

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 Sections 2, 5, and 8 and by adding Section 3.5 as follows:

7 (30 ILCS 575/2)

8 (Section scheduled to be repealed on June 30, 2029)

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

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

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

22 (5) "State contracts" means all contracts entered into
23 by the State, any agency or department thereof, or any
24 public institution of higher education, including
25 community college districts, regardless of the source of
26 the funds with which the contracts are paid, which are not

1 subject to federal reimbursement. "State contracts" does
2 not include contracts awarded by a retirement system,
3 pension fund, or investment board subject to Section
4 1-109.1 of the Illinois Pension Code. This definition
5 shall control over any existing definition under this Act
6 or applicable administrative rule.

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

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

1 (7) "Public institutions of higher education" means
2 the University of Illinois, Southern Illinois University,
3 Chicago State University, Eastern Illinois University,
4 Governors State University, Illinois State University,
5 Northeastern Illinois University, Northern Illinois
6 University, Western Illinois University, the public
7 community colleges of the State, and any other public
8 universities, colleges, and community colleges now or
9 hereafter established or authorized by the General
10 Assembly.

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

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

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

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

25 (11) "Utilization plan" means an attachment that is
26 made to all bids or proposals and that demonstrates the

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

15 (12) "Business Enterprise Program" means the Business
16 Enterprise Program of the Commission on Equity and
17 Inclusion.

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

23 (14) "Goal" means the participation levels of
24 certified vendors on State contracts.

25 (B) When a business is owned at least 51% by any
26 combination of minority persons, women, or persons with

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

8 (Source: P.A. 102-29, eff. 6-25-21; 102-1119, eff. 1-23-23;
9 103-570, eff. 1-1-24.)

10 (30 ILCS 575/3.5 new)

11 Sec. 3.5. Uniform standard of contract goals.

12 (a) The Business Enterprise Program may establish uniform
13 standards for calculating contract specific Business
14 Enterprise Program goals for all State contracts and State
15 construction contracts subject to this Act. In establishing
16 those standards, the Business Enterprise Program may consider
17 normal industry practice, the scope of the work to be
18 performed under a contract, the availability of vendors that
19 are able to perform the scope of the work to be performed under
20 a contract, the availability of certified vendors that are
21 able to perform the work to be performed under a contract, and
22 the State's progress to date toward meeting the aspirational
23 goals set forth in this Act.

24 (b) Each State agency that is subject to this Act and each
25 public institution of higher education that is subject to this

1 Act may, in accordance with the provisions of this Act, set
2 goals concerning participation in State contracts, including
3 State construction contracts, to which the State agency or
4 public institution of higher education is party. Goals
5 involving State contracts above the small purchase threshold,
6 as defined in Section 20-20 of the Illinois Procurement Code,
7 may be submitted to the Business Enterprise Program for
8 approval, denial, or modification.

9 (c) As used in this Section, the terms "State contract"
10 and "State construction contract" do not include grants from
11 State agencies to grantees for capital improvements or
12 operational expenses.

13 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

14 (Section scheduled to be repealed on June 30, 2029)

15 Sec. 5. Business Enterprise Council.

16 (1) To help implement, monitor, and enforce the goals of
17 this Act, there is created the Business Enterprise Council for
18 Minorities, Women, and Persons with Disabilities, hereinafter
19 referred to as the Council, composed of the Chairperson of the
20 Commission on Equity and Inclusion, the Secretary of Human
21 Services and the Directors of the Department of Human Rights,
22 the Department of Commerce and Economic Opportunity, the
23 Department of Central Management Services, the Department of
24 Transportation and the Capital Development Board, or their
25 duly appointed representatives, with the Comptroller, or his

1 or her designee, serving as an advisory member of the Council.
2 Ten individuals representing businesses that are
3 minority-owned, women-owned, or owned by persons with
4 disabilities, 2 individuals representing the business
5 community, and a representative of public institutions of
6 higher education shall be appointed by the Governor. These
7 members shall serve 2-year terms and shall be eligible for
8 reappointment. Any vacancy occurring on the Council shall also
9 be filled by the Governor. Any member appointed to fill a
10 vacancy occurring prior to the expiration of the term for
11 which his or her predecessor was appointed shall be appointed
12 for the remainder of such term. Members of the Council shall
13 serve without compensation but shall be reimbursed for any
14 ordinary and necessary expenses incurred in the performance of
15 their duties.

16 The Chairperson of the Commission shall serve as the
17 Council chairperson and shall select, subject to approval of
18 the Council, a Secretary responsible for the operation of the
19 program who shall serve as the Division Manager of the
20 Business Enterprise for Minorities, Women, and Persons with
21 Disabilities Division of the Commission on Equity and
22 Inclusion.

23 The Director of each State agency and the chief executive
24 officer of each public institution of higher education shall
25 appoint a liaison to the Council. The liaison shall be
26 responsible for submitting to the Council any reports and

1 documents necessary under this Act.

