

# SB3896



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3896

Introduced 1/21/2022, by Sen. Ann Gillespie

#### SYNOPSIS AS INTRODUCED:

New Act  
220 ILCS 5/5-117

Creates the Diversity in Not-for-Profit Act. Allows any State agency, county, or unit of local government of the State of Illinois that certifies entities under a disadvantaged business enterprise program to certify organizations as minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability under the Act. Provides further requirements concerning certification under the Act. Amends the Public Utilities Act. Provides that specified supplier diversity goal requirements under the Act apply to minority-led not-for-profit organizations, woman-led not-for-profit organizations, and not-for-profit organizations led by a person with a disability. Defines terms. Makes conforming changes.

LRB102 22583 RJF 31725 b

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Diversity in Not-for-Profit Act.

6 Section 5. Definitions. As used in this Act:

7 "Board of directors" has the same meaning as provided  
8 under subsection (d) of Section 101.80 of the General Not For  
9 Profit Corporation Act of 1986.

10 "Certification" means a determination that a  
11 not-for-profit organization meets the defined classifications  
12 of a "minority-led not-for-profit organization", a "woman-led  
13 not-for-profit organization", or a "not-for-profit  
14 organization led by a person with a disability".

15 "Key employees" means an employee of the organization who  
16 is:

17 (1) the person who has ultimate responsibility for  
18 implementing the decisions of the board of directors or  
19 for supervising the management, administration, or  
20 operation of the organization;

21 (2) the person who has ultimate responsibility for  
22 managing the organization's finances; or

23 (3) the person who:

1 (A) has responsibilities, powers, or influence  
2 over the organization as a whole that is similar to the  
3 persons described in paragraphs (1) and (2);

4 (B) manages a discrete segment or activity of the  
5 organizations that represents 25% or more of the  
6 activities, assets, income, or expenses of the  
7 organization, as compared to the organization as a  
8 whole, or has or shares authority to control or  
9 determine 25% or more of the organization's capital  
10 expenditures, operating budget, or compensation for  
11 employees; and

12 (C) is one of the 5 highest compensated employees  
13 in the organization.

14 "Minority-led not-for-profit organization" means an  
15 organization that is tax-exempt under Sections 501(c)(3) or  
16 501(c)(4) of the Internal Revenue Code of 1986, has filed all  
17 required forms under the Solicitation for Charity Act, and for  
18 which:

19 (1) at least 51% of the members of the organization's  
20 board of directors are minority persons, or at least 51%  
21 of the members of the organization's board of directors  
22 and key employees are minority persons;

23 (2) the organization is regularly and actively engaged  
24 in the activity for which it is formed;

25 (3) the organization is not dependent upon or  
26 influenced by another non-eligible person or organization;

1 and

2 (4) the organization has not been established or  
3 reorganized for the specific purpose of obtaining a  
4 certification under this Act.

5 "Not-for-profit organization led by a person with a  
6 disability" means an organization that is tax-exempt under  
7 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code  
8 of 1986, has filed all required forms under the Solicitation  
9 for Charity Act, and for which:

10 (1) at least 51% of the members of the organization's  
11 board of directors are persons with a disability, or at  
12 least 51% of the members of the organization's board of  
13 directors and key employees are persons with a disability;

14 (2) the organization is regularly and actively engaged  
15 in the activity for which it is formed;

16 (3) the organization is not dependent upon or  
17 influenced by another non-eligible person or organization;  
18 and

19 (4) the organization has not been established or  
20 reorganized for the specific purpose of obtaining a  
21 certification under this Act.

22 "Woman-led not-for-profit organization" means an  
23 organization that is tax-exempt under Sections 501(c)(3) or  
24 501(c)(4) of the Internal Revenue Code of 1986, has filed all  
25 required forms under the Solicitation for Charity Act, and for  
26 which:

1           (1) at least 51% of the members of the organization's  
2 board of directors are women, or at least 51% of the  
3 members of the organization's board of directors and key  
4 employees are women;

5           (2) the organization is regularly and actively engaged  
6 in the activity for which it is formed;

7           (3) the organization is not dependent upon or  
8 influenced by another non-eligible person or organization;  
9 and

10          (4) the organization has not been established or  
11 reorganized for the specific purpose of obtaining a  
12 certification under this Act.

13          Section 10. Certification.

14          (a) For the purpose of assuring that a not-for-profit  
15 organization taking advantage of this Act is legitimately  
16 classified as a minority-led not-for-profit organization, a  
17 woman-led not-for-profit organization, or a not-for-profit  
18 organization led by a person with a disability, any State  
19 agency, county, or unit of local government of the State of  
20 Illinois that, on the effective date of this Act, certifies  
21 entities under a disadvantaged business enterprise program  
22 created under (i) the Business Enterprise for Minorities,  
23 Women, and Persons with Disabilities Act, (ii) home rule  
24 authorization under the Illinois Constitution, or (iii) any  
25 similar statutory or home rule authorizations, may also

1 certify the organizations defined under this Act. Any such  
2 State agency, county, or unit of local government, if it  
3 elects to certify hereunder, shall also maintain a list of all  
4 not-for-profit organizations legitimately classified as a  
5 minority-led not-for-profit organization, a woman-led  
6 not-for-profit organization, or a not-for-profit organization  
7 led by a person with a disability.

