

1 AN ACT concerning finance.

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

4 ARTICLE 5. FORMER COAL MINE EMPLOYEE PREFERENCE

5 Section 5-5. The Illinois Procurement Code is amended by
6 adding Section 45-110 as follows:

7 (30 ILCS 500/45-110 new)

8 Sec. 45-110. Former coal mining employees.

9 (a) In this Section:

10 "Abandoned mined land reclamation project" means
11 construction or construction-related professional services
12 that are used for reclamation projects awarded by the
13 Department of Natural Resources under the Abandoned Mined
14 Lands and Water Reclamation Act.

15 "Former coal mine employee" means an individual previously
16 employed in any capacity by a coal mining company that engaged
17 in the extraction of coal deposits or an individual previously
18 employed in any capacity by a coal-fired power plant.

19 (b) In awarding contracts for Abandoned Mined Land
20 Reclamation Projects with a total value of more than \$100,000,
21 preference shall be given to an otherwise qualified bidder
22 who:

1 Section 10-5. The Illinois Procurement Code is amended by
2 changing Sections 1-15.93, 30-30, 33-5, and 45-105 as follows:

3 (30 ILCS 500/1-15.93)

4 (Section scheduled to be repealed on January 1, 2026)

5 Sec. 1-15.93. Single prime. "Single prime" means the
6 design-bid-build procurement delivery method for a building
7 construction project in which the Capital Development Board or
8 a public institution of higher education, as defined in
9 Section 1-13 of this Code, is the construction agency
10 procuring 2 or more subdivisions of work enumerated in
11 paragraphs (1) through (5) of subsection (a) of Section 30-30
12 of this Code under a single contract. The provisions of this
13 Section are inoperative for public institutions of higher
14 education on and after January 1, 2026. ~~This Section is~~
15 ~~repealed on January 1, 2026.~~

16 (Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20;
17 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

18 (30 ILCS 500/30-30)

19 Sec. 30-30. Design-bid-build construction.

20 (a) ~~The provisions of this subsection are operative~~
21 ~~through December 31, 2025.~~

22 Except as provided in subsection (a-5), for building
23 construction contracts in excess of \$250,000, separate

1 specifications may be prepared for all equipment, labor, and
2 materials in connection with the following 5 subdivisions of
3 the work to be performed:

4 (1) plumbing;

5 (2) heating, piping, refrigeration, and automatic
6 temperature control systems, including the testing and
7 balancing of those systems;

8 (3) ventilating and distribution systems for
9 conditioned air, including the testing and balancing of
10 those systems;

11 (4) electric wiring; and

12 (5) general contract work.

13 Except as provided in subsection (a-5), the specifications
14 may be so drawn as to permit separate and independent bidding
15 upon each of the 5 subdivisions of work. All contracts awarded
16 for any part thereof may award the 5 subdivisions of work
17 separately to responsible and reliable persons, firms, or
18 corporations engaged in these classes of work. The contracts,
19 at the discretion of the construction agency, may be assigned
20 to the successful bidder on the general contract work or to the
21 successful bidder on the subdivision of work designated by the
22 construction agency before the bidding as the prime
23 subdivision of work, provided that all payments will be made
24 directly to the contractors for the 5 subdivisions of work
25 upon compliance with the conditions of the contract.

26 ~~For Beginning on the effective date of this amendatory Act~~

1 ~~of the 101st General Assembly and through December 31, 2025,~~
2 ~~for~~ single prime projects: (i) the bid of the successful low
3 bidder shall identify the name of the subcontractor, if any,
4 and the bid proposal costs for each of the 5 subdivisions of
5 work set forth in this Section; (ii) the contract entered into
6 with the successful bidder shall provide that no identified
7 subcontractor may be terminated without the written consent of
8 the Capital Development Board; (iii) the contract shall comply
9 with the disadvantaged business practices of the Business
10 Enterprise for Minorities, Women, and Persons with
11 Disabilities Act and the equal employment practices of Section
12 2-105 of the Illinois Human Rights Act; and (iv) the Capital
13 Development Board shall submit an annual report to the General
14 Assembly and Governor on the bidding, award, and performance
15 of all single prime projects.

16 Until December 31, 2023, for ~~For~~ building construction
17 projects with a total construction cost valued at \$5,000,000
18 or less, the Capital Development Board shall not use the
19 single prime procurement delivery method for more than 50% of
20 the total number of projects bid for each fiscal year. Until
21 December 31, 2023, any ~~Any~~ project with a total construction
22 cost valued greater than \$5,000,000 may be bid using single
23 prime at the discretion of the Executive Director of the
24 Capital Development Board.

25 For contracts entered into on or after January 1, 2024,
26 the Capital Development Board shall determine whether the

1 single prime procurement delivery method is to be pursued.
2 Before electing to use single prime on a project, the Capital
3 Development Board must make a written determination that must
4 include a description as to the particular advantages of the
5 single prime procurement method for that project and an
6 evaluation of the items in paragraphs (1) through (4). The
7 chief procurement officer must review the Capital Development
8 Board's determination and consider the adequacy of information
9 in paragraphs (1) through (4) to determine whether the Capital
10 Development Board may proceed with single prime. Approval by
11 the chief procurement officer shall not be unreasonably
12 withheld. The following factors must be considered by the
13 chief procurement officer in any determination:

14 (1) The benefit that using the single prime
15 procurement method will have on the Capital Development
16 Board's ability to increase participation of
17 minority-owned firms, woman-owned firms, firms owned by
18 persons with a disability, and veteran-owned firms.

19 (2) The likelihood that single prime will be in the
20 best interest of the State by providing a material savings
21 of time or cost over the multiple prime delivery system.
22 The best interest of the State justification must show the
23 specific benefits of using the single prime method,
24 including documentation of the estimates or scheduling
25 impacts of any of the following: project complexity and
26 trade coordination required, length of project,

1 availability of skilled workforce, geographic area,
2 project timelines, project budget, ability to secure
3 minority, women, persons with disabilities and veteran
4 participation, or other information.

5 (3) The type and size of the project and its
6 suitability to the single prime procurement method.

7 (4) Whether the project will comply with the
8 underrepresented business and equal employment practices
9 of the State, as established in the Business Enterprise
10 for Minorities, Women, and Persons with Disabilities Act,
11 Section 45-57 of this Code, and Section 2-105 of the
12 Illinois Human Rights Act.

13 If the chief procurement officer finds that the Capital
14 Development Board's written determination is insufficient, the
15 Capital Development Board shall have the opportunity to cure
16 its determination. Within 15 days of receiving approval from
17 the chief procurement officer, the Capital Development Board
18 shall provide an advisory copy of the written determination to
19 the Procurement Policy Board and the Commission on Equity and
20 Inclusion. The Capital Development Board must maintain the
21 full record of determination for 5 years.

22 (a-5) Beginning on the effective date of this amendatory
23 Act of the 102nd General Assembly and through December 31,
24 2025, for single prime projects in which a public institution
25 of higher education is a construction agency awarding building
26 construction contracts in excess of \$250,000, separate

1 specifications may be prepared for all equipment, labor, and
2 materials in connection with the 5 subdivisions of work
3 enumerated in subsection (a). Any public institution of higher
4 education contract awarded for any part thereof may award 2 or
5 more of the 5 subdivisions of work together or separately to
6 responsible and reliable persons, firms, or corporations
7 engaged in these classes of work if: (i) the public
8 institution of higher education has submitted to the
9 Procurement Policy Board and the Commission on Equity and
10 Inclusion a written notice that includes the reasons for using
11 the single prime method and an explanation of why the use of
12 that method is in the best interest of the State and arranges
13 to have the notice posted on the institution's online
14 procurement webpage and its online procurement bulletin at
15 least 3 business days following submission to the Procurement
16 Policy Board and the Commission on Equity and Inclusion; (ii)
17 the successful low bidder has prequalified with the public
18 institution of higher education; (iii) the bid of the
19 successful low bidder identifies the name of the
20 subcontractor, if any, and the bid proposal costs for each of
21 the 5 subdivisions of work set forth in subsection (a); (iv)
22 the contract entered into with the successful bidder provides
23 that no identified subcontractor may be terminated without the
24 written consent of the public institution of higher education;
25 and (v) the successful low bidder has prequalified with the
26 University of Illinois or with the Capital Development Board.

1 For building construction projects with a total
2 construction cost valued at \$20,000,000 or less, public
3 institutions of higher education shall not use the single
4 prime delivery method for more than 50% of the total number of
5 projects bid for each fiscal year. Projects with a total
6 construction cost valued at \$20,000,000 or more may be bid
7 using the single prime delivery method at the discretion of
8 the public institution of higher education. With respect to
9 any construction project described in this subsection (a-5),
10 the public institution of higher education shall: (i) specify
11 in writing as a public record that the project shall comply
12 with the Business Enterprise for Minorities, Women, and
13 Persons with Disabilities Act and the equal employment
14 practices of Section 2-105 of the Illinois Human Rights Act;
15 and (ii) report annually to the Governor, General Assembly,
16 Procurement Policy Board, and Auditor General on the bidding,
17 award, and performance of all single prime projects. On and
18 after the effective date of this amendatory Act of the 102nd
19 General Assembly, the public institution of higher education
20 may award in each fiscal year single prime contracts with an
21 aggregate total value of no more than \$100,000,000. The Board
22 of Trustees of the University of Illinois may award in each
23 fiscal year single prime contracts with an aggregate total
24 value of not more than \$300,000,000.

25 (b) For public institutions of higher education, the ~~The~~
26 provisions of this subsection are operative on and after

1 January 1, 2026. For building construction contracts in excess
2 of \$250,000, separate specifications shall be prepared for all
3 equipment, labor, and materials in connection with the
4 following 5 subdivisions of the work to be performed:

5 (1) plumbing;

6 (2) heating, piping, refrigeration, and automatic
7 temperature control systems, including the testing and
8 balancing of those systems;

9 (3) ventilating and distribution systems for
10 conditioned air, including the testing and balancing of
11 those systems;

12 (4) electric wiring; and

13 (5) general contract work.

14 The specifications must be so drawn as to permit separate
15 and independent bidding upon each of the 5 subdivisions of
16 work. All contracts awarded for any part thereof shall award
17 the 5 subdivisions of work separately to responsible and
18 reliable persons, firms, or corporations engaged in these
19 classes of work. The contracts, at the discretion of the
20 construction agency, may be assigned to the successful bidder
21 on the general contract work or to the successful bidder on the
22 subdivision of work designated by the construction agency
23 before the bidding as the prime subdivision of work, provided
24 that all payments will be made directly to the contractors for
25 the 5 subdivisions of work upon compliance with the conditions
26 of the contract.

1 (Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20;
2 102-671, eff. 11-30-21; 102-1119, eff. 1-23-23.)

3 (30 ILCS 500/33-5)

4 Sec. 33-5. Definitions. In this Article:

5 "Construction management services" includes:

6 (1) services provided in the planning and
7 pre-construction phases of a construction project
8 including, but not limited to, consulting with, advising,
9 assisting, and making recommendations to the Board and
10 architect, engineer, or licensed land surveyor on all
11 aspects of planning for project construction; reviewing
12 all plans and specifications as they are being developed
13 and making recommendations with respect to construction
14 feasibility, availability of material and labor, time
15 requirements for procurement and construction, and
16 projected costs; making, reviewing, and refining budget
17 estimates based on the Board's program and other available
18 information; making recommendations to the Board and the
19 architect or engineer regarding the division of work in
20 the plans and specifications to facilitate the bidding and
21 awarding of contracts; soliciting the interest of capable
22 contractors and taking bids on the project; analyzing the
23 bids received; and preparing and maintaining a progress
24 schedule during the design phase of the project and
25 preparation of a proposed construction schedule; and

1 (2) services provided in the construction phase of the
2 project including, but not limited to, maintaining
3 competent supervisory staff to coordinate and provide
4 general direction of the work and progress of the
5 contractors on the project; directing the work as it is
6 being performed for general conformance with working
7 drawings and specifications; establishing procedures for
8 coordinating among the Board, architect or engineer,
9 contractors, and construction manager with respect to all
10 aspects of the project and implementing those procedures;
11 maintaining job site records and making appropriate
12 progress reports; implementing labor policy in conformance
13 with the requirements of the public owner; reviewing the
14 safety and equal opportunity programs of each contractor
15 for conformance with the public owner's policy and making
16 recommendations; reviewing and processing all applications
17 for payment by involved contractors and material suppliers
18 in accordance with the terms of the contract; making
19 recommendations and processing requests for changes in the
20 work and maintaining records of change orders; scheduling
21 and conducting job meetings to ensure orderly progress of
22 the work; developing and monitoring a project progress
23 schedule, coordinating and expediting the work of all
24 contractors and providing periodic status reports to the
25 owner and the architect or engineer; and establishing and
26 maintaining a cost control system and conducting meetings

1 to review costs.

2 "Construction manager" means any individual, sole
3 proprietorship, firm, partnership, corporation, or other legal
4 entity providing construction management services for the
5 Board and prequalified by the State in accordance with 30 ILCS
6 500/33-10.

7 "Board" means the Capital Development Board or, to the
8 extent that the services are to be procured by ~~for~~ a public
9 institution of higher education, the public institution of
10 higher education.

11 (Source: P.A. 102-1119, eff. 1-23-23.)

12 (30 ILCS 500/45-105)

13 Sec. 45-105. Bid preference for Illinois businesses.

14 (a) (Blank). ~~For the purposes of this Section:~~

15 ~~"Illinois business" means a contractor that: (i) is~~
16 ~~headquartered in Illinois and providing, at the time that an~~
17 ~~invitation for a bid or notice of contract opportunity is~~
18 ~~first advertised, construction or construction related~~
19 ~~professional services for Illinois-based projects; (ii)~~
20 ~~conducts meaningful day-to-day business operations at a~~
21 ~~facility in Illinois that is the place of employment for the~~
22 ~~majority of its regular, full-time workforce; (iii) holds all~~
23 ~~appropriate State licenses; and (iv) is subject to applicable~~
24 ~~State taxes. "Illinois business" does not include any~~
25 ~~subcontractors.~~

1 ~~"Illinois based project" means an individual project of~~
2 ~~construction and other construction related services for a~~
3 ~~construction agency that will result in the conduct of~~
4 ~~business within the State or the employment of individuals~~
5 ~~within the State.~~

6 (b) It is hereby declared to be the public policy of the
7 State of Illinois to promote the economy of Illinois through
8 the use of Illinois businesses for all State construction
9 contracts.

10 (c) Construction agencies procuring construction and
11 construction-related professional services shall make
12 reasonable efforts to contract with Illinois businesses.

13 (d) Beginning in 2022, each construction agency shall
14 submit a report to the Governor and the General Assembly by
15 September 1 of each year that identifies the Illinois
16 businesses procured by the construction agency, the primary
17 location of the construction project, the percentage of the
18 construction agency's utilization of Illinois businesses on
19 the project as a whole, and the actions that the construction
20 agency has undertaken to increase the use of Illinois
21 businesses.

22 (e) In procuring construction and construction-related
23 professional services for projects with a total value that
24 exceeds the small purchase maximum established by Section
25 20-20 of this Code ~~with a total construction cost of more than~~
26 \$100,000, construction agencies shall provide a bid preference

1 to a responsive and responsible bidder that is an Illinois
2 business as defined in this Section. The construction agency
3 shall allocate to the lowest bid by an Illinois business that
4 is responsible and responsive ~~any responsible bidder that is~~
5 ~~an Illinois business~~ a bid preference of 4% of the contract
6 base bid. This subsection applies only to projects where a
7 business that is not an Illinois business submits a bid.

8 (f) This Section does not apply to any contract for any
9 project for which federal funds are available for expenditure
10 when its provisions may be in conflict with federal law or
11 federal regulation.

12 (g) As used in this Section, "Illinois business" means a
13 contractor that is operating and headquartered in Illinois and
14 providing, at the time that an invitation for a bid or notice
15 of contract opportunity is first advertised, construction or
16 construction-related professional services, and is operating
17 as:

18 (1) a sole proprietor whose primary residence is in
19 Illinois;

20 (2) a business incorporated or organized as a domestic
21 corporation under the Business Corporation Act of 1983;

22 (3) a business organized as a domestic partnership
23 under the Uniform Partnership Act of 1997;

24 (4) a business organized as a domestic limited
25 partnership under the Uniform Limited Partnership Act of
26 2001;

1 (5) a business organized under the Limited Liability
2 Company Act; or

3 (6) a business organized under the Professional
4 Limited Liability Company Act.

5 "Illinois business" does not include any subcontractors.

6 (Source: P.A. 102-721, eff. 1-1-23.)

7 ARTICLE 15. AWARD TO NOT-FOR-PROFIT AGENCY FOR PERSONS WITH
8 SIGNIFICANT DISABILITIES

9 Section 15-5. The Governmental Joint Purchasing Act is
10 amended by changing Section 4.05 as follows:

11 (30 ILCS 525/4.05)

12 Sec. 4.05. Other methods of joint purchases.

13 (a) It may be determined that it is impractical to obtain
14 competition because ~~either~~ (i) there is only one
15 economically-feasible source for the item, ~~or~~ (ii) there is a
16 threat to public health or public safety~~7~~ or ~~when~~ immediate
17 expenditure is necessary either to prevent or minimize serious
18 disruption in critical State services that affect health,
19 safety, or collection of substantial State revenues~~7~~ or to
20 ensure the integrity of State records, or (iii) it is in the
21 best interest of the State to award a contract to a qualified
22 not-for-profit agency for persons with significant
23 disabilities under Section 45-35 of the Illinois Procurement

1 Code.

2 (b) When the State of Illinois is a party to the joint
3 purchase agreement, the applicable chief procurement officer
4 shall make a determination regarding whether (i) whether there
5 is only one economically feasible source for the item, ~~or~~ (ii)
6 whether that there exists a threat to public health or public
7 safety or ~~that~~ immediate expenditure is necessary to prevent
8 or minimize serious disruption in critical State services, or
9 (iii) whether the contract is eligible to be awarded to a
10 not-for-profit agency for persons with significant
11 disabilities under Section 45-35 of the Illinois Procurement
12 Code.

13 (c) When there is only one economically feasible source
14 for the item, the chief procurement officer may authorize a
15 sole economically-feasible source contract. When there exists
16 a threat to public health or public safety or when immediate
17 expenditure is necessary to prevent or minimize serious
18 disruption in critical State services, the chief procurement
19 officer may authorize an emergency procurement without
20 competitive sealed bidding or competitive sealed proposals or
21 prior notice. When an agency requests to award a contract to a
22 not-for-profit agency for persons with significant
23 disabilities under Section 45-35 of the Illinois Procurement
24 Code, the chief procurement officer may authorize the award.

25 (d) All joint purchases made pursuant to this Section
26 shall follow the same procedures for sole source contracts in

1 the Illinois Procurement Code when the chief procurement
2 officer determines there is only one economically-feasible
3 source for the item. All joint purchases made pursuant to this
4 Section shall follow the same procedures for emergency
5 purchases in the Illinois Procurement Code when the chief
6 procurement officer determines immediate expenditure is
7 necessary to prevent or minimize serious disruption in
8 critical State services that affect health, safety, or
9 collection of substantial State revenues, or to ensure the
10 integrity of State records. All joint purchases made under
11 this Section shall follow the same procedures for
12 not-for-profit agencies for persons with significant
13 disabilities under Section 45-35 of the Illinois Procurement
14 Code when the chief procurement officer determines that it is
15 in the best interest of the State.

16 (e) Each chief procurement officer shall submit to the
17 General Assembly by November 1 of each year a report of
18 procurements made under this Section.

19 (Source: P.A. 100-43, eff. 8-9-17.)

20 ARTICLE 20. VETERANS PREFERENCES

21 Section 20-5. The Illinois Procurement Code is amended by
22 changing Section 45-57 as follows:

23 (30 ILCS 500/45-57)

1 Sec. 45-57. Veterans.

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

17 (b) Fiscal year reports. By each November 1, each chief
18 procurement officer shall report to the Commission on Equity
19 and Inclusion on all of the following for the immediately
20 preceding fiscal year, and by each March 1 the Commission on
21 Equity and Inclusion shall compile and report that information
22 to the General Assembly:

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

25 (2) The total number of VOSB, and the number of
26 SDVOSB, who entered into contracts with the State under

1 this Code and the total value of those contracts.

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

5 (1) a year-by-year comparison of the number of
6 certifications the State has issued to veteran-owned small
7 businesses and service-disabled veteran-owned small
8 businesses;

9 (2) the obstacles, if any, the Commission on Equity
10 and Inclusion faces when certifying veteran-owned
11 businesses and possible rules or changes to rules to
12 address those issues;

13 (3) a year-by-year comparison of awarded contracts to
14 certified veteran-owned small businesses and
15 service-disabled veteran-owned small businesses; and

16 (4) any other information that the Commission on
17 Equity and Inclusion deems necessary to assist
18 veteran-owned small businesses and service-disabled
19 veteran-owned small businesses to become certified with
20 the State.

21 The Commission on Equity and Inclusion shall conduct a
22 minimum of 2 outreach events per year to ensure that
23 veteran-owned small businesses and service-disabled
24 veteran-owned small businesses know about the procurement
25 opportunities and certification requirements with the State.
26 The Commission on Equity and Inclusion may receive

1 appropriations for outreach.

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

15 (d) Governor's recommendations. To assist the State in
16 reaching the goal described in subsection (a), the Governor
17 shall recommend to the General Assembly changes in programs to
18 assist businesses owned by qualified veterans.

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

20 "Armed forces of the United States" means the United
21 States Army, Navy, Air Force, Marine Corps, Coast Guard, or
22 service in active duty as defined under 38 U.S.C. Section 101.
23 Service in the Merchant Marine that constitutes active duty
24 under Section 401 of federal Public Act 95-202 shall also be
25 considered service in the armed forces for purposes of this
26 Section.

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

15 "Control" means the exclusive, ultimate, majority, or sole
16 control of the business, including but not limited to capital
17 investment and all other financial matters, property,
18 acquisitions, contract negotiations, legal matters,
19 officer-director-employee selection and comprehensive hiring,
20 operation responsibilities, cost-control matters, income and
21 dividend matters, financial transactions, and rights of other
22 shareholders or joint partners. Control shall be real,
23 substantial, and continuing, not pro forma. Control shall
24 include the power to direct or cause the direction of the
25 management and policies of the business and to make the
26 day-to-day as well as major decisions in matters of policy,

1 management, and operations. Control shall be exemplified by
2 possessing the requisite knowledge and expertise to run the
3 particular business, and control shall not include simple
4 majority or absentee ownership.

5 "Qualified service-disabled veteran" means a veteran who
6 has been found to have 10% or more service-connected
7 disability by the United States Department of Veterans Affairs
8 or the United States Department of Defense.

9 "Qualified service-disabled veteran-owned small business"
10 or "SDVOSB" means a small business (i) that is at least 51%
11 owned by one or more qualified service-disabled veterans
12 living in Illinois or, in the case of a corporation, at least
13 51% of the stock of which is owned by one or more qualified
14 service-disabled veterans living in Illinois; (ii) that has
15 its home office in Illinois; and (iii) for which items (i) and
16 (ii) are factually verified annually by the Commission on
17 Equity and Inclusion.

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

26 "Service-connected disability" means a disability incurred

1 in the line of duty in the active military, naval, or air
2 service as described in 38 U.S.C. 101(16).

3 "Small business" means a business that has annual gross
4 sales of less than \$150,000,000 ~~\$75,000,000~~ as evidenced by
5 the federal income tax return of the business. A firm with
6 gross sales in excess of this cap may apply to the Commission
7 on Equity and Inclusion for certification for a particular
8 contract if the firm can demonstrate that the contract would
9 have significant impact on SDVOSB or VOSB as suppliers or
10 subcontractors or in employment of veterans or
11 service-disabled veterans.

12 "State agency" has the meaning provided in Section
13 1-15.100 of this Code.

14 "Time of hostilities with a foreign country" means any
15 period of time in the past, present, or future during which a
16 declaration of war by the United States Congress has been or is
17 in effect or during which an emergency condition has been or is
18 in effect that is recognized by the issuance of a Presidential
19 proclamation or a Presidential executive order and in which
20 the armed forces expeditionary medal or other campaign service
21 medals are awarded according to Presidential executive order.

22 "Veteran" means a person who (i) has been a member of the
23 armed forces of the United States or, while a citizen of the
24 United States, was a member of the armed forces of allies of
25 the United States in time of hostilities with a foreign
26 country and (ii) has served under one or more of the following

1 conditions: (a) the veteran served a total of at least 6
2 months; (b) the veteran served for the duration of hostilities
3 regardless of the length of the engagement; (c) the veteran
4 was discharged on the basis of hardship; or (d) the veteran was
5 released from active duty because of a service connected
6 disability and was discharged under honorable conditions.

7 (f) Certification program. The Illinois Department of
8 Veterans' Affairs and the Commission on Equity and Inclusion
9 shall work together to devise a certification procedure to
10 assure that businesses taking advantage of this Section are
11 legitimately classified as qualified service-disabled
12 veteran-owned small businesses or qualified veteran-owned
13 small businesses.

14 The Commission on Equity and Inclusion shall:

15 (1) compile and maintain a comprehensive list of
16 certified veteran-owned small businesses and
17 service-disabled veteran-owned small businesses;

18 (2) assist veteran-owned small businesses and
19 service-disabled veteran-owned small businesses in
20 complying with the procedures for bidding on State
21 contracts;

22 (3) provide training for State agencies regarding the
23 goal setting process and compliance with veteran-owned
24 small business and service-disabled veteran-owned small
25 business goals; and

26 (4) implement and maintain an electronic portal on the

1 Commission on Equity and Inclusion's website for the
2 purpose of completing and submitting veteran-owned small
3 business and service-disabled veteran-owned small business
4 certificates.

5 The Commission on Equity and Inclusion, in consultation
6 with the Department of Veterans' Affairs, may develop programs
7 and agreements to encourage cities, counties, towns,
8 townships, and other certifying entities to adopt uniform
9 certification procedures and certification recognition
10 programs.

11 (f-5) A business shall be certified by the Commission on
12 Equity and Inclusion as a service-disabled veteran-owned small
13 business or a veteran-owned small business for purposes of
14 this Section if the Commission on Equity and Inclusion
15 determines that the business has been certified as a
16 service-disabled veteran-owned small business or a
17 veteran-owned small business by the Vets First Verification
18 Program of the United States Department of Veterans Affairs,
19 and the business has provided to the Commission on Equity and
20 Inclusion the following:

21 (1) documentation showing certification as a
22 service-disabled veteran-owned small business or a
23 veteran-owned small business by the Vets First
24 Verification Program of the United States Department of
25 Veterans Affairs;

26 (2) proof that the business has its home office in

1 Illinois; and

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

4 The policies of the Commission on Equity and Inclusion
5 regarding recognition of the Vets First Verification Program
6 of the United States Department of Veterans Affairs shall be
7 reviewed annually by the Commission on Equity and Inclusion,
8 and recognition of service-disabled veteran-owned small
9 businesses and veteran-owned small businesses certified by the
10 Vets First Verification Program of the United States
11 Department of Veterans Affairs may be discontinued by the
12 Commission on Equity and Inclusion by rule upon a finding that
13 the certification standards of the Vets First Verification
14 Program of the United States Department of Veterans Affairs do
15 not meet the certification requirements established by the
16 Commission on Equity and Inclusion.

