

# HB3958



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3958

Introduced 2/17/2023, by Rep. William "Will" Davis

### SYNOPSIS AS INTRODUCED:

30 ILCS 575/2

Amends the Business Enterprise for Minorities, Women, and Persons with Disabilities Act to remove other State constitutional officers from the definition of "State agencies".

LRB103 31069 DTM 57692 b

A BILL FOR

1 AN ACT concerning finance.

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

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

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2024)

9 Sec. 2. Definitions.

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

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

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

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

1 Vietnam).

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

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

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

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

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

17 (2.1) "Person with a disability" means a person with a  
18 severe physical or mental disability that:

19 (a) results from:

20 amputation,

21 arthritis,

22 autism,

23 blindness,

24 burn injury,

25 cancer,

26 cerebral palsy,

1 Crohn's disease,  
2 cystic fibrosis,  
3 deafness,  
4 head injury,  
5 heart disease,  
6 hemiplegia,  
7 hemophilia,  
8 respiratory or pulmonary dysfunction,  
9 an intellectual disability,  
10 mental illness,  
11 multiple sclerosis,  
12 muscular dystrophy,  
13 musculoskeletal disorders,  
14 neurological disorders, including stroke and  
15 epilepsy,  
16 paraplegia,  
17 quadriplegia and other spinal cord conditions,  
18 sickle cell anemia,  
19 ulcerative colitis,  
20 specific learning disabilities, or  
21 end stage renal failure disease; and  
22 (b) substantially limits one or more of the  
23 person's major life activities.

24 Another disability or combination of disabilities may  
25 also be considered as a severe disability for the purposes  
26 of item (a) of this subdivision (2.1) if it is determined

1 by an evaluation of rehabilitation potential to cause a  
2 comparable degree of substantial functional limitation  
3 similar to the specific list of disabilities listed in  
4 item (a) of this subdivision (2.1).

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

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

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

1           (4.2) "Council" means the Business Enterprise Council  
2 for Minorities, Women, and Persons with Disabilities  
3 created under Section 5 of this Act.

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

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

19           "State construction contracts" means all State  
20 contracts entered into by a State agency or public  
21 institution of higher education for the repair,  
22 remodeling, renovation or construction of a building or  
23 structure, or for the construction or maintenance of a  
24 highway defined in Article 2 of the Illinois Highway Code.

25           (6) "State agencies" shall mean all departments,  
26 officers, boards, commissions, institutions and bodies

1           politic and corporate of the State, but does not include  
2           the Board of Trustees of the University of Illinois, the  
3           Board of Trustees of Southern Illinois University, the  
4           Board of Trustees of Chicago State University, the Board  
5           of Trustees of Eastern Illinois University, the Board of  
6           Trustees of Governors State University, the Board of  
7           Trustees of Illinois State University, the Board of  
8           Trustees of Northeastern Illinois University, the Board of  
9           Trustees of Northern Illinois University, the Board of  
10          Trustees of Western Illinois University, or municipalities  
11          or other local governmental units, ~~or other State~~  
12          ~~constitutional officers.~~

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

23           (8) "Certification" means a determination made by the  
24          Council or by one delegated authority from the Council to  
25          make certifications, or by a State agency with statutory  
26          authority to make such a certification, that a business

1           entity is a business owned by a minority, woman, or person  
2           with a disability for whatever purpose. A business owned  
3           and controlled by women shall be certified as a  
4           "woman-owned business". A business owned and controlled by  
5           women who are also minorities shall be certified as both a  
6           "women-owned business" and a "minority-owned business".

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

24          (10) "Business" means a business that has annual gross  
25          sales of less than \$150,000,000 as evidenced by the  
26          federal income tax return of the business. A firm with

1 gross sales in excess of this cap may apply to the Council  
2 for certification for a particular contract if the firm  
3 can demonstrate that the contract would have significant  
4 impact on businesses owned by minorities, women, or  
5 persons with disabilities as suppliers or subcontractors  
6 or in employment of minorities, women, or persons with  
7 disabilities. Firms with gross sales in excess of this cap  
8 that are granted certification by the Council shall be  
9 granted certification for the life of the contract,  
10 including available renewals.

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

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

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

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

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