

HB2288



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2288

Introduced 2/14/2023, by Rep. Wayne A Rosenthal

SYNOPSIS AS INTRODUCED:

30 ILCS 500/45-57

Amends the Illinois Procurement Code. Provides that, as used in a provision of the Code that establishes procurement goals for veteran-owned small businesses, the term "small business" means a business that has annual gross sales of less than \$150,000,000 (rather than less than \$75,000,000) as evidenced by the federal income tax return of the business.

LRB103 30019 JDS 56440 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 5. The Illinois Procurement Code is amended by
5 changing Section 45-57 as follows:

6 (30 ILCS 500/45-57)

7 Sec. 45-57. Veterans.

8 (a) Set-aside goal. It is the goal of the State to promote
9 and encourage the continued economic development of small
10 businesses owned and controlled by qualified veterans and that
11 qualified service-disabled veteran-owned small businesses
12 (referred to as SDVOSB) and veteran-owned small businesses
13 (referred to as VOSB) participate in the State's procurement
14 process as both prime contractors and subcontractors. Not less
15 than 3% of the total dollar amount of State contracts, as
16 defined by the Commission on Equity and Inclusion, shall be
17 established as a goal to be awarded to SDVOSB and VOSB. That
18 portion of a contract under which the contractor subcontracts
19 with a SDVOSB or VOSB may be counted toward the goal of this
20 subsection. The Commission on Equity and Inclusion shall adopt
21 rules to implement compliance with this subsection by all
22 State agencies.

23 (b) Fiscal year reports. By each November 1, each chief

1 procurement officer shall report to the Commission on Equity
2 and Inclusion on all of the following for the immediately
3 preceding fiscal year, and by each March 1 the Commission on
4 Equity and Inclusion shall compile and report that information
5 to the General Assembly:

6 (1) The total number of VOSB, and the number of
7 SDVOSB, who submitted bids for contracts under this Code.

8 (2) The total number of VOSB, and the number of
9 SDVOSB, who entered into contracts with the State under
10 this Code and the total value of those contracts.

11 (b-5) The Commission on Equity and Inclusion shall submit
12 an annual report to the Governor and the General Assembly that
13 shall include the following:

14 (1) a year-by-year comparison of the number of
15 certifications the State has issued to veteran-owned small
16 businesses and service-disabled veteran-owned small
17 businesses;

18 (2) the obstacles, if any, the Commission on Equity
19 and Inclusion faces when certifying veteran-owned
20 businesses and possible rules or changes to rules to
21 address those issues;

22 (3) a year-by-year comparison of awarded contracts to
23 certified veteran-owned small businesses and
24 service-disabled veteran-owned small businesses; and

25 (4) any other information that the Commission on
26 Equity and Inclusion deems necessary to assist

1 veteran-owned small businesses and service-disabled
2 veteran-owned small businesses to become certified with
3 the State.

4 The Commission on Equity and Inclusion shall conduct a
5 minimum of 2 outreach events per year to ensure that
6 veteran-owned small businesses and service-disabled
7 veteran-owned small businesses know about the procurement
8 opportunities and certification requirements with the State.
9 The Commission on Equity and Inclusion may receive
10 appropriations for outreach.

11 (c) Yearly review and recommendations. Each year, each
12 chief procurement officer shall review the progress of all
13 State agencies under its jurisdiction in meeting the goal
14 described in subsection (a), with input from statewide
15 veterans' service organizations and from the business
16 community, including businesses owned by qualified veterans,
17 and shall make recommendations to be included in the
18 Commission on Equity and Inclusion's report to the General
19 Assembly regarding continuation, increases, or decreases of
20 the percentage goal. The recommendations shall be based upon
21 the number of businesses that are owned by qualified veterans
22 and on the continued need to encourage and promote businesses
23 owned by qualified veterans.

24 (d) Governor's recommendations. To assist the State in
25 reaching the goal described in subsection (a), the Governor
26 shall recommend to the General Assembly changes in programs to

1 assist businesses owned by qualified veterans.

2 (e) Definitions. As used in this Section:

3 "Armed forces of the United States" means the United
4 States Army, Navy, Air Force, Marine Corps, Coast Guard, or
5 service in active duty as defined under 38 U.S.C. Section 101.
6 Service in the Merchant Marine that constitutes active duty
7 under Section 401 of federal Public Act 95-202 shall also be
8 considered service in the armed forces for purposes of this
9 Section.