17 (g) Penalties.

18 (1) Administrative penalties. The chief procurement
19 officers appointed pursuant to Section 10-20 shall suspend
20 any person who commits a 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 from bidding on, or
23 participating as a contractor, subcontractor, or supplier
24 in, any State contract or project for a period of not less
25 than 3 years, and, if the person is certified as a
26 service-disabled veteran-owned small business or a

1 veteran-owned small business, then the Commission on
2 Equity and Inclusion shall revoke the business's
3 certification for a period of not less than 3 years. An
4 additional or subsequent violation shall extend the
5 periods of suspension and revocation for a period of not
6 less than 5 years. The suspension and revocation shall
7 apply to the principals of the business and any subsequent
8 business formed or financed by, or affiliated with, those
9 principals.

10 (2) Reports of violations. Each State agency shall
11 report any alleged violation of Section 17-10.3 or
12 subsection (d) of Section 33E-6 of the Criminal Code of
13 2012 relating to this Section to the chief procurement
14 officers appointed pursuant to Section 10-20. The chief
15 procurement officers appointed pursuant to Section 10-20
16 shall subsequently report all such alleged violations to
17 the Attorney General, who shall determine whether to bring
18 a civil action against any person for the violation.

19 (3) List of suspended persons. The chief procurement
20 officers appointed pursuant to Section 10-20 shall monitor
21 the status of all reported violations of Section 17-10.3
22 or subsection (d) of Section 33E-6 of the Criminal Code of
23 1961 or the Criminal Code of 2012 relating to this Section
24 and shall maintain and make available to all State
25 agencies a central listing of all persons that committed
26 violations resulting in suspension.

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

6 (5) Duty to check list. Each State agency shall check
7 the central listing provided by the chief procurement
8 officers appointed pursuant to Section 10-20 under
9 paragraph (3) of this subsection to verify that a person
10 being awarded a contract by that State agency, or to be
11 used as a subcontractor or supplier on a contract being
12 awarded by that State agency, is not under suspension
13 pursuant to paragraph (1) of this subsection.

14 (h) On and after the effective date of this amendatory Act
15 of the 102nd General Assembly, all powers, duties, rights, and
16 responsibilities of the Department of Central Management
17 Services with respect to the requirements of this Section are
18 transferred to the Commission on Equity and Inclusion.

19 All books, records, papers, documents, property (real and
20 personal), contracts, causes of action, and pending business
21 pertaining to the powers, duties, rights, and responsibilities
22 transferred by this amendatory Act from the Department of
23 Central Management Services to the Commission on Equity and
24 Inclusion, including, but not limited to, material in
25 electronic or magnetic format and necessary computer hardware
26 and software, shall be transferred to the Commission on Equity

1 and Inclusion.

2 The powers, duties, rights, and responsibilities
3 transferred from the Department of Central Management Services
4 by this amendatory Act shall be vested in and shall be
5 exercised by the Commission on Equity and Inclusion.

6 Whenever reports or notices are now required to be made or
7 given or papers or documents furnished or served by any person
8 to or upon the Department of Central Management Services in
9 connection with any of the powers, duties, rights, and
10 responsibilities transferred by this amendatory Act, the same
11 shall be made, given, furnished, or served in the same manner
12 to or upon the Commission on Equity and Inclusion.

13 This amendatory Act of the 102nd General Assembly does not
14 affect any act done, ratified, or canceled or any right
15 occurring or established or any action or proceeding had or
16 commenced in an administrative, civil, or criminal cause by
17 the Department of Central Management Services before this
18 amendatory Act takes effect; such actions or proceedings may
19 be prosecuted and continued by the Commission on Equity and
20 Inclusion.

21 Any rules of the Department of Central Management Services
22 that relate to its powers, duties, rights, and
23 responsibilities under this Section and are in full force on
24 the effective date of this amendatory Act of the 102nd General
25 Assembly shall become the rules of the Commission on Equity
26 and Inclusion. This amendatory Act does not affect the

1 legality of any such rules in the Illinois Administrative
2 Code. Any proposed rules filed with the Secretary of State by
3 the Department of Central Management Services that are pending
4 in the rulemaking process on the effective date of this
5 amendatory Act and pertain to the powers, duties, rights, and
6 responsibilities transferred, shall be deemed to have been
7 filed by the Commission on Equity and Inclusion. As soon as
8 practicable hereafter, the Commission on Equity and Inclusion
9 shall revise and clarify the rules transferred to it under
10 this amendatory Act to reflect the reorganization of powers,
11 duties, rights, and responsibilities affected by this
12 amendatory Act, using the procedures for recodification of
13 rules available under the Illinois Administrative Procedure
14 Act, except that existing title, part, and section numbering
15 for the affected rules may be retained. The Commission on
16 Equity and Inclusion may propose and adopt under the Illinois
17 Administrative Procedure Act such other rules of the
18 Department of Central Management Services that will now be
19 administered by the Commission on Equity and Inclusion.

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

21 ARTICLE 25. SMALL BUSINESS SET-ASIDE REPORTING

22 Section 25-5. The Illinois Procurement Code is amended by
23 changing Section 45-45 as follows:

1 (30 ILCS 500/45-45)

2 Sec. 45-45. Small businesses.

3 (a) Set-asides. Each chief procurement officer has
4 authority to designate as small business set-asides a fair
5 proportion of construction, supply, and service contracts for
6 award to small businesses in Illinois. Advertisements for bids
7 or offers for those contracts shall specify designation as
8 small business set-asides. In awarding the contracts, only
9 bids or offers from qualified small businesses shall be
10 considered.

11 (b) Small business. "Small business" means a business that
12 is independently owned and operated and that is not dominant
13 in its field of operation. The chief procurement officer shall
14 establish a detailed definition by rule, using in addition to
15 the foregoing criteria other criteria, including the number of
16 employees and the dollar volume of business. When computing
17 the size status of a potential contractor, annual sales and
18 receipts of the potential contractor and all of its affiliates
19 shall be included. The maximum number of employees and the
20 maximum dollar volume that a small business may have under the
21 rules promulgated by the chief procurement officer may vary
22 from industry to industry to the extent necessary to reflect
23 differing characteristics of those industries, subject to the
24 following limitations:

25 (1) No wholesale business is a small business if its
26 annual sales for its most recently completed fiscal year

1 exceed \$13,000,000.

2 (2) No retail business or business selling services is
3 a small business if its annual sales and receipts exceed
4 \$8,000,000.

5 (3) No manufacturing business is a small business if
6 it employs more than 250 persons.

7 (4) No construction business is a small business if
8 its annual sales and receipts exceed \$14,000,000.

9 (c) Fair proportion. For the purpose of subsection (a),
10 for State agencies of the executive branch, a fair proportion
11 of construction contracts shall be no less than 25% nor more
12 than 40% of the annual total contracts for construction.

13 (d) Withdrawal of designation. A small business set-aside
14 designation may be withdrawn by the purchasing agency when
15 deemed in the best interests of the State. Upon withdrawal,
16 all bids or offers shall be rejected, and the bidders or
17 offerors shall be notified of the reason for rejection. The
18 contract shall then be awarded in accordance with this Code
19 without the designation of small business set-aside. Each
20 chief procurement officer shall make the annual report
21 available on his or her official website. Each chief
22 procurement officer shall also issue a press release in
23 conjunction with the small business annual report that
24 includes an executive summary of the annual report and a link
25 to the annual report on the chief procurement officer's
26 website.

1 (e) Small business specialist. Each chief procurement
2 officer shall designate one or more individuals to serve as
3 its small business specialist. The small business specialists
4 shall collectively work together to accomplish the following
5 duties:

6 (1) Compiling and maintaining a comprehensive list of
7 potential small contractors. In this duty, he or she shall
8 cooperate with the Federal Small Business Administration
9 in locating potential sources for various products and
10 services.

11 (2) Assisting small businesses in complying with the
12 procedures for bidding on State contracts.

13 (3) Examining requests from State agencies for the
14 purchase of property or services to help determine which
15 invitations to bid are to be designated small business
16 set-asides.

17 (4) Making recommendations to the chief procurement
18 officer for the simplification of specifications and terms
19 in order to increase the opportunities for small business
20 participation.

21 (5) Assisting in investigations by purchasing agencies
22 to determine the responsibility of bidders or offerors on
23 small business set-asides.

24 (f) Small business annual report. Each small business
25 specialist designated under subsection (e) shall annually
26 before November 1 report in writing to the General Assembly

1 concerning the awarding of contracts to small businesses. The
2 report shall include the total value of awards made in the
3 preceding fiscal year under the designation of small business
4 set-aside. The report shall also include the total value of
5 awards made to businesses owned by minorities, women, and
6 persons with disabilities, as defined in the Business
7 Enterprise for Minorities, Women, and Persons with
8 Disabilities Act, in the preceding fiscal year under the
9 designation of small business set-aside.

10 The requirement for reporting to the General Assembly
11 shall be satisfied by filing copies of the report as required
12 by Section 3.1 of the General Assembly Organization Act.

13 (Source: P.A. 100-43, eff. 8-9-17; 100-391, eff. 8-25-17;
14 100-863, eff. 8-14-18.)

15 Section 25-10. The Business Enterprise for Minorities,
16 Women, and Persons with Disabilities Act is amended by
17 changing Section 8f as follows:

18 (30 ILCS 575/8f)

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

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

1 (1) a summary detailing expenditures subject to the
2 goals, the actual goals specified, and the goals attained
3 by each State agency and public institution of higher
4 education;

5 (2) a summary of the number of contracts awarded and
6 the average contract amount by each State agency and
7 public institution of higher education;

8 (3) an analysis of the level of overall goal
9 achievement concerning purchases from minority-owned
10 businesses, women-owned businesses, and businesses owned
11 by persons with disabilities;

12 (4) an analysis of the number of businesses owned by
13 minorities, women, and persons with disabilities that are
14 certified under the program as well as the number of those
15 businesses that received State procurement contracts; and

16 (5) a summary of the number of contracts awarded to
17 businesses with annual gross sales of less than
18 \$1,000,000; of \$1,000,000 or more, but less than
19 \$5,000,000; of \$5,000,000 or more, but less than
20 \$10,000,000; and of \$10,000,000 or more.

21 The Council shall make the annual report available on its
22 official website. The Council shall also issue a press release
23 in conjunction with the annual report that includes an
24 executive summary of the annual report and a link to the annual
25 report on its official website.

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

1 ARTICLE 35. CMS FACILITY LEASES

2 Section 35-5. The Department of Central Management
3 Services Law of the Civil Administrative Code of Illinois is
4 amended by changing Section 405-300 as follows:

5 (20 ILCS 405/405-300) (was 20 ILCS 405/67.02)

6 Sec. 405-300. Lease or purchase of facilities; training
7 programs.

8 (a) To lease or purchase office and storage space,
9 buildings, land, and other facilities for all State agencies,
10 authorities, boards, commissions, departments, institutions,
11 and bodies politic and all other administrative units or
12 outgrowths of the executive branch of State government except
13 the Constitutional officers, the State Board of Education and
14 the State colleges and universities and their governing
15 bodies. However, before leasing or purchasing any office or
16 storage space, buildings, land or other facilities in any
17 municipality the Department shall survey the existing
18 State-owned and State-leased property to make a determination
19 of need.

20 The leases shall be for a term not to exceed 5 years,
21 except that the leases may contain a renewal clause subject to
22 acceptance by the State after that date or an option to
23 purchase. The purchases shall be made through contracts that

1 (i) may provide for the title to the property to transfer
2 immediately to the State or a trustee or nominee for the
3 benefit of the State, (ii) shall provide for the consideration
4 to be paid in installments to be made at stated intervals
5 during a certain term not to exceed 30 years from the date of
6 the contract, and (iii) may provide for the payment of
7 interest on the unpaid balance at a rate that does not exceed a
8 rate determined by adding 3 percentage points to the annual
9 yield on United States Treasury obligations of comparable
10 maturity as most recently published in the Wall Street Journal
11 at the time such contract is signed. The leases and purchase
12 contracts shall be and shall recite that they are subject to
13 termination and cancellation in any year for which the General
14 Assembly fails to make an appropriation to pay the rent or
15 purchase installments payable under the terms of the lease or
16 purchase contract. Additionally, the purchase contract shall
17 specify that title to the office and storage space, buildings,
18 land, and other facilities being acquired under the contract
19 shall revert to the Seller in the event of the failure of the
20 General Assembly to appropriate suitable funds. However, this
21 limitation on the term of the leases does not apply to leases
22 to and with the Illinois Building Authority, as provided for
23 in the Building Authority Act. Leases to and with that
24 Authority may be entered into for a term not to exceed 30 years
25 and shall be and shall recite that they are subject to
26 termination and cancellation in any year for which the General

1 Assembly fails to make an appropriation to pay the rent
2 payable under the terms of the lease. These limitations do not
3 apply if the lease or purchase contract contains a provision
4 limiting the liability for the payment of the rentals or
5 installments thereof solely to funds received from the Federal
6 government.

7 (b) To lease from an airport authority office, aircraft
8 hangar, and service buildings constructed upon a public
9 airport under the Airport Authorities Act for the use and
10 occupancy of the State Department of Transportation. The lease
11 may be entered into for a term not to exceed 30 years.

12 (c) To establish training programs for teaching State
13 leasing procedures and practices to new employees of the
14 Department and to keep all employees of the Department
15 informed about current leasing practices and developments in
16 the real estate industry.

17 (d) To enter into an agreement with a municipality or
18 county to construct, remodel, or convert a structure for the
19 purposes of its serving as a correctional institution or
20 facility pursuant to paragraph (c) of Section 3-2-2 of the
21 Unified Code of Corrections.

22 (e) To enter into an agreement with a private individual,
23 trust, partnership, or corporation or a municipality or other
24 unit of local government, when authorized to do so by the
25 Department of Corrections, whereby that individual, trust,
26 partnership, or corporation or municipality or other unit of

1 local government will construct, remodel, or convert a
2 structure for the purposes of its serving as a correctional
3 institution or facility and then lease the structure to the
4 Department for the use of the Department of Corrections. A
5 lease entered into pursuant to the authority granted in this
6 subsection shall be for a term not to exceed 30 years but may
7 grant to the State the option to purchase the structure
8 outright.

9 The leases shall be and shall recite that they are subject
10 to termination and cancellation in any year for which the
11 General Assembly fails to make an appropriation to pay the
12 rent payable under the terms of the lease.

13 (f) On and after September 17, 1983, the powers granted to
14 the Department under this Section shall be exercised
15 exclusively by the Department, and no other State agency may
16 concurrently exercise any such power unless specifically
17 authorized otherwise by a later enacted law. This subsection
18 is not intended to impair any contract existing as of
19 September 17, 1983.

20 ~~However, no lease for more than 10,000 square feet of~~
21 ~~space shall be executed unless the Director, in consultation~~
22 ~~with the Executive Director of the Capital Development Board,~~
23 ~~has certified that leasing is in the best interest of the~~
24 ~~State, considering programmatic requirements, availability of~~
25 ~~vacant State-owned space, the cost-benefits of purchasing or~~
26 ~~constructing new space, and other criteria as he or she shall~~

1 ~~determine. The Director shall not permit multiple leases for~~
2 ~~less than 10,000 square feet to be executed in order to evade~~
3 ~~this provision.~~

4 (g) To develop and implement, in cooperation with the
5 Interagency Energy Conservation Committee, a system for
6 evaluating energy consumption in facilities leased by the
7 Department, and to develop energy consumption standards for
8 use in evaluating prospective lease sites.

9 (h) (1) After June 1, 1998 (the effective date of Public
10 Act 90-520), the Department shall not enter into an
11 agreement for the installment purchase or lease purchase
12 of buildings, land, or facilities unless:

13 (A) the using agency certifies to the Department
14 that the agency reasonably expects that the building,
15 land, or facilities being considered for purchase will
16 meet a permanent space need;

17 (B) the building or facilities will be
18 substantially occupied by State agencies after
19 purchase (or after acceptance in the case of a build to
20 suit);

21 (C) the building or facilities shall be in new or
22 like new condition and have a remaining economic life
23 exceeding the term of the contract;

24 (D) no structural or other major building
25 component or system has a remaining economic life of
26 less than 10 years;

1 (E) the building, land, or facilities:

2 (i) is free of any identifiable environmental
3 hazard or

4 (ii) is subject to a management plan, provided
5 by the seller and acceptable to the State, to
6 address the known environmental hazard;

7 (F) the building, land, or facilities satisfy
8 applicable accessibility and applicable building
9 codes; and

10 (G) the State's cost to lease purchase or
11 installment purchase the building, land, or facilities
12 is less than the cost to lease space of comparable
13 quality, size, and location over the lease purchase or
14 installment purchase term.

15 (2) The Department shall establish the methodology for
16 comparing lease costs to the costs of installment or lease
17 purchases. The cost comparison shall take into account all
18 relevant cost factors, including, but not limited to, debt
19 service, operating and maintenance costs, insurance and
20 risk costs, real estate taxes, reserves for replacement
21 and repairs, security costs, and utilities. The
22 methodology shall also provide:

23 (A) that the comparison will be made using level
24 payment plans; and

25 (B) that a purchase price must not exceed the fair
26 market value of the buildings, land, or facilities and

1 that the purchase price must be substantiated by an
2 appraisal or by a competitive selection process.

3 (3) If the Department intends to enter into an
4 installment purchase or lease purchase agreement for
5 buildings, land, or facilities under circumstances that do
6 not satisfy the conditions specified by this Section, it
7 must issue a notice to the Secretary of the Senate and the
8 Clerk of the House. The notice shall contain (i) specific
9 details of the State's proposed purchase, including the
10 amounts, purposes, and financing terms; (ii) a specific
11 description of how the proposed purchase varies from the
12 procedures set forth in this Section; and (iii) a specific
13 justification, signed by the Director, stating why it is
14 in the State's best interests to proceed with the
15 purchase. The Department may not proceed with such an
16 installment purchase or lease purchase agreement if,
17 within 60 calendar days after delivery of the notice, the
18 General Assembly, by joint resolution, disapproves the
19 transaction. Delivery may take place on a day and at an
20 hour when the Senate and House are not in session so long
21 as the offices of Secretary and Clerk are open to receive
22 the notice. In determining the 60-day period within which
23 the General Assembly must act, the day on which delivery
24 is made to the Senate and House shall not be counted. If
25 delivery of the notice to the 2 houses occurs on different
26 days, the 60-day period shall begin on the day following

1 the later delivery.

2 (4) On or before February 15 of each year, the
3 Department shall submit an annual report to the Director
4 of the Governor's Office of Management and Budget and the
5 General Assembly regarding installment purchases or lease
6 purchases of buildings, land, or facilities that were
7 entered into during the preceding calendar year. The
8 report shall include a summary statement of the aggregate
9 amount of the State's obligations under those purchases;
10 specific details pertaining to each purchase, including
11 the amounts, purposes, and financing terms and payment
12 schedule for each purchase; and any other matter that the
13 Department deems advisable. The report shall also contain
14 an analysis of all leases that meet both of the following
15 criteria: (1) the lease contains a purchase option clause;
16 and (2) the third full year of the lease has been
17 completed. That analysis shall include, without
18 limitation, a recommendation of whether it is in the
19 State's best interest to exercise the purchase option or
20 to seek to renew the lease without exercising the clause.

21 The requirement for reporting shall be satisfied by
22 filing copies of the report with each of the following:
23 (1) the Auditor General; (2) the Chairs of the
24 Appropriations Committees; (3) the General Assembly and
25 the Commission on Government Forecasting and
26 Accountability as required by Section 3.1 of the General

1 Assembly Organizations Act; and (4) the State Government
2 Report Distribution Center for the General Assembly as is
3 required under paragraph (t) of Section 7 of the State
4 Library Act.

5 (Source: P.A. 99-143, eff. 7-27-15; 100-1109, eff. 1-1-19;
6 100-1148, eff. 12-10-18.)

7 ARTICLE 40. DISABILITY-SERVICE ORGANIZATIONS

8 Section 40-5. The Illinois Procurement Code is amended by
9 changing Section 45-35 as follows:

10 (30 ILCS 500/45-35)

11 Sec. 45-35. Not-for-profit agencies for persons with
12 significant disabilities.

13 (a) Qualification. Supplies and services may be procured
14 without advertising or calling for bids from any qualified
15 not-for-profit agency for persons with significant
16 disabilities that:

17 (1) complies with Illinois laws governing private
18 not-for-profit organizations;

19 (2) provides for payment of a wage for contractual
20 services under this Section that is no less than the
21 applicable local or Illinois minimum wage, whichever is
22 higher, for all employees performing work on the contract,
23 including subcontractors performing work on the contract;

1 ~~is certified as a work center by the Wage and Hour Division~~
2 ~~of the United States Department of Labor or is an~~
3 ~~accredited vocational program that provides transition~~
4 ~~services to youth between the ages of 14 1/2 and 22 in~~
5 ~~accordance with individualized education plans under~~
6 ~~Section 14 8.03 of the School Code and that provides~~
7 ~~residential services at a child care institution, as~~
8 ~~defined under Section 2.06 of the Child Care Act of 1969,~~
9 ~~or at a group home, as defined under Section 2.16 of the~~
10 ~~Child Care Act of 1969, and~~

11 (3) is (A) a disability-serving organization that is
12 accredited by a nationally-recognized accrediting
13 organization or licensed by the Department of Human
14 Services or (B) a Center for Independent Living. ~~certified~~
15 ~~as a developmental training provider by the Department of~~
16 ~~Human Services.~~

17 (b) Participation. To participate, the not-for-profit
18 agency must have indicated an interest in providing the
19 supplies and services, must meet the specifications and needs
20 of the using agency, and must set a fair and reasonable price.

21 (c) Committee. There is created within the Department of
22 Central Management Services a committee to facilitate the
23 purchase of products and services from not-for-profit agencies
24 that provide employment opportunities to persons with physical
25 disabilities, intellectual or developmental disabilities,
26 mental illnesses, or any combination thereof. This committee

1 is called the State Use Committee. The State Use Committee
2 shall consist of the Director of the Department of Central
3 Management Services or his or her designee, the Secretary of
4 the Department of Human Services or his or her designee, the
5 Director of Commerce and Economic Opportunity or his or her
6 designee, one public member representing private business who
7 is knowledgeable of the employment needs and concerns of
8 persons with developmental disabilities, one public member
9 representing private business who is knowledgeable of the
10 needs and concerns of rehabilitation facilities, one public
11 member who is knowledgeable of the employment needs and
12 concerns of persons with developmental disabilities, one
13 public member who is knowledgeable of the needs and concerns
14 of rehabilitation facilities, 2 members who have a disability,
15 2 public members from a statewide association that represents
16 community-based rehabilitation facilities serving or
17 supporting individuals with intellectual or developmental
18 disabilities, and one public member from a disability-focused
19 statewide advocacy group, all appointed by the Governor. The
20 public members shall serve 2 year terms, commencing upon
21 appointment and every 2 years thereafter. A public member may
22 be reappointed, and vacancies shall be filled by appointment
23 for the completion of the term. In the event there is a vacancy
24 on the State Use Committee, the Governor must make an
25 appointment to fill that vacancy within 30 calendar days after
26 the notice of vacancy. The members shall serve without

1 compensation but shall be reimbursed for expenses at a rate
2 equal to that of State employees on a per diem basis by the
3 Department of Central Management Services. All members shall
4 be entitled to vote on issues before the State Use Committee.

5 The State Use Committee shall have the following powers
6 and duties:

7 (1) To request from any State agency information as to
8 product specification and service requirements in order to
9 carry out its purpose.

10 (2) To meet quarterly or more often as necessary to
11 carry out its purposes.

12 (3) To request a quarterly report from each
13 participating qualified not-for-profit agency for persons
14 with significant disabilities describing the volume of
15 sales for each product or service sold under this Section.

16 (4) To prepare a report for the Governor and General
17 Assembly no later than December 31 of each year. The
18 requirement for reporting to the General Assembly shall be
19 satisfied by following the procedures set forth in Section
20 3.1 of the General Assembly Organization Act.

21 (5) To prepare a publication that lists all supplies
22 and services currently available from any qualified
23 not-for-profit agency for persons with significant
24 disabilities. This list and any revisions shall be
25 distributed to all purchasing agencies.

26 (6) To encourage diversity in supplies and services

1 provided by qualified not-for-profit agencies for persons
2 with significant disabilities and discourage unnecessary
3 duplication or competition among not-for-profit agencies.

4 (7) To develop guidelines to be followed by qualifying
5 agencies for participation under the provisions of this
6 Section. Guidelines shall include a list of national
7 accrediting organizations which satisfy the requirements
8 of item (3) of subsection (a) of this Section. The
9 guidelines shall be developed within 6 months after the
10 effective date of this Code and made available on a
11 nondiscriminatory basis to all qualifying agencies. The
12 new guidelines required under this item (7) by Public Act
13 100-203 shall be developed within 6 months after August
14 18, 2017 (the effective date of Public Act 100-203) and
15 made available on a non-discriminatory basis to all
16 qualifying not-for-profit agencies.

17 (8) To review all pricing submitted under the
18 provisions of this Section and may approve a proposed
19 agreement for supplies or services where the price
20 submitted is fair and reasonable. Review of pricing under
21 this paragraph may include, but is not limited to:

22 (A) Amounts private businesses would pay for
23 similar products or services.

24 (B) Amounts the federal government would pay
25 contractors for similar products or services.

26 (C) The amount paid by the State for similar

1 products or services.

2 (D) The actual cost of manufacturing the product
3 or performing a service at a community rehabilitation
4 program offering employment services on or off
5 premises to persons with disabilities or mental
6 illnesses, with adequate consideration given to legal
7 and moral imperatives to pay workers with disabilities
8 equitable wages.

9 (E) The usual, customary, and reasonable costs of
10 manufacturing, marketing, and distribution.

11 (9) To, not less than every 3 years, adopt a strategic
12 plan for increasing the number of products and services
13 purchased from qualified not-for-profit agencies for
14 persons with disabilities or mental illnesses, including
15 the feasibility of developing mandatory set-aside
16 contracts.

