

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 adding Sections 25-80 and 25-85 as follows:

6 (30 ILCS 500/25-80 new)

7 Sec. 25-80. Government contracts. Each chief procurement
8 officer may authorize, when in the best interest of the State,
9 a State agency to procure supplies and services, including but
10 not limited to technology supplies and services, without any
11 method of source selection otherwise required by this Code,
12 from a vendor with a current contract with a unit of local
13 government in Illinois, an Illinois school district, or an
14 Illinois community college under the Public Community College
15 Act. The intended contract must have been let pursuant to
16 competitive selection procedures reasonably comparable to
17 procedures used by the State of Illinois. The purchase must be
18 for substantially similar supplies or services and under the
19 same or better terms and conditions. Details of the
20 determination and intent to use another governmental entity's
21 contract shall be published in the appropriate volume of the
22 Illinois Procurement Bulletin for a period of 14 days prior to
23 execution of the new contract to allow for a challenge period

1 to the determination of best interest. Contracts resulting from
2 this process shall contain all statutory provisions required by
3 Illinois law and rule.

4 "Unit of local government" is defined as provided in
5 Section 1 of Article VII of the Illinois Constitution.

6 (30 ILCS 500/25-85 new)

7 Sec. 25-85. Cooperative purchasing. Each chief procurement
8 officer may authorize, when in the best interest of the State,
9 without any method of source selection otherwise required by
10 this Code, a State agency to enter into agreements with other
11 State governmental entities, or consortia of other State
12 governmental entities, for the purpose of jointly procuring
13 supplies and services. The State of Illinois may act as the
14 lead or as a participant in such agreements. All solicitations
15 and awards resulting from any cooperative purchasing agreement
16 shall be published in the appropriate volume of the Illinois
17 Procurement Bulletin in compliance with current solicitation,
18 protest, and award publication requirements. Contracts
19 resulting from cooperative purchasing agreements shall contain
20 all statutory provisions required by Illinois law and rule. The
21 State procuring agency shall ensure Illinois distributors
22 participate to the maximum extent practicable.

23 Section 10. The Business Enterprise for Minorities,
24 Females, and Persons with Disabilities Act is amended by

1 changing Section 2 as follows:

2 (30 ILCS 575/2) (from Ch. 127, par. 132.602)

3 (Section scheduled to be repealed on September 6, 2008)

4 Sec. 2. Definitions.

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

7 (1) "Minority person" shall mean a person who is a citizen
8 or lawful permanent resident of the United States and who is:

9 (a) African American (a person having origins in any of
10 the black racial groups in Africa);

11 (b) Hispanic (a person of Spanish or Portuguese culture
12 with origins in Mexico, South or Central America, or the
13 Caribbean Islands, regardless of race);

14 (c) Asian American (a person having origins in any of
15 the original peoples of the Far East, Southeast Asia, the
16 Indian Subcontinent or the Pacific Islands); or

17 (d) Native American or Alaskan Native (a person having
18 origins in any of the original peoples of North America).

19 (2) "Female" shall mean a person who is a citizen or lawful
20 permanent resident of the United States and who is of the
21 female gender.

22 (2.05) "Person with a disability" means a person who is a
23 citizen or lawful resident of the United States and is a person
24 qualifying as being disabled under subdivision (2.1) of this
25 subsection (A).

1 (2.1) "Disabled" means a severe physical or mental
2 disability that:

3 (a) results from:

4 amputation,

5 arthritis,

6 autism,

7 blindness,

8 burn injury,

9 cancer,

10 cerebral palsy,

11 cystic fibrosis,

12 deafness,

13 head injury,

14 heart disease,

15 hemiplegia,

16 hemophilia,

17 respiratory or pulmonary dysfunction,

18 mental retardation,

19 mental illness,

20 multiple sclerosis,

21 muscular dystrophy,

22 musculoskeletal disorders,

23 neurological disorders, including stroke and epilepsy,

24 paraplegia,

25 quadriplegia and other spinal cord conditions,

26 sickle cell anemia,

1 specific learning disabilities, or
2 end stage renal failure disease; and

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

5 Another disability or combination of disabilities may also
6 be considered as a severe disability for the purposes of item
7 (a) of this subdivision (2.1) if it is determined by an
8 evaluation of rehabilitation potential to cause a comparable
9 degree of substantial functional limitation similar to the
10 specific list of disabilities listed in item (a) of this
11 subdivision (2.1).

12 (3) "Minority owned business" means a business concern
13 which is at least 51% owned by one or more minority persons, or
14 in the case of a corporation, at least 51% of the stock in
15 which is owned by one or more minority persons; and the
16 management and daily business operations of which are
17 controlled by one or more of the minority individuals who own
18 it.

