



Sen. M. Maggie Crotty

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1 AMENDMENT TO HOUSE BILL 3833

2 AMENDMENT NO. _____. Amend House Bill 3833, AS AMENDED, by
3 inserting immediately below the title the following:

4 "WHEREAS, Generation after generation of Illinois'
5 citizens has served our nation and the State of Illinois by
6 serving in America's armed forces, often at great sacrifice;
7 and military service by their citizenry is fundamental to the
8 continuing freedom that America and the State of Illinois
9 enjoy; and

10 WHEREAS, Accordingly, honoring the service of Illinois'
11 military veterans, past, present, and future, must be a
12 primary, cornerstone commitment of Illinois; and

13 WHEREAS, Inasmuch as the State of Illinois acknowledges the
14 past and ongoing commitment of Illinois' military veterans, it
15 is the intent of this Act to (i) foster economic opportunities
16 for Illinois' military veterans by encouraging the
17 establishment of service-disabled veteran-owned small
18 businesses (SDVOSB) and veteran-owned small businesses (VOSB)

1 and (ii) establish an annual, ongoing, percentage goal for all
2 State agencies' award of goods and services contracts and
3 construction-related State spending that shall be set aside for
4 competitive bidding by verified Illinois SDVOSB and VOSB; and

5 WHEREAS, It is further intended that appropriate
6 administrative procedures for the verification of SDVOSB,
7 VOSB, bid solicitations, awards, and all matters pertaining
8 thereto shall be established and implemented by the Department
9 of Central Management Services; therefore,"; and

10 by replacing everything after the enacting clause with the
11 following:

12 "Section 5. The Illinois Procurement Code is amended by
13 changing Section 45-57 as follows:

14 (30 ILCS 500/45-57)

15 Sec. 45-57. Veterans ~~Disabled veterans~~.

16 (a) Set-aside goal. It is the goal of the State to promote
17 and encourage the continued economic development of small
18 businesses owned and controlled by qualified ~~service-disabled~~
19 veterans and that qualified service-disabled ~~service-disabled~~
20 veteran-owned small businesses (referred to as SDVOSB ~~SDVOB~~)
21 and veteran-owned small businesses (referred to as VOSB)
22 participate in the State's procurement process as both prime
23 contractors and subcontractors. The State shall set aside 5% A

1 ~~Task Force shall be established, appointed by the Directors or~~
2 ~~Secretaries of, and made up of representatives of, the Illinois~~
3 ~~Department of Veterans' Affairs, the Illinois Department of~~
4 ~~Transportation, the Department of Central Management Services,~~
5 ~~the Business Enterprise Program, and the Business Enterprise~~
6 ~~Council. The Department of Central Management Services shall~~
7 ~~provide administrative support to the Task Force. The purpose~~
8 ~~of this Task Force shall be to determine the appropriate~~
9 ~~percentage goal for award each fiscal year of the State's total~~
10 ~~expenditures for contracts awarded under this Code for award to~~
11 ~~SDVOSB and VOSB ~~to SDVOB~~. That portion of a contract under~~
12 ~~which the contractor subcontracts with a SDVOSB or VOSB ~~SDVOB~~~~
13 ~~may be counted toward the goal of this subsection. The~~
14 ~~Department of Central Management Services shall adopt rules to~~
15 ~~implement compliance with this subsection by all State~~
16 ~~agencies. In making that determination the Task Force shall~~
17 ~~consult with statewide veterans' service organizations and the~~
18 ~~business community, including businesses owned by qualified~~
19 ~~disabled veterans. The Task Force shall submit its report to~~
20 ~~the General Assembly concerning its recommendations regarding~~
21 ~~the appropriate percentage goal for award each fiscal year of~~
22 ~~the State's total expenditures for contracts awarded under this~~
23 ~~Code to qualified service disabled veterans no later than 90~~
24 ~~days after the effective date of this amendatory Act of the~~
25 ~~96th General Assembly.~~

26 (b) Fiscal year reports. ~~By Once the appropriate goal is~~

1 ~~established, then by~~ each September 1, each chief procurement
2 officer shall report to the Department of Central Management
3 Services on all of the following for the immediately preceding
4 fiscal year, and by each October 1 the Department of Central
5 Management Services shall compile and report that information
6 to the General Assembly:

7 (1) The total number of VOSB, and the number of SDVOSB,
8 ~~SDVOB~~ who submitted bids ~~a bid~~ for contracts ~~a contract~~
9 under this Code.