17 (c-5) Conditions for Use. Each chief procurement officer
18 shall, in consultation with the State Use Committee, determine
19 which articles, materials, services, food stuffs, and supplies
20 that are produced, manufactured, or provided by persons with
21 significant disabilities in qualified not-for-profit agencies
22 shall be given preference by purchasing agencies procuring
23 those items.

24 (d) (Blank).

25 (e) Subcontracts. Subcontracts shall be permitted for
26 agreements authorized under this Section. For the purposes of

1 this subsection (e), "subcontract" means any acquisition from
2 another source of supplies, not including raw materials, or
3 services required by a qualified not-for-profit agency to
4 provide the supplies or services that are the subject of the
5 contract between the State and the qualified not-for-profit
6 agency.

7 The State Use Committee shall develop guidelines to be
8 followed by qualified not-for-profit agencies when seeking and
9 establishing subcontracts with other persons or not-for-profit
10 agencies in order to fulfill State contract requirements.
11 These guidelines shall include the following:

12 (i) The State Use Committee must approve all
13 subcontracts and substantive amendments to subcontracts
14 prior to execution or amendment of the subcontract.

15 (ii) A qualified not-for-profit agency shall not enter
16 into a subcontract, or any combination of subcontracts, to
17 fulfill an entire requirement, contract, or order without
18 written State Use Committee approval.

19 (iii) A qualified not-for-profit agency shall make
20 reasonable efforts to utilize subcontracts with other
21 not-for-profit agencies for persons with significant
22 disabilities.

23 (iv) For any subcontract not currently performed by a
24 qualified not-for-profit agency, the primary qualified
25 not-for-profit agency must provide to the State Use
26 Committee the following: (A) a written explanation as to

1 why the subcontract is not performed by a qualified
2 not-for-profit agency, and (B) a written plan to transfer
3 the subcontract to a qualified not-for-profit agency, as
4 reasonable.

5 (Source: P.A. 102-343, eff. 8-13-21; 102-558, eff. 8-20-21.)

6 ARTICLE 45. REIMAGINING HOTEL FLORENCE ACT

7 Section 45-1. Short title. This Act may be cited as the
8 Reimagining Hotel Florence Act. References in this Article to
9 "this Act" mean this Article.

10 Section 45-5. Legislative intent. Originally built in
11 1881, the Hotel Florence is located within the Pullman
12 Historic District and was placed on the National Register of
13 Historic Places in 1969 and was designated a National Historic
14 Landmark on December 30, 1970. To save it from demolition the
15 Historic Pullman Foundation purchased the hotel in 1975 and
16 maintained ownership until 1991 when the State of Illinois
17 took title of the building. The Hotel Florence is continually
18 closed for renovations and is a semi-closed public space.

19 The hotel sits next to the Pullman National Historic
20 Landmark District, which was designated as a National Monument
21 in 2015 and recently redesignated as Illinois's first National
22 Park on December 29, 2022 and is operated by the U.S. National
23 Park Service. This redesignation allows for the National Park

1 Service to enter into cooperative agreements with outside
2 parties for interpretive and educational programs at
3 nonfederal historic properties within the boundaries of the
4 park and to provide assistance for the preservation of
5 nonfederal land within the boundaries of the historical park
6 and at sites in close proximity to it, which may include the
7 Hotel Florence.

8 The General Assembly has allocated \$21,000,000 in capital
9 infrastructure funds to aid in the redevelopment of the Hotel
10 Florence.

11 The General Assembly finds that allowing for the
12 Department of Natural Resources to enter into a public-private
13 partnership that will allow the Hotel Florence to become a
14 fully reactivated space in a timely manner that is in the
15 public benefit of the State and the local Pullman community.

16 Section 45-10. Definitions. In this Act:

17 "Agreement" means a public-private agreement.

18 "Contractor" means a person that has been selected to
19 enter or has entered into a public-private agreement with the
20 Department on behalf of the State for the development,
21 financing, construction, management, or operation of the Hotel
22 Florence pursuant to this Act.

23 "Department" means the Department of Natural Resources.

24 "Hotel Florence" means real property in City of Chicago
25 located within the Pullman Historic District that is owned by

1 the Illinois Department of Natural Resources and was acquired
2 in 1991, at the address of 11111 S. Forrestville Avenue,
3 Chicago, Illinois, as well as the adjacent Hotel Florence
4 Annex building located at 537 East 111th Street, Chicago,
5 Illinois 60628 and any associated grounds connected to either
6 property.

7 "Maintain" or "maintenance" includes ordinary maintenance,
8 repair, rehabilitation, capital maintenance, maintenance
9 replacement, and any other categories of maintenance that may
10 be designated by the Department.

11 "Offeror" means a person that responds to a request for
12 proposals under this Act.

13 "Operate" or "operation" means to do one or more of the
14 following: maintain, improve, equip, modify, or otherwise
15 operate.

16 "Person" means any individual, firm, association, joint
17 venture, partnership, estate, trust, syndicate, fiduciary,
18 corporation, or any other legal entity, group, or combination
19 thereof.

20 "Public-private agreement" means an agreement or contract
21 between the Department on behalf of the State and all
22 schedules, exhibits, and attachments thereto, entered into
23 pursuant to a competitive request for proposals process
24 governed by this Act, for the development, financing,
25 construction, management, or operation of the Hotel Florence
26 under this Act.

1 "Revenues" means all revenues, including, but not limited
2 to, income, user fees, earnings, interest, lease payments,
3 allocations, moneys from the federal government, the State,
4 and units of local government, including, but not limited to,
5 federal, State, and local appropriations, grants, loans, lines
6 of credit, and credit guarantees; bond proceeds; equity
7 investments; service payments; or other receipts arising out
8 of or in connection with the financing, development,
9 construction, management, or operation of the Hotel Florence.

10 "State" means the State of Illinois.

11 Section 45-15. Authority to enter public-private
12 agreement.

13 (a) Notwithstanding any provision of law to the contrary,
14 the Department on behalf of the State may, pursuant to a
15 competitive request for proposals process governed by the
16 Illinois Procurement Code, rules adopted under that Code, and
17 this Act, enter into a public-private agreement to develop,
18 finance, construct, lease, manage, or operate the Hotel
19 Florence on behalf of the State, pursuant to which the
20 contractors may receive certain revenues, including management
21 or user fees in consideration of the payment of moneys to the
22 State for that right.

23 (b) The term of a public-private agreement shall be no
24 less than 25 years and no more than 75 years.

25 (c) The term of a public-private agreement may be

1 extended, but only if the extension is specifically authorized
2 by the General Assembly by law.

3 Section 45-20. Procurement; prequalification. The
4 Department may establish a process for prequalification of
5 offerors. If the Department does create such a process, it
6 shall:

7 (1) provide a public notice of the prequalification at
8 least 30 days prior to the date on which applications are
9 due;

10 (2) set forth requirements and evaluation criteria in
11 order to become prequalified;

12 (3) determine which offerors that have submitted
13 prequalification applications, if any, meet the
14 requirements and evaluation criteria; and

15 (4) allow only those offerors that have been
16 prequalified to respond to the request for proposals.

17 Section 45-25. Request for proposals process to enter into
18 public-private agreement.

19 (a) Notwithstanding any provision of law to the contrary,
20 the Department on behalf of the State shall select a
21 contractor through a competitive request for proposals process
22 governed by the Illinois Procurement Code and rules adopted
23 under that Code and this Act.

24 (b) The competitive request for proposals process shall,

1 at a minimum, solicit statements of qualification and
2 proposals from offerors.

3 (c) The competitive request for proposals process shall,
4 at a minimum, take into account the following criteria:

5 (1) the offeror's plans for the Hotel Florence
6 project;

7 (2) the offeror's current and past business practices;

8 (3) the offeror's poor or inadequate past performance
9 in developing, financing, constructing, managing, or
10 operating historic landmark properties or other public
11 assets;

12 (4) the offeror's ability to meet and past performance
13 in meeting or exhausting good faith efforts to meet the
14 utilization goals for business enterprises established in
15 the Business Enterprise for Minorities, Women, and Persons
16 with Disabilities Act;

17 (5) the offeror's ability to comply with and past
18 performance in complying with Section 2-105 of the
19 Illinois Human Rights Act; and

20 (6) the offeror's plans to comply with the Business
21 Enterprise for Minorities, Women, and Persons with
22 Disabilities Act and Section 2-105 of the Illinois Human
23 Rights Act.

24 (d) The Department shall not include terms in the request
25 for proposals that provide an advantage, whether directly or
26 indirectly, to any contractor presently providing goods,

1 services, or equipment to the Department.

2 (e) The Department shall select one or more offerors as
3 finalists.

4 (f) After the procedures required in this Section have
5 been completed, the Department shall make a determination as
6 to whether the offeror should be designated as the contractor
7 for the Hotel Florence project and shall submit the decision
8 to the Governor and to the Governor's Office of Management and
9 Budget. After review of the Department's determination, the
10 Governor may accept or reject the determination. If the
11 Governor accepts the determination of the Department, the
12 Governor shall designate the offeror for the Hotel Florence
13 project.

14 Section 45-30. Provisions of the public-private agreement.

15 (a) The public-private agreement shall include all of the
16 following:

17 (1) the term of the public-private agreement that is
18 consistent with Section 45-40;

19 (2) the powers, duties, responsibilities, obligations,
20 and functions of the Department and the contractor;

21 (3) compensation or payments to the Department, if
22 applicable;

23 (4) compensation or payments to the contractor, if
24 applicable;

25 (5) a provision specifying that the Department:

1 (A) has ready access to information regarding the
2 contractor's powers, duties, responsibilities,
3 obligations, and functions under the public-private
4 agreement;

5 (B) has the right to demand and receive
6 information from the contractor concerning any aspect
7 of the contractor's powers, duties, responsibilities,
8 obligations, and functions under the public-private
9 agreement; and

10 (C) has the authority to direct or countermand
11 decisions by the contractor at any time;

12 (6) a provision imposing an affirmative duty on the
13 contractor to provide the Department with any information
14 the contractor reasonably believes the Department would
15 want to know or would need to know to enable the Department
16 to exercise its powers, carry out its duties,
17 responsibilities, and obligations, and perform its
18 functions under this Act or the public-private agreement
19 or as otherwise required by law;

20 (7) the authority of the Department to enter into
21 contracts with third parties pursuant to Section 45-40;

22 (8) the authority of the Department to request that
23 the contractor reimburse the Department for third party
24 consultants related to the monitoring the project;

25 (9) a provision governing the contractor's authority
26 to negotiate and execute subcontracts with third parties;

1 (10) the authority of the contractor to impose user
2 fees and the amounts of those fees;

3 (11) a provision governing the deposit and allocation
4 of revenues including user fees;

5 (12) a provision governing rights to real and personal
6 property of the State, the Department, the contractor, and
7 other third parties;

8 (13) grounds for termination of the agreement by the
9 Department or the contractor and a restatement of the
10 Department's rights under this Act;

11 (14) a requirement that the contractor enter into a
12 project labor agreement;

13 (15) a provision stating that construction contractors
14 shall comply with the requirements of Section 30-22 of the
15 Illinois Procurement Code;

16 (16) rights and remedies of the Department if the
17 contractor defaults or otherwise fails to comply with the
18 terms of the agreement;

19 (17) procedures for amendment to the agreement; and

20 (18) all other terms, conditions, and provisions
21 acceptable to the Department that the Department deems
22 necessary and proper and in the public interest.

23 Section 45-35. Time limitations. The Department shall
24 issue a request for proposals within 6 months after the
25 effective date of this Act. The Department shall have 6 months

1 from the date of issuance of the request for proposals to
2 select a contractor.

3 Section 45-40. Term of agreement; reversion of property to
4 the Department.

5 (a) The Department may terminate the contractor's
6 authority and duties under the public-private agreement on the
7 date set forth in the public-private agreement.

8 (b) Upon termination of the public-private agreement, the
9 authority and duties of the contractor under this Act cease,
10 except for those duties and obligations that extend beyond the
11 termination, as set forth in the public-private agreement, and
12 all interests in the Hotel Florence shall revert to the
13 Department.

14 Section 45-45. Prohibited local action; home rule. A unit
15 of local government, including a home rule unit, may not take
16 any action that would have the effect of impairing the
17 public-private agreement under this Act. This Section is a
18 denial and limitation of home rule powers and functions under
19 subsection (h) of Section 6 of Article VII of the Illinois
20 Constitution.

21 Section 45-50. Powers liberally construed. The powers
22 conferred by this Act shall be liberally construed in order to
23 accomplish their purposes and shall be in addition and

1 supplemental to the powers conferred by any other law. If any
2 other law or rule is inconsistent with this Act, this Act is
3 controlling as to any public-private agreement entered into
4 under this Act.

5 Section 45-55. Full and complete authority. This Act
6 contains full and complete authority for agreements and leases
7 with private entities to carry out the activities described in
8 this Act. Except as otherwise required by law, no procedure,
9 proceedings, publications, notices, consents, approvals,
10 orders, or acts by the Department or any other State or local
11 agency or official are required to enter into an agreement or
12 lease.

13 ARTICLE 50. DURATION OF CONTRACTS

14 Section 50-5. The Illinois Procurement Code is amended by
15 changing Section 20-60 as follows:

16 (30 ILCS 500/20-60)

17 Sec. 20-60. Duration of contracts.

18 (a) Maximum duration. A contract may be entered into for
19 any period of time deemed to be in the best interests of the
20 State but not exceeding 10 years inclusive, beginning January
21 1, 2010, of proposed contract renewals; provided, however, in
22 connection with the issuance of certificates of participation

1 or bonds, the governing board of a public institution of
2 higher education may enter into contracts in excess of 10
3 years but not to exceed 30 years for the purpose of financing
4 or refinancing real or personal property. Third parties may
5 lease State-owned dark fiber networks for any period of time
6 deemed to be in the best interest of the State, but not
7 exceeding 20 years. The length of a lease for real property or
8 capital improvements shall be in accordance with the
9 provisions of Section 40-25. The length of energy conservation
10 program contracts or energy savings contracts or leases shall
11 be in accordance with the provisions of Section 25-45. A
12 contract for bond or mortgage insurance awarded by the
13 Illinois Housing Development Authority, however, may be
14 entered into for any period of time less than or equal to the
15 maximum period of time that the subject bond or mortgage may
16 remain outstanding.

17 (b) Subject to appropriation. All contracts made or
18 entered into shall recite that they are subject to termination
19 and cancellation in any year for which the General Assembly
20 fails to make an appropriation to make payments under the
21 terms of the contract.

22 (c) The chief procurement officer shall file a proposed
23 extension or renewal of a contract with the Procurement Policy
24 Board and the Commission on Equity and Inclusion prior to
25 entering into any extension or renewal if the cost associated
26 with the extension or renewal exceeds \$249,999. The

1 Procurement Policy Board or the Commission on Equity and
2 Inclusion may object to the proposed extension or renewal
3 within 14 calendar days and require a hearing before the Board
4 or the Commission on Equity and Inclusion prior to entering
5 into the extension or renewal. If the Procurement Policy Board
6 or the Commission on Equity and Inclusion does not object
7 within 14 calendar days or takes affirmative action to
8 recommend the extension or renewal, the chief procurement
9 officer may enter into the extension or renewal of a contract.
10 This subsection does not apply to any emergency procurement,
11 any procurement under Article 40, or any procurement exempted
12 by Section 1-10(b) of this Code. If any State agency contract
13 is paid for in whole or in part with federal-aid funds, grants,
14 or loans and the provisions of this subsection would result in
15 the loss of those federal-aid funds, grants, or loans, then
16 the contract is exempt from the provisions of this subsection
17 in order to remain eligible for those federal-aid funds,
18 grants, or loans, and the State agency shall file notice of
19 this exemption with the Procurement Policy Board or the
20 Commission on Equity and Inclusion prior to entering into the
21 proposed extension or renewal. Nothing in this subsection
22 permits a chief procurement officer to enter into an extension
23 or renewal in violation of subsection (a). By August 1 each
24 year, the Procurement Policy Board and the Commission on
25 Equity and Inclusion shall each file a report with the General
26 Assembly identifying for the previous fiscal year (i) the

1 proposed extensions or renewals that were filed and whether
2 such extensions and renewals were objected to and (ii) the
3 contracts exempt from this subsection.

4 (d) Notwithstanding the provisions of subsection (a) of
5 this Section, the Department of Innovation and Technology may
6 enter into leases for dark fiber networks for any period of
7 time deemed to be in the best interests of the State but not
8 exceeding 20 years inclusive. The Department of Innovation and
9 Technology may lease dark fiber networks from third parties
10 only for the primary purpose of providing services (i) to the
11 offices of Governor, Lieutenant Governor, Attorney General,
12 Secretary of State, Comptroller, or Treasurer and State
13 agencies, as defined under Section 5-15 of the Civil
14 Administrative Code of Illinois or (ii) for anchor
15 institutions, as defined in Section 7 of the Illinois Century
16 Network Act. Dark fiber network lease contracts shall be
17 subject to all other provisions of this Code and any
18 applicable rules or requirements, including, but not limited
19 to, publication of lease solicitations, use of standard State
20 contracting terms and conditions, and approval of vendor
21 certifications and financial disclosures.

22 (e) As used in this Section, "dark fiber network" means a
23 network of fiber optic cables laid but currently unused by a
24 third party that the third party is leasing for use as network
25 infrastructure.

26 (f) No vendor shall be eligible for renewal of a contract

1 when that vendor has failed to meet the goals agreed to in the
2 vendor's utilization plan, as defined in Section 2 of the
3 Business Enterprise for Minorities, Women, and Persons with
4 Disabilities Act, unless the State agency or public
5 institution of higher education has determined that the vendor
6 made good faith efforts toward meeting the contract goals. If
7 the State agency or public institution of higher education
8 determines that the vendor made good faith efforts, the agency
9 or public institution of higher education may issue a waiver
10 after concurrence by the chief procurement officer, which
11 shall not be unreasonably withheld or impair a State agency
12 determination to execute the renewal. The form and content of
13 the waiver shall be prescribed by each chief procurement
14 officer, but shall not impair a State agency or public
15 institution of higher education determination to execute the
16 renewal. The chief procurement officer shall post the
17 completed form on his or her official website within 5
18 business days after receipt from the State agency or public
19 institution of higher education. The chief procurement officer
20 shall maintain on his or her official website a database of
21 waivers granted under this Section with respect to contracts
22 under his or her jurisdiction. The database shall be updated
23 periodically and shall be searchable by contractor name and by
24 contracting State agency or public institution of higher
25 education.

26 (Source: P.A. 101-81, eff. 7-12-19; 101-657, Article 5,

1 Section 5-5, eff. 7-1-21 (See Section 25 of P.A. 102-29 for
2 effective date of P.A. 101-657, Article 5, Section 5-5);
3 101-657, Article 40, Section 40-125, eff. 1-1-22; 102-29, eff.
4 6-25-21; 102-721, eff. 1-1-23.)

5 ARTICLE 55. PUBLIC EDUCATION PROGRAMMING

6 Section 55-5. The Illinois Procurement Code is amended by
7 changing Section 1-10 as follows:

8 (30 ILCS 500/1-10)

9 Sec. 1-10. Application.

10 (a) This Code applies only to procurements for which
11 bidders, offerors, potential contractors, or contractors were
12 first solicited on or after July 1, 1998. This Code shall not
13 be construed to affect or impair any contract, or any
14 provision of a contract, entered into based on a solicitation
15 prior to the implementation date of this Code as described in
16 Article 99, including, but not limited to, any covenant
17 entered into with respect to any revenue bonds or similar
18 instruments. All procurements for which contracts are
19 solicited between the effective date of Articles 50 and 99 and
20 July 1, 1998 shall be substantially in accordance with this
21 Code and its intent.

22 (b) This Code shall apply regardless of the source of the
23 funds with which the contracts are paid, including federal

1 assistance moneys. This Code shall not apply to:

2 (1) Contracts between the State and its political
3 subdivisions or other governments, or between State
4 governmental bodies, except as specifically provided in
5 this Code.

6 (2) Grants, except for the filing requirements of
7 Section 20-80.

8 (3) Purchase of care, except as provided in Section
9 5-30.6 of the Illinois Public Aid Code and this Section.

10 (4) Hiring of an individual as an employee and not as
11 an independent contractor, whether pursuant to an
12 employment code or policy or by contract directly with
13 that individual.

14 (5) Collective bargaining contracts.

15 (6) Purchase of real estate, except that notice of
16 this type of contract with a value of more than \$25,000
17 must be published in the Procurement Bulletin within 10
18 calendar days after the deed is recorded in the county of
19 jurisdiction. The notice shall identify the real estate
20 purchased, the names of all parties to the contract, the
21 value of the contract, and the effective date of the
22 contract.

23 (7) Contracts necessary to prepare for anticipated
24 litigation, enforcement actions, or investigations,
25 provided that the chief legal counsel to the Governor
26 shall give his or her prior approval when the procuring

1 agency is one subject to the jurisdiction of the Governor,
2 and provided that the chief legal counsel of any other
3 procuring entity subject to this Code shall give his or
4 her prior approval when the procuring entity is not one
5 subject to the jurisdiction of the Governor.

6 (8) (Blank).

7 (9) Procurement expenditures by the Illinois
8 Conservation Foundation when only private funds are used.

9 (10) (Blank).

10 (11) Public-private agreements entered into according
11 to the procurement requirements of Section 20 of the
12 Public-Private Partnerships for Transportation Act and
13 design-build agreements entered into according to the
14 procurement requirements of Section 25 of the
15 Public-Private Partnerships for Transportation Act.

16 (12) (A) Contracts for legal, financial, and other
17 professional and artistic services entered into by the
18 Illinois Finance Authority in which the State of Illinois
19 is not obligated. Such contracts shall be awarded through
20 a competitive process authorized by the members of the
21 Illinois Finance Authority and are subject to Sections
22 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
23 as well as the final approval by the members of the
24 Illinois Finance Authority of the terms of the contract.

25 (B) Contracts for legal and financial services entered
26 into by the Illinois Housing Development Authority in

1 connection with the issuance of bonds in which the State
2 of Illinois is not obligated. Such contracts shall be
3 awarded through a competitive process authorized by the
4 members of the Illinois Housing Development Authority and
5 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
6 and 50-37 of this Code, as well as the final approval by
7 the members of the Illinois Housing Development Authority
8 of the terms of the contract.

9 (13) Contracts for services, commodities, and
10 equipment to support the delivery of timely forensic
11 science services in consultation with and subject to the
12 approval of the Chief Procurement Officer as provided in
13 subsection (d) of Section 5-4-3a of the Unified Code of
14 Corrections, except for the requirements of Sections
15 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
16 Code; however, the Chief Procurement Officer may, in
17 writing with justification, waive any certification
18 required under Article 50 of this Code. For any contracts
19 for services which are currently provided by members of a
20 collective bargaining agreement, the applicable terms of
21 the collective bargaining agreement concerning
22 subcontracting shall be followed.

23 On and after January 1, 2019, this paragraph (13),
24 except for this sentence, is inoperative.

25 (14) Contracts for participation expenditures required
26 by a domestic or international trade show or exhibition of

1 an exhibitor, member, or sponsor.

2 (15) Contracts with a railroad or utility that
3 requires the State to reimburse the railroad or utilities
4 for the relocation of utilities for construction or other
5 public purpose. Contracts included within this paragraph
6 (15) shall include, but not be limited to, those
7 associated with: relocations, crossings, installations,
8 and maintenance. For the purposes of this paragraph (15),
9 "railroad" means any form of non-highway ground
10 transportation that runs on rails or electromagnetic
11 guideways and "utility" means: (1) public utilities as
12 defined in Section 3-105 of the Public Utilities Act, (2)
13 telecommunications carriers as defined in Section 13-202
14 of the Public Utilities Act, (3) electric cooperatives as
15 defined in Section 3.4 of the Electric Supplier Act, (4)
16 telephone or telecommunications cooperatives as defined in
17 Section 13-212 of the Public Utilities Act, (5) rural
18 water or waste water systems with 10,000 connections or
19 less, (6) a holder as defined in Section 21-201 of the
20 Public Utilities Act, and (7) municipalities owning or
21 operating utility systems consisting of public utilities
22 as that term is defined in Section 11-117-2 of the
23 Illinois Municipal Code.

24 (16) Procurement expenditures necessary for the
25 Department of Public Health to provide the delivery of
26 timely newborn screening services in accordance with the

1 Newborn Metabolic Screening Act.

2 (17) Procurement expenditures necessary for the
3 Department of Agriculture, the Department of Financial and
4 Professional Regulation, the Department of Human Services,
5 and the Department of Public Health to implement the
6 Compassionate Use of Medical Cannabis Program and Opioid
7 Alternative Pilot Program requirements and ensure access
8 to medical cannabis for patients with debilitating medical
9 conditions in accordance with the Compassionate Use of
10 Medical Cannabis Program Act.

11 (18) This Code does not apply to any procurements
12 necessary for the Department of Agriculture, the
13 Department of Financial and Professional Regulation, the
14 Department of Human Services, the Department of Commerce
15 and Economic Opportunity, and the Department of Public
16 Health to implement the Cannabis Regulation and Tax Act if
17 the applicable agency has made a good faith determination
18 that it is necessary and appropriate for the expenditure
19 to fall within this exemption and if the process is
20 conducted in a manner substantially in accordance with the
21 requirements of Sections 20-160, 25-60, 30-22, 50-5,
22 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
23 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
24 Section 50-35, compliance applies only to contracts or
25 subcontracts over \$100,000. Notice of each contract
26 entered into under this paragraph (18) that is related to

1 the procurement of goods and services identified in
2 paragraph (1) through (9) of this subsection shall be
3 published in the Procurement Bulletin within 14 calendar
4 days after contract execution. The Chief Procurement
5 Officer shall prescribe the form and content of the
6 notice. Each agency shall provide the Chief Procurement
7 Officer, on a monthly basis, in the form and content
8 prescribed by the Chief Procurement Officer, a report of
9 contracts that are related to the procurement of goods and
10 services identified in this subsection. At a minimum, this
11 report shall include the name of the contractor, a
12 description of the supply or service provided, the total
13 amount of the contract, the term of the contract, and the
14 exception to this Code utilized. A copy of any or all of
15 these contracts shall be made available to the Chief
16 Procurement Officer immediately upon request. The Chief
17 Procurement Officer shall submit a report to the Governor
18 and General Assembly no later than November 1 of each year
19 that includes, at a minimum, an annual summary of the
20 monthly information reported to the Chief Procurement
21 Officer. This exemption becomes inoperative 5 years after
22 June 25, 2019 (the effective date of Public Act 101-27).