8 (b) When a not-for-profit organization's board of  
9 directors, or the board of directors together with key  
10 employees, consists of at least 51% of any combination of  
11 minority persons, women, or persons with disabilities, even  
12 though none of the 3 classes alone holds at least a 51% share,  
13 the 51% membership requirement for purposes of certification  
14 under this Act shall be considered met. The certification  
15 category for not-for-profit organizations shall be that of the  
16 class holding the largest share of positions on the board of  
17 directors, or on the board of directors together with key  
18 employees, of a not-for-profit organization. If 2 or more  
19 classes have an equal share of positions on the board of  
20 directors, or on the board of directors together with key  
21 employees, the certification category shall be determined by  
22 the not-for-profit organization.

23 Section 15. Rules. Any State agency that elects to certify  
24 organizations under this Act shall adopt rules necessary to  
25 implement and enforce the requirements of this Act.

1 Section 100. The Public Utilities Act is amended by  
2 changing Section 5-117 as follows:

3 (220 ILCS 5/5-117)

4 Sec. 5-117. Supplier diversity goals.

5 (a) The public policy of this State is to collaboratively  
6 work with companies and not-for-profit organizations that  
7 serve Illinois residents to improve their supplier diversity  
8 in a non-antagonistic manner.

9 (a-5) For the purposes of this Section, "minority-led  
10 not-for-profit organization", "woman-led not-for-profit  
11 organization", and "not-for-profit organization led by a  
12 person with a disability" shall have the same meanings as  
13 provided under the Diversity in Not-for-Profit Act.

14 (b) The Commission shall require all gas, electric, and  
15 water companies with at least 100,000 customers under its  
16 authority, as well as suppliers of wind energy, solar energy,  
17 hydroelectricity, nuclear energy, and any other supplier of  
18 energy within this State, to submit an annual report by April  
19 15, 2015 and every April 15 thereafter, in a searchable Adobe  
20 PDF format, on all procurement goals and actual spending for  
21 female-owned, minority-owned, veteran-owned, person with a  
22 disability-owned, and small business enterprises, as well as  
23 minority-led not-for-profit organizations, woman-led  
24 not-for-profit organizations, and not-for-profit

1 organizations led by a person with a disability, in the  
2 previous calendar year. These goals shall be expressed as a  
3 percentage of the total work performed by the entity  
4 submitting the report, and the actual spending for all  
5 female-owned, minority-owned, veteran-owned, person with a  
6 disability-owned, and small business enterprises, as well as  
7 minority-led not-for-profit organizations, woman-led  
8 not-for-profit organizations, and not-for-profit  
9 organizations led by a person with a disability, shall also be  
10 expressed as a percentage of the total work performed by the  
11 entity submitting the report.

12 (c) Each participating company in its annual report shall  
13 include the following information:

14 (1) an explanation of the plan for the next year to  
15 increase participation;

16 (2) an explanation of the plan to increase the goals;

17 (3) the areas of procurement each company shall be  
18 actively seeking more participation in the next year;

19 (4) an outline of the plan to alert and encourage  
20 potential vendors in that area to seek business from the  
21 company;

22 (5) an explanation of the challenges faced in finding  
23 quality vendors and offer any suggestions for what the  
24 Commission could do to be helpful to identify those  
25 vendors;

26 (6) a list of the certifications the company



1 recognizes;

2 (7) the point of contact for any potential vendor who  
3 wishes to do business with the company and explain the  
4 process for a vendor to enroll with the company as a  
5 minority-owned, women-owned, ~~or~~ veteran-owned, or person  
6 with a disability-owned company , or a minority-led  
7 not-for-profit organization, a woman-led not-for-profit  
8 organization, or a not-for-profit organization led by a  
9 person with a disability; and

10 (8) any particular success stories to encourage other  
11 companies to emulate best practices.

12 (d) Each annual report shall include as much  
13 State-specific data as possible. If the submitting entity does  
14 not submit State-specific data, then the company shall include  
15 any national data it does have and explain why it could not  
16 submit State-specific data and how it intends to do so in  
17 future reports, if possible.

18 (e) Each annual report shall include the rules,  
19 regulations, and definitions used for the procurement goals in  
20 the company's annual report.

21 (f) The Commission and all participating entities shall  
22 hold an annual workshop open to the public in 2015 and every  
23 year thereafter on the state of supplier diversity to  
24 collaboratively seek solutions to structural impediments to  
25 achieving stated goals, including testimony from each  
26 participating entity as well as subject matter experts and

1 advocates. The Commission shall publish a database on its  
2 website of the point of contact for each participating entity  
3 for supplier diversity, along with a list of certifications  
4 each company recognizes from the information submitted in each  
5 annual report. The Commission shall publish each annual report  
6 on its website and shall maintain each annual report for at  
7 least 5 years.

8 (Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21;  
9 102-673, eff. 11-30-21.)