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

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

26 (d) Governor's recommendations. To assist the State in

1 reaching the goal described in subsection (a), the Governor
2 shall recommend to the General Assembly changes in programs to
3 assist businesses owned by qualified ~~disabled~~ veterans.

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

5 ~~"Business" means a business that has average annual gross~~
6 ~~sales over the 3 most recent calendar years of less than~~
7 ~~\$31,000,000 as evidenced by the federal income tax returns of~~
8 ~~the business.~~

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

24 "Qualified service-disabled ~~service-disabled~~ veteran"
25 means a veteran who has been found to have a service-connected
26 disability by the United States Department of Veterans Affairs

1 or the United States Department of Defense.

2 "Qualified service-disabled veteran-owned small business"
3 or "SDVOSB" means a small business (i) that is at least 51%
4 unconditionally owned by one or more qualified
5 service-disabled veterans living in Illinois or, in the case of
6 a corporation, at least 51% of the stock of which is
7 unconditionally owned by one or more qualified
8 service-disabled veterans living in Illinois; (ii) the
9 management and daily business operations of which are
10 controlled by one or more of the qualified service-disabled
11 veterans who own it; (iii) that has its home office in
12 Illinois; and (iv) for which items (i) through (iii) are
13 factually verified annually by the Department of Central
14 Management Services.

15 "Qualified veteran-owned small business" or "VOSB" means a
16 small business (i) that is at least 51% unconditionally owned
17 by one or more qualified veterans living in Illinois or, in the
18 case of a corporation, at least 51% of the stock of which is
19 unconditionally owned by one or more qualified veterans living
20 in Illinois; (ii) the management and daily business operations
21 of which are controlled by one or more of the qualified
22 veterans who own it; (iii) that has its home office in
23 Illinois; and (iv) for which items (i) through (iii) are
24 factually verified annually by the Department of Central
25 Management Services.

26 ~~"Qualified disabled veteran owned business" means a~~

1 ~~business entity that is at least 51% owned by one or more~~
2 ~~qualified disabled veterans, or in the case of a corporation,~~
3 ~~at least 51% of the stock of which is owned by one or more~~
4 ~~qualified disabled veterans; and the management and daily~~
5 ~~business operations of which are controlled by one or more of~~
6 ~~the qualified disabled veterans who own it.~~

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

10 "Small business" means any for-profit business in
11 Illinois, including but not limited to any sole proprietorship,
12 partnership, corporation, limited liability company, joint
13 venture, association, or cooperative, that (i) has, including
14 its affiliates, fewer than 500 full-time employees or (ii) is
15 determined by the Department of Central Management Services to
16 be not dominant in its field.

17 "Veteran" means a person who served in the active military,
18 naval, or air service and who was discharged or released from
19 his or her service under conditions other than dishonorable.

20 (f) Certification program. The Illinois Department of
21 Veterans' Affairs and the Department of Central Management
22 Services Business Enterprise Program shall work together to
23 devise a certification procedure to assure that businesses
24 taking advantage of this Section Act are legitimately
25 classified as qualified service-disabled ~~service-disabled~~
26 veteran-owned small businesses or qualified veteran-owned

1 small businesses.

2 (g) VOSBA network. The Director of Central Management
3 Services shall administer a State network of Veteran-Owned
4 Small Business Advocates (VOSBA), who shall report to the
5 Director's appointee and shall do all of the following:

6 (1) Oversee, promote, and coordinate the VOSBA
7 program.

8 (2) Manage appointment and oversight of all VOSBA
9 members.

10 (3) Submit to the Director's appointee an annual report
11 to document the VOSBA program.

12 (4) Coordinate with State agencies and with existing
13 and potential veteran-owned small businesses to achieve
14 the goal described in subsection (a).