23 (19) Acquisition of modifications or adjustments,
24 limited to assistive technology devices and assistive
25 technology services, adaptive equipment, repairs, and
26 replacement parts to provide reasonable accommodations (i)

1 that enable a qualified applicant with a disability to
2 complete the job application process and be considered for
3 the position such qualified applicant desires, (ii) that
4 modify or adjust the work environment to enable a
5 qualified current employee with a disability to perform
6 the essential functions of the position held by that
7 employee, (iii) to enable a qualified current employee
8 with a disability to enjoy equal benefits and privileges
9 of employment as are enjoyed by other similarly situated
10 employees without disabilities, and (iv) that allow a
11 customer, client, claimant, or member of the public
12 seeking State services full use and enjoyment of and
13 access to its programs, services, or benefits.

14 For purposes of this paragraph (19):

15 "Assistive technology devices" means any item, piece
16 of equipment, or product system, whether acquired
17 commercially off the shelf, modified, or customized, that
18 is used to increase, maintain, or improve functional
19 capabilities of individuals with disabilities.

20 "Assistive technology services" means any service that
21 directly assists an individual with a disability in
22 selection, acquisition, or use of an assistive technology
23 device.

24 "Qualified" has the same meaning and use as provided
25 under the federal Americans with Disabilities Act when
26 describing an individual with a disability.

1 (20) Procurement expenditures necessary for the
2 Illinois Commerce Commission to hire third-party
3 facilitators pursuant to Sections 16-105.17 and 16-108.18
4 of the Public Utilities Act or an ombudsman pursuant to
5 Section 16-107.5 of the Public Utilities Act, a
6 facilitator pursuant to Section 16-105.17 of the Public
7 Utilities Act, or a grid auditor pursuant to Section
8 16-105.10 of the Public Utilities Act.

9 (21) Procurement expenditures for the purchase,
10 renewal, and expansion of software, software licenses, or
11 software maintenance agreements that support the efforts
12 of the Illinois State Police to enforce, regulate, and
13 administer the Firearm Owners Identification Card Act, the
14 Firearm Concealed Carry Act, the Firearms Restraining
15 Order Act, the Firearm Dealer License Certification Act,
16 the Law Enforcement Agencies Data System (LEADS), the
17 Uniform Crime Reporting Act, the Criminal Identification
18 Act, the Uniform Conviction Information Act, and the Gun
19 Trafficking Information Act, or establish or maintain
20 record management systems necessary to conduct human
21 trafficking investigations or gun trafficking or other
22 stolen firearm investigations. This paragraph (21) applies
23 to contracts entered into on or after the effective date
24 of this amendatory Act of the 102nd General Assembly and
25 the renewal of contracts that are in effect on the
26 effective date of this amendatory Act of the 102nd General

1 Assembly.

2 (22) Contracts for public education programming,
3 noncommercial sustaining announcements, public service
4 announcements, and public awareness and education
5 messaging with the nonprofit trade associations of the
6 providers of those services that inform the public on
7 immediate and ongoing health and safety risks and hazards.

8 Notwithstanding any other provision of law, for contracts
9 with an annual value of more than \$100,000 entered into on or
10 after October 1, 2017 under an exemption provided in any
11 paragraph of this subsection (b), except paragraph (1), (2),
12 or (5), each State agency shall post to the appropriate
13 procurement bulletin the name of the contractor, a description
14 of the supply or service provided, the total amount of the
15 contract, the term of the contract, and the exception to the
16 Code utilized. The chief procurement officer shall submit a
17 report to the Governor and General Assembly no later than
18 November 1 of each year that shall include, at a minimum, an
19 annual summary of the monthly information reported to the
20 chief procurement officer.

21 (c) This Code does not apply to the electric power
22 procurement process provided for under Section 1-75 of the
23 Illinois Power Agency Act and Section 16-111.5 of the Public
24 Utilities Act.

25 (d) Except for Section 20-160 and Article 50 of this Code,
26 and as expressly required by Section 9.1 of the Illinois

1 Lottery Law, the provisions of this Code do not apply to the
2 procurement process provided for under Section 9.1 of the
3 Illinois Lottery Law.

4 (e) This Code does not apply to the process used by the
5 Capital Development Board to retain a person or entity to
6 assist the Capital Development Board with its duties related
7 to the determination of costs of a clean coal SNG brownfield
8 facility, as defined by Section 1-10 of the Illinois Power
9 Agency Act, as required in subsection (h-3) of Section 9-220
10 of the Public Utilities Act, including calculating the range
11 of capital costs, the range of operating and maintenance
12 costs, or the sequestration costs or monitoring the
13 construction of clean coal SNG brownfield facility for the
14 full duration of construction.

15 (f) (Blank).

16 (g) (Blank).

17 (h) This Code does not apply to the process to procure or
18 contracts entered into in accordance with Sections 11-5.2 and
19 11-5.3 of the Illinois Public Aid Code.

20 (i) Each chief procurement officer may access records
21 necessary to review whether a contract, purchase, or other
22 expenditure is or is not subject to the provisions of this
23 Code, unless such records would be subject to attorney-client
24 privilege.

25 (j) This Code does not apply to the process used by the
26 Capital Development Board to retain an artist or work or works

1 of art as required in Section 14 of the Capital Development
2 Board Act.

3 (k) This Code does not apply to the process to procure
4 contracts, or contracts entered into, by the State Board of
5 Elections or the State Electoral Board for hearing officers
6 appointed pursuant to the Election Code.

7 (l) This Code does not apply to the processes used by the
8 Illinois Student Assistance Commission to procure supplies and
9 services paid for from the private funds of the Illinois
10 Prepaid Tuition Fund. As used in this subsection (l), "private
11 funds" means funds derived from deposits paid into the
12 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

13 (m) This Code shall apply regardless of the source of
14 funds with which contracts are paid, including federal
15 assistance moneys. Except as specifically provided in this
16 Code, this Code shall not apply to procurement expenditures
17 necessary for the Department of Public Health to conduct the
18 Healthy Illinois Survey in accordance with Section 2310-431 of
19 the Department of Public Health Powers and Duties Law of the
20 Civil Administrative Code of Illinois.

21 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
22 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
23 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
24 eff. 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
25 102-1116, eff. 1-10-23.)

1 ARTICLE 60. CONTRACTOR DIVERSITY REPORTING

2 Section 60-5. The Business Corporation Act of 1983 is
3 amended by adding Section 14.40 as follows:

4 (805 ILCS 5/14.40 new)

5 Sec. 14.40. State contractors reporting.

6 (a) Except as provided in subsection (b), by June 1, 2024,
7 and each June 1 thereafter, a corporation that has contracts
8 with this State shall provide to the Commission on Equity and
9 Inclusion a list of its professional services suppliers by
10 category, including, but not limited to, legal services,
11 accounting services, media placement, technology services,
12 asset management, and consulting services. The list shall
13 include the percentage of owners and employees in each
14 category that are women or minority persons. The list required
15 under this subsection (a) shall provide the required
16 information for each of the classes of minority persons
17 identified in Section 2 of the Business Enterprise for
18 Minorities, Women, and Persons with Disabilities Act.

19 (b) Corporations that submit annual supplier diversity
20 reports to the Illinois Commerce Commission in accordance with
21 Section 8h of the Business Enterprise for Minorities, Women,
22 and Persons with Disabilities Act are exempt from the
23 requirements of this Section.

24 (c) This Section is repealed on July 1, 2028.

1 ARTICLE 65. REQUESTS FOR WAIVER OF ASPIRATIONAL GOALS

2 Section 5. The Business Enterprise for Minorities, Women,
3 and Persons with Disabilities Act is amended by changing
4 Sections 2 and 7 as follows:

5 (30 ILCS 575/2)

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

7 Sec. 2. Definitions.

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

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

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

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

23 (c) Black or African American (a person having

1 origins in any of the black racial groups of Africa).

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

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

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

11 (2.05) "Person with a disability" means a person who
12 is a citizen or lawful resident of the United States and is
13 a person qualifying as a person with a disability under
14 subdivision (2.1) of this subsection (A).

15 (2.1) "Person with a disability" means a person with a
16 severe physical or mental disability that:

17 (a) results from:

18 amputation,

19 arthritis,

20 autism,

21 blindness,

22 burn injury,

23 cancer,

24 cerebral palsy,

25 Crohn's disease,

26 cystic fibrosis,

1 deafness,
2 head injury,
3 heart disease,
4 hemiplegia,
5 hemophilia,
6 respiratory or pulmonary dysfunction,
7 an intellectual disability,
8 mental illness,
9 multiple sclerosis,
10 muscular dystrophy,
11 musculoskeletal disorders,
12 neurological disorders, including stroke and
13 epilepsy,
14 paraplegia,
15 quadriplegia and other spinal cord conditions,
16 sickle cell anemia,
17 ulcerative colitis,
18 specific learning disabilities, or
19 end stage renal failure disease; and

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

22 Another disability or combination of disabilities may
23 also be considered as a severe disability for the purposes
24 of item (a) of this subdivision (2.1) if it is determined
25 by an evaluation of rehabilitation potential to cause a
26 comparable degree of substantial functional limitation

1 similar to the specific list of disabilities listed in
2 item (a) of this subdivision (2.1).

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

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

16 (4.1) "Business owned by a person with a disability"
17 means a business that is at least 51% owned by one or more
18 persons with a disability and the management and daily
19 business operations of which are controlled by one or more
20 of the persons with disabilities who own it. A
21 not-for-profit agency for persons with disabilities that
22 is exempt from taxation under Section 501 of the Internal
23 Revenue Code of 1986 is also considered a "business owned
24 by a person with a disability".

25 (4.2) "Council" means the Business Enterprise Council
26 for Minorities, Women, and Persons with Disabilities

1 created under Section 5 of this Act.

2 (4.3) "Commission" means, unless the context clearly
3 indicates otherwise, the Commission on Equity and
4 Inclusion created under the Commission on Equity and
5 Inclusion Act.

6 (4.4) "Certified vendor" means a minority-owned
7 business, women-owned business, or business owned by a
8 person with a disability that is certified by the Business
9 Enterprise Program.

10 (4.5) "Subcontractor" means a person or entity that
11 enters into a contractual agreement with a prime vendor to
12 provide, on behalf of the prime vendor, goods, services,
13 real property, or remuneration or other monetary
14 consideration that is the subject of the primary State
15 contract. "Subcontractor" includes a sublessee under a
16 State contract.

17 (4.6) "Prime vendor" means any person or entity having
18 a contract that is subject to this Act with a State agency
19 or public institution of higher education.

20 (5) "State contracts" means all contracts entered into
21 by the State, any agency or department thereof, or any
22 public institution of higher education, including
23 community college districts, regardless of the source of
24 the funds with which the contracts are paid, which are not
25 subject to federal reimbursement. "State contracts" does
26 not include contracts awarded by a retirement system,

1 pension fund, or investment board subject to Section
2 1-109.1 of the Illinois Pension Code. This definition
3 shall control over any existing definition under this Act
4 or applicable administrative rule.

5 "State construction contracts" means all State
6 contracts entered into by a State agency or public
7 institution of higher education for the repair,
8 remodeling, renovation or construction of a building or
9 structure, or for the construction or maintenance of a
10 highway defined in Article 2 of the Illinois Highway Code.

11 (6) "State agencies" shall mean all departments,
12 officers, boards, commissions, institutions and bodies
13 politic and corporate of the State, but does not include
14 the Board of Trustees of the University of Illinois, the
15 Board of Trustees of Southern Illinois University, the
16 Board of Trustees of Chicago State University, the Board
17 of Trustees of Eastern Illinois University, the Board of
18 Trustees of Governors State University, the Board of
19 Trustees of Illinois State University, the Board of
20 Trustees of Northeastern Illinois University, the Board of
21 Trustees of Northern Illinois University, the Board of
22 Trustees of Western Illinois University, municipalities or
23 other local governmental units, or other State
24 constitutional officers.

25 (7) "Public institutions of higher education" means
26 the University of Illinois, Southern Illinois University,

1 Chicago State University, Eastern Illinois University,
2 Governors State University, Illinois State University,
3 Northeastern Illinois University, Northern Illinois
4 University, Western Illinois University, the public
5 community colleges of the State, and any other public
6 universities, colleges, and community colleges now or
7 hereafter established or authorized by the General
8 Assembly.

9 (8) "Certification" means a determination made by the
10 Council or by one delegated authority from the Council to
11 make certifications, or by a State agency with statutory
12 authority to make such a certification, that a business
13 entity is a business owned by a minority, woman, or person
14 with a disability for whatever purpose. A business owned
15 and controlled by women shall be certified as a
16 "woman-owned business". A business owned and controlled by
17 women who are also minorities shall be certified as both a
18 "women-owned business" and a "minority-owned business".

19 (9) "Control" means the exclusive or ultimate and sole
20 control of the business including, but not limited to,
21 capital investment and all other financial matters,
22 property, acquisitions, contract negotiations, legal
23 matters, officer-director-employee selection and
24 comprehensive hiring, operating responsibilities,
25 cost-control matters, income and dividend matters,
26 financial transactions and rights of other shareholders or

1 joint partners. Control shall be real, substantial and
2 continuing, not pro forma. Control shall include the power
3 to direct or cause the direction of the management and
4 policies of the business and to make the day-to-day as
5 well as major decisions in matters of policy, management
6 and operations. Control shall be exemplified by possessing
7 the requisite knowledge and expertise to run the
8 particular business and control shall not include simple
9 majority or absentee ownership.

10 (10) "Business" means a business that has annual gross
11 sales of less than \$150,000,000 as evidenced by the
12 federal income tax return of the business. A certified
13 vendor ~~firm~~ with gross sales in excess of this cap may
14 apply to the Council for certification for a particular
15 contract if the vendor ~~firm~~ can demonstrate that the
16 contract would have significant impact on businesses owned
17 by minorities, women, or persons with disabilities as
18 suppliers or subcontractors or in employment of
19 minorities, women, or persons with disabilities. Firms
20 with gross sales in excess of this cap that are granted
21 certification by the Council shall be granted
22 certification for the life of the contract, including
23 available renewals.

24 (11) "Utilization plan" means an attachment that is
25 made to a form and additional documentations included in
26 all bids or proposals and that demonstrates the bidder's

1 or offeror's efforts to meet the contract-specific
2 Business Enterprise Program goal. The utilization plan
3 shall indicate whether the prime vendor intends to meet
4 the Business Enterprise Program goal through its own
5 performance, if it is a certified vendor, or through the
6 use of subcontractors that are certified vendors ~~a~~
7 ~~vendor's proposed utilization of vendors certified by the~~
8 ~~Business Enterprise Program to meet the targeted goal.~~ The
9 utilization plan shall demonstrate that the Vendor has
10 either: (1) met the entire contract goal or (2) requested
11 a full or partial waiver of the contract goal. If the prime
12 vendor intends to use a subcontractor that is a certified
13 vendor to fulfill the contract goal, a participation
14 agreement executed between the prime vendor and the
15 certified subcontractor must be included with the
16 utilization plan ~~and made good faith efforts towards~~
17 ~~meeting the goal.~~

18 (12) "Business Enterprise Program" means the Business
19 Enterprise Program of the Commission on Equity and
20 Inclusion.

21 (13) "Good faith effort" means actions undertaken by a
22 vendor to achieve a contract specific Business Enterprise
23 Program goal that, by scope, intensity, and
24 appropriateness to the objective, can reasonably be
25 expected to fulfill the program's requirements.

26 (B) When a business is owned at least 51% by any

1 combination of minority persons, women, or persons with
2 disabilities, even though none of the 3 classes alone holds at
3 least a 51% interest, the ownership requirement for purposes
4 of this Act is considered to be met. The certification
5 category for the business is that of the class holding the
6 largest ownership interest in the business. If 2 or more
7 classes have equal ownership interests, the certification
8 category shall be determined by the business.

9 (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;
10 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23.)

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 and Clean Energy Jobs.

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

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

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

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

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

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

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

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

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

19 (2) Class exemptions.

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

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

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

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

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

1 the following:

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

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

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

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

17 (3) Waivers. Where a particular contract requires a vendor
18 ~~contractor~~ to meet a goal established pursuant to this Act,
19 the vendor ~~contractor~~ shall have the right to request a waiver
20 from such requirements prior to the contract award. The
21 Business Enterprise Program shall evaluate a vendor's request
22 for a waiver based on the vendor's documented good faith
23 efforts to meet the contract-specific Business Enterprise
24 Program goal. The Council shall grant the waiver when the
25 contractor demonstrates that there has been made a good faith
26 effort to comply with the goals for participation by

1 businesses owned by minorities, women, and persons with
2 disabilities. Any such waiver shall also be transmitted in
3 writing to the Bureau on Apprenticeship Programs and Clean
4 Energy Jobs.

5 (a) Request for waiver. A vendor's ~~contractor's~~
6 request for a waiver under this subsection (3) must
7 include, but is not limited to, the following, ~~if~~
8 ~~available~~:

9 (i) a list of eligible businesses owned by
10 minorities, women, and persons with disabilities that
11 pertain to the the class of contracts in the requested
12 waiver that were contacted by the vendor ~~scope of work~~
13 ~~of the contract~~. Eligible businesses are only eligible
14 if the business is certified for the products or work
15 advertised in the solicitation or bid;

16 (ii) (blank);

17 (iia) a clear demonstration that the vendor
18 ~~contractor~~ selected portions of the work to be
19 performed by certified vendors to facilitate meeting
20 the contract specific goal, and that certified vendors
21 that have the capability to perform the work of the
22 contract were ~~eligible businesses owned by minorities,~~
23 ~~women, and persons with disabilities,~~ solicited
24 through all reasonable and available means ~~eligible~~
25 ~~businesses, and negotiated in good faith with~~
26 ~~interested eligible businesses;~~

1 (iib) documentation demonstrating that certified
2 vendors ~~businesses owned by minorities, women, and~~
3 ~~persons with disabilities~~ are not rejected as being
4 unqualified without sound reasons based on a thorough
5 investigation of their capabilities. The certified
6 vendor's standing within its industry, membership in
7 specific groups, organizations, or associations, and
8 political or social affiliations are not legitimate
9 causes for rejecting or not contacting or negotiating
10 with a certified vendor;

11 (iic) proof that the prime vendor solicited
12 eligible certified vendors with: (1) sufficient time
13 to respond; (2) adequate information about the scope,
14 specifications, and requirements of the solicitation
15 or bid, including plans, drawings, and addenda, to
16 allow eligible businesses an opportunity to respond to
17 the solicitation or bid; and (3) sufficient follow up
18 with certified vendors;

19 (iid) a clear demonstration that the prime vendor
20 communicated with certified vendors;

21 (iie) evidence that the prime vendor negotiated
22 with certified vendors to enter into subcontracts to
23 provide a commercially useful function of the contract
24 for a reasonable cost;

25 (iii) documentation demonstrating that the
26 difference in cost between the contract proposals

1 being offered by certified vendors is contract
2 proposals being offered by businesses owned by
3 minorities, women, and persons with disabilities are
4 excessive or unreasonable; and

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

9 (v) documentation demonstrating that the vendor
10 made efforts to utilize certified vendors despite the
11 ability or desire of a vendor to perform the work with
12 its own operations by selecting portions of the work
13 to be performed by certified vendors, which may, when
14 appropriate, include breaking out portions of the work
15 to be performed into economically feasible units to
16 facilitate certified vendor participation; and

17 (vi) documentation that the vendor used the
18 services of: (1) the State; (2) organizations or
19 contractors' groups representing or composed of
20 minorities, women, or persons with disabilities; (3)
21 local, State, or federal assistance offices
22 representing or assisting minorities, women, or
23 persons with disabilities; and (4) other organizations
24 that provide assistance in the recruitment and
25 engagement of certified vendors.

26 If any of the information required under this

1 subdivision (a) is not available to the vendor, despite
2 the vendor's good faith efforts to obtain the information,
3 the vendor's request for a waiver must contain a written
4 explanation of why that information is not included.

5 (b) Determination. The Council's determination
6 concerning waivers must include following:

7 (i) the justification for the requested waiver,
8 including whether the requesting vendor ~~contractor~~
9 made a good faith effort to identify and solicit
10 certified vendors based on the criteria set forth in
11 this Section ~~eligible businesses owned by minorities,~~
12 ~~women, and persons with disabilities;~~

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

16 (iii) (blank); and

17 (iv) the vendor's ~~contractor's~~ use of businesses
18 owned by minorities, women, and persons with
19 disabilities in the current and prior fiscal years.

20 (3.5) (Blank).

21 (4) Conflict with other laws. In the event that any State
22 contract, which otherwise would be subject to the provisions
23 of this Act, is or becomes subject to federal laws or
24 regulations which conflict with the provisions of this Act or
25 actions of the State taken pursuant hereto, the provisions of
26 the federal laws or regulations shall apply and the contract

1 shall be interpreted and enforced accordingly.

2 (5) Each chief procurement officer, as defined in the
3 Illinois Procurement Code, shall maintain on his or her
4 official Internet website a database of the following: (i)
5 waivers granted under this Section with respect to contracts
6 under his or her jurisdiction; (ii) a State agency or public
7 institution of higher education's written request for an
8 exemption of an individual contract or an entire class of
9 contracts; and (iii) the Council's written determination
10 granting or denying a request for an exemption of an
11 individual contract or an entire class of contracts. The
12 database, which shall be updated periodically as necessary,
13 shall be searchable by contractor name and by contracting
14 State agency.

15 (6) Each chief procurement officer, as defined by the
16 Illinois Procurement Code, shall maintain on its website a
17 list of all vendors ~~firms~~ that have been prohibited from
18 bidding, offering, or entering into a contract with the State
19 of Illinois as a result of violations of this Act.

20 Each public notice required by law of the award of a State
21 contract shall include for each bid or offer submitted for
22 that contract the following: (i) the bidder's or offeror's
23 name, (ii) the bid amount, (iii) the name or names of the
24 certified vendors ~~firms~~ identified in the bidder's or
25 offeror's submitted utilization plan, and (iv) the ~~bid's~~
26 ~~amount~~ and percentage of the contract awarded to each

1 certified vendor that is a business ~~businesses~~ owned by
2 minorities, women, and persons with disabilities identified in
3 the utilization plan.

4 (Source: P.A. 101-170, eff. 1-1-20; 101-601, eff. 1-1-20;
5 101-657, eff. 1-1-22; 102-29, eff. 6-25-21; 102-662, eff.
6 9-15-21.)

7 ARTICLE 75. PUBLIC INSTITUTIONS OF HIGHER EDUCATION

8 Section 75-5. The Illinois Procurement Code is amended by
9 changing Section 1-13 as follows:

10 (30 ILCS 500/1-13)

11 Sec. 1-13. Applicability to public institutions of higher
12 education.

13 (a) This Code shall apply to public institutions of higher
14 education, regardless of the source of the funds with which
15 contracts are paid, except as provided in this Section.

16 (b) Except as provided in this Section, this Code shall
17 not apply to procurements made by or on behalf of public
18 institutions of higher education for any of the following:

19 (1) Memberships in professional, academic, research,
20 or athletic organizations on behalf of a public
21 institution of higher education, an employee of a public
22 institution of higher education, or a student at a public
23 institution of higher education.

1 (2) Procurement expenditures for events or activities
2 paid for exclusively by revenues generated by the event or
3 activity, gifts or donations for the event or activity,
4 private grants, or any combination thereof.

5 (3) Procurement expenditures for events or activities
6 for which the use of specific potential contractors is
7 mandated or identified by the sponsor of the event or
8 activity, provided that the sponsor is providing a
9 majority of the funding for the event or activity.

10 (4) Procurement expenditures necessary to provide
11 athletic, artistic or musical services, performances,
12 events, or productions by or for a public institution of
13 higher education.

14 (5) Procurement expenditures for periodicals, books,
15 subscriptions, database licenses, and other publications
16 procured for use by a university library or academic
17 department, except for expenditures related to procuring
18 textbooks for student use or materials for resale or
19 rental.

20 (6) Procurement expenditures for placement of students
21 in externships, practicums, field experiences, and for
22 medical residencies and rotations.

23 (7) Contracts for programming and broadcast license
24 rights for university-operated radio and television
25 stations.

26 (8) Procurement expenditures necessary to perform

1 sponsored research and other sponsored activities under
2 grants and contracts funded by the sponsor or by sources
3 other than State appropriations.

4 (9) Contracts with a foreign entity for research or
5 educational activities, provided that the foreign entity
6 either does not maintain an office in the United States or
7 is the sole source of the service or product.

8 (10) Procurement expenditures for any ongoing software
9 license or maintenance agreement or competitively
10 solicited software purchase, when the software, license,
11 or maintenance agreement is available through only the
12 software creator or its manufacturer and not a reseller.

13 (11) Procurement expenditures incurred outside of the
14 United States for the recruitment of international
15 students.

16 (12) Procurement expenditures for contracts entered
17 into under the Public University Energy Conservation Act.

18 (13) Procurement expenditures for advertising
19 purchased directly from a media station or the owner of
20 the station for distribution of advertising.

21 Notice of each contract with an annual value of more than
22 \$100,000 entered into by a public institution of higher
23 education that is related to the procurement of goods and
24 services identified in items (1) through (13) ~~(11)~~ of this
25 subsection shall be published in the Procurement Bulletin
26 within 14 calendar days after contract execution. The Chief

1 Procurement Officer shall prescribe the form and content of
2 the notice. Each public institution of higher education shall
3 provide the Chief Procurement Officer, on a monthly basis, in
4 the form and content prescribed by the Chief Procurement
5 Officer, a report of contracts that are related to the
6 procurement of goods and services identified in this
7 subsection. At a minimum, this report shall include the name
8 of the contractor, a description of the supply or service
9 provided, the total amount of the contract, the term of the
10 contract, and the exception to the Code utilized. A copy of any
11 or all of these contracts shall be made available to the Chief
12 Procurement Officer immediately upon request. The Chief
13 Procurement Officer shall submit a report to the Governor and
14 General Assembly no later than November 1 of each year that
15 shall include, at a minimum, an annual summary of the monthly
16 information reported to the Chief Procurement Officer.

17 (b-5) Except as provided in this subsection, the
18 provisions of this Code shall not apply to contracts for
19 medical supplies or to contracts for medical services
20 necessary for the delivery of care and treatment at medical,
21 dental, or veterinary teaching facilities used by Southern
22 Illinois University or the University of Illinois or at any
23 university-operated health care center or dispensary that
24 provides care, treatment, and medications for students,
25 faculty, and staff. Furthermore, the provisions of this Code
26 do not apply to the procurement by such a facility of any

1 additional supplies or services that the operator of the
2 facility deems necessary for the effective use and functioning
3 of the medical supplies or services that are otherwise exempt
4 from this Code under this subsection (b-5). However, other
5 supplies and services needed for these teaching facilities
6 shall be subject to the jurisdiction of the Chief Procurement
7 Officer for Public Institutions of Higher Education who may
8 establish expedited procurement procedures and may waive or
9 modify certification, contract, hearing, process and
10 registration requirements required by the Code. All
11 procurements made under this subsection shall be documented
12 and may require publication in the Illinois Procurement
13 Bulletin.