2 (2) The Council's authority and responsibility shall be
3 to:

4 (a) Devise a certification procedure to assure that
5 businesses taking advantage of this Act are legitimately
6 classified as businesses owned by minorities, women, or
7 persons with disabilities and a registration procedure to
8 recognize, without additional evidence of Business
9 Enterprise Program eligibility, the certification of
10 businesses owned by minorities, women, or persons with
11 disabilities certified by the City of Chicago, Cook
12 County, or other jurisdictional programs with requirements
13 and procedures equaling or exceeding those in this Act.

14 (b) Maintain a list of all businesses legitimately
15 classified as businesses owned by minorities, women, or
16 persons with disabilities to provide to State agencies and
17 public institutions of higher education.

18 (c) Review rules and regulations for the
19 implementation of the program for businesses owned by
20 minorities, women, and persons with disabilities.

21 (d) Review compliance plans submitted by each State
22 agency and public institution of higher education pursuant
23 to this Act.

24 (e) Make annual reports as provided in Section 8f to
25 the Governor and the General Assembly on the status of the
26 program.

1 (f) Serve as a central clearinghouse for information
2 on State contracts, including the maintenance of a list of
3 all pending State contracts upon which businesses owned by
4 minorities, women, and persons with disabilities may bid.
5 At the Council's discretion, maintenance of the list may
6 include 24-hour electronic access to the list along with
7 the bid and application information.

8 (g) Establish a toll-free telephone number to
9 facilitate information requests concerning the
10 certification process and pending contracts.

11 (h) Adopt a procedure to grant automatic certification
12 to businesses holding a certification from at least one of
13 the following entities: (i) the Illinois Unified
14 Certification Program; (ii) the Women's Business
15 Development Center in Chicago; (iii) the Chicago Minority
16 Supplier Development Council; or (iv) any other similar
17 entity offering such certification to businesses.

18 (i) Develop and maintain a repository for
19 non-certified vendors that: (i) have applied for
20 certification and have been denied; (ii) have started, but
21 not completed, the certification process; (iii) have
22 achieved certification, but did not seek renewal; or (iv)
23 are known businesses owned by minorities, women, or
24 persons with disabilities.

25 (3) No premium bond rate of a surety company for a bond
26 required of a business owned by a minority, woman, or person

1 with a disability bidding for a State contract shall be higher
2 than the lowest rate charged by that surety company for a
3 similar bond in the same classification of work that would be
4 written for a business not owned by a minority, woman, or
5 person with a disability.

6 (4) Any Council member who has direct financial or
7 personal interest in any measure pending before the Council
8 shall disclose this fact to the Council and refrain from
9 participating in the determination upon such measure.

10 (5) The Secretary shall have the following duties and
11 responsibilities:

12 (a) To be responsible for the day-to-day operation of
13 the Council.

14 (b) To serve as a coordinator for all of the State's
15 programs for businesses owned by minorities, women, and
16 persons with disabilities and as the information and
17 referral center for all State initiatives for businesses
18 owned by minorities, women, and persons with disabilities.

19 (c) To establish an enforcement procedure whereby the
20 Council may recommend to the appropriate State legal
21 officer that the State exercise its legal remedies which
22 shall include (1) termination of the contract involved,
23 (2) prohibition of participation by the respondent in
24 State public contracts for a period not to exceed 3 years,
25 (3) imposition of a penalty in the amount of the
26 discrepancy between the commitment contained in the

1 utilization plan, as such amount may be amended over the
2 term of the contract, and the qualifying payments made to
3 the eligible certified vendors listed in the utilization
4 plan ~~a penalty not to exceed any profit acquired as a~~
5 ~~result of violation,~~ or (4) any combination thereof. Such
6 procedures shall require prior approval by Council. All
7 funds collected as penalties under this subsection shall
8 be used exclusively for maintenance and further
9 development of the Business Enterprise Program and
10 encouragement of participation in State procurement by
11 minorities, women, and persons with disabilities.

12 (d) To devise appropriate policies, regulations, and
13 procedures for including participation by businesses owned
14 by minorities, women, and persons with disabilities as
15 prime contractors, including, but not limited to: (i)
16 encouraging the inclusions of qualified businesses owned
17 by minorities, women, and persons with disabilities on
18 solicitation lists, (ii) investigating the potential of
19 blanket bonding programs for small construction jobs, and
20 (iii) investigating and making recommendations concerning
21 the use of the sheltered market process.

22 (e) To devise procedures for the waiver of the
23 participation goals in appropriate circumstances.

24 (f) To accept donations and, with the approval of the
25 Council or the Chairperson of the Commission on Equity and
26 Inclusion, grants related to the purposes of this Act; to

1 conduct seminars related to the purpose of this Act and to
2 charge reasonable registration fees; and to sell
3 directories, vendor lists, and other such information to
4 interested parties, except that forms necessary to become
5 eligible for the program shall be provided free of charge
6 to a business or individual applying for the Business
7 Enterprise Program.