19 (4) "Female owned business" means a business concern which
20 is at least 51% owned by one or more females, or, in the case of
21 a corporation, at least 51% of the stock in which is owned by
22 one or more females; and the management and daily business
23 operations of which are controlled by one or more of the
24 females who own it.

25 (4.1) "Business owned by a person with a disability" means
26 a business concern that is at least 51% owned by one or more

1 persons with a disability and the management and daily business
2 operations of which are controlled by one or more of the
3 persons with disabilities who own it. A not-for-profit agency
4 for persons with disabilities that is exempt from taxation
5 under Section 501 of the Internal Revenue Code of 1986 is also
6 considered a "business owned by a person with a disability".

7 (4.2) "Council" means the Business Enterprise Council for
8 Minorities, Females, and Persons with Disabilities created
9 under Section 5 of this Act.

10 (5) "State contracts" shall mean all State contracts,
11 funded exclusively with State funds which are not subject to
12 federal reimbursement, whether competitively bid or negotiated
13 as defined by the Secretary of the Council and approved by the
14 Council.

15 "State construction contracts" means all State contracts
16 entered into by a State agency or State university for the
17 repair, remodeling, renovation or construction of a building or
18 structure, or for the construction or maintenance of a highway
19 defined in Article 2 of the Illinois Highway Code.

20 (6) "State agencies" shall mean all departments, officers,
21 boards, commissions, institutions and bodies politic and
22 corporate of the State, but does not include the Board of
23 Trustees of the University of Illinois, the Board of Trustees
24 of Southern Illinois University, the Board of Trustees of
25 Chicago State University, the Board of Trustees of Eastern
26 Illinois University, the Board of Trustees of Governors State

1 University, the Board of Trustees of Illinois State University,
2 the Board of Trustees of Northeastern Illinois University, the
3 Board of Trustees of Northern Illinois University, the Board of
4 Trustees of Western Illinois University, municipalities or
5 other local governmental units, or other State constitutional
6 officers.

7 (7) "State universities" shall mean the Board of Trustees
8 of the University of Illinois, the Board of Trustees of
9 Southern Illinois University, the Board of Trustees of Chicago
10 State University, the Board of Trustees of Eastern Illinois
11 University, the Board of Trustees of Governors State
12 University, the Board of Trustees of Illinois State University,
13 the Board of Trustees of Northeastern Illinois University, the
14 Board of Trustees of Northern Illinois University, and the
15 Board of Trustees of Western Illinois University.

16 (8) "Certification" means a determination made by the
17 Council or by one delegated authority from the Council to make
18 certifications, or by a State agency with statutory authority
19 to make such a certification, that a business entity is a
20 business owned by a minority, female, or person with a
21 disability for whatever purpose.

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

1 operating responsibilities, cost-control matters, income and
2 dividend matters, financial transactions and rights of other
3 shareholders or joint partners. Control shall be real,
4 substantial and continuing, not pro forma. Control shall
5 include the power to direct or cause the direction of the
6 management and policies of the business and to make the
7 day-to-day as well as major decisions in matters of policy,
8 management and operations. Control shall be exemplified by
9 possessing 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 concern or business" means a business that
13 has average annual gross sales over the 3 most recent calendar
14 years of less than \$31,400,000 as evidenced by the federal
15 income tax return of the business. Each July 1 this cap shall
16 be adjusted for inflation as determined by the Consumer Price
17 Index for All Urban Consumers as determined by the United
18 States Department of Labor and rounded to the nearest \$100. A
19 firm with gross sales in excess of this cap may apply to the
20 Council for certification for a particular contract if the firm
21 can demonstrate that the contract would have significant impact
22 on businesses owned by minorities, females, or persons with
23 disabilities as suppliers or subcontractors or in employment of
24 minorities, females, or persons with disabilities. ~~"Business~~
25 concern or business" means a business which has annual gross
26 sales for the most recent fiscal year of less than \$27,000,000,

1 ~~except that a firm with gross sales in excess of that amount~~
2 ~~may apply to the Council for certification for a particular~~
3 ~~contract if the firm can demonstrate that the contract would~~
4 ~~have significant impact on businesses owned by minorities,~~
5 ~~females, or persons with disabilities as suppliers or~~
6 ~~subcontractors or in employment of minorities, females, or~~
7 ~~persons with disabilities.~~

8 (B) When a business concern is owned at least 51% by any
9 combination of minority persons, females, or persons with
10 disabilities, even though none of the 3 classes alone holds at
11 least a 51% interest, the ownership requirement for purposes of
12 this Act is considered to be met. The certification category
13 for the business is that of the class holding the largest
14 ownership interest in the business. If 2 or more classes have
15 equal ownership interests, the certification category shall be
16 determined by the Department of Central Management Services.

17 (Source: P.A. 92-670, eff. 7-16-02.)