14 (b-10) Procurements made by or on behalf of the University
15 of Illinois for investment services may be entered into or
16 renewed without being subject to the requirements of this
17 Code. Notice of intent to renew a contract shall be published
18 in the Illinois Public Higher Education Procurement Bulletin
19 at least 14 days prior to the execution of a renewal, and the
20 University of Illinois shall hold a public hearing for
21 interested parties to provide public comment. Any contract
22 extended, renewed, or entered pursuant to this exception shall
23 be published in the Illinois Public Higher Education
24 Procurement Bulletin within 5 days of contract execution.

25 (c) Procurements made by or on behalf of public
26 institutions of higher education for the fulfillment of a

1 grant shall be made in accordance with the requirements of
2 this Code to the extent practical.

3 Upon the written request of a public institution of higher
4 education, the Chief Procurement Officer may waive contract,
5 registration, certification, and hearing requirements of this
6 Code if, based on the item to be procured or the terms of a
7 grant, compliance is impractical. The public institution of
8 higher education shall provide the Chief Procurement Officer
9 with specific reasons for the waiver, including the necessity
10 of contracting with a particular potential contractor, and
11 shall certify that an effort was made in good faith to comply
12 with the provisions of this Code. The Chief Procurement
13 Officer shall provide written justification for any waivers.
14 By November 1 of each year, the Chief Procurement Officer
15 shall file a report with the General Assembly identifying each
16 contract approved with waivers and providing the justification
17 given for any waivers for each of those contracts. Notice of
18 each waiver made under this subsection shall be published in
19 the Procurement Bulletin within 14 calendar days after
20 contract execution. The Chief Procurement Officer shall
21 prescribe the form and content of the notice.

22 (d) Notwithstanding this Section, a waiver of the
23 registration requirements of Section 20-160 does not permit a
24 business entity and any affiliated entities or affiliated
25 persons to make campaign contributions if otherwise prohibited
26 by Section 50-37. The total amount of contracts awarded in

1 accordance with this Section shall be included in determining
2 the aggregate amount of contracts or pending bids of a
3 business entity and any affiliated entities or affiliated
4 persons.

5 (e) Notwithstanding subsection (e) of Section 50-10.5 of
6 this Code, the Chief Procurement Officer, with the approval of
7 the Executive Ethics Commission, may permit a public
8 institution of higher education to accept a bid or enter into a
9 contract with a business that assisted the public institution
10 of higher education in determining whether there is a need for
11 a contract or assisted in reviewing, drafting, or preparing
12 documents related to a bid or contract, provided that the bid
13 or contract is essential to research administered by the
14 public institution of higher education and it is in the best
15 interest of the public institution of higher education to
16 accept the bid or contract. For purposes of this subsection,
17 "business" includes all individuals with whom a business is
18 affiliated, including, but not limited to, any officer, agent,
19 employee, consultant, independent contractor, director,
20 partner, manager, or shareholder of a business. The Executive
21 Ethics Commission may promulgate rules and regulations for the
22 implementation and administration of the provisions of this
23 subsection (e).

24 (f) As used in this Section:

25 "Grant" means non-appropriated funding provided by a
26 federal or private entity to support a project or program

1 administered by a public institution of higher education and
2 any non-appropriated funding provided to a sub-recipient of
3 the grant.

4 "Public institution of higher education" means Chicago
5 State University, Eastern Illinois University, Governors State
6 University, Illinois State University, Northeastern Illinois
7 University, Northern Illinois University, Southern Illinois
8 University, University of Illinois, Western Illinois
9 University, and, for purposes of this Code only, the Illinois
10 Mathematics and Science Academy.

11 (g) (Blank).

12 (h) The General Assembly finds and declares that:

13 (1) Public Act 98-1076, which took effect on January
14 1, 2015, changed the repeal date set for this Section from
15 December 31, 2014 to December 31, 2016.

16 (2) The Statute on Statutes sets forth general rules
17 on the repeal of statutes and the construction of multiple
18 amendments, but Section 1 of that Act also states that
19 these rules will not be observed when the result would be
20 "inconsistent with the manifest intent of the General
21 Assembly or repugnant to the context of the statute".

22 (3) This amendatory Act of the 100th General Assembly
23 manifests the intention of the General Assembly to remove
24 the repeal of this Section.

25 (4) This Section was originally enacted to protect,
26 promote, and preserve the general welfare. Any

1 construction of this Section that results in the repeal of
2 this Section on December 31, 2014 would be inconsistent
3 with the manifest intent of the General Assembly and
4 repugnant to the context of this Code.

5 It is hereby declared to have been the intent of the
6 General Assembly that this Section not be subject to repeal on
7 December 31, 2014.

8 This Section shall be deemed to have been in continuous
9 effect since December 20, 2011 (the effective date of Public
10 Act 97-643), and it shall continue to be in effect
11 henceforward until it is otherwise lawfully repealed. All
12 previously enacted amendments to this Section taking effect on
13 or after December 31, 2014, are hereby validated.

14 All actions taken in reliance on or pursuant to this
15 Section by any public institution of higher education, person,
16 or entity are hereby validated.

17 In order to ensure the continuing effectiveness of this
18 Section, it is set forth in full and re-enacted by this
19 amendatory Act of the 100th General Assembly. This
20 re-enactment is intended as a continuation of this Section. It
21 is not intended to supersede any amendment to this Section
22 that is enacted by the 100th General Assembly.

23 In this amendatory Act of the 100th General Assembly, the
24 base text of the reenacted Section is set forth as amended by
25 Public Act 98-1076. Striking and underscoring is used only to
26 show changes being made to the base text.

1 Bulletin within 30 calendar days after contract execution. The
2 Department shall provide the chief procurement officer, on a
3 monthly basis, a report of contracts that are related to the
4 procurement of supplies and services identified in this
5 Section. At a minimum, this report shall include the name of
6 the contractor, a description of the supply or service
7 provided, the total amount of the contract, the term of the
8 contract, and reference to the exception in this Section. A
9 copy of any or all of these contracts shall be made available
10 to the chief procurement officer immediately upon request.

11 (c) This Section is repealed on July 1, 2028.

12 ARTICLE 85. TRANSPORTATION SUSTAINABILITY PROCUREMENT PROGRAM

13 Section 85-5. The Transportation Sustainability
14 Procurement Program Act is amended by changing Section 10 as
15 follows:

16 (30 ILCS 530/10)

17 Sec. 10. Contracts for the procurement of freight, small
18 package delivery, and other cargo shipping and transportation
19 services.

20 (a) The State's Chief Procurement Officers shall, in
21 consultation with the Illinois Environmental Protection
22 Agency, develop a sustainability program for the State's
23 procurement of shipping and transportation services for

1 freight, small package delivery, and other forms of cargo.

2 (b) State contracts for the procurement of freight, small
3 package delivery, and other cargo shipping and transportation
4 services shall require providers to report, using generally
5 accepted reporting protocols adopted by the Agency for that
6 purpose:

7 (1) the amount of energy the service provider consumed
8 to provide those services to the State and the amount of
9 associated greenhouse gas emissions, including energy use
10 and greenhouse gases emitted as a result of the provider's
11 use of electricity in its facilities;

12 (2) the energy use and greenhouse gas emissions by the
13 service provider's subcontractors in the performance of
14 those services.

15 (c) The State's solicitation for the procurement of
16 freight, small package delivery, and other cargo shipping and
17 transportation services shall be subject to the Illinois
18 Procurement Code or the Governmental Joint Purchasing Act and
19 shall:

20 (1) specify how the bidder will report its energy use
21 and associated greenhouse gas emissions under the
22 contract; and

23 (2) call for bidders to disclose in their responses to
24 the solicitation:

25 (A) measures they use to reduce vehicle engine
26 idling;

1 (B) their use of multi-modal transportation, such
2 as rail, trucks, or air transport, and how the use of
3 those types of transportation is anticipated to reduce
4 costs for the State;

5 (C) the extent of their use of (i) cleaner, less
6 expensive fuels as an alternative to petroleum or (ii)
7 more efficient vehicle propulsion systems;

8 (D) the level of transparency of the provider's
9 reporting under subsection (b), and what independent
10 verification and assurance measures exist for this
11 reporting;

12 (E) their use of speed governors on heavy trucks;

13 (F) their use of recyclable packaging;

14 (G) measures of their network efficiency,
15 including the in-vehicle use of telematics or other
16 related technologies that provide for improved vehicle
17 and network optimization and efficiencies;

18 (H) their energy intensity per unit of output
19 delivered;

20 (I) how they will advance the environmental goals
21 of the State; and

22 (J) opportunities to effectively neutralize the
23 greenhouse gas emissions reported under subsection
24 (b).

25 (d) In selecting providers for such services, the State,
26 as part of a best value analysis of the responses to the

1 State's solicitation:

2 (1) shall give appropriate weight to the disclosures
3 in subdivision (c) (2) of this Section;

4 (2) shall give appropriate weight to the price and
5 quality of the services being offered; and

6 (3) may accept from the service provider an optional
7 offer at a reasonable cost of carbon neutral shipping in
8 which the provider calculates the direct and indirect
9 greenhouse gas emissions of the provider that are
10 specified under subsection (b) above, and obtains
11 independently verified carbon credits to offset those
12 emissions and then retires the carbon credits.

13 (e) The Chief Procurement Officer identified under item
14 (5) of Section 1-15.15 of the Illinois Procurement Code shall
15 adopt rules to encourage all State agencies to use the least
16 costly level of service or mode of transport (while
17 distinguishing between express or air versus ground delivery)
18 that can achieve on-time delivery for the product being
19 transported and delivered.

20 (Source: P.A. 98-348, eff. 8-14-13.)

21 ARTICLE 90. PUBLIC-PRIVATE PARTNERSHIP FOR TRANSPORTATION ACT

22 Section 90-5. The Public-Private Partnerships for
23 Transportation Act is amended by changing Sections 5, 10, 15,
24 20, 30, 35, 40, 45, 50, 55, 65, 70, 80, and 85 and by adding

1 Section 19 as follows:

2 (630 ILCS 5/5)

3 Sec. 5. Public policy and legislative intent.

4 (a) It is the public policy of the State of Illinois to
5 promote the design, development, construction, financing, and
6 operation of transportation facilities that serve the needs of
7 the public.

8 (b) Existing methods of procurement and financing of
9 transportation facilities by responsible public entities
10 ~~transportation agencies~~ impose limitations on the methods by
11 which transportation facilities may be developed and operated
12 within the State.

13 (c) Authorizing responsible public entities ~~transportation~~
14 ~~agencies~~ to enter into public-private partnerships, whereby
15 private entities may develop, operate, and finance
16 transportation facilities, has the potential to promote the
17 development of transportation facilities in the State as well
18 as investment in the State.

19 (d) It is the intent of this Act to promote public-private
20 partnerships for transportation by authorizing responsible
21 public entities ~~transportation agencies~~ to enter into
22 public-private agreements related to the design, development,
23 construction, operation, and financing of transportation
24 facilities.

25 (e) It is the intent of this Act to encourage the practice

1 of congestion pricing in connection with toll highways,
2 pursuant to which higher toll rates are charged during times
3 or in locations of most congestion.

4 (f) It is the intent of this Act to use Illinois design
5 professionals, construction companies, and workers to the
6 greatest extent possible by offering them the right to compete
7 for this work.

8 (Source: P.A. 97-502, eff. 8-23-11.)

9 (630 ILCS 5/10)

10 Sec. 10. Definitions. As used in this Act:

11 "Approved proposal" means the proposal that is approved by
12 the responsible public entity ~~transportation agency~~ pursuant
13 to subsection (j) of Section 20 of this Act.

14 "Approved proposer" means the private entity whose
15 proposal is the approved proposal.

16 "Authority" means the Illinois State Toll Highway
17 Authority.

18 "Contractor" means a private entity that has entered into
19 a public-private agreement with the responsible public entity
20 ~~transportation agency~~ to provide services to or on behalf of
21 the responsible public entity ~~transportation agency~~.

22 "Department" means the Illinois Department of
23 Transportation.

24 "Design-build agreement" means the agreement between the
25 selected private entity and the responsible public entity

1 ~~transportation agency~~ under which the selected private entity
2 agrees to furnish design, construction, and related services
3 for a transportation facility under this Act.

4 "Develop" or "development" means to do one or more of the
5 following: plan, design, develop, lease, acquire, install,
6 construct, reconstruct, rehabilitate, extend, or expand.

7 "Maintain" or "maintenance" includes ordinary maintenance,
8 repair, rehabilitation, capital maintenance, maintenance
9 replacement, and any other categories of maintenance that may
10 be designated by the responsible public entity ~~transportation~~
11 ~~agency~~.

12 ~~"Metropolitan planning organization" means a metropolitan~~
13 ~~planning organization designated under 23 U.S.C. Section 134~~
14 ~~whose metropolitan planning area boundaries are partially or~~
15 ~~completely within the State.~~

16 "Operate" or "operation" means to do one or more of the
17 following: maintain, improve, equip, modify, or otherwise
18 operate.

19 "Private entity" means any combination of one or more
20 individuals, corporations, general partnerships, limited
21 liability companies, limited partnerships, joint ventures,
22 business trusts, nonprofit entities, or other business
23 entities that are parties to a proposal for a transportation
24 project or an agreement related to a transportation project. A
25 public agency may provide services to a contractor as a
26 subcontractor or subconsultant without affecting the private

1 status of the private entity and the ability to enter into a
2 public-private agreement. A transportation agency is not a
3 private entity.

4 "Proposal" means all materials and documents prepared by
5 or on behalf of a private entity relating to the proposed
6 development, financing, or operation of a transportation
7 facility as a transportation project.

8 "Proposer" means a private entity that has submitted an
9 unsolicited proposal for a public-private agreement to a
10 responsible public entity under this Act or a proposal or
11 statement of qualifications for a public-private agreement in
12 response to a request for proposals or a request for
13 qualifications issued by a responsible public entity
14 ~~transportation agency~~ under this Act.

15 "Public-private agreement" means the public-private
16 agreement between the contractor and the responsible public
17 entity ~~transportation agency~~ relating to one or more of the
18 development, financing, or operation of a transportation
19 project that is entered into under this Act.

20 "Request for information" means all materials and
21 documents prepared by or on behalf of the responsible public
22 entity ~~transportation agency~~ to solicit information from
23 private entities with respect to transportation projects.

24 "Request for proposals" means all materials and documents
25 prepared by or on behalf of the responsible public entity
26 ~~transportation agency~~ to solicit proposals from private

1 entities to enter into a public-private agreement.

2 "Request for qualifications" means all materials and
3 documents prepared by or on behalf of the responsible public
4 entity ~~transportation agency~~ to solicit statements of
5 qualification from private entities to enter into a
6 public-private agreement.

7 "Responsible public entity" means the Department of
8 Transportation, the Illinois State Toll Highway Authority.

9 "Revenues" means all revenues, including any combination
10 of: income; earnings and interest; user fees; lease payments;
11 allocations; federal, State, and local appropriations, grants,
12 loans, lines of credit, and credit guarantees; bond proceeds;
13 equity investments; service payments; or other receipts;
14 arising out of or in connection with a transportation project,
15 including the development, financing, and operation of a
16 transportation project. The term includes money received as
17 grants, loans, lines of credit, credit guarantees, or
18 otherwise in aid of a transportation project from the federal
19 government, the State, a unit of local government, or any
20 agency or instrumentality of the federal government, the
21 State, or a unit of local government.

22 "Shortlist" means the process by which a responsible
23 public entity ~~transportation agency~~ will review, evaluate, and
24 rank statements of qualifications submitted in response to a
25 request for qualifications and then identify the proposers who
26 are eligible to submit a detailed proposal in response to a

1 request for proposals. The identified proposers constitute the
2 shortlist for the transportation project to which the request
3 for proposals relates.

4 "Transportation agency" means (i) the Department or (ii)
5 the Authority.

6 "Transportation facility" means any new or existing road,
7 highway, toll highway, bridge, tunnel, intermodal facility,
8 intercity or high-speed passenger rail, or other
9 transportation facility or infrastructure, excluding airports,
10 under the jurisdiction of a responsible public entity ~~the~~
11 ~~Department or the Authority~~, except those facilities for the
12 Illiana Expressway. The term "transportation facility" may
13 refer to one or more transportation facilities that are
14 proposed to be developed or operated as part of a single
15 transportation project.

16 "Transportation project" or "project" means any or the
17 combination of the design, development, construction,
18 financing, or operation with respect to all or a portion of any
19 transportation facility under the jurisdiction of the
20 responsible public entity ~~transportation agency~~, except those
21 facilities for the Illiana Expressway, undertaken pursuant to
22 this Act.

23 "Unit of local government" has the meaning ascribed to
24 that term in Article VII, Section 1 of the Constitution of the
25 State of Illinois and also means any unit designated as a
26 municipal corporation.

1 "Unsolicited proposal" means a written proposal that is
2 submitted to a responsible public entity on the initiative of
3 the private sector entity or entities for the purpose of
4 developing a partnership, and that is not in response to a
5 formal or informal request issued by a responsible public
6 entity.

7 "User fees" or "tolls" means the rates, tolls, fees, or
8 other charges imposed by the contractor for use of all or a
9 portion of a transportation project under a public-private
10 agreement.

11 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

12 (630 ILCS 5/15)

13 Sec. 15. Formation of public-private agreements; project
14 planning.

15 (a) Each responsible public entity ~~transportation agency~~
16 may exercise the powers granted by this Act to do some or all
17 to design, develop, construct, finance, and operate any part
18 of one or more transportation projects through public-private
19 agreements with one or more private entities, except for
20 transportation projects for the Illiana Expressway as defined
21 in the Public Private Agreements for the Illiana Expressway
22 Act. The net proceeds, if any, arising out of a transportation
23 project or public-private agreement undertaken by the
24 Department pursuant to this Act shall be deposited into the
25 Public-Private Partnerships for Transportation Fund. The net

1 proceeds arising out of a transportation project or
2 public-private agreement undertaken by the Authority pursuant
3 to this Act shall be deposited into the Illinois State Toll
4 Highway Authority Fund and shall be used only as authorized by
5 Section 23 of the Toll Highway Act.

6 ~~(b) The Authority shall not enter into a public private~~
7 ~~agreement involving a lease or other transfer of any toll~~
8 ~~highway, or portions thereof, under the Authority's~~
9 ~~jurisdiction which were open to vehicular traffic on the~~
10 ~~effective date of this Act. The Authority shall not enter into~~
11 ~~a public private agreement for the purpose of making roadway~~
12 ~~improvements, including but not limited to reconstruction,~~
13 ~~adding lanes, and adding ramps, to any toll highway, or~~
14 ~~portions thereof, under the Authority's jurisdiction which~~
15 ~~were open to vehicular traffic on the effective date of this~~
16 ~~Act. The Authority shall not use any revenue generated by any~~
17 ~~toll highway, or portions thereof, under the Authority's~~
18 ~~jurisdiction which were open to vehicular traffic on the~~
19 ~~effective date of this Act to enter into or provide funding for~~
20 ~~a public private agreement. The Authority shall not use any~~
21 ~~asset, or the proceeds from the sale or lease of any such~~
22 ~~asset, which was owned by the Authority on the effective date~~
23 ~~of this Act to enter into or provide funding for a~~
24 ~~public private agreement.~~ The Authority may enter into a
25 public-private partnership to design, develop, construct,
26 finance, and operate new toll highways authorized by the

1 Governor and the General Assembly pursuant to Section 14.1 of
2 the Toll Highway Act, non-highway transportation projects on
3 the toll highway system such as commuter rail or high-speed
4 rail lines, and intelligent transportation infrastructure that
5 will enhance the safety, efficiency, and environmental quality
6 of the toll highway system. The Authority may operate or
7 provide operational services such as toll collection on
8 highways which are developed or financed, or both, through a
9 public-private agreement entered into by another public
10 entity, under an agreement with the public entity or
11 contractor responsible for the transportation project.

12 (c) A contractor has:

13 (1) all powers allowed by law generally to a private
14 entity having the same form of organization as the
15 contractor; and

16 (2) the power to develop, finance, and operate the
17 transportation facility and to impose user fees in
18 connection with the use of the transportation facility,
19 subject to the terms of the public-private agreement.

20 No tolls or user fees may be imposed by the contractor
21 except as set forth in a public-private agreement.

22 ~~(d) Each year, at least 30 days prior to the beginning of~~
23 ~~the transportation agency's fiscal year, and at other times~~
24 ~~the transportation agency deems necessary, the Department and~~
25 ~~the Authority shall submit for review to the General Assembly~~
26 ~~a description of potential projects that the transportation~~

1 ~~agency is considering undertaking under this Act. Any~~
2 ~~submission from the Authority shall indicate which of its~~
3 ~~potential projects, if any, will involve the proposer~~
4 ~~operating the transportation facility for a period of one year~~
5 ~~or more.~~ Prior to commencing the procurement process under an
6 unsolicited proposal or the issuance of any request for
7 qualifications or request for proposals with respect to any
8 potential project undertaken by a responsible public entity
9 ~~the Department or the Authority~~ pursuant to Section 19 or 20 of
10 this Act, the commencement of a procurement process for that
11 particular potential project shall be authorized by joint
12 resolution of the General Assembly.

13 (e) (Blank). ~~Each year, at least 30 days prior to the~~
14 ~~beginning of the transportation agency's fiscal year, the~~
15 ~~transportation agency shall submit a description of potential~~
16 ~~projects that the transportation agency is considering~~
17 ~~undertaking under this Act to each county, municipality, and~~
18 ~~metropolitan planning organization, with respect to each~~
19 ~~project located within its boundaries.~~

20 (f) Any project undertaken under this Act shall be subject
21 to all applicable planning requirements otherwise required by
22 law, including land use planning, regional planning,
23 transportation planning, and environmental compliance
24 requirements.

25 (g) (Blank). ~~Any new transportation facility developed as~~
26 ~~a project under this Act must be consistent with the regional~~

1 ~~plan then in existence of any metropolitan planning~~
2 ~~organization in whose boundaries the project is located.~~

3 (h) The responsible public entity ~~transportation agency~~
4 shall hold one or more public hearings following ~~within 30~~
5 ~~days of each of~~ its submittals to the General Assembly under
6 subsection (d) of this Section. These public hearings shall
7 address any potential project ~~projects~~ that the responsible
8 public entity ~~transportation agency~~ submitted to the General
9 Assembly for review under subsection (d). The responsible
10 public entity ~~transportation agency~~ shall publish a notice of
11 the hearing or hearings at least 7 days before a hearing takes
12 place, and shall include the following in the notice: (i) the
13 date, time, and place of the hearing and the address of the
14 responsible public entity ~~transportation agency~~; (ii) a brief
15 description of the potential projects that the responsible
16 public entity ~~transportation agency~~ is considering
17 undertaking; and (iii) a statement that the public may comment
18 on the potential projects.

19 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

20 (630 ILCS 5/19 new)

21 Sec. 19. Unsolicited proposals.

22 (a) A responsible public entity may receive unsolicited
23 proposals for a project and may thereafter enter into a
24 public-private agreement with a private entity, or a
25 consortium of private entities, for the design, construction,

1 upgrading, operating, ownership, or financing of facilities.

2 (b) A responsible public entity may consider, evaluate,
3 and accept an unsolicited proposal for a public-private
4 partnership project from a private entity if the proposal:

5 (1) is independently developed and drafted by the
6 proposer without responsible public entity supervision;

7 (2) shows that the proposed project could benefit the
8 transportation system;

9 (3) includes a financing plan to allow the project to
10 move forward pursuant to the applicable responsible public
11 entity's budget and finance requirements; and

12 (4) includes sufficient detail and information for the
13 responsible public entity to evaluate the proposal in an
14 objective and timely manner and permit a determination
15 that the project would be worthwhile.

16 (c) The unsolicited proposal shall include the following:

17 (1) an executive summary covering the major elements
18 of the proposal;

19 (2) qualifications concerning the experience,
20 expertise, technical competence, and qualifications of the
21 private entity and of each member of its management team
22 and of other key employees, consultants, and
23 subcontractors, including the name, address, and
24 professional designation;

25 (3) a project description, including, when applicable:

26 (A) the limits, scope, and location of the

- 1 proposed project;
- 2 (B) right-of-way requirements;
- 3 (C) connections with other facilities and
4 improvements to those facilities necessary if the
5 project is developed;
- 6 (D) a conceptual project design; and
- 7 (E) a statement of the project's relationship to
8 and impact upon relevant existing plans of the
9 responsible public entity;
- 10 (4) a facilities project schedule, including when
11 applicable, estimates of:
- 12 (A) dates of contract award;
- 13 (B) start of construction;
- 14 (C) completion of construction;
- 15 (D) start of operations; and
- 16 (E) major maintenance or reconstruction activities
17 during the life of the proposed project agreement;
- 18 (5) an operating plan describing the operation of the
19 completed facility if operation of a facility is part of
20 the proposal, describing the management structure and
21 approach, the proposed period of operations, enforcement,
22 emergency response, and other relevant information;
- 23 (6) a finance plan describing the proposed financing
24 of the project, identifying the source of funds to, where
25 applicable, design, construct, maintain, and manage the
26 project during the term of the proposed contract; and

1 (7) the legal basis for the project and licenses and
2 certifications; the private entity must demonstrate that
3 it has all licenses and certificates necessary to complete
4 the project.

5 (d) Within 120 days after receiving an unsolicited
6 proposal, the responsible public entity shall complete a
7 preliminary evaluation of the unsolicited proposal and shall
8 either:

9 (1) if the preliminary evaluation is unfavorable,
10 return the proposal without further action;

11 (2) if the preliminary evaluation is favorable, notify
12 the proposer that the responsible public entity will
13 further evaluate the proposal; or

14 (3) request amendments, clarification, or modification
15 of the unsolicited proposal.

16 (e) The procurement process for unsolicited proposals
17 shall be as follows:

18 (1) If the responsible public entity chooses to
19 further evaluate an unsolicited proposal with the intent
20 to enter into a public-private agreement for the proposed
21 project, then the responsible public entity shall publish
22 notice in the Illinois Procurement Bulletin or in a
23 newspaper of general circulation covering the location of
24 the project at least once a week for 2 weeks stating that
25 the responsible public entity has received a proposal and
26 will accept other proposals for the same project. The time

1 frame within which the responsible public entity may
2 accept other proposals shall be determined by the
3 responsible public entity on a project-by-project basis
4 based upon the complexity of the transportation project
5 and the public benefit to be gained by allowing a longer or
6 shorter period of time within which other proposals may be
7 received; however, the time frame for allowing other
8 proposals must be at least 21 days, but no more than 120
9 days, after the initial date of publication.