10 "Certification" means a determination made by the Illinois
11 Department of Veterans' Affairs and the Commission on Equity
12 and Inclusion that a business entity is a qualified
13 service-disabled veteran-owned small business or a qualified
14 veteran-owned small business for whatever purpose. A SDVOSB or
15 VOSB owned and controlled by women, minorities, or persons
16 with disabilities, as those terms are defined in Section 2 of
17 the Business Enterprise for Minorities, Women, and Persons
18 with Disabilities Act, may also select and designate whether
19 that business is to be certified as a "women-owned business",
20 "minority-owned business", or "business owned by a person with
21 a disability", as defined in Section 2 of the Business
22 Enterprise for Minorities, Women, and Persons with
23 Disabilities Act.

24 "Control" means the exclusive, ultimate, majority, or sole
25 control of the business, including but not limited to capital
26 investment and all other financial matters, property,

1 acquisitions, contract negotiations, legal matters,
2 officer-director-employee selection and comprehensive hiring,
3 operation responsibilities, cost-control matters, income and
4 dividend matters, financial transactions, and rights of other
5 shareholders or joint partners. Control shall be real,
6 substantial, and continuing, not pro forma. Control shall
7 include the power to direct or cause the direction of the
8 management and policies of the business and to make the
9 day-to-day as well as major decisions in matters of policy,
10 management, and operations. Control shall be exemplified by
11 possessing the requisite knowledge and expertise to run the
12 particular business, and control shall not include simple
13 majority or absentee ownership.

14 "Qualified service-disabled veteran" means a veteran who
15 has been found to have 10% or more service-connected
16 disability by the United States Department of Veterans Affairs
17 or the United States Department of Defense.

18 "Qualified service-disabled veteran-owned small business"
19 or "SDVOSB" means a small business (i) that is at least 51%
20 owned by one or more qualified service-disabled veterans
21 living in Illinois or, in the case of a corporation, at least
22 51% of the stock of which is owned by one or more qualified
23 service-disabled veterans living in Illinois; (ii) that has
24 its home office in Illinois; and (iii) for which items (i) and
25 (ii) are factually verified annually by the Commission on
26 Equity and Inclusion.

1 "Qualified veteran-owned small business" or "VOSB" means a
2 small business (i) that is at least 51% owned by one or more
3 qualified veterans living in Illinois or, in the case of a
4 corporation, at least 51% of the stock of which is owned by one
5 or more qualified veterans living in Illinois; (ii) that has
6 its home office in Illinois; and (iii) for which items (i) and
7 (ii) are factually verified annually by the Commission on
8 Equity and Inclusion.

9 "Service-connected disability" means a disability incurred
10 in the line of duty in the active military, naval, or air
11 service as described in 38 U.S.C. 101(16).

12 "Small business" means a business that has annual gross
13 sales of less than \$150,000,000 ~~\$75,000,000~~ as evidenced by
14 the federal income tax return of the business. A firm with
15 gross sales in excess of this cap may apply to the Commission
16 on Equity and Inclusion for certification for a particular
17 contract if the firm can demonstrate that the contract would
18 have significant impact on SDVOSB or VOSB as suppliers or
19 subcontractors or in employment of veterans or
20 service-disabled veterans.

21 "State agency" has the meaning provided in Section
22 1-15.100 of this Code.

23 "Time of hostilities with a foreign country" means any
24 period of time in the past, present, or future during which a
25 declaration of war by the United States Congress has been or is
26 in effect or during which an emergency condition has been or is

1 in effect that is recognized by the issuance of a Presidential
2 proclamation or a Presidential executive order and in which
3 the armed forces expeditionary medal or other campaign service
4 medals are awarded according to Presidential executive order.

5 "Veteran" means a person who (i) has been a member of the
6 armed forces of the United States or, while a citizen of the
7 United States, was a member of the armed forces of allies of
8 the United States in time of hostilities with a foreign
9 country and (ii) has served under one or more of the following
10 conditions: (a) the veteran served a total of at least 6
11 months; (b) the veteran served for the duration of hostilities
12 regardless of the length of the engagement; (c) the veteran
13 was discharged on the basis of hardship; or (d) the veteran was
14 released from active duty because of a service connected
15 disability and was discharged under honorable conditions.