15 (h) State agency VOSBA. Each State agency shall appoint and
16 support at least one State agency VOSBA. The Department of
17 Central Management Services shall maintain an online database
18 of all VOSBA, including their telephone numbers, facsimile
19 numbers, electronic mail addresses, and postal addresses. Each
20 State agency VOSBA shall do all of the following:

21 (1) Assist certified veteran-owned small businesses in
22 participating in the State agency's contracting process.

23 (2) Assist the State agency's State purchasing officer
24 in seeking veteran-owned small businesses to participate
25 in the State agency's contract and procurement activities
26 by any feasible means, including without limitation by

1 performing outreach efforts to recruit veteran-owned small
2 businesses to be prime contractors or subcontractors on
3 contracts proposed by the State agency that require
4 veteran-owned small business participation.

5 (3) Meet regularly with the contract and procurement
6 staffs of his or her State agency to disseminate
7 information about the veteran-owned small business
8 set-aside program.

9 (4) Advocate for the veteran-owned small businesses
10 that are used as the State agency's contractors or
11 subcontractors.

12 (5) Report to the Department of Central Management
13 Services regarding any violation of this Section.

14 (6) Coordinate and meet, on a regular basis, with the
15 Illinois Department of Veterans' Affairs in an effort to
16 meet the goal described in subsection (a).

17 (i) Penalties.

18 (1) Administrative penalties. The Department of
19 Central Management Services shall suspend any person who
20 commits a violation of Article 33C or subsection (d) of
21 Section 33E-6 of the Criminal Code of 1961 relating to this
22 Section from bidding on, or participating as a contractor,
23 subcontractor, or supplier in, any State contract or
24 project for a period of not less than 3 years, and, if the
25 person is certified as a service-disabled veteran-owned
26 small business or a veteran-owned small business, then the

1 Department shall revoke the business' certification for a
2 period of not less than 3 years. An additional or
3 subsequent violation shall extend the periods of
4 suspension and revocation for a period of not less than 5
5 years. The suspension and revocation shall apply to the
6 principals of the business and any subsequent business
7 formed or financed by, or affiliated with, those
8 principals.

9 (2) Reports of violations. Each State agency shall
10 report any alleged violation of Article 33C or subsection
11 (d) of Section 33E-6 of the Criminal Code of 1961 relating
12 to this Section to the Department of Central Management
13 Services. The Department of Central Management Services
14 shall subsequently report all such alleged violations to
15 the Attorney General, who shall determine whether to bring
16 a civil action against any person for the violation.

17 (3) List of suspended persons. The Department of
18 Central Management Services shall monitor the status of all
19 reported violations of Article 33C or subsection (d) of
20 Section 33E-6 of the Criminal Code of 1961 relating to this
21 Section and shall maintain and make available to all State
22 agencies a central listing of all persons that committed
23 violations resulting in suspension.

24 (4) Use of suspended persons. During the period of a
25 person's suspension under paragraph (1) of this
26 subsection, a State agency shall not enter into any

1 contract with that person or with any contractor using the
2 services of that person as a subcontractor.

3 (5) Duty to check list. Each State agency shall check
4 the central listing provided by the Department of Central
5 Management Services under paragraph (3) of this subsection
6 to verify that a person being awarded a contract by that
7 State agency, or to be used as a subcontractor or supplier
8 on a contract being awarded by that State agency, is not
9 under suspension pursuant to paragraph (1) of this
10 subsection.

11 (Source: P.A. 96-96, eff. 1-1-10.)

12 Section 10. The Criminal Code of 1961 is amended by
13 changing Sections 33C-1, 33C-2, 33C-3, 33C-4, 33C-5, 33E-2, and
14 33E-6 as follows:

15 (720 ILCS 5/33C-1) (from Ch. 38, par. 33C-1)

16 Sec. 33C-1. Fraudulently obtaining or retaining
17 certification. A person who, in the course of business,
18 fraudulently obtains or retains certification as a minority
19 owned business, ~~or~~ female owned business, service-disabled
20 veteran-owned small business, or veteran-owned small business
21 commits a Class 2 felony.