10 (2) A copy of the notice must be mailed to each local
11 government directly affected by the transportation
12 project.

13 (3) The responsible public entity shall provide
14 reasonably sufficient information, including the identity
15 of its contact person, to enable other private entities to
16 make proposals.

17 (4) If, after no less than 120 days, no
18 counterproposal is received, or if the counterproposals
19 are evaluated and found to be equal to or inferior to the
20 original unsolicited proposal, the responsible public
21 entity may proceed to negotiate a contract with the
22 original proposer.

23 (5) If, after no less than 120 days, one or more
24 counterproposals meeting unsolicited proposal standards
25 are received, and if, in the opinion of the responsible
26 public entity, the counterproposals are evaluated and

1 found to be superior to the original unsolicited proposal,
2 the responsible public entity shall proceed to determine
3 the successful participant through a final procurement
4 phase known as "Best and Final Offer" (BAFO). The BAFO is a
5 process whereby a responsible public entity shall invite
6 the original private sector party and the proponent
7 submitting the superior counterproposal to engage in a
8 BAFO phase. The invitation to participate in the BAFO
9 phase will provide to each participating proposer:

10 (A) the general concepts that were considered
11 superior to the original proposal, while keeping
12 proprietary information contained in the proposals
13 confidential to the extent possible; and

14 (B) the preestablished evaluation criteria or the
15 "basis of award" to be used to determine the
16 successful proponent.

17 (6) Offers received in response to the BAFO invitation
18 will be reviewed by the responsible public entity and
19 scored in accordance with a preestablished criteria, or
20 alternatively, in accordance with the basis of award
21 provision identified through the BAFO process. The
22 successful proponent will be the proponent offering "best
23 value" to the responsible public entity.

24 (7) In all cases, the basis of award will be the best
25 value to the responsible public entity, as determined by
26 the responsible public entity.

1 (f) After a comprehensive evaluation and acceptance of an
2 unsolicited proposal and any alternatives, the responsible
3 public entity may commence negotiations with a proposer,
4 considering:

5 (1) the proposal has received a favorable
6 comprehensive evaluation;

7 (2) the proposal is not duplicative of existing
8 infrastructure project;

9 (3) the alternative proposal does not closely resemble
10 a pending competitive proposal for a public-private
11 private partnership or other procurement;

12 (4) the proposal demonstrates a unique method,
13 approach, or concept;

14 (5) facts and circumstances that preclude or warrant
15 additional competition;

16 (6) the availability of any funds, debts, or assets
17 that the State will contribute to the project;

18 (7) facts and circumstances demonstrating that the
19 project will likely have a significant adverse impact on
20 on State bond ratings; and

21 (8) indemnifications included in the proposal.

22 (630 ILCS 5/20)

23 Sec. 20. Competitive procurement ~~Procurement~~ process.

24 (a) A responsible public entity may solicit proposals for
25 a transportation project from private entities. The

1 ~~responsible public entity transportation agency seeking to~~
2 ~~enter into a public-private partnership with a private entity~~
3 ~~for the development, finance, and operation of a~~
4 ~~transportation facility as a transportation project~~ shall
5 determine and set forth the criteria for the selection
6 process. The responsible public entity ~~transportation agency~~
7 shall use (i) a competitive sealed bidding process, (ii) a
8 competitive sealed proposal process, or (iii) a design-build
9 procurement process in accordance with Section 25 of this Act.
10 Before using one of these processes the responsible public
11 entity ~~transportation agency~~ may use a request for information
12 to obtain information relating to possible public-private
13 partnerships.

14 (b) If a transportation project will require the
15 performance of design work, the responsible public entity
16 ~~transportation agency~~ shall use the shortlist selection
17 process set forth in subsection (g) of this Section to
18 evaluate and shortlist private entities based on
19 qualifications, including but not limited to design
20 qualifications.

21 A request for qualifications, request for proposals, or
22 public-private agreement awarded to a contractor for a
23 transportation project shall require that any subsequent need
24 for architectural, engineering, or land surveying services
25 which arises after the submittal of the request for
26 qualifications or request for proposals or the awarding of the

1 public-private agreement shall be procured by the contractor
2 using a qualifications-based selection process consisting of:

3 (1) the publication of notice of availability of
4 services;

5 (2) a statement of desired qualifications;

6 (3) an evaluation based on the desired qualifications;

7 (4) the development of a shortlist ranking the firms
8 in order of qualifications; and

9 (5) negotiations with the ranked firms for a fair and
10 reasonable fee.

11 Compliance with the Architectural, Engineering, and Land
12 Surveying Qualifications Based Selection Act shall be deemed
13 prima facie compliance with this subsection (b). Every
14 transportation project contract shall include provisions
15 setting forth the requirements of this subsection (b).

16 (c) (Blank). ~~Prior to commencing a procurement for a~~
17 ~~transportation project under this Act, the transportation~~
18 ~~agency shall notify any other applicable public agency,~~
19 ~~including the Authority, in all cases involving toll~~
20 ~~facilities where the Department would commence the~~
21 ~~procurement, of its interest in undertaking the procurement~~
22 ~~and shall provide the other public agency or agencies with an~~
23 ~~opportunity to offer to develop and implement the~~
24 ~~transportation project. The transportation agency shall supply~~
25 ~~the other public agency or agencies with no less than the same~~
26 ~~level and type of information concerning the project that the~~

1 ~~transportation agency would supply to private entities in the~~
2 ~~procurement, unless that information is not then available, in~~
3 ~~which case the transportation agency shall supply the other~~
4 ~~public agency or agencies with the maximum amount of relevant~~
5 ~~information about the project as is then reasonably available.~~
6 ~~The transportation agency shall make available to the other~~
7 ~~public agencies the same subsidies, benefits, concessions, and~~
8 ~~other consideration that it intends to make available to the~~
9 ~~private entities in the procurement.~~

10 ~~The public agencies shall have a maximum period of 60 days~~
11 ~~to review the information about the proposed transportation~~
12 ~~project and to respond to the transportation agency in writing~~
13 ~~to accept or reject the opportunity to develop and implement~~
14 ~~the transportation project. If a public agency rejects the~~
15 ~~opportunity during the 60-day period, then the public agency~~
16 ~~may not participate in the procurement for the proposed~~
17 ~~transportation project by submitting a proposal of its own. If~~
18 ~~a public agency fails to accept or reject this opportunity in~~
19 ~~writing within the 60 day period, it shall be deemed to have~~
20 ~~rejected the opportunity.~~

21 ~~If a public agency accepts the opportunity within the~~
22 ~~60-day period, then the public agency shall have up to 120 days~~
23 ~~(or a longer period, if extended by the transportation~~
24 ~~agency), to (i) submit to the transportation agency a~~
25 ~~reasonable plan for development of the transportation project;~~
26 ~~(ii) if applicable, make an offer of reasonable consideration~~

1 ~~for the opportunity to undertake the transportation project;~~
2 ~~and (iii) negotiate a mutually acceptable intergovernmental~~
3 ~~agreement with the transportation agency that facilitates the~~
4 ~~development of the transportation project and requires that~~
5 ~~the transportation agency follow its procurement procedures~~
6 ~~under the Illinois Procurement Code and applicable rules~~
7 ~~rather than this Act. In considering whether a public agency's~~
8 ~~plan for developing and implementing the project is~~
9 ~~reasonable, the transportation agency shall consider the~~
10 ~~public agency's history of developing and implementing similar~~
11 ~~projects, the public agency's current capacity to develop and~~
12 ~~implement the proposed project, the user charges, if any,~~
13 ~~contemplated by the public agency's plan and how these user~~
14 ~~charges compare with user charges that would be imposed by a~~
15 ~~private entity developing and implementing the same project,~~
16 ~~the project delivery schedule proposed by the public agency,~~
17 ~~and other reasonable factors that are necessary, including~~
18 ~~consideration of risks and whether subsidy costs may be~~
19 ~~reduced, to determine whether development and implementation~~
20 ~~of the project by the public agency is in the best interest of~~
21 ~~the people of this State.~~

22 (d) (Blank). ~~If the transportation agency rejects or fails~~
23 ~~to negotiate mutually acceptable terms regarding a public~~
24 ~~agency's plan for developing and implementing the~~
25 ~~transportation project during the 120-day period described in~~
26 ~~subsection (c), then the public agency may not participate in~~

1 ~~the procurement for the proposed transportation project by~~
2 ~~submitting a proposal of its own. Following a rejection or~~
3 ~~failure to reach agreement regarding a public agency's plan,~~
4 ~~if the transportation agency later proceeds with a procurement~~
5 ~~in which it materially changes (i) the nature or scope of the~~
6 ~~project; (ii) any subsidies, benefits, concessions, or other~~
7 ~~significant project related considerations made available to~~
8 ~~the bidders; or (iii) any other terms of the project, as~~
9 ~~compared to when the transportation agency supplied~~
10 ~~information about the project to public agencies under~~
11 ~~subsection (c), then the transportation agency shall give~~
12 ~~public agencies another opportunity in accordance with~~
13 ~~subsection (c) to provide proposals for developing and~~
14 ~~implementing the project.~~

15 (e) (Blank). ~~Nothing in this Section 20 requires a~~
16 ~~transportation agency to go through a procurement process~~
17 ~~prior to developing and implementing a project through a~~
18 ~~public agency as described in subsection (c).~~

19 (f) All procurement processes shall incorporate
20 requirements and set forth goals for participation by
21 disadvantaged business enterprises as allowed under State and
22 federal law.

23 (g) The responsible public entity ~~transportation agency~~
24 shall establish a process to shortlist potential private
25 entities. The responsible public entity ~~transportation agency~~
26 shall: (i) provide a public notice of the shortlisting process

1 for such period as deemed appropriate by the agency; (ii) set
2 forth requirements and evaluation criteria in a request for
3 qualifications; (iii) develop a shortlist by determining which
4 private entities that have submitted statements of
5 qualification, if any, meet the minimum requirements and best
6 satisfy the evaluation criteria set forth in the request for
7 qualifications; and (iv) allow only those entities, or groups
8 of entities such as unincorporated joint ventures, that have
9 been shortlisted to submit proposals or bids. Throughout the
10 procurement period and as necessary following the award of a
11 contract, the responsible public entity ~~transportation agency~~
12 shall make publicly available on its website information
13 regarding firms that are prequalified by the responsible
14 public entity ~~transportation agency~~ pursuant to Section 20 of
15 the Architectural, Engineering, and Land Surveying
16 Qualifications Based Selection Act to provide architectural,
17 engineering, and land surveying services. The responsible
18 public entities ~~transportation agencies~~ shall require private
19 entities to use firms prequalified under this Act to provide
20 architectural, engineering, and land surveying services. Firms
21 identified to provide architectural, engineering, and land
22 surveying services in a statement of qualifications shall be
23 prequalified under the Act to provide the identified services
24 prior to the responsible public entity's ~~transportation~~
25 ~~agency's~~ award of the contract.

26 (h) Competitive sealed bidding requirements:

1 (1) All contracts shall be awarded by competitive
2 sealed bidding except as otherwise provided in subsection
3 (i) of this Section, Section 19 of this Act, and Section 25
4 of this Act.

5 (2) An invitation for bids shall be issued and shall
6 include a description of the public-private partnership
7 with a private entity for the development, finance, and
8 operation of a transportation facility as a transportation
9 project, and the material contractual terms and conditions
10 applicable to the procurement.

11 (3) Public notice of the invitation for bids shall be
12 published in the State of Illinois Procurement Bulletin at
13 least 21 days before the date set in the invitation for the
14 opening of bids.

15 (4) Bids shall be opened publicly in the presence of
16 one or more witnesses at the time and place designated in
17 the invitation for bids. The name of each bidder, the
18 amount of each bid, and other relevant information as may
19 be specified by rule shall be recorded. After the award of
20 the contract, the winning bid and the record of each
21 unsuccessful bid shall be open to public inspection.

22 (5) Bids shall be unconditionally accepted without
23 alteration or correction, except as authorized in this
24 Act. Bids shall be evaluated based on the requirements set
25 forth in the invitation for bids, which may include
26 criteria to determine acceptability such as inspection,

1 testing, quality, workmanship, delivery, and suitability
2 for a particular purpose. Those criteria that will affect
3 the bid price and be considered in evaluation for award,
4 such as discounts, transportation costs, and total or life
5 cycle costs, shall be objectively measurable. The
6 invitation for bids shall set forth the evaluation
7 criteria to be used.

8 (6) Correction or withdrawal of inadvertently
9 erroneous bids before or after award, or cancellation of
10 awards of contracts based on bid mistakes, shall be
11 permitted in accordance with rules. After bid opening, no
12 changes in bid prices or other provisions of bids
13 prejudicial to the interest of the State or fair
14 competition shall be permitted. All decisions to permit
15 the correction or withdrawal of bids based on bid mistakes
16 shall be supported by written determination made by the
17 responsible public entity ~~transportation agency~~.

18 (7) The contract shall be awarded with reasonable
19 promptness by written notice to the lowest responsible and
20 responsive bidder whose bid meets the requirements and
21 criteria set forth in the invitation for bids, except when
22 the responsible public entity ~~transportation agency~~
23 determines it is not in the best interest of the State and
24 by written explanation determines another bidder shall
25 receive the award. The explanation shall appear in the
26 appropriate volume of the State of Illinois Procurement

1 Bulletin. The written explanation must include:

2 (A) a description of the responsible public
3 entity's ~~agency's~~ needs;

4 (B) a determination that the anticipated cost will
5 be fair and reasonable;

6 (C) a listing of all responsible and responsive
7 bidders; and

8 (D) the name of the bidder selected, pricing, and
9 the reasons for selecting that bidder.

10 (8) When it is considered impracticable to initially
11 prepare a purchase description to support an award based
12 on price, an invitation for bids may be issued requesting
13 the submission of unpriced offers to be followed by an
14 invitation for bids limited to those bidders whose offers
15 have been qualified under the criteria set forth in the
16 first solicitation.

17 (i) Competitive sealed proposal requirements:

18 (1) When the responsible public entity ~~transportation~~
19 ~~agency~~ determines in writing that the use of competitive
20 sealed bidding or design-build procurement is either not
21 practicable or not advantageous to the State, a contract
22 may be entered into by competitive sealed proposals.

23 (2) Proposals shall be solicited through a request for
24 proposals.

25 (3) Public notice of the request for proposals shall
26 be published in the State of Illinois Procurement Bulletin

1 at least 21 days before the date set in the invitation for
2 the opening of proposals.

3 (4) Proposals shall be opened publicly in the presence
4 of one or more witnesses at the time and place designated
5 in the request for proposals, but proposals shall be
6 opened in a manner to avoid disclosure of contents to
7 competing offerors during the process of negotiation. A
8 record of proposals shall be prepared and shall be open
9 for public inspection after contract award.

10 (5) The requests for proposals shall state the
11 relative importance of price and other evaluation factors.
12 Proposals shall be submitted in 2 parts: (i) covering
13 items except price; and (ii) covering price. The first
14 part of all proposals shall be evaluated and ranked
15 independently of the second part of all proposals.

16 (6) As provided in the request for proposals and under
17 any applicable rules, discussions may be conducted with
18 responsible offerors who submit proposals determined to be
19 reasonably susceptible of being selected for award for the
20 purpose of clarifying and assuring full understanding of
21 and responsiveness to the solicitation requirements. Those
22 offerors shall be accorded fair and equal treatment with
23 respect to any opportunity for discussion and revision of
24 proposals. Revisions may be permitted after submission and
25 before award for the purpose of obtaining best and final
26 offers. In conducting discussions there shall be no

1 disclosure of any information derived from proposals
2 submitted by competing offerors. If information is
3 disclosed to any offeror, it shall be provided to all
4 competing offerors.

5 (7) Awards shall be made to the responsible offeror
6 whose proposal is determined in writing to be the most
7 advantageous to the State, taking into consideration price
8 and the evaluation factors set forth in the request for
9 proposals. The contract file shall contain the basis on
10 which the award is made.

11 (j) The responsible public entity ~~In the case of a~~
12 ~~proposal or proposals to the Department or the Authority, the~~
13 ~~transportation agency~~ shall determine, based on its review and
14 evaluation of the proposal or proposals received ~~in response~~
15 ~~to the request for proposals~~, which one or more proposals, if
16 any, best serve the public purpose of this Act and ~~satisfy the~~
17 ~~criteria set forth in the request for proposals and, with~~
18 ~~respect to such proposal or proposals~~, shall:

19 (1) submit the proposal or proposals to the Commission
20 on Government Forecasting and Accountability, which,
21 within 20 days of submission by the responsible public
22 entity ~~transportation agency~~, shall complete a review of
23 the proposal or proposals and report on the value of the
24 proposal or proposals to the State;

25 (2) hold one or more public hearings on the proposal
26 or proposals, publish notice of the hearing or hearings at

1 least 7 days before the hearing, and include the following
2 in the notice: (i) the date, time, and place of the hearing
3 and the address of the responsible public entity
4 ~~transportation agency~~, (ii) the subject matter of the
5 hearing, (iii) a description of the agreement to be
6 awarded, (iv) the determination made by the responsible
7 public entity ~~transportation agency~~ that such proposal or
8 proposals best serve the public purpose of this Act ~~and~~
9 ~~satisfy the criteria set forth in the request for~~
10 ~~proposals~~, and (v) that the public may be heard on the
11 proposal or proposals during the public hearing; and

12 (3) determine whether or not to recommend to the
13 Governor that the Governor approve the proposal or
14 proposals.

15 The Governor may approve one or more proposals recommended
16 by the Department or the Authority based upon the review,
17 evaluation, and recommendation of the responsible public
18 entity ~~transportation agency~~, the review and report of the
19 Commission on Government Forecasting and Accountability, the
20 public hearing, and the best interests of the State.

21 (k) In addition to any other rights under this Act, in
22 connection with any procurement under this Act, the following
23 rights are reserved to each responsible public entity
24 ~~transportation agency~~:

25 (1) to withdraw a request for information, a request
26 for qualifications, or a request for proposals at any

1 time, and to publish a new request for information,
2 request for qualifications, or request for proposals;

3 (2) to not approve a proposal for any reason;

4 (3) to not award a public-private agreement for any
5 reason;

6 (4) to request clarifications to any statement of
7 information, qualifications, or proposal received, to seek
8 one or more revised proposals or one or more best and final
9 offers, or to conduct negotiations with one or more
10 private entities that have submitted proposals;

11 (5) to modify, during the pendency of a procurement,
12 the terms, provisions, and conditions of a request for
13 information, request for qualifications, or request for
14 proposals or the technical specifications or form of a
15 public-private agreement;

16 (6) to interview proposers; and

17 (7) any other rights available to the responsible
18 public entity ~~transportation agency~~ under applicable law
19 and regulations.

20 (1) If a proposal is approved, the responsible public
21 entity ~~transportation agency~~ shall execute the public-private
22 agreement, publish notice of the execution of the
23 public-private agreement on its website and in a newspaper or
24 newspapers of general circulation within the county or
25 counties in which the transportation project is to be located,
26 and publish the entire agreement on its website. Any action to

1 contest the validity of a public-private agreement entered
2 into under this Act must be brought no later than 60 days after
3 the date of publication of the notice of execution of the
4 public-private agreement.

5 (m) For any transportation project with an estimated
6 construction cost of over \$50,000,000, the responsible public
7 entity ~~transportation agency~~ may also require the approved
8 proposer to pay the costs for an independent audit of any and
9 all traffic and cost estimates associated with the approved
10 proposal, as well as a review of all public costs and potential
11 liabilities to which taxpayers could be exposed (including
12 improvements to other transportation facilities that may be
13 needed as a result of the approved proposal, failure by the
14 approved proposer to reimburse the transportation agency for
15 services provided, and potential risk and liability in the
16 event the approved proposer defaults on the public-private
17 agreement or on bonds issued for the project). If required by
18 the responsible public entity ~~transportation agency~~, this
19 independent audit must be conducted by an independent
20 consultant selected by the transportation agency, and all
21 information from the review must be fully disclosed.

22 (n) The responsible public entity ~~transportation agency~~
23 may also apply for, execute, or endorse applications submitted
24 by private entities to obtain federal credit assistance for
25 qualifying projects developed or operated pursuant to this
26 Act.

1 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

2 (630 ILCS 5/30)

3 Sec. 30. Interim agreements.

4 (a) Prior to or in connection with the negotiation of the
5 public-private agreement, the responsible public entity
6 ~~transportation agency~~ may enter into an interim agreement with
7 the approved proposer. Such interim agreement may:

8 (1) permit the approved proposer to commence
9 activities relating to a proposed project as the
10 responsible public entity ~~transportation agency~~ and the
11 approved proposer shall agree to and for which the
12 approved proposer may be compensated, including, but not
13 limited to, project planning, advance right-of-way
14 acquisition, design and engineering, environmental
15 analysis and mitigation, survey, conducting transportation
16 and revenue studies, and ascertaining the availability of
17 financing for the proposed facility or facilities;

18 (2) establish the process and timing of the exclusive
19 negotiation of a public-private agreement with an approved
20 proposer;

21 (3) require that in the event the responsible public
22 entity ~~transportation agency~~ determines not to proceed
23 with a project after the approved proposer and the
24 responsible public entity ~~transportation agency~~ have
25 executed an interim agreement, and thereby terminates the

1 interim agreement or declines to proceed with negotiation
2 of a public-private agreement with an approved proposer,
3 the responsible public entity ~~transportation agency~~ shall
4 pay to the approved proposer certain fees and costs
5 incurred by the approved proposer;

6 (4) establish the ownership in the State or in the
7 Authority of the concepts and designs in the event of
8 termination of the interim agreement;

9 (5) establish procedures for the selection of
10 professional design firms and subcontractors, which shall
11 include procedures consistent with the Architectural,
12 Engineering, and Land Surveying Qualifications Based
13 Selection Act for the selection of design professional
14 firms and may include, in the discretion of the
15 responsible public entity ~~transportation agency~~,
16 procedures consistent with the low bid procurement
17 procedures outlined in the Illinois Procurement Code for
18 the selection of construction companies; and

19 (6) contain any other provisions related to any aspect
20 of the transportation project that the parties may deem
21 appropriate.

22 (b) A responsible public entity ~~transportation agency~~ may
23 enter into an interim agreement with multiple approved
24 proposers if the responsible public entity ~~transportation~~
25 ~~agency~~ determines in writing that it is in the public interest
26 to do so.

1 (c) The approved proposer shall select firms that are
2 prequalified by the responsible public entity ~~transportation~~
3 ~~agency~~ pursuant to Section 20 of the Architectural,
4 Engineering, and Land Surveying Qualifications Based Selection
5 Act to provide architectural, engineering, and land surveying
6 services to undertake activities related to the transportation
7 project.

8 (Source: P.A. 97-502, eff. 8-23-11.)

9 (630 ILCS 5/35)

10 Sec. 35. Public-private agreements.

11 (a) Unless undertaking actions otherwise permitted in an
12 interim agreement entered into under Section 30 of this Act,
13 before developing, financing, or operating the transportation
14 project, the approved proposer shall enter into a
15 public-private agreement with the transportation agency.
16 Subject to the requirements of this Act, a public-private
17 agreement may provide that the approved proposer, acting on
18 behalf of the responsible public entity ~~transportation~~
19 ~~agency~~, is partially or entirely responsible for any combination of
20 developing, financing, or operating the transportation project
21 under terms set forth in the public-private agreement.

22 (b) The public-private agreement may, as determined
23 appropriate by the responsible public entity ~~transportation~~
24 ~~agency~~ for the particular transportation project, provide for
25 some or all of the following:

1 (1) Development, financing, and operation of the
2 transportation project under terms set forth in the
3 public-private agreement, in any form as deemed
4 appropriate by the responsible public entity
5 ~~transportation agency~~, including, but not limited to, a
6 long-term concession and lease, a design-bid-build
7 agreement, a design-build agreement, a
8 design-build-maintain agreement, a design-build-finance
9 agreement, a design-build-operate-maintain agreement and a
10 design-build-finance-operate-maintain agreement.

11 (2) Delivery of performance and payment bonds or other
12 performance security determined suitable by the
13 responsible public entity ~~transportation agency~~, including
14 letters of credit, United States bonds and notes, parent
15 guaranties, and cash collateral, in connection with the
16 development, financing, or operation of the transportation
17 project, in the forms and amounts set forth in the
18 public-private agreement or otherwise determined as
19 satisfactory by the responsible public entity
20 ~~transportation agency~~ to protect the responsible public
21 entity ~~transportation agency~~ and payment bond
22 beneficiaries who have a direct contractual relationship
23 with the contractor or a subcontractor of the contractor
24 to supply labor or material. The payment or performance
25 bond or alternative form of performance security is not
26 required for the portion of a public-private agreement

1 that includes only design, planning, or financing
2 services, the performance of preliminary studies, or the
3 acquisition of real property.

4 (3) Review of plans for any development or operation,
5 or both, of the transportation project by the responsible
6 public entity ~~transportation agency~~.

7 (4) Inspection of any construction of or improvements
8 to the transportation project by the responsible public
9 entity ~~transportation agency~~ or another entity designated
10 by the responsible public entity ~~transportation agency~~ or
11 under the public-private agreement to ensure that the
12 construction or improvements conform to the standards set
13 forth in the public-private agreement or are otherwise
14 acceptable to the responsible public entity ~~transportation~~
15 ~~agency~~.

16 (5) Maintenance of:

17 (A) one or more policies of public liability
18 insurance (copies of which shall be filed with the
19 responsible public entity ~~transportation agency~~
20 accompanied by proofs of coverage); or

21 (B) self-insurance;

22 each in form and amount as set forth in the public-private
23 agreement or otherwise satisfactory to the responsible
24 public entity ~~transportation agency~~ as reasonably
25 sufficient to insure coverage of tort liability to the
26 public and employees and to enable the continued operation

1 of the transportation project.

2 (6) Where operations are included within the
3 contractor's obligations under the public-private
4 agreement, monitoring of the maintenance practices of the
5 contractor by the responsible public entity ~~transportation~~
6 ~~agency~~ or another entity designated by the responsible
7 public entity ~~transportation~~ ~~agency~~ or under the
8 public-private agreement and the taking of the actions the
9 responsible public entity ~~transportation~~ ~~agency~~ finds
10 appropriate to ensure that the transportation project is
11 properly maintained.

12 (7) Reimbursement to be paid to the responsible public
13 entity ~~transportation~~ ~~agency~~ as set forth in the
14 public-private agreement for services provided by the
15 responsible public entity ~~transportation~~ ~~agency~~.

16 (8) Filing of appropriate financial statements and
17 reports as set forth in the public-private agreement or as
18 otherwise in a form acceptable to the responsible public
19 entity ~~transportation~~ ~~agency~~ on a periodic basis.