16 (f) Certification program. The Illinois Department of
17 Veterans' Affairs and the Commission on Equity and Inclusion
18 shall work together to devise a certification procedure to
19 assure that businesses taking advantage of this Section are
20 legitimately classified as qualified service-disabled
21 veteran-owned small businesses or qualified veteran-owned
22 small businesses.

23 The Commission on Equity and Inclusion shall:

24 (1) compile and maintain a comprehensive list of
25 certified veteran-owned small businesses and
26 service-disabled veteran-owned small businesses;

1 (2) assist veteran-owned small businesses and
2 service-disabled veteran-owned small businesses in
3 complying with the procedures for bidding on State
4 contracts;

5 (3) provide training for State agencies regarding the
6 goal setting process and compliance with veteran-owned
7 small business and service-disabled veteran-owned small
8 business goals; and

9 (4) implement and maintain an electronic portal on the
10 Commission on Equity and Inclusion's website for the
11 purpose of completing and submitting veteran-owned small
12 business and service-disabled veteran-owned small business
13 certificates.

14 The Commission on Equity and Inclusion, in consultation
15 with the Department of Veterans' Affairs, may develop programs
16 and agreements to encourage cities, counties, towns,
17 townships, and other certifying entities to adopt uniform
18 certification procedures and certification recognition
19 programs.

20 (f-5) A business shall be certified by the Commission on
21 Equity and Inclusion as a service-disabled veteran-owned small
22 business or a veteran-owned small business for purposes of
23 this Section if the Commission on Equity and Inclusion
24 determines that the business has been certified as a
25 service-disabled veteran-owned small business or a
26 veteran-owned small business by the Vets First Verification

1 Program of the United States Department of Veterans Affairs,
2 and the business has provided to the Commission on Equity and
3 Inclusion the following:

4 (1) documentation showing certification as a
5 service-disabled veteran-owned small business or a
6 veteran-owned small business by the Vets First
7 Verification Program of the United States Department of
8 Veterans Affairs;

9 (2) proof that the business has its home office in
10 Illinois; and

11 (3) proof that the qualified veterans or qualified
12 service-disabled veterans live in the State of Illinois.

13 The policies of the Commission on Equity and Inclusion
14 regarding recognition of the Vets First Verification Program
15 of the United States Department of Veterans Affairs shall be
16 reviewed annually by the Commission on Equity and Inclusion,
17 and recognition of service-disabled veteran-owned small
18 businesses and veteran-owned small businesses certified by the
19 Vets First Verification Program of the United States
20 Department of Veterans Affairs may be discontinued by the
21 Commission on Equity and Inclusion by rule upon a finding that
22 the certification standards of the Vets First Verification
23 Program of the United States Department of Veterans Affairs do
24 not meet the certification requirements established by the
25 Commission on Equity and Inclusion.

26 (g) Penalties.

1 (1) Administrative penalties. The chief procurement
2 officers appointed pursuant to Section 10-20 shall suspend
3 any person who commits a violation of Section 17-10.3 or
4 subsection (d) of Section 33E-6 of the Criminal Code of
5 2012 relating to this Section from bidding on, or
6 participating as a contractor, subcontractor, or supplier
7 in, any State contract or project for a period of not less
8 than 3 years, and, if the person is certified as a
9 service-disabled veteran-owned small business or a
10 veteran-owned small business, then the Commission on
11 Equity and Inclusion shall revoke the business's
12 certification for a period of not less than 3 years. An
13 additional or subsequent violation shall extend the
14 periods of suspension and revocation for a period of not
15 less than 5 years. The suspension and revocation shall
16 apply to the principals of the business and any subsequent
17 business formed or financed by, or affiliated with, those
18 principals.

19 (2) Reports of violations. Each State agency shall
20 report any alleged violation of Section 17-10.3 or
21 subsection (d) of Section 33E-6 of the Criminal Code of
22 2012 relating to this Section to the chief procurement
23 officers appointed pursuant to Section 10-20. The chief
24 procurement officers appointed pursuant to Section 10-20
25 shall subsequently report all such alleged violations to
26 the Attorney General, who shall determine whether to bring

1 a civil action against any person for the violation.

