AN ACT concerning finance.

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

Section 5. The Business Enterprise for Minorities, Women, and Persons with Disabilities Act is amended by changing Sections 4 and 4f as follows:

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

Sec. 4. Award of State contracts.

(a) Except as provided in subsection (b), not less than 30% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, women, and persons with disabilities pursuant to this Section, contracts representing at least 16% shall be awarded to businesses owned by minorities, contracts representing at least 10% shall be awarded to women-owned businesses, and contracts representing at least 4% shall be awarded to businesses owned by persons with disabilities.

(a-5) In addition to the aspirational goals in awarding
State contracts set under subsection (a), the Commission shall by rule further establish targeted efforts to encourage the participation of businesses owned by minorities, women, and persons with disabilities on State contracts. Such efforts shall include, but not be limited to, further concerted outreach efforts to businesses owned by minorities, women, and persons with disabilities.

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

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

(c) (Blank).

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

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

By December 1, 2020, the Department of Central Management
Services shall conduct a new social scientific study that
measures the impact of discrimination on minority and women
business development in Illinois. By June 1, 2022, the
Department shall issue a report of its findings and any
recommendations on whether to adjust the goals for minority
and women participation established in this Act. Copies of
this report and the social scientific study shall be filed
with the Governor and the General Assembly. By December 1,
2022, the Commission on Equity and Inclusion Business
Enterprise Program shall develop a model for social scientific
disparity study sourcing for local governmental units to adapt
and implement to address regional disparities in public
procurement.

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

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

Deficiencies that may be cured include: (i) scrivener's errors, such as transposed numbers; (ii) information submitted in an incorrect form or format; (iii) mistakes resulting from failure to follow instructions or to identify and adequately document good faith efforts taken to comply with the utilization plan; or (iv) a proposal to use a firm whose Business Enterprise Program certification has lapsed or is not yet recognized. Cure is not authorized if the bidder or offeror submits a blank utilization plan, a utilization plan that shows lack of reasonable effort to complete the form on time, or a utilization plan that states the contract will be self-performed, by a non-certified vendor, without showing good faith efforts or a request for a waiver. All cure activity shall address the deficiencies identified by the purchasing agency and shall require clear documentation, including that of good faith efforts, to address those deficiencies. Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency shall not affect the bid price and shall not be used in the request for an exemption under this Act, and, in no case, shall an identified subcontractor with a Business Enterprise Program certification made under this Act be terminated from a contract without the written consent of the State agency or public institution of
higher education entering into the contract. The purchasing agency or public institution of higher education shall make the determination whether the cure is adequate.

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

(f) (Blank).

(g) (Blank).

(h) State agencies and public institutions of higher education shall notify the Commission on Equity and Inclusion of all non-responsive bids or proposals for State contracts.

(i) All goals established under this Section apply to architectural, engineering, and land surveying contracts under the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20; 101-657, Article 1, Section 1-5, eff. 1-1-22; 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-1119, eff. 1-23-23.)

(30 ILCS 575/4f)

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

Sec. 4f. Award of State contracts.

(1) It is hereby declared to be the public policy of the
State of Illinois to promote and encourage each State agency and public institution of higher education to use businesses owned by minorities, women, and persons with disabilities in the area of goods and services, including, but not limited to, insurance services, investment management services, information technology services, accounting services, architectural and engineering services, and legal services. Furthermore, each State agency and public institution of higher education shall utilize such firms to the greatest extent feasible within the bounds of financial and fiduciary prudence, and take affirmative steps to remove any barriers to the full participation of such firms in the procurement and contracting opportunities afforded.

(a) When a State agency or public institution of higher education, other than a community college, awards a contract for insurance services, for each State agency or public institution of higher education, it shall be the aspirational goal to use insurance brokers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total annual premiums or fees; provided that, contracts representing at least 11% of the total annual premiums or fees shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total annual premiums or fees shall be awarded to women-owned businesses; and contracts representing at least 2% of the
total annual premiums or fees shall be awarded to businesses owned by persons with disabilities.

(b) When a State agency or public institution of higher education, other than a community college, awards a contract for investment services, for each State agency or public institution of higher education, it shall be the aspirational goal to use emerging investment managers owned by minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total funds under management; provided that, contracts representing at least 11% of the total funds under management shall be awarded to businesses owned by minorities; contracts representing at least 7% of the total funds under management shall be awarded to women-owned businesses; and contracts representing at least 2% of the total funds under management shall be awarded to businesses owned by persons with disabilities. Furthermore, it is the aspirational goal that not less than 20% of the direct asset managers of the State funds be minorities, women, and persons with disabilities.

(c) When a State agency or public institution of higher education, other than a community college, awards contracts for information technology services, accounting services, architectural and engineering services, and legal services, for each State agency and public institution of higher education, it shall be the aspirational goal to use
such firms owned by minorities, women, and persons with disabilities as defined by this Act and lawyers who are minorities, women, and persons with disabilities as defined by this Act, for not less than 20% of the total dollar amount of State contracts; provided that, contracts representing at least 11% of the total dollar amount of State contracts shall be awarded to businesses owned by minorities or minority lawyers; contracts representing at least 7% of the total dollar amount of State contracts shall be awarded to women-owned businesses or women who are lawyers; and contracts representing at least 2% of the total dollar amount of State contracts shall be awarded to businesses owned by persons with disabilities or persons with disabilities who are lawyers.

