



Sen. Martin A. Sandoval

Filed: 3/15/2010

09600SB3249sam005

LRB096 20466 JAM 38935 a

1 AMENDMENT TO SENATE BILL 3249

2 AMENDMENT NO. _____. Amend Senate Bill 3249, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Finance Act is amended by adding
6 Section 45 as follows:

7 (30 ILCS 105/45 new)

8 Sec. 45. Award or appropriation of capital funds. Each
9 award by grant, contract, or capital agreement, and each line
10 item appropriation, of State funds for capital construction,
11 capital supplies, or capital services is conditioned upon the
12 recipient's written certification that the recipient shall
13 comply with the business enterprise program practices for
14 minority-owned businesses, female-owned businesses, and
15 businesses owned by persons with disabilities of the Business
16 Enterprise for Minorities, Females, and Persons with

1 Disabilities Act and the equal employment practices of Section
2 2-105 of the Illinois Human Rights Act. Each recipient of funds
3 subject to this Section shall submit the business enterprise
4 program plan for minority-owned businesses, female-owned
5 businesses, and businesses owned by persons with disabilities
6 with the relevant contract or capital or grant agreement or
7 with the first voucher for the appropriated funds, as the case
8 may be.

9 Each business enterprise program plan shall apply only to
10 the State-funded portion of the relevant capital project and
11 must be in compliance with all certification and other
12 requirements of the Business Enterprise for Minorities,
13 Females, and Persons with Disabilities Act. Disbursement of
14 funds subject to this Section is conditioned on successful
15 compliance with the recipient's submitted business enterprise
16 program plan.

17 Section 10. The Business Enterprise for Minorities,
18 Females, and Persons with Disabilities Act is amended by
19 changing Section 7 as follows:

20 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

21 (Section scheduled to be repealed on June 30, 2010)

22 Sec. 7. Exemptions and waivers; publication of data.

23 (1) Individual contract exemptions. The Council, on its own
24 initiative or at the request of the affected agency or

1 university, may permit an individual contract or contract
2 package, (related contracts being bid or awarded
3 simultaneously for the same project or improvements) be made
4 wholly or partially exempt from State contracting goals for
5 businesses owned by minorities, females, and persons with
6 disabilities prior to the advertisement for bids or
7 solicitation of proposals whenever there has been a
8 determination, reduced to writing and based on the best
9 information available at the time of the determination, that
10 there is an insufficient number of businesses owned by
11 minorities, females, and persons with disabilities to ensure
12 adequate competition and an expectation of reasonable prices on
13 bids or proposals solicited for the individual contract or
14 contract package in question.

15 (2) Class exemptions. (a) Creation. The Council, on its own
16 initiative or at the request of the affected agency or
17 university, may permit an entire class of contracts be made
18 exempt from State contracting goals for businesses owned by
19 minorities, females, and persons with disabilities whenever
20 there has been a determination, reduced to writing and based on
21 the best information available at the time of the
22 determination, that there is an insufficient number of
23 qualified businesses owned by minorities, females, and persons
24 with disabilities to ensure adequate competition and an
25 expectation of reasonable prices on bids or proposals within
26 that class.

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

3 (3) Waivers. Where a particular contract requires a
4 contractor to meet a goal established pursuant to this Act, the
5 contractor shall have the right to request a waiver from such
6 requirements. The Council shall grant the waiver where the
7 contractor demonstrates that there has been made a good faith
8 effort to comply with the goals for participation by businesses
9 owned by minorities, females, and persons with disabilities.

10 (4) Conflict with other laws. In the event that any State
11 contract, which otherwise would be subject to the provisions of
12 this Act, is or becomes subject to federal laws or regulations
13 which conflict with the provisions of this Act or actions of
14 the State taken pursuant hereto, the provisions of the federal
15 laws or regulations shall apply and the contract shall be
16 interpreted and enforced accordingly.

17 (5) Each chief procurement officer, as defined in the
18 Illinois Procurement Code, shall maintain on his or her
19 official Internet website a database of waivers granted under
20 this Section with respect to contracts under his or her
21 jurisdiction. The database, which shall be updated
22 periodically as necessary, shall be searchable by contractor
23 name and by contracting State agency.

24 Each public notice required by law of the award of a State
25 contract shall include for each bid submitted for that contract
26 the following: (i) the bidder's name, (ii) the bid amount,

1 (iii) the bid's percentage of disadvantaged business
2 utilization plan, and (iv) the bid's percentage of business
3 enterprise program utilization plan.

4 (Source: P.A. 88-597, eff. 8-28-94.)

5 Section 99. Effective date. This Act takes effect July 1,
6 2011.".