20 (9) Compensation or payments to the contractor.
21 Compensation or payments may include any or a combination
22 of the following:

23 (A) a base fee and additional fee for project
24 savings as the design-builder of a construction
25 project;

26 (B) a development fee, payable on a lump-sum

1 basis, progress payment basis, time and materials
2 basis, or another basis deemed appropriate by the
3 responsible public entity ~~transportation agency~~;

4 (C) an operations fee, payable on a lump-sum
5 basis, time and material basis, periodic basis, or
6 another basis deemed appropriate by the responsible
7 public entity ~~transportation agency~~;

8 (D) some or all of the revenues, if any, arising
9 out of operation of the transportation project;

10 (E) a maximum rate of return on investment or
11 return on equity or a combination of the two;

12 (F) in-kind services, materials, property,
13 equipment, or other items;

14 (G) compensation in the event of any termination;

15 (H) availability payments or similar arrangements
16 whereby payments are made to the contractor pursuant
17 to the terms set forth in the public-private agreement
18 or related agreements; or

19 (I) other compensation set forth in the
20 public-private agreement or otherwise deemed
21 appropriate by the responsible public entity
22 ~~transportation agency~~.

23 (10) Compensation or payments to the responsible
24 public entity ~~transportation agency~~, if any. Compensation
25 or payments may include any or a combination of the
26 following:

1 (A) a concession or lease payment or other fee,
2 which may be payable upfront or on a periodic basis or
3 on another basis deemed appropriate by the responsible
4 public entity ~~transportation agency~~;

5 (B) sharing of revenues, if any, from the
6 operation of the transportation project;

7 (C) sharing of project savings from the
8 construction of the transportation project;

9 (D) payment for any services, materials,
10 equipment, personnel, or other items provided by the
11 responsible public entity ~~transportation agency~~ to the
12 contractor under the public-private agreement or in
13 connection with the transportation project; or

14 (E) other compensation set forth in the
15 public-private agreement or otherwise deemed
16 appropriate by the responsible public entity
17 ~~transportation agency~~.

18 (11) The date and terms of termination of the
19 contractor's authority and duties under the public-private
20 agreement and the circumstances under which the
21 contractor's authority and duties may be terminated prior
22 to that date.

23 (12) Reversion of the transportation project to the
24 responsible public entity ~~transportation agency~~ at the
25 termination or expiration of the public-private agreement.

26 (13) Rights and remedies of the responsible public

1 entity ~~transportation agency~~ in the event that the
2 contractor defaults or otherwise fails to comply with the
3 terms of the public-private agreement.

4 (14) Procedures for the selection of professional
5 design firms and subcontractors, which shall include
6 procedures consistent with the Architectural, Engineering,
7 and Land Surveying Qualifications Based Selection Act for
8 the selection of professional design firms and may
9 include, in the discretion of the responsible public
10 entity ~~transportation agency~~, procedures consistent with
11 the low bid procurement procedures outlined in the
12 Illinois Procurement Code for the selection of
13 construction companies.

14 (15) Other terms, conditions, and provisions that the
15 responsible public entity ~~transportation agency~~ believes
16 are in the public interest.

17 (c) The responsible public entity ~~transportation agency~~
18 may fix and revise the amounts of user fees that a contractor
19 may charge and collect for the use of any part of a
20 transportation project in accordance with the public-private
21 agreement. In fixing the amounts, the responsible public
22 entity ~~transportation agency~~ may establish maximum amounts for
23 the user fees and may provide that the maximums and any
24 increases or decreases of those maximums shall be based upon
25 the indices, methodologies, or other factors the responsible
26 public entity ~~transportation agency~~ considers appropriate.

1 (d) A public-private agreement may:

2 (1) authorize the imposition of tolls in any manner
3 determined appropriate by the responsible public entity
4 ~~transportation agency~~ for the transportation project;

5 (2) authorize the contractor to adjust the user fees
6 for the use of the transportation project, so long as the
7 amounts charged and collected by the contractor do not
8 exceed the maximum amounts established by the responsible
9 public entity ~~transportation agency~~ under the
10 public-private agreement;

11 (3) provide that any adjustment by the contractor
12 permitted under paragraph (2) of this subsection (d) may
13 be based on the indices, methodologies, or other factors
14 described in the public-private agreement or approved by
15 the responsible public entity ~~transportation agency~~;

16 (4) authorize the contractor to charge and collect
17 user fees through methods, including, but not limited to,
18 automatic vehicle identification systems, electronic toll
19 collection systems, and, to the extent permitted by law,
20 global positioning system-based, photo-based, or
21 video-based toll collection enforcement, provided that to
22 the maximum extent feasible the contractor will (i)
23 utilize open road tolling methods that allow payment of
24 tolls at highway speeds and (ii) comply with United States
25 Department of Transportation requirements and best
26 practices with respect to tolling methods; and

1 (5) authorize the collection of user fees by a third
2 party.

3 (e) In the public-private agreement, the responsible
4 public entity ~~transportation agency~~ may agree to make grants
5 or loans for the development or operation, or both, of the
6 transportation project from time to time from amounts received
7 from the federal government or any agency or instrumentality
8 of the federal government or from any State or local agency.

9 (f) Upon the termination or expiration of the
10 public-private agreement, including a termination for default,
11 the responsible public entity ~~transportation agency~~ shall have
12 the right to take over the transportation project and to
13 succeed to all of the right, title, and interest in the
14 transportation project. Upon termination or expiration of the
15 public-private agreement relating to a transportation project
16 undertaken by the Department, all real property acquired as a
17 part of the transportation project shall be held in the name of
18 the State of Illinois. Upon termination or expiration of the
19 public-private agreement relating to a transportation project
20 undertaken by the Authority, all real property acquired as a
21 part of the transportation project shall be held in the name of
22 the Authority.

23 (g) If a responsible public entity ~~transportation agency~~
24 elects to take over a transportation project as provided in
25 subsection (f) of this Section, the responsible public entity
26 ~~transportation agency~~ may do the following:

1 (1) develop, finance, or operate the project,
2 including through a public-private agreement entered into
3 in accordance with this Act; or

4 (2) impose, collect, retain, and use user fees, if
5 any, for the project.

6 (h) If a responsible public entity ~~transportation agency~~
7 elects to take over a transportation project as provided in
8 subsection (f) of this Section, the responsible public entity
9 ~~transportation agency~~ may use the revenues, if any, for any
10 lawful purpose, including to:

11 (1) make payments to individuals or entities in
12 connection with any financing of the transportation
13 project, including through a public-private agreement
14 entered into in accordance with this Act;

15 (2) permit a contractor to receive some or all of the
16 revenues under a public-private agreement entered into
17 under this Act;

18 (3) pay development costs of the project;

19 (4) pay current operation costs of the project or
20 facilities;

21 (5) pay the contractor for any compensation or payment
22 owing upon termination; and

23 (6) pay for the development, financing, or operation
24 of any other project or projects the responsible public
25 entity ~~transportation agency~~ deems appropriate.

26 (i) The full faith and credit of the State or any political

1 subdivision of the State or the responsible public entity
2 ~~transportation agency~~ is not pledged to secure any financing
3 of the contractor by the election to take over the
4 transportation project. Assumption of development or
5 operation, or both, of the transportation project does not
6 obligate the State or any political subdivision of the State
7 or the responsible public entity ~~transportation agency~~ to pay
8 any obligation of the contractor.

9 (j) The responsible public entity ~~transportation agency~~
10 may enter into a public-private agreement with multiple
11 approved proposers if the responsible public entity
12 ~~transportation agency~~ determines in writing that it is in the
13 public interest to do so.

14 (k) A public-private agreement shall not include any
15 provision under which the responsible public entity
16 ~~transportation agency~~ agrees to restrict or to provide
17 compensation to the private entity for the construction or
18 operation of a competing transportation facility during the
19 term of the public-private agreement.

20 (l) With respect to a public-private agreement entered
21 into by the Department, the Department shall certify in its
22 State budget request to the Governor each year the amount
23 required by the Department during the next State fiscal year
24 to enable the Department to make any payment obligated to be
25 made by the Department pursuant to that public-private
26 agreement, and the Governor shall include that amount in the

1 State budget submitted to the General Assembly.

2 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

3 (630 ILCS 5/40)

4 Sec. 40. Development and operations standards for
5 transportation projects.

6 (a) The plans and specifications, if any, for each project
7 developed under this Act must comply with:

8 (1) the responsible public entity's ~~transportation~~
9 ~~agency's~~ standards for other projects of a similar nature
10 or as otherwise provided in the public-private agreement;

11 (2) the Professional Engineering Practice Act of 1989,
12 the Structural Engineering Practice Act of 1989, the
13 Illinois Architecture Practice Act of 1989, the
14 requirements of Section 30-22 of the Illinois Procurement
15 Code as they apply to responsible bidders, and the
16 Illinois Professional Land Surveyor Act of 1989; and

17 (3) any other applicable State or federal standards.

18 (b) Each highway project constructed or operated under
19 this Act is considered to be part of:

20 (1) the State highway system for purposes of
21 identification, maintenance standards, and enforcement of
22 traffic laws if the highway project is under the
23 jurisdiction of the Department; or

24 (2) the toll highway system for purposes of
25 identification, maintenance standards, and enforcement of

1 traffic laws if the highway project is under the
2 jurisdiction of the Authority.

3 (c) Any unit of local government or State agency may enter
4 into agreements with the contractor for maintenance or other
5 services under this Act.

6 (d) Any electronic toll collection system used on a toll
7 highway, bridge, or tunnel as part of a transportation project
8 must be compatible with the electronic toll collection system
9 used by the Authority. The Authority is authorized to
10 construct, operate, and maintain any electronic toll
11 collection system used on a toll highway, bridge, or tunnel as
12 part of a transportation project pursuant to an agreement with
13 the responsible public entity ~~transportation agency~~ or the
14 contractor responsible for the transportation project. All
15 private entities and public agencies shall have an equal
16 opportunity to contract with the Authority to provide
17 construction, operation, and maintenance services. In
18 addition, during the procurement of a public-private
19 agreement, these construction, operation, and maintenance
20 services shall be available under identical terms to each
21 private entity participating in the procurement. To the extent
22 that a public-private agreement or an agreement with a public
23 agency under subsection (c) of Section 20 of this Act
24 authorizes tolling, the responsible public entities
25 ~~transportation agencies~~ and any contractor under a
26 public-private partnership or a public agency under an

1 agreement pursuant to subsection (c) of Section 20 of this Act
2 shall comply with subsection (a-5) of Section 10 of the Toll
3 Highway Act as it relates to toll enforcement.

4 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

5 (630 ILCS 5/45)

6 Sec. 45. Financial arrangements.

7 (a) The responsible public entity ~~transportation agency~~
8 may do any combination of applying for, executing, or
9 endorsing applications submitted by private entities to obtain
10 federal, State, or local credit assistance for transportation
11 projects developed, financed, or operated under this Act,
12 including loans, lines of credit, and guarantees.

13 (b) The responsible public entity ~~transportation agency~~
14 may take any action to obtain federal, State, or local
15 assistance for a transportation project that serves the public
16 purpose of this Act and may enter into any contracts required
17 to receive the federal assistance. The responsible public
18 entity ~~transportation agency~~ may determine that it serves the
19 public purpose of this Act for all or any portion of the costs
20 of a transportation project to be paid, directly or
21 indirectly, from the proceeds of a grant or loan, line of
22 credit, or loan guarantee made by a local, State, or federal
23 government or any agency or instrumentality of a local, State,
24 or federal government. Such assistance may include, but not be
25 limited to, federal credit assistance pursuant to the

1 Transportation Infrastructure Finance and Innovation Act
2 (TIFIA).

3 (c) The responsible public entity ~~transportation agency~~
4 may agree to make grants or loans for the development,
5 financing, or operation of a transportation project from time
6 to time, from amounts received from the federal, State, or
7 local government or any agency or instrumentality of the
8 federal, State, or local government.

9 (d) Any financing of a transportation project may be in
10 the amounts and upon the terms and conditions that are
11 determined by the parties to the public-private agreement.

12 (e) For the purpose of financing a transportation project,
13 the contractor and the responsible public entity
14 ~~transportation agency~~ may do the following:

15 (1) propose to use any and all revenues that may be
16 available to them;

17 (2) enter into grant agreements;

18 (3) access any other funds available to the
19 responsible public entity ~~transportation agency~~; and

20 (4) accept grants from the responsible public entity
21 ~~transportation agency~~ or other public or private agency or
22 entity.

23 (f) For the purpose of financing a transportation project,
24 public funds, including public or private pension funds, may
25 be used and mixed and aggregated with funds provided by or on
26 behalf of the contractor or other private entities.

1 (g) For the purpose of financing a transportation project,
2 each responsible public entity ~~transportation agency~~ is
3 authorized to do any combination of applying for, executing,
4 or endorsing applications for an allocation of tax-exempt bond
5 financing authorization provided by Section 142(m) of the
6 United States Internal Revenue Code, as well as financing
7 available under any other federal law or program.

8 (h) Any bonds, debt, or other securities or other
9 financing issued by or on behalf of a contractor for the
10 purposes of a project undertaken under this Act shall not be
11 deemed to constitute a debt of the State or any political
12 subdivision of the State or a pledge of the faith and credit of
13 the State or any political subdivision of the State.

14 (Source: P.A. 97-502, eff. 8-23-11; 97-858, eff. 7-27-12.)

15 (630 ILCS 5/50)

16 Sec. 50. Acquisition of property.

17 (a) The responsible public entity ~~transportation agency~~
18 may exercise any power of condemnation or eminent domain,
19 including quick-take powers, that it has under law, including,
20 in the case of the Department, all powers for acquisition of
21 property rights granted it in the Illinois Highway Code, for
22 the purpose of acquiring any lands or estates or interests in
23 land for a transportation project to the extent provided in
24 the public-private agreement or otherwise to the extent that
25 the responsible public entity ~~transportation agency~~ finds that

1 the action serves the public purpose of this Act and deems it
2 appropriate in the exercise of its powers under this Act.

3 (b) The responsible public entity ~~transportation agency~~
4 and a contractor may enter into the leases, licenses,
5 easements, and other grants of property interests that the
6 responsible public entity ~~transportation agency~~ determines
7 necessary to carry out this Act.

8 (Source: P.A. 97-502, eff. 8-23-11.)

9 (630 ILCS 5/55)

10 Sec. 55. Labor.

11 (a) A public-private agreement related to a transportation
12 project pertaining to the building, altering, repairing,
13 maintaining, improving, or demolishing a transportation
14 facility shall require the contractor and all subcontractors
15 to comply with the requirements of Section 30-22 of the
16 Illinois Procurement Code as they apply to responsible bidders
17 and to present satisfactory evidence of that compliance to the
18 responsible public entity ~~transportation agency~~, unless the
19 transportation project is federally funded and the application
20 of those requirements would jeopardize the receipt or use of
21 federal funds in support of the transportation project.

22 (b) A public-private agreement related to a transportation
23 project pertaining to a new transportation facility shall
24 require the contractor to enter into a project labor agreement
25 utilized by the Department.

1 (Source: P.A. 97-502, eff. 8-23-11.)

2 (630 ILCS 5/65)

3 Sec. 65. Term of agreement; reversion of property to
4 responsible public entity ~~transportation agency~~.

5 (a) The term of a public-private agreement, including all
6 extensions, may not exceed 99 years.

7 (b) The responsible public entity ~~transportation agency~~
8 shall terminate the contractor's authority and duties under
9 the public-private agreement on the date set forth in the
10 public-private agreement.

11 (c) Upon termination of the public-private agreement, the
12 authority and duties of the contractor under this Act cease,
13 except for those duties and obligations that extend beyond the
14 termination, as set forth in the public-private agreement, and
15 all interests in the transportation facility shall revert to
16 the responsible public entity ~~transportation agency~~.

17 (Source: P.A. 97-502, eff. 8-23-11.)

18 (630 ILCS 5/70)

19 Sec. 70. Additional powers of responsible public entities
20 ~~transportation agencies~~ with respect to transportation
21 projects.

22 (a) Each responsible public entity ~~transportation agency~~
23 may exercise any powers provided under this Act in
24 participation or cooperation with any governmental entity and

1 enter into any contracts to facilitate that participation or
2 cooperation without compliance with any other statute. Each
3 responsible public entity ~~transportation agency~~ shall
4 cooperate with each other and with other governmental entities
5 in carrying out transportation projects under this Act.

6 (b) Each responsible public entity ~~transportation agency~~
7 may make and enter into all contracts and agreements necessary
8 or incidental to the performance of the responsible public
9 entity's ~~transportation agency's~~ duties and the execution of
10 the responsible public entity's ~~transportation agency's~~ powers
11 under this Act. Except as otherwise required by law, these
12 contracts or agreements are not subject to any approvals other
13 than the approval of the responsible public entity
14 ~~transportation agency~~ and may be for any term of years and
15 contain any terms that are considered reasonable by the
16 responsible public entity ~~transportation agency~~.

17 (c) Each responsible public entity ~~transportation agency~~
18 may pay the costs incurred under a public-private agreement
19 entered into under this Act from any funds available to the
20 responsible public entity ~~transportation agency~~ under this Act
21 or any other statute.

22 (d) A responsible public entity ~~transportation agency~~ or
23 other State agency may not take any action that would impair a
24 public-private agreement entered into under this Act.

25 (e) Each responsible public entity ~~transportation agency~~
26 may enter into an agreement between and among the contractor,

1 the responsible public entity ~~transportation agency~~, and the
2 Illinois State Police concerning the provision of law
3 enforcement assistance with respect to a transportation
4 project that is the subject of a public-private agreement
5 under this Act.

6 (f) Each responsible public entity ~~transportation agency~~
7 is authorized to enter into arrangements with the Illinois
8 State Police related to costs incurred in providing law
9 enforcement assistance under this Act.

10 (Source: P.A. 102-538, eff. 8-20-21.)

11 (630 ILCS 5/80)

12 Sec. 80. Powers liberally construed. The powers conferred
13 by this Act shall be liberally construed in order to
14 accomplish their purposes and shall be in addition and
15 supplemental to the powers conferred by any other law. If any
16 other law or rule is inconsistent with this Act, this Act is
17 controlling as to any public-private agreement entered into
18 under this Act. To implement the powers conferred by this Act,
19 the responsible public entity ~~transportation agency~~ may
20 establish rules and procedures for the procurement of a
21 public-private agreement under this Act. Nothing contained in
22 this Act is intended to supersede applicable federal law or to
23 foreclose the use or potential use of federal funds. In the
24 event any provision of this Act is inconsistent with
25 applicable federal law or would have the effect of foreclosing

1 the use or potential use of federal funds, the applicable
2 federal law or funding condition shall prevail, but only to
3 the extent of such inconsistency.

4 (Source: P.A. 97-502, eff. 8-23-11.)

5 (630 ILCS 5/85)

6 Sec. 85. Full and complete authority. This Act contains
7 full and complete authority for agreements and leases with
8 private entities to carry out the activities described in this
9 Act. Except as otherwise required by law, no procedure,
10 proceedings, publications, notices, consents, approvals,
11 orders, or acts by the responsible public entity
12 ~~transportation agency~~ or any other State or local agency or
13 official are required to enter into an agreement or lease.

14 (Source: P.A. 97-502, eff. 8-23-11.)

15 ARTICLE 95. LICENSING OF SOFTWARE APPLICATIONS

16 Section 95-5. The Illinois Procurement Code is amended by
17 adding Section 20-57 as follows:

18 (30 ILCS 500/20-57 new)

19 Sec. 20-57. Software licensing contracts. A contract
20 entered into by a public agency for the licensing of software
21 applications designed to run on generally available desktop or
22 server hardware may not limit the public agency's ability to

1 install or run the software on any of the public agency's
2 hardware.

3 ARTICLE 97. PUBLIC CONSTRUCTION BONDS

4 Section 97-5. The Public Construction Bond Act is amended
5 by changing Section 1 as follows:

6 (30 ILCS 550/1) (from Ch. 29, par. 15)

7 Sec. 1. Except as otherwise provided by this Act, until
8 January 1, 2029, all officials, boards, commissions, or agents
9 of this State, or of any political subdivision thereof, in
10 making contracts for public work of any kind costing over
11 \$150,000 ~~\$50,000~~ to be performed for the State, or of any
12 political subdivision thereof, shall require every contractor
13 for the work to furnish, supply and deliver a bond to the
14 State, or to the political subdivision thereof entering into
15 the contract, as the case may be, with good and sufficient
16 sureties. The surety on the bond shall be a company that is
17 licensed by the Department of Insurance authorizing it to
18 execute surety bonds and the company shall have a financial
19 strength rating of at least A- as rated by A.M. Best Company,
20 Inc., Moody's Investors Service, Standard & Poor's
21 Corporation, or a similar rating agency. The amount of the
22 bond shall be fixed by the officials, boards, commissions,
23 commissioners or agents, and the bond, among other conditions,

1 shall be conditioned for the completion of the contract, for
2 the payment of material, apparatus, fixtures, and machinery
3 used in the work and for all labor performed in the work,
4 whether by subcontractor or otherwise.

5 Until January 1, 2029, when making contracts for public
6 works to be constructed, the Department of Transportation and
7 the Illinois State Toll Highway Authority shall require every
8 contractor for those works to furnish, supply, and deliver a
9 bond to the Department or the Authority, as the case may be,
10 with good and sufficient sureties only if the public works
11 contract will cost more than \$500,000. The Department of
12 Transportation and the Illinois State Toll Highway Authority
13 shall publicly display the following information by website or
14 annual report and shall provide that information to interested
15 parties upon request:

16 (1) a list of each of its defaulted public works
17 contracts, including the value of the award, the adjusted
18 contract value, and the amount remaining unpaid by the
19 Department or Authority, as applicable;

20 (2) the number and the aggregate amount of payment
21 claims made under the Mechanics Lien Act along with the
22 number of contracts in which payment claims are made under
23 the Mechanics Lien Act;

24 (3) for each of its public improvement contracts,
25 regardless of the contract value, the aggregate annual
26 revenue of the contractor derived from contracts with the

1 State;

2 (4) for each of its public works contracts, regardless
3 of contract value, the identity of the surety providing
4 the contract bond, payment and performance bond, or both;
5 and

6 (5) for each of its public works contracts, regardless
7 of the bond threshold, a list of bidders for each public
8 works contract, and the amount bid by each bidder.

9 Until January 1, 2029, local governmental units may
10 require a bond, by ordinance or resolution, for public works
11 contracts valued at \$150,000 or less.

12 On and after January 1, 2029, all officials, boards,
13 commissions, or agents of this State, or of any political
14 subdivision thereof, in making contracts for public work of
15 any kind costing over \$50,000 to be performed for the State, or
16 of any political subdivision thereof, shall require every
17 contractor for the work to furnish, supply and deliver a bond
18 to the State, or to the political subdivision thereof entering
19 into the contract, as the case may be, with good and sufficient
20 sureties. The surety on the bond shall be a company that is
21 licensed by the Department of Insurance authorizing it to
22 execute surety bonds and the company shall have a financial
23 strength rating of at least A- as rated by A.M. Best Company,
24 Inc., Moody's Investors Service, Standard & Poor's
25 Corporation, or a similar rating agency. The amount of the
26 bond shall be fixed by the officials, boards, commissions,

1 commissioners or agents, and the bond, among other conditions,
2 shall be conditioned for the completion of the contract, for
3 the payment of material, apparatus, fixtures, and machinery
4 used in the work and for all labor performed in the work,
5 whether by subcontractor or otherwise.

6 If the contract is for emergency repairs as provided in
7 the Illinois Procurement Code, proof of payment for all labor,
8 materials, apparatus, fixtures, and machinery may be furnished
9 in lieu of the bond required by this Section.

10 Each such bond is deemed to contain the following
11 provisions whether such provisions are inserted in such bond
12 or not:

13 "The principal and sureties on this bond agree that all
14 the undertakings, covenants, terms, conditions and agreements
15 of the contract or contracts entered into between the
16 principal and the State or any political subdivision thereof
17 will be performed and fulfilled and to pay all persons, firms
18 and corporations having contracts with the principal or with
19 subcontractors, all just claims due them under the provisions
20 of such contracts for labor performed or materials furnished
21 in the performance of the contract on account of which this
22 bond is given, when such claims are not satisfied out of the
23 contract price of the contract on account of which this bond is
24 given, after final settlement between the officer, board,
25 commission or agent of the State or of any political
26 subdivision thereof and the principal has been made."

1 Each bond securing contracts between the Capital
2 Development Board or any board of a public institution of
3 higher education and a contractor shall contain the following
4 provisions, whether the provisions are inserted in the bond or
5 not:

6 "Upon the default of the principal with respect to
7 undertakings, covenants, terms, conditions, and agreements,
8 the termination of the contractor's right to proceed with the
9 work, and written notice of that default and termination by
10 the State or any political subdivision to the surety
11 ("Notice"), the surety shall promptly remedy the default by
12 taking one of the following actions:

13 (1) The surety shall complete the work pursuant to a
14 written takeover agreement, using a completing contractor
15 jointly selected by the surety and the State or any
16 political subdivision; or

17 (2) The surety shall pay a sum of money to the obligee,
18 up to the penal sum of the bond, that represents the
19 reasonable cost to complete the work that exceeds the
20 unpaid balance of the contract sum.

21 The surety shall respond to the Notice within 15 working
22 days of receipt indicating the course of action that it
23 intends to take or advising that it requires more time to
24 investigate the default and select a course of action. If the
25 surety requires more than 15 working days to investigate the
26 default and select a course of action or if the surety elects

1 to complete the work with a completing contractor that is not
2 prepared to commence performance within 15 working days after
3 receipt of Notice, and if the State or any political
4 subdivision determines it is in the best interest of the State
5 to maintain the progress of the work, the State or any
6 political subdivision may continue to work until the
7 completing contractor is prepared to commence performance.
8 Unless otherwise agreed to by the procuring agency, in no case
9 may the surety take longer than 30 working days to advise the
10 State or political subdivision on the course of action it
11 intends to take. The surety shall be liable for reasonable
12 costs incurred by the State or any political subdivision to
13 maintain the progress to the extent the costs exceed the
14 unpaid balance of the contract sum, subject to the penal sum of
15 the bond."

16 The surety bond required by this Section may be acquired
17 from the company, agent or broker of the contractor's choice.
18 The bond and sureties shall be subject to the right of
19 reasonable approval or disapproval, including suspension, by
20 the State or political subdivision thereof concerned. Except
21 as otherwise provided in this Section, in the case of State
22 construction contracts, a contractor shall not be required to
23 post a cash bond or letter of credit in addition to or as a
24 substitute for the surety bond required by this Section.