22 (Source: P.A. 84-192.)

23 (720 ILCS 5/33C-2) (from Ch. 38, par. 33C-2)

1 Sec. 33C-2. Willfully making a false statement. A person
2 who, in the course of business, willfully makes a false
3 statement whether by affidavit, report or other
4 representation, to an official or employee of a State agency or
5 the Minority and Female Business Enterprise Council for the
6 purpose of influencing the certification or denial of
7 certification of any business entity as a minority owned
8 business, ~~or~~ female owned business, service-disabled
9 veteran-owned small business, or veteran-owned small business
10 commits a Class 2 felony.

11 (Source: P.A. 84-192.)

12 (720 ILCS 5/33C-3) (from Ch. 38, par. 33C-3)

13 Sec. 33C-3. Willfully obstructing or impeding an official
14 or employee of any agency in his investigation. Any person who,
15 in the course of business, willfully obstructs or impedes an
16 official or employee of any State agency or the Minority and
17 Female Business Enterprise Council who is investigating the
18 qualifications of a business entity which has requested
19 certification as a minority owned business, ~~or a~~ female owned
20 business, service-disabled veteran-owned small business, or
21 veteran-owned small business commits a Class 2 felony.

22 (Source: P.A. 84-192.)

23 (720 ILCS 5/33C-4) (from Ch. 38, par. 33C-4)

24 Sec. 33C-4. Fraudulently obtaining public moneys reserved

1 for disadvantaged business enterprises. Any person who, in the
2 course of business, fraudulently obtains public moneys
3 reserved for, or allocated or available to, minority owned
4 businesses, ~~or~~ female owned businesses, service-disabled
5 veteran-owned small businesses, or veteran-owned small
6 businesses commits a Class 2 felony.

7 (Source: P.A. 84-192.)

8 (720 ILCS 5/33C-5) (from Ch. 38, par. 33C-5)

9 Sec. 33C-5. Definitions. As used in this Article, "minority
10 owned business", "female owned business", "State agency" with
11 respect to minority owned businesses and female owned
12 businesses, and "certification" with respect to minority owned
13 businesses and female owned businesses shall have the meanings
14 ascribed to them in Section 2 of the Business Enterprise for
15 Minorities, Females, and Persons with Disabilities Act. As used
16 in this Article, "service-disabled veteran-owned small
17 business", "veteran-owned small business", "State agency" with
18 respect to service-disabled veteran-owned small businesses and
19 veteran-owned small businesses, and "certification" with
20 respect to service-disabled veteran-owned small businesses and
21 veteran-owned small businesses have the same meanings as in
22 Section 45-57 of the Illinois Procurement Code.

23 (Source: P.A. 92-16, eff. 6-28-01.)

24 (720 ILCS 5/33E-2) (from Ch. 38, par. 33E-2)

1 Sec. 33E-2. Definitions. In this Act:

2 (a) "Public contract" means any contract for goods,
3 services or construction let to any person with or without bid
4 by any unit of State or local government.

5 (b) "Unit of State or local government" means the State,
6 any unit of state government or agency thereof, any county or
7 municipal government or committee or agency thereof, or any
8 other entity which is funded by or expends tax dollars or the
9 proceeds of publicly guaranteed bonds.

10 (c) "Change order" means a change in a contract term other
11 than as specifically provided for in the contract which
12 authorizes or necessitates any increase or decrease in the cost
13 of the contract or the time to completion.

14 (d) "Person" means any individual, firm, partnership,
15 corporation, joint venture or other entity, but does not
16 include a unit of State or local government.

17 (e) "Person employed by any unit of State or local
18 government" means any employee of a unit of State or local
19 government and any person defined in subsection (d) who is
20 authorized by such unit of State or local government to act on
21 its behalf in relation to any public contract.

22 (f) "Sheltered market" has the meaning ascribed to it in
23 Section 8b of the Business Enterprise for Minorities, Females,
24 and Persons with Disabilities Act; except that, with respect to
25 State contracts set aside for award to service-disabled
26 veteran-owned small businesses and veteran-owned small

1 businesses pursuant to Section 45-57 of the Illinois
2 Procurement Code, "sheltered market" means procurements
3 pursuant to that Section.

