 aspirational goal to be awarded to businesses owned by
4 minorities; provided however, that of the total amount of all
5 State contracts awarded to businesses owned by minorities,
6 contracts representing at least 20% shall be awarded to
7 businesses owned by black or African American persons.

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

23 (b) Not less than 20% of the total dollar amount of State
24 construction contracts is established as an aspirational goal
25 to be awarded to businesses owned by minorities, women, and
26 persons with disabilities; provided that, contracts

1 representing at least 11% of the total dollar amount of State
2 construction contracts shall be awarded to businesses owned by
3 minorities; contracts representing at least 7% of the total
4 dollar amount of State construction contracts shall be awarded
5 to women-owned businesses; and contracts representing at least
6 2% of the total dollar amount of State construction contracts
7 shall be awarded to businesses owned by persons with
8 disabilities.

9 (c) (Blank).

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

21 By December 1, 2020, the Department of Central Management
22 Services shall conduct a new social scientific study that
23 measures the impact of discrimination on minority and women
24 business development in Illinois. By June 1, 2022, the
25 Department shall issue a report of its findings and any
26 recommendations on whether to adjust the goals for minority

1 and women participation established in this Act. Copies of
2 this report and the social scientific study shall be filed
3 with the Governor, ~~the Advisory Board,~~ and the General
4 Assembly. By December 1, 2022, the Department of Central
5 Management Services Business Enterprise Program shall develop
6 a model for social scientific disparity study sourcing for
7 local governmental units to adapt and implement to address
8 regional disparities in public procurement.

9 (e) Except as permitted under this Act or as otherwise
10 mandated by federal law or regulation, those who submit bids
11 or proposals for State contracts subject to the provisions of
12 this Act, whose bids or proposals are successful and include a
13 utilization plan but that fail to meet the goals set forth in
14 subsection (b) of this Section, shall be notified of that
15 deficiency and shall be afforded a period not to exceed 10
16 calendar days from the date of notification to cure that
17 deficiency in the bid or proposal. The deficiency in the bid or
18 proposal may only be cured by contracting with additional
19 subcontractors who are owned by minorities or women. Any
20 increase in cost to a contract for the addition of a
21 subcontractor to cure a bid's deficiency shall not affect the
22 bid price, shall not be used in the request for an exemption in
23 this Act, and in no case shall an identified subcontractor
24 with a certification made pursuant to this Act be terminated
25 from the contract without the written consent of the State
26 agency or public institution of higher education entering into

1 the contract.

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

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

11 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

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

1 information available at the time of the determination, that
2 there is an insufficient number of businesses owned by
3 minorities, women, and persons with disabilities to ensure
4 adequate competition and an expectation of reasonable prices
5 on bids or proposals solicited for the individual contract or
6 contract package in question. Any such exemptions shall be
7 given by the Council to the Bureau on Apprenticeship Programs.

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

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

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

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

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

26 (b) Determination. The Council's determination

1 concerning an individual contract exemption must consider,
2 at a minimum, the following:

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

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

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

18 (2) Class exemptions.

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

1 number of qualified businesses owned by minorities, women,
2 and persons with disabilities to ensure adequate
3 competition and an expectation of reasonable prices on
4 bids or proposals within that class. Any such exemption
5 shall be given by the Council to the Bureau on
6 Apprenticeship Programs.

7 (a-1) Written request for class exemption. A written
8 request for a class exemption must include, but is not
9 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 eligible businesses owned
17 by minorities, women, and persons with disabilities
18 and the agency or public institution of higher
19 education's expectations of reasonable prices on bids
20 or proposals within that class; and

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

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

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

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

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

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

16 (3) (Blank). ~~Waivers. Where a particular contract requires~~
17 ~~a contractor to meet a goal established pursuant to this Act,~~
18 ~~the contractor shall have the right to request a waiver from~~
19 ~~such requirements. The Council shall grant the waiver where~~
20 ~~the contractor demonstrates that there has been made a good~~
21 ~~faith effort to comply with the goals for participation by~~
22 ~~businesses owned by minorities, women, and persons with~~
23 ~~disabilities. Any such waiver shall also be transmitted in~~
24 ~~writing to the Bureau on Apprenticeship Programs.~~

25 ~~(a) Request for waiver. A contractor's request for a~~
26 ~~waiver under this subsection (3) must include, but is not~~

1 ~~limited to, the following, if available:~~

2 ~~(i) a list of eligible businesses owned by~~
3 ~~minorities, women, and persons with disabilities that~~
4 ~~pertain to the class of contracts in the requested~~
5 ~~waiver;~~

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

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

15 ~~(iv) a list of businesses owned by minorities,~~
16 ~~women, and persons with disabilities that the~~
17 ~~contractor has used in the current and prior fiscal~~
18 ~~years.~~

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

21 ~~(i) the justification for the requested waiver,~~
22 ~~including whether the requesting contractor made a~~
23 ~~good faith effort to identify and solicit eligible~~
24 ~~businesses owned by minorities, women, and persons~~
25 ~~with disabilities;~~

26 ~~(ii) the total number of waivers the contractor~~

1 ~~has been granted by the Council in the current and~~
2 ~~prior fiscal years;~~

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; and~~

8 ~~(iv) the contractor'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 firms 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 firms identified in the bidder's or offeror's
16 submitted utilization plan, and (iv) the bid's amount and
17 percentage of the contract awarded to businesses owned by
18 minorities, women, and persons with disabilities identified in
19 the utilization plan.