8 (Source: P.A. 101-601, eff. 1-1-20; 101-657, eff. 1-1-22;
9 102-29, eff. 6-25-21; 102-558, eff. 8-20-21; 102-721, eff.
10 1-1-23.)

11 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

12 (Section scheduled to be repealed on June 30, 2029)

13 Sec. 8. Enforcement.

14 (1) The Commission on Equity and Inclusion shall make such
15 findings, recommendations and proposals to the Governor as are
16 necessary and appropriate to enforce this Act. If, as a result
17 of its monitoring activities, the Commission determines that
18 its goals and policies are not being met by any State agency or
19 public institution of higher education, the Commission may
20 recommend any or all of the following actions:

21 (a) Establish enforcement procedures whereby the
22 Commission may recommend to the appropriate State agency,
23 public institutions of higher education, or law
24 enforcement officer that legal or administrative remedies
25 be initiated for violations of contract provisions or

1 rules issued hereunder or by a contracting State agency or
2 public institutions of higher education. State agencies
3 and public institutions of higher education shall be
4 authorized to adopt remedies for such violations which
5 shall include (1) termination of the contract involved,
6 (2) prohibition of participation of the respondents in
7 public contracts for a period not to exceed one year, (3)
8 the assessment of a penalty in the amount of the
9 discrepancy between the commitment contained in the
10 utilization plan, as such amount may be amended over the
11 term of the contract, and the qualifying payments made to
12 the certified vendors listed in the utilization plan
13 ~~imposition of a penalty not to exceed any profit acquired~~
14 ~~as a result of violation,~~ or (4) any combination thereof.

15 (b) If the Commission concludes that a compliance plan
16 submitted under Section 6 is unlikely to produce the
17 participation goals for businesses owned by minorities,
18 women, and persons with disabilities within the then
19 current fiscal year, the Commission may recommend that the
20 State agency or public institution of higher education
21 revise its plan to provide additional opportunities for
22 participation by businesses owned by minorities, women,
23 and persons with disabilities. Such recommended revisions
24 may include, but shall not be limited to, the following:

25 (i) assurances of stronger and better focused
26 solicitation efforts to obtain more businesses owned

1 by minorities, women, and persons with disabilities as
2 potential sources of supply;

3 (ii) division of the scope of work ~~job or project~~
4 ~~requirements~~, when economically feasible, into tasks
5 or quantities to permit participation of businesses
6 owned by minorities, women, and persons with
7 disabilities;

8 (iii) elimination of extended experience or
9 capitalization requirements, when programmatically
10 feasible, to permit participation of businesses owned
11 by minorities, women, and persons with disabilities;

12 (iv) identification of specific proposed contracts
13 as particularly attractive or appropriate for
14 participation by businesses owned by minorities,
15 women, and persons with disabilities, such
16 identification to result from and be coupled with the
17 efforts of subparagraphs (i) through (iii);

18 (v) implementation of those regulations
19 established for the use of the sheltered market
20 process.

21 (2) State agencies and public institutions of higher
22 education shall monitor a vendor's compliance with its
23 utilization plan and the terms of its contract. Without
24 limitation, a vendor's failure to comply with its contractual
25 commitments as contained in the utilization plan; failure to
26 cooperate in providing information regarding its compliance

1 with its utilization plan; or the provision of false or
2 misleading information or statements concerning compliance,
3 certification status, or eligibility of the Business
4 Enterprise Program-certified vendor, good faith efforts, or
5 any other material fact or representation shall constitute a
6 material breach of the contract and entitle the State agency
7 or public institution of higher education to declare a
8 default, terminate the contract, or exercise those remedies
9 provided for in the contract, at law, or in equity.

10 (3) Prior to the expiration or termination of a contract,
11 State agencies and public institutions of higher education
12 shall evaluate the contractor's fulfillment of the contract
13 goals for participation by certified businesses owned by
14 minorities, women, and persons with disabilities. The agency
15 or public institution of higher education shall prepare a
16 report of the vendor's compliance with the contract goals and
17 file it with the Secretary. If the Secretary determines that
18 the vendor did not fulfill the contract goals, the vendor
19 shall be in breach of the contract and may be subject to
20 remedies or sanctions, unless the vendor can show that it made
21 good faith efforts to meet the contract goals. Such remedies
22 or sanctions for failing to make good faith efforts may
23 include (i) disqualification of the contractor from doing
24 business with the State for a period of no more than one year,
25 ~~or~~ (ii) cancellation, without any penalty to the State, of any
26 contract entered into by the vendor, or (iii) the assessment

1 of a penalty in the amount of the discrepancy between the
2 commitment contained in the utilization plan, as such amount
3 may be amended over the term of the contract, and the
4 qualifying payments made to the certified vendors listed in
5 the utilization plan. The Business Enterprise Program shall
6 develop procedures for determining whether a vendor has made
7 good faith efforts to meet the contract goals upon the
8 expiration or termination of a contract.

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