4 (g) "Kickback" means any money, fee, commission, credit,
5 gift, gratuity, thing of value, or compensation of any kind
6 which is provided, directly or indirectly, to any prime
7 contractor, prime contractor employee, subcontractor, or
8 subcontractor employee for the purpose of improperly obtaining
9 or rewarding favorable treatment in connection with a prime
10 contract or in connection with a subcontract relating to a
11 prime contract.

12 (h) "Prime contractor" means any person who has entered
13 into a public contract.

14 (i) "Prime contractor employee" means any officer,
15 partner, employee, or agent of a prime contractor.

16 (i-5) "Stringing" means knowingly structuring a contract
17 or job order to avoid the contract or job order being subject
18 to competitive bidding requirements.

19 (j) "Subcontract" means a contract or contractual action
20 entered into by a prime contractor or subcontractor for the
21 purpose of obtaining goods or services of any kind under a
22 prime contract.

23 (k) "Subcontractor" (1) means any person, other than the
24 prime contractor, who offers to furnish or furnishes any goods
25 or services of any kind under a prime contract or a subcontract
26 entered into in connection with such prime contract; and (2)

1 includes any person who offers to furnish or furnishes goods or
2 services to the prime contractor or a higher tier
3 subcontractor.

4 (1) "Subcontractor employee" means any officer, partner,
5 employee, or agent of a subcontractor.

6 (Source: P.A. 92-16, eff. 6-28-01.)

7 (720 ILCS 5/33E-6) (from Ch. 38, par. 33E-6)

8 Sec. 33E-6. Interference with contract submission and
9 award by public official. (a) Any person who is an official of
10 or employed by any unit of State or local government who
11 knowingly conveys, either directly or indirectly, outside of
12 the publicly available official invitation to bid, pre-bid
13 conference, solicitation for contracts procedure or such
14 procedure used in any sheltered market procurement adopted
15 pursuant to law or ordinance by that unit of government, to any
16 person any information concerning the specifications for such
17 contract or the identity of any particular potential
18 subcontractors, when inclusion of such information concerning
19 the specifications or contractors in the bid or offer would
20 influence the likelihood of acceptance of such bid or offer,
21 commits a Class 4 felony. It shall not constitute a violation
22 of this subsection to convey information intended to clarify
23 plans or specifications regarding a public contract where such
24 disclosure of information is also made generally available to
25 the public.

1 (b) Any person who is an official of or employed by any
2 unit of State or local government who, either directly or
3 indirectly, knowingly informs a bidder or offeror that the bid
4 or offer will be accepted or executed only if specified
5 individuals are included as subcontractors commits a Class 3
6 felony.

7 (c) It shall not constitute a violation of subsection (a)
8 of this Section where any person who is an official of or
9 employed by any unit of State or local government follows
10 procedures established (i) by federal, State or local minority
11 or female owned business enterprise programs or (ii) pursuant
12 to Section 45-57 of the Illinois Procurement Code.

13 (d) Any bidder or offeror who is the recipient of
14 communications from the unit of government which he reasonably
15 believes to be proscribed by subsections (a) or (b), and fails
16 to inform either the Attorney General or the State's Attorney
17 for the county in which the unit of government is located,
18 commits a Class A misdemeanor.

19 (e) Any public official who knowingly awards a contract
20 based on criteria which were not publicly disseminated via the
21 invitation to bid, when such invitation to bid is required by
22 law or ordinance, the pre-bid conference, or any solicitation
23 for contracts procedure or such procedure used in any sheltered
24 market procurement procedure adopted pursuant to statute or
25 ordinance, commits a Class 3 felony.

26 (f) It shall not constitute a violation of subsection (a)

1 for any person who is an official of or employed by any unit of
2 State or local government to provide to any person a copy of
3 the transcript or other summary of any pre-bid conference where
4 such transcript or summary is also made generally available to
5 the public.

6 (Source: P.A. 86-150.)

7 Section 99. Effective date. This Act takes effect March 1,
8 2011."