20 (Source: P.A. 100-391, eff. 8-25-17; 101-170, eff. 1-1-20;
21 101-601, eff. 1-1-20.)

22 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

24 Sec. 8. Enforcement.

25 (1) The Council shall make such findings, recommendations

1 and proposals to the Governor as are necessary and appropriate
2 to enforce this Act. If, as a result of its monitoring
3 activities, the Council determines that its goals and policies
4 are not being met by any State agency or public institution of
5 higher education, the Council may recommend any or all of the
6 following actions:

7 (a) Establish enforcement procedures whereby the
8 Council may recommend to the appropriate State agency,
9 public institutions of higher education, or law
10 enforcement officer that legal or administrative remedies
11 be initiated for violations of contract provisions or
12 rules issued hereunder or by a contracting State agency or
13 public institutions of higher education. State agencies
14 and public institutions of higher education shall be
15 authorized to adopt remedies for such violations which
16 shall include (1) termination of the contract involved,
17 (2) prohibition of participation of the respondents in
18 public contracts for a period not to exceed one year, (3)
19 imposition of a penalty not to exceed any profit acquired
20 as a result of violation, or (4) any combination thereof.

21 (b) If the Council concludes that a compliance plan
22 submitted under Section 6 is unlikely to produce the
23 participation goals for businesses owned by minorities,
24 women, and persons with disabilities within the then
25 current fiscal year, the Council may recommend that the
26 State agency or public institution of higher education

1 revise its plan to provide additional opportunities for
2 participation by businesses owned by minorities, women,
3 and persons with disabilities. Such recommended revisions
4 may include, but shall not be limited to, the following:

5 (i) assurances of stronger and better focused
6 solicitation efforts to obtain more businesses owned
7 by minorities, women, and persons with disabilities as
8 potential sources of supply;

9 (ii) division of job or project requirements, when
10 economically feasible, into tasks or quantities to
11 permit participation of businesses owned by
12 minorities, women, and persons with disabilities;

13 (iii) elimination of extended experience or
14 capitalization requirements, when programmatically
15 feasible, to permit participation of businesses owned
16 by minorities, women, and persons with disabilities;

17 (iv) identification of specific proposed contracts
18 as particularly attractive or appropriate for
19 participation by businesses owned by minorities,
20 women, and persons with disabilities, such
21 identification to result from and be coupled with the
22 efforts of subparagraphs (i) through (iii);

23 (v) implementation of those regulations
24 established for the use of the sheltered market
25 process.

26 (2) State agencies and public institutions of higher

1 education shall review a vendor's compliance with its
2 utilization plan and the terms of its contract. Without
3 limitation, a vendor's failure to comply with its contractual
4 commitments as contained in the utilization plan; failure to
5 cooperate in providing information regarding its compliance
6 with its utilization plan; or the provision of false or
7 misleading information or statements concerning compliance,
8 certification status, or eligibility of the Business
9 Enterprise Program-certified vendor, good faith efforts, or
10 any other material fact or representation shall constitute a
11 material breach of the contract and entitle the State agency
12 or public institution of higher education to declare a
13 default, terminate the contract, or exercise those remedies
14 provided for in the contract, at law, or in equity.

15 (3) A vendor shall be in breach of the contract and may be
16 subject to penalties for failure to meet contract goals
17 established under this Act. Any vendor failing to meet the
18 contract goals established under this Act shall return all
19 funds which were allocated for, but not awarded to,
20 women-owned businesses, businesses owned by persons with
21 disabilities, minority-owned businesses, and black-owned and
22 African American owned businesses, unless the vendor can show
23 that it made good faith efforts to meet the contract goals.

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

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

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

7 (1) a summary detailing expenditures subject to the
8 goals, the actual goals specified, and the goals attained
9 by each State agency and public institution of higher
10 education;

11 (2) a summary of the number of contracts awarded and
12 the average contract amount by each State agency and
13 public institution of higher education;

14 (3) an analysis of the level of overall goal
15 achievement concerning purchases from minority-owned
16 businesses, black and African American owned businesses,
17 women-owned businesses, and businesses owned by persons
18 with disabilities;

19 (4) an analysis of the number of businesses owned by
20 minorities, black and African American persons, women, and
21 persons with disabilities that are certified under the
22 program as well as the number of those businesses that
23 received State procurement contracts; ~~and~~

24 (5) a summary of the number of contracts awarded to
25 businesses with annual gross sales of less than
26 \$1,000,000; of \$1,000,000 or more, but less than

1 \$5,000,000; of \$5,000,000 or more, but less than
2 \$10,000,000; and of \$10,000,000 or more~~;~~

3 (6) the total procurement budget of the State and the
4 percentage of the State budget spent on procurement;

5 (7) the amount of revenue procured by minority-owned
6 businesses, black and African American owned businesses,
7 women-owned businesses, and businesses owned by persons
8 with disabilities;

9 (8) the number of contracts awarded to minority-owned
10 businesses, black and African American owned businesses,
11 women-owned businesses, and businesses owned by persons
12 with disabilities;

13 (9) the amount of State funds paid to contractors and
14 the amount of said funds paid to minority-owned
15 businesses, black and African American owned businesses,
16 women-owned businesses, and businesses owned by persons
17 with disabilities; and

18 (10) the number of times State contracts were clawed
19 back because a contractor did not meet the contracting
20 goals established under this Act.

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