25 Prior to the completion of 50% of the contract for public
26 works, a local governmental unit may not withhold retainage

1 from any payment to a contractor who furnishes the bond or bond
2 substitute required by this Act in an amount in excess of 10%
3 of any payment made prior to the date of completion of 50% of
4 the contract for public works. When a contract for public
5 works is 50% complete, the local governmental unit shall
6 reduce the retainage so that no more than 5% is held. After the
7 contract is 50% complete, no more than 5% of the amount of any
8 subsequent payments made under the contract for public works
9 may be withheld as retainage.

10 Prior to the completion of 50% of the contract for public
11 works, the contractor and their respective subcontractors
12 shall not withhold from their subcontractors retainage in
13 excess of 10% of any payment made prior to the date of
14 completion of 50% of the contract for public works. When the
15 contract for public works is 50% complete, the contractor and
16 its subcontractors shall reduce the retainage so that no more
17 than 5% is withheld from their respective subcontractors.
18 After the contract is 50% complete, the contractor and its
19 subcontractors shall not withhold more than 5% of the amount
20 of any subsequent payments made under the contract to their
21 respective subcontractors.

22 When other than motor fuel tax funds, federal-aid funds,
23 or other funds received from the State are used, a political
24 subdivision may allow the contractor to provide a
25 non-diminishing irrevocable bank letter of credit, in lieu of
26 the bond required by this Section, on contracts under \$100,000

1 to comply with the requirements of this Section. Any such bank
2 letter of credit shall contain all provisions required for
3 bonds by this Section.

4 In order to reduce barriers to entry for diverse and small
5 businesses, the Department of Transportation may implement a
6 5-year pilot program to allow a contractor to provide a
7 non-diminishing irrevocable bank letter of credit in lieu of
8 the bond required by this Section on contracts under \$500,000.
9 Projects selected by the Department of Transportation for this
10 pilot program must be classified by the Department as low-risk
11 scope of work contracts. The Department shall adopt rules to
12 define the criteria for pilot project selection and
13 implementation of the pilot program.

14 In ~~For the purposes of~~ this Section: ~~, the terms~~
15 ~~"material"~~

16 "Local governmental unit" has the meaning ascribed to it
17 in Section 2 of the Local Government Prompt Payment Act.

18 "Material", "labor", "apparatus", "fixtures", and
19 "machinery" include those rented items that are on the
20 construction site and those rented tools that are used or
21 consumed on the construction site in the performance of the
22 contract on account of which the bond is given.

23 (Source: P.A. 101-65, eff. 1-1-20; 102-968, eff. 1-1-23.)

24 ARTICLE 98 VENDOR CONTRIBUTION LIMITS AND REGISTRATION
25 REQUIREMENTS

1 Section 98-5. The Illinois Procurement Code is amended by
2 changing Sections 20-160 and 50-37 as follows:

3 (30 ILCS 500/20-160)

4 Sec. 20-160. Business entities; certification;
5 registration with the State Board of Elections.

6 (a) For purposes of this Section, the terms "business
7 entity", "contract", "State contract", "contract with a State
8 agency", "State agency", "affiliated entity", and "affiliated
9 person" have the meanings ascribed to those terms in Section
10 50-37.

11 (b) Every bid and offer submitted to and every contract
12 executed by the State on or after January 1, 2009 (the
13 effective date of Public Act 95-971) and every submission to a
14 vendor portal shall contain (1) a certification by the bidder,
15 offeror, vendor, or contractor that either (i) the bidder,
16 offeror, vendor, or contractor is not required to register as
17 a business entity with the State Board of Elections pursuant
18 to this Section or (ii) the bidder, offeror, vendor, or
19 contractor has registered as a business entity with the State
20 Board of Elections and acknowledges a continuing duty to
21 update the registration and (2) a statement that the contract
22 is voidable under Section 50-60 for the bidder's, offeror's,
23 vendor's, or contractor's failure to comply with this Section.

24 (c) Each business entity (i) whose aggregate pending bids

1 and proposals on State contracts ~~annually~~ total more than
2 \$50,000, (ii) whose aggregate pending bids and proposals on
3 State contracts combined with the business entity's aggregate
4 ~~annual~~ total value of State contracts exceed \$50,000, or (iii)
5 whose contracts with State agencies, in the aggregate,
6 ~~annually~~ total more than \$50,000 shall register with the State
7 Board of Elections in accordance with Section 9-35 of the
8 Election Code. A business entity required to register under
9 this subsection due to item (i) or (ii) has a continuing duty
10 to ensure that the registration is accurate during the period
11 beginning on the date of registration and ending on the day
12 after the date the contract is awarded; any change in
13 information must be reported to the State Board of Elections 5
14 business days following such change or no later than a day
15 before the contract is awarded, whichever date is earlier. A
16 business entity required to register under this subsection due
17 to item (iii) has a continuing duty to ensure that the
18 registration is accurate in accordance with subsection (e).

19 (d) Any business entity, not required under subsection (c)
20 to register, whose aggregate pending bids and proposals on
21 State contracts ~~annually~~ total more than \$50,000, or whose
22 aggregate pending bids and proposals on State contracts
23 combined with the business entity's aggregate ~~annual~~ total
24 value of State contracts exceed \$50,000, shall register with
25 the State Board of Elections in accordance with Section 9-35
26 of the Election Code prior to submitting to a State agency the

1 bid or proposal whose value causes the business entity to fall
2 within the monetary description of this subsection. A business
3 entity required to register under this subsection has a
4 continuing duty to ensure that the registration is accurate
5 during the period beginning on the date of registration and
6 ending on the day after the date the contract is awarded. Any
7 change in information must be reported to the State Board of
8 Elections within 5 business days following such change or no
9 later than a day before the contract is awarded, whichever
10 date is earlier.

11 (e) A business entity whose contracts with State agencies,
12 in the aggregate, ~~annually~~ total more than \$50,000 must
13 maintain its registration under this Section and has a
14 continuing duty to ensure that the registration is accurate
15 for the duration of the term of office of the incumbent
16 officeholder awarding the contracts or for a period of 2 years
17 following the expiration or termination of the contracts,
18 whichever is longer. A business entity, required to register
19 under this subsection, has a continuing duty to report any
20 changes on a quarterly basis to the State Board of Elections
21 within 14 calendar days following the last day of January,
22 April, July, and October of each year. Any update pursuant to
23 this paragraph that is received beyond that date is presumed
24 late and the civil penalty authorized by subsection (e) of
25 Section 9-35 of the Election Code may be assessed.

26 Also, if a business entity required to register under this

1 subsection has a pending bid or offer, any change in
2 information shall be reported to the State Board of Elections
3 within 7 calendar days following such change or no later than a
4 day before the contract is awarded, whichever date is earlier.

5 (f) A business entity's continuing duty under this Section
6 to ensure the accuracy of its registration includes the
7 requirement that the business entity notify the State Board of
8 Elections of any change in information, including, but not
9 limited to, changes of affiliated entities or affiliated
10 persons.

11 (g) For any bid or offer for a contract with a State agency
12 by a business entity required to register under this Section,
13 the chief procurement officer shall verify that the business
14 entity is required to register under this Section and is in
15 compliance with the registration requirements on the date the
16 bid or offer is due. A chief procurement officer shall not
17 accept a bid or offer if the business entity is not in
18 compliance with the registration requirements as of the date
19 bids or offers are due. Upon discovery of noncompliance with
20 this Section, if the bidder or offeror made a good faith effort
21 to comply with registration efforts prior to the date the bid
22 or offer is due, a chief procurement officer may provide the
23 bidder or offeror 5 business days to achieve compliance. A
24 chief procurement officer may extend the time to prove
25 compliance by as long as necessary in the event that there is a
26 failure within the State Board of Elections' registration

1 system.

2 (h) A registration, and any changes to a registration,
3 must include the business entity's verification of accuracy
4 and subjects the business entity to the penalties of the laws
5 of this State for perjury.

6 In addition to any penalty under Section 9-35 of the
7 Election Code, intentional, willful, or material failure to
8 disclose information required for registration shall render
9 the contract, bid, offer, or other procurement relationship
10 voidable by the chief procurement officer if he or she deems it
11 to be in the best interest of the State of Illinois.

12 (i) This Section applies regardless of the method of
13 source selection used in awarding the contract.

14 (Source: P.A. 100-43, eff. 8-9-17; 101-81, eff. 7-12-19.)

15 (30 ILCS 500/50-37)

16 Sec. 50-37. Prohibition of political contributions.

17 (a) As used in this Section:

18 The terms "contract", "State contract", and "contract
19 with a State agency" each mean any contract, as defined in
20 this Code, between a business entity and a State agency
21 let or awarded pursuant to this Code. The terms
22 "contract", "State contract", and "contract with a State
23 agency" do not include cost reimbursement contracts;
24 purchase of care agreements as defined in Section 1-15.68
25 of this Code; contracts for projects eligible for full or

1 partial federal-aid funding reimbursements authorized by
2 the Federal Highway Administration; grants, including but
3 are not limited to grants for job training or
4 transportation; and grants, loans, or tax credit
5 agreements for economic development purposes.

6 "Contribution" means a contribution as defined in
7 Section 9-1.4 of the Election Code.

8 "Declared candidate" means a person who has filed a
9 statement of candidacy and petition for nomination or
10 election in the principal office of the State Board of
11 Elections.

12 "State agency" means and includes all boards,
13 commissions, agencies, institutions, authorities, and
14 bodies politic and corporate of the State, created by or
15 in accordance with the Illinois Constitution or State
16 statute, of the executive branch of State government and
17 does include colleges, universities, public employee
18 retirement systems, and institutions under the
19 jurisdiction of the governing boards of the University of
20 Illinois, Southern Illinois University, Illinois State
21 University, Eastern Illinois University, Northern Illinois
22 University, Western Illinois University, Chicago State
23 University, Governors State University, Northeastern
24 Illinois University, and the Illinois Board of Higher
25 Education.

26 "Officeholder" means the Governor, Lieutenant

1 Governor, Attorney General, Secretary of State,
2 Comptroller, or Treasurer. The Governor shall be
3 considered the officeholder responsible for awarding all
4 contracts by all officers and employees of, and potential
5 contractors and others doing business with, executive
6 branch State agencies under the jurisdiction of the
7 Executive Ethics Commission and not within the
8 jurisdiction of the Attorney General, the Secretary of
9 State, the Comptroller, or the Treasurer.

10 "Sponsoring entity" means a sponsoring entity as
11 defined in Section 9-3 of the Election Code.

12 "Affiliated person" means (i) any person with any
13 ownership interest or distributive share of the bidding or
14 contracting business entity in excess of 7.5%, (ii)
15 executive employees of the bidding or contracting business
16 entity, and (iii) the spouse of any such persons.

17 "Affiliated person" does not include a person prohibited
18 by federal law from making contributions or expenditures
19 in connection with a federal, state, or local election.

20 "Affiliated entity" means (i) any corporate parent and
21 each operating subsidiary of the bidding or contracting
22 business entity, (ii) each operating subsidiary of the
23 corporate parent of the bidding or contracting business
24 entity, (iii) any organization recognized by the United
25 States Internal Revenue Service as a tax-exempt
26 organization described in Section 501(c) of the Internal

1 Revenue Code of 1986 (or any successor provision of
2 federal tax law) established by the bidding or contracting
3 business entity, any affiliated entity of that business
4 entity, or any affiliated person of that business entity,
5 or (iv) any political committee for which the bidding or
6 contracting business entity, or any 501(c) organization
7 described in item (iii) related to that business entity,
8 is the sponsoring entity. "Affiliated entity" does not
9 include an entity prohibited by federal law from making
10 contributions or expenditures in connection with a
11 federal, state, or local election.

12 "Business entity" means any entity doing business for
13 profit, whether organized as a corporation, partnership,
14 sole proprietorship, limited liability company or
15 partnership, or otherwise.

16 "Executive employee" means (i) the President,
17 Chairman, or Chief Executive Officer of a business entity
18 and any other individual that fulfills equivalent duties
19 as the President, Chairman of the Board, or Chief
20 Executive Officer of a business entity; and (ii) any
21 employee of a business entity whose compensation is
22 determined directly, in whole or in part, by the award or
23 payment of contracts by a State agency to the entity
24 employing the employee. A regular salary that is paid
25 irrespective of the award or payment of a contract with a
26 State agency shall not constitute "compensation" under

1 item (ii) of this definition. "Executive employee" does
2 not include any person prohibited by federal law from
3 making contributions or expenditures in connection with a
4 federal, state, or local election.

5 (b) Any business entity whose contracts with State
6 agencies, in the aggregate, ~~annually~~ total more than \$50,000,
7 and any affiliated entities or affiliated persons of such
8 business entity, are prohibited from making any contributions
9 to any political committees established to promote the
10 candidacy of (i) the officeholder responsible for awarding the
11 contracts or (ii) any other declared candidate for that
12 office. This prohibition shall be effective for the duration
13 of the term of office of the incumbent officeholder awarding
14 the contracts or for a period of 2 years following the
15 expiration or termination of the contracts, whichever is
16 longer.

17 (c) Any business entity whose aggregate pending bids and
18 offers on State contracts total more than \$50,000, or whose
19 aggregate pending bids and offers on State contracts combined
20 with the business entity's aggregate ~~annual~~ total value of
21 State contracts exceed \$50,000, and any affiliated entities or
22 affiliated persons of such business entity, are prohibited
23 from making any contributions to any political committee
24 established to promote the candidacy of the officeholder
25 responsible for awarding the contract on which the business
26 entity has submitted a bid or offer during the period

1 beginning on the date the invitation for bids, request for
2 proposals, or any other procurement opportunity is issued and
3 ending on the day after the date the contract is awarded.

4 (c-5) For the purposes of the prohibitions under
5 subsections (b) and (c) of this Section, (i) any contribution
6 made to a political committee established to promote the
7 candidacy of the Governor or a declared candidate for the
8 office of Governor shall also be considered as having been
9 made to a political committee established to promote the
10 candidacy of the Lieutenant Governor, in the case of the
11 Governor, or the declared candidate for Lieutenant Governor
12 having filed a joint petition, or write-in declaration of
13 intent, with the declared candidate for Governor, as
14 applicable, and (ii) any contribution made to a political
15 committee established to promote the candidacy of the
16 Lieutenant Governor or a declared candidate for the office of
17 Lieutenant Governor shall also be considered as having been
18 made to a political committee established to promote the
19 candidacy of the Governor, in the case of the Lieutenant
20 Governor, or the declared candidate for Governor having filed
21 a joint petition, or write-in declaration of intent, with the
22 declared candidate for Lieutenant Governor, as applicable.

23 (d) All contracts between State agencies and a business
24 entity that violate subsection (b) or (c) shall be voidable
25 under Section 50-60. If a business entity violates subsection
26 (b) 3 or more times within a 36-month period, then all

1 contracts between State agencies and that business entity
2 shall be void, and that business entity shall not bid or
3 respond to any invitation to bid or request for proposals from
4 any State agency or otherwise enter into any contract with any
5 State agency for 3 years from the date of the last violation. A
6 notice of each violation and the penalty imposed shall be
7 published in both the Procurement Bulletin and the Illinois
8 Register.

9 (e) Any political committee that has received a
10 contribution in violation of subsection (b) or (c) shall pay
11 an amount equal to the value of the contribution to the State
12 no more than 30 calendar days after notice of the violation
13 concerning the contribution appears in the Illinois Register.
14 Payments received by the State pursuant to this subsection
15 shall be deposited into the general revenue fund.

16 (Source: P.A. 97-411, eff. 8-16-11; 98-1076, eff. 1-1-15.)

17 ARTICLE 100. LAND MAINTENANCE ACTIVITY PROJECTS

18 Section 100-5. The Illinois Solid Waste Management Act is
19 amended by changing Section 3 as follows:

20 (415 ILCS 20/3) (from Ch. 111 1/2, par. 7053)

21 Sec. 3. State agency materials recycling program.

22 (a) All State agencies and local governments shall
23 consider whether compost products can be used in the land

1 maintenance activity project when soliciting and reviewing
2 bids for land maintenance activity projects. If compost
3 products can be used in the project, the State agency or local
4 government must use compost products unless the compost
5 products: ~~responsible for the maintenance of public lands in~~
6 ~~the State shall, to the maximum extent feasible, use compost~~
7 ~~materials in all land maintenance activities which are to be~~
8 ~~paid with public funds.~~

9 (1) are not available within a reasonable period of
10 time;

11 (2) do not comply with existing purchasing standards;
12 or

13 (3) do not comply with federal or State health and
14 safety standards.

15 Beginning January 1, 2024, the Department of
16 Transportation shall report each year to the General Assembly:

17 (i) the volume of compost used in State highway
18 construction projects;

19 (ii) the status of compost and compost-based products
20 used in State highway construction projects; and

21 (iii) recommendations to maximize the use of compost
22 as a recycled material in State highway construction
23 projects.

24 State agencies and local governments are encouraged to
25 give priority to purchasing compost products from companies
26 that produce compost products locally, are certified by a

1 nationally recognized organization, and produce compost
2 products that are derived from municipal solid waste compost
3 programs.

4 (a-5) All State agencies responsible for the maintenance
5 of public lands in the State shall review its procurement
6 specifications and policies to determine (1) if incorporating
7 compost materials will help reduce stormwater run-off and
8 increase infiltration of moisture in land maintenance
9 activities and (2) the current recycled content usage and
10 potential for additional recycled content usage by the Agency
11 in land maintenance activities and report to the General
12 Assembly by December 15, 2015.

13 (b) The Department of Central Management Services, in
14 coordination with the Agency, shall implement waste reduction
15 programs, including source separation and collection, for
16 office wastepaper, corrugated containers, newsprint and mixed
17 paper, in all State buildings as appropriate and feasible.
18 Such waste reduction programs shall be designed to achieve
19 waste reductions of at least 25% of all such waste by December
20 31, 1995, and at least 50% of all such waste by December 31,
21 2000. Any source separation and collection program shall
22 include, at a minimum, procedures for collecting and storing
23 recyclable materials, bins or containers for storing
24 materials, and contractual or other arrangements with buyers
25 of recyclable materials. If market conditions so warrant, the
26 Department of Central Management Services, in coordination

1 with the Agency, may modify programs developed pursuant to
2 this Section.

3 The Department of Commerce and Community Affairs (now
4 Department of Commerce and Economic Opportunity) shall conduct
5 waste categorization studies of all State facilities for
6 calendar years 1991, 1995 and 2000. Such studies shall be
7 designed to assist the Department of Central Management
8 Services to achieve the waste reduction goals established in
9 this subsection.

10 (c) Each State agency shall, upon consultation with the
11 Agency, periodically review its procurement procedures and
12 specifications related to the purchase of products or
13 supplies. Such procedures and specifications shall be modified
14 as necessary to require the procuring agency to seek out
15 products and supplies that contain recycled materials, and to
16 ensure that purchased products or supplies are reusable,
17 durable or made from recycled materials whenever economically
18 and practically feasible. In choosing among products or
19 supplies that contain recycled material, consideration shall
20 be given to products and supplies with the highest recycled
21 material content that is consistent with the effective and
22 efficient use of the product or supply.

23 (d) Wherever economically and practically feasible, the
24 Department of Central Management Services shall procure
25 recycled paper and paper products as follows:

26 (1) Beginning July 1, 1989, at least 10% of the total

1 dollar value of paper and paper products purchased by the
2 Department of Central Management Services shall be
3 recycled paper and paper products.

4 (2) Beginning July 1, 1992, at least 25% of the total
5 dollar value of paper and paper products purchased by the
6 Department of Central Management Services shall be
7 recycled paper and paper products.

8 (3) Beginning July 1, 1996, at least 40% of the total
9 dollar value of paper and paper products purchased by the
10 Department of Central Management Services shall be
11 recycled paper and paper products.

12 (4) Beginning July 1, 2000, at least 50% of the total
13 dollar value of paper and paper products purchased by the
14 Department of Central Management Services shall be
15 recycled paper and paper products.

16 (e) Paper and paper products purchased from private
17 vendors pursuant to printing contracts are not considered
18 paper products for the purposes of subsection (d). However,
19 the Department of Central Management Services shall report to
20 the General Assembly on an annual basis the total dollar value
21 of printing contracts awarded to private sector vendors that
22 included the use of recycled paper.

23 (f) (1) Wherever economically and practically feasible,
24 the recycled paper and paper products referred to in
25 subsection (d) shall contain postconsumer or recovered
26 paper materials as specified by paper category in this

1 subsection:

2 (i) Recycled high grade printing and writing paper
3 shall contain at least 50% recovered paper material.
4 Such recovered paper material, until July 1, 1994,
5 shall consist of at least 20% deinked stock or
6 postconsumer material; and beginning July 1, 1994,
7 shall consist of at least 25% deinked stock or
8 postconsumer material; and beginning July 1, 1996,
9 shall consist of at least 30% deinked stock or
10 postconsumer material; and beginning July 1, 1998,
11 shall consist of at least 40% deinked stock or
12 postconsumer material; and beginning July 1, 2000,
13 shall consist of at least 50% deinked stock or
14 postconsumer material.

15 (ii) Recycled tissue products, until July 1, 1994,
16 shall contain at least 25% postconsumer material; and
17 beginning July 1, 1994, shall contain at least 30%
18 postconsumer material; and beginning July 1, 1996,
19 shall contain at least 35% postconsumer material; and
20 beginning July 1, 1998, shall contain at least 40%
21 postconsumer material; and beginning July 1, 2000,
22 shall contain at least 45% postconsumer material.

23 (iii) Recycled newsprint, until July 1, 1994,
24 shall contain at least 40% postconsumer material; and
25 beginning July 1, 1994, shall contain at least 50%
26 postconsumer material; and beginning July 1, 1996,

1 shall contain at least 60% postconsumer material; and
2 beginning July 1, 1998, shall contain at least 70%
3 postconsumer material; and beginning July 1, 2000,
4 shall contain at least 80% postconsumer material.

5 (iv) Recycled unbleached packaging, until July 1,
6 1994, shall contain at least 35% postconsumer
7 material; and beginning July 1, 1994, shall contain at
8 least 40% postconsumer material; and beginning July 1,
9 1996, shall contain at least 45% postconsumer
10 material; and beginning July 1, 1998, shall contain at
11 least 50% postconsumer material; and beginning July 1,
12 2000, shall contain at least 55% postconsumer
13 material.

14 (v) Recycled paperboard, until July 1, 1994, shall
15 contain at least 80% postconsumer material; and
16 beginning July 1, 1994, shall contain at least 85%
17 postconsumer material; and beginning July 1, 1996,
18 shall contain at least 90% postconsumer material; and
19 beginning July 1, 1998, shall contain at least 95%
20 postconsumer material.

21 (2) For the purposes of this Section, "postconsumer
22 material" includes:

23 (i) paper, paperboard, and fibrous wastes from
24 retail stores, office buildings, homes, and so forth,
25 after the waste has passed through its end usage as a
26 consumer item, including used corrugated boxes, old

1 newspapers, mixed waste paper, tabulating cards, and
2 used cordage; and

3 (ii) all paper, paperboard, and fibrous wastes
4 that are diverted or separated from the municipal
5 solid waste stream.

6 (3) For the purposes of this Section, "recovered paper
7 material" includes:

8 (i) postconsumer material;

9 (ii) dry paper and paperboard waste generated
10 after completion of the papermaking process (that is,
11 those manufacturing operations up to and including the
12 cutting and trimming of the paper machine reel into
13 smaller rolls or rough sheets), including envelope
14 cuttings, bindery trimmings, and other paper and
15 paperboard waste resulting from printing, cutting,
16 forming, and other converting operations, or from bag,
17 box and carton manufacturing, and butt rolls, mill
18 wrappers, and rejected unused stock; and

19 (iii) finished paper and paperboard from obsolete
20 inventories of paper and paperboard manufacturers,
21 merchants, wholesalers, dealers, printers, converters,
22 or others.

23 (g) The Department of Central Management Services may
24 adopt regulations to carry out the provisions and purposes of
25 this Section.

26 (h) Every State agency shall, in its procurement

1 documents, specify that, whenever economically and practically
2 feasible, a product to be procured must consist, wholly or in
3 part, of recycled materials, or be recyclable or reusable in
4 whole or in part. When applicable, if state guidelines are not
5 already prescribed, State agencies shall follow USEPA
6 guidelines for federal procurement.

7 (i) All State agencies shall cooperate with the Department
8 of Central Management Services in carrying out this Section.
9 The Department of Central Management Services may enter into
10 cooperative purchasing agreements with other governmental
11 units in order to obtain volume discounts, or for other
12 reasons in accordance with the Governmental Joint Purchasing
13 Act, or in accordance with the Intergovernmental Cooperation
14 Act if governmental units of other states or the federal
15 government are involved.

16 (j) The Department of Central Management Services shall
17 submit an annual report to the General Assembly concerning its
18 implementation of the State's collection and recycled paper
19 procurement programs. This report shall include a description
20 of the actions that the Department of Central Management
21 Services has taken in the previous fiscal year to implement
22 this Section. This report shall be submitted on or before
23 November 1 of each year.

24 (k) The Department of Central Management Services, in
25 cooperation with all other appropriate departments and
26 agencies of the State, shall institute whenever economically

1 and practically feasible the use of re-refined motor oil in
2 all State-owned motor vehicles and the use of remanufactured
3 and retread tires whenever such use is practical, beginning no
4 later than July 1, 1992.

5 (l) (Blank).

6 (m) The Department of Central Management Services, in
7 coordination with the Department of Commerce and Community
8 Affairs (now Department of Commerce and Economic Opportunity),
9 has implemented an aluminum can recycling program in all State
10 buildings within 270 days of the effective date of this
11 amendatory Act of 1997. The program provides for (1) the
12 collection and storage of used aluminum cans in bins or other
13 appropriate containers made reasonably available to occupants
14 and visitors of State buildings and (2) the sale of used
15 aluminum cans to buyers of recyclable materials.

16 Proceeds from the sale of used aluminum cans shall be
17 deposited into I-CYCLE accounts maintained in the Facilities
18 Management Revolving Fund and, subject to appropriation, shall
19 be used by the Department of Central Management Services and
20 any other State agency to offset the costs of implementing the
21 aluminum can recycling program under this Section.

22 All State agencies having an aluminum can recycling
23 program in place shall continue with their current plan. If a
24 State agency has an existing recycling program in place,
25 proceeds from the aluminum can recycling program may be
26 retained and distributed pursuant to that program, otherwise

1 all revenue resulting from these programs shall be forwarded
2 to Central Management Services, I-CYCLE for placement into the
3 appropriate account within the Facilities Management Revolving
4 Fund, minus any operating costs associated with the program.
5 (Source: P.A. 101-636, eff. 6-10-20; 102-444, eff. 8-20-21.)

6 ARTICLE 999. EFFECTIVE DATE

7 Section 999-99. Effective date. This Act takes effect
8 January 1, 2024.