(d) When a community college awards a contract for insurance services, investment services, information technology services, accounting services, architectural and engineering services, and legal services, it shall be the aspirational goal of each community college to use businesses owned by minorities, women, and persons with disabilities as defined in this Act for not less than 20% of the total amount spent on contracts for these services collectively; provided that, contracts representing at least 11% of the total amount spent on contracts for these services shall be awarded to businesses owned by minorities; contracts representing at least 7% of the
total amount spent on contracts for these services shall be awarded to women-owned businesses; and contracts representing at least 2% of the total amount spent on contracts for these services shall be awarded to businesses owned by persons with disabilities. When a community college awards contracts for investment services, contracts awarded to investment managers who are not emerging investment managers as defined in this Act shall not be considered businesses owned by minorities, women, or persons with disabilities for the purposes of this Section.

(2) As used in this Section:

"Accounting services" means the measurement, processing and communication of financial information about economic entities including, but is not limited to, financial accounting, management accounting, auditing, cost containment and auditing services, taxation and accounting information systems.

"Architectural and engineering services" means professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions, and individuals in their employ, may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plane
and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

"Emerging investment manager" means an investment manager or claims consultant having assets under management below $10 billion or otherwise adjudicating claims.

"Information technology services" means, but is not limited to, specialized technology-oriented solutions by combining the processes and functions of software, hardware, networks, telecommunications, web designers, cloud developing resellers, and electronics.

"Insurance broker" means an insurance brokerage firm, claims administrator, or both, that procures, places all lines of insurance, or administers claims with annual premiums or fees of at least $5,000,000 but not more than $10,000,000.

"Legal services" means work performed by a lawyer including, but not limited to, contracts in anticipation of litigation, enforcement actions, or investigations.

(3) Each State agency and public institution of higher education shall adopt policies that identify its plan and implementation procedures for increasing the use of service firms owned by minorities, women, and persons with disabilities. All plan and implementation procedures for
increasing the use of service firms owned by minorities, women, and persons with disabilities must be submitted to and approved by the Commission on Equity and Inclusion on an annual basis.

(4) Except as provided in subsection (5), the Council shall file no later than March 1 of each year an annual report to the Governor, the Bureau on Apprenticeship Programs and Clean Energy Jobs, and the General Assembly. The report filed with the General Assembly shall be filed as required in Section 3.1 of the General Assembly Organization Act. This report shall: (i) identify the service firms used by each State agency and public institution of higher education, (ii) identify the actions it has undertaken to increase the use of service firms owned by minorities, women, and persons with disabilities, including encouraging non-minority-owned firms to use other service firms owned by minorities, women, and persons with disabilities as subcontractors when the opportunities arise, (iii) state any recommendations made by the Council to each State agency and public institution of higher education to increase participation by the use of service firms owned by minorities, women, and persons with disabilities, and (iv) include the following:

(A) For insurance services: the names of the insurance brokers or claims consultants used, the total of risk managed by each State agency and public institution of higher education by insurance brokers, the total
commissions, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed; and the percentage of the risk managed by insurance brokers, the percentage of total commission, fees paid, or both, the lines or insurance policies placed, and the amount of premiums placed with each by the insurance brokers owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(B) For investment management services: the names of the investment managers used, the total funds under management of investment managers; the total commissions, fees paid, or both; the total and percentage of funds under management of emerging investment managers owned by minorities, women, and persons with disabilities, including the total and percentage of total commissions, fees paid, or both by each State agency and public institution of higher education.

(C) The names of service firms, the percentage and total dollar amount paid for professional services by category by each State agency and public institution of higher education.

(D) The names of service firms, the percentage and total dollar amount paid for services by category to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.
education.

(E) The total number of contracts awarded for services by category and the total number of contracts awarded to firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education.

(5) For community college districts, the Business Enterprise Council shall only report the following information for each community college district: (i) the name of the community colleges in the district, (ii) the name and contact information of a person at each community college appointed to be the single point of contact for vendors owned by minorities, women, or persons with disabilities, (iii) the policy of the community college district concerning certified vendors, (iv) the certifications recognized by the community college district for determining whether a business is owned or controlled by a minority, woman, or person with a disability, (v) outreach efforts conducted by the community college district to increase the use of certified vendors, (vi) the total expenditures by the community college district in the prior fiscal year in the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the amount paid to certified vendors in those divisions of work, and (vii) the total number of contracts entered into for the divisions of work specified in paragraphs (a), (b), and (c) of subsection (1) of this Section and the total number of
contracts awarded to certified vendors providing these services to the community college district. The Business Enterprise Council shall not make any utilization reports under this Act for community college districts for Fiscal Year 2015 and Fiscal Year 2016, but shall make the report required by this subsection for Fiscal Year 2017 and for each fiscal year thereafter. The Business Enterprise Council shall report the information in items (i), (ii), (iii), and (iv) of this subsection beginning in September of 2016. The Business Enterprise Council may collect the data needed to make its report from the Illinois Community College Board.

(6) The status of the utilization of services shall be discussed at each of the regularly scheduled Business Enterprise Council meetings. Time shall be allotted for the Council to receive, review, and discuss the progress of the use of service firms owned by minorities, women, and persons with disabilities by each State agency and public institution of higher education; and any evidence regarding past or present racial, ethnic, or gender-based discrimination which directly impacts a State agency or public institution of higher education contracting with such firms. If after reviewing such evidence the Council finds that there is or has been such discrimination against a specific group, race or sex, the Council shall establish sheltered markets or adjust existing sheltered markets tailored to address the Council's specific findings for the divisions of work specified in
paragraphs (a), (b), and (c) of subsection (1) of this Section.

(Source: P.A. 101-170, eff. 1-1-20; 101-657, Article 5, Section 5-10, eff. 7-1-21 (See Section 25 of P.A. 102-29 for effective date of P.A. 101-657, Article 5, Section 5-10); 101-657, Article 40, Section 40-130, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff. 9-15-21.)