2 (3) List of suspended persons. The chief procurement
3 officers appointed pursuant to Section 10-20 shall monitor
4 the status of all reported violations of Section 17-10.3
5 or subsection (d) of Section 33E-6 of the Criminal Code of
6 1961 or the Criminal Code of 2012 relating to this Section
7 and shall maintain and make available to all State
8 agencies a central listing of all persons that committed
9 violations resulting in suspension.

10 (4) Use of suspended persons. During the period of a
11 person's suspension under paragraph (1) of this
12 subsection, a State agency shall not enter into any
13 contract with that person or with any contractor using the
14 services of that person as a subcontractor.

15 (5) Duty to check list. Each State agency shall check
16 the central listing provided by the chief procurement
17 officers appointed pursuant to Section 10-20 under
18 paragraph (3) of this subsection to verify that a person
19 being awarded a contract by that State agency, or to be
20 used as a subcontractor or supplier on a contract being
21 awarded by that State agency, is not under suspension
22 pursuant to paragraph (1) of this subsection.

23 (h) On and after the effective date of this amendatory Act
24 of the 102nd General Assembly, all powers, duties, rights, and
25 responsibilities of the Department of Central Management
26 Services with respect to the requirements of this Section are

1 transferred to the Commission on Equity and Inclusion.

2 All books, records, papers, documents, property (real and
3 personal), contracts, causes of action, and pending business
4 pertaining to the powers, duties, rights, and responsibilities
5 transferred by this amendatory Act from the Department of
6 Central Management Services to the Commission on Equity and
7 Inclusion, including, but not limited to, material in
8 electronic or magnetic format and necessary computer hardware
9 and software, shall be transferred to the Commission on Equity
10 and Inclusion.

11 The powers, duties, rights, and responsibilities
12 transferred from the Department of Central Management Services
13 by this amendatory Act shall be vested in and shall be
14 exercised by the Commission on Equity and Inclusion.

15 Whenever reports or notices are now required to be made or
16 given or papers or documents furnished or served by any person
17 to or upon the Department of Central Management Services in
18 connection with any of the powers, duties, rights, and
19 responsibilities transferred by this amendatory Act, the same
20 shall be made, given, furnished, or served in the same manner
21 to or upon the Commission on Equity and Inclusion.

22 This amendatory Act of the 102nd General Assembly does not
23 affect any act done, ratified, or canceled or any right
24 occurring or established or any action or proceeding had or
25 commenced in an administrative, civil, or criminal cause by
26 the Department of Central Management Services before this

1 amendatory Act takes effect; such actions or proceedings may
2 be prosecuted and continued by the Commission on Equity and
3 Inclusion.

4 Any rules of the Department of Central Management Services
5 that relate to its powers, duties, rights, and
6 responsibilities under this Section and are in full force on
7 the effective date of this amendatory Act of the 102nd General
8 Assembly shall become the rules of the Commission on Equity
9 and Inclusion. This amendatory Act does not affect the
10 legality of any such rules in the Illinois Administrative
11 Code. Any proposed rules filed with the Secretary of State by
12 the Department of Central Management Services that are pending
13 in the rulemaking process on the effective date of this
14 amendatory Act and pertain to the powers, duties, rights, and
15 responsibilities transferred, shall be deemed to have been
16 filed by the Commission on Equity and Inclusion. As soon as
17 practicable hereafter, the Commission on Equity and Inclusion
18 shall revise and clarify the rules transferred to it under
19 this amendatory Act to reflect the reorganization of powers,
20 duties, rights, and responsibilities affected by this
21 amendatory Act, using the procedures for recodification of
22 rules available under the Illinois Administrative Procedure
23 Act, except that existing title, part, and section numbering
24 for the affected rules may be retained. The Commission on
25 Equity and Inclusion may propose and adopt under the Illinois
26 Administrative Procedure Act such other rules of the

1 Department of Central Management Services that will now be
2 administered by the Commission on Equity and Inclusion.

3 (Source: P.A. 102-166, eff. 7-26-21; 102-671, eff. 11-30-21.)