



Sen. Iris Y. Martinez

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1 AMENDMENT TO SENATE BILL 2363

2 AMENDMENT NO. _____. Amend Senate Bill 2363 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Architectural, Engineering, and Land
5 Surveying Qualifications Based Selection Act is amended by
6 changing Section 45 as follows:

7 (30 ILCS 535/45) (from Ch. 127, par. 4151-45)

8 Sec. 45. Small contracts. The provisions of Sections 25,
9 30, and 35 do not apply to architectural, engineering, and land
10 surveying contracts with an estimated basic professional
11 services fee of less than \$50,000 ~~\$25,000~~.

12 (Source: P.A. 92-861, eff. 1-3-03.)

13 Section 10. The Business Enterprise for Minorities,
14 Females, and Persons with Disabilities Act is amended by
15 changing Section 5 as follows:

1 (30 ILCS 575/5) (from Ch. 127, par. 132.605)

2 (Section scheduled to be repealed on June 30, 2016)

3 Sec. 5. Business Enterprise Council.

4 (1) To help implement, monitor and enforce the goals of
5 this Act, there is created the Business Enterprise Council for
6 Minorities, Females, and Persons with Disabilities,
7 hereinafter referred to as the Council, composed of the
8 Secretary of Human Services and the Directors of the Department
9 of Human Rights, the Department of Commerce and Economic
10 Opportunity, the Department of Central Management Services,
11 the Department of Transportation and the Capital Development
12 Board, or their duly appointed representatives. Ten
13 individuals representing businesses that are minority or
14 female owned or owned by persons with disabilities, 2
15 individuals representing the business community, and a
16 representative of public universities shall be appointed by the
17 Governor. These members shall serve 2 year terms and shall be
18 eligible for reappointment. Any vacancy occurring on the
19 Council shall also be filled by the Governor. Any member
20 appointed to fill a vacancy occurring prior to the expiration
21 of the term for which his predecessor was appointed shall be
22 appointed for the remainder of such term. Members of the
23 Council shall serve without compensation but shall be
24 reimbursed for any ordinary and necessary expenses incurred in
25 the performance of their duties.

1 The Director of the Department of Central Management
2 Services shall serve as the Council chairperson and shall
3 select, subject to approval of the council, a Secretary
4 responsible for the operation of the program who shall serve as
5 the Division Manager of the Business Enterprise for Minorities,
6 Females, and Persons with Disabilities Division of the
7 Department of Central Management Services.

8 The Director of each State agency and the chief executive
9 officer of each State university shall appoint a liaison to the
10 Council. The liaison shall be responsible for submitting to the
11 Council any reports and documents necessary under this Act.

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

13 (a) Devise a certification procedure to assure that
14 businesses taking advantage of this Act are legitimately
15 classified as businesses owned by minorities, females, or
16 persons with disabilities.

17 (a-5) Devise a certification procedure to assure that
18 businesses contracting with public community colleges
19 under the Public Community College Act and taking advantage
20 of this Act are legitimately classified as businesses owned
21 by minorities.

22 (b) Maintain a list of all businesses legitimately
23 classified as businesses owned by minorities, females, or
24 persons with disabilities to provide to State agencies and
25 State universities.

26 (c) Review rules and regulations for the

1 implementation of the program for businesses owned by
2 minorities, females, and persons with disabilities.

3 (d) Review compliance plans submitted by each State
4 agency and State university pursuant to this Act.

5 (e) Make annual reports as provided in Section 8f to
6 the Governor and the General Assembly on the status of the
7 program.

8 (f) Serve as a central clearinghouse for information on
9 State contracts, including the maintenance of a list of all
10 pending State contracts upon which businesses owned by
11 minorities, females, and persons with disabilities may
12 bid. At the Council's discretion, maintenance of the list
13 may include 24-hour electronic access to the list along
14 with the bid and application information.

15 (g) Establish a toll free telephone number to
16 facilitate information requests concerning the
17 certification process and pending contracts.

18 (3) No premium bond rate of a surety company for a bond
19 required of a business owned by a minority, female, or person
20 with a disability bidding for a State contract shall be higher
21 than the lowest rate charged by that surety company for a
22 similar bond in the same classification of work that would be
23 written for a business not owned by a minority, female, or
24 person with a disability.

25 (4) Any Council member who has direct financial or personal
26 interest in any measure pending before the Council shall

1 disclose this fact to the Council and refrain from
2 participating in the determination upon such measure.

3 (5) The Secretary shall have the following duties and
4 responsibilities:

5 (a) To be responsible for the day-to-day operation of
6 the Council.

7 (b) To serve as a coordinator for all of the State's
8 programs for businesses owned by minorities, females, and
9 persons with disabilities and as the information and
10 referral center for all State initiatives for businesses
11 owned by minorities, females, and persons with
12 disabilities.

13 (c) To establish an enforcement procedure whereby the
14 Council may recommend to the appropriate State legal
15 officer that the State exercise its legal remedies which
16 shall include (1) termination of the contract involved, (2)
17 prohibition of participation by the respondent in public
18 contracts for a period not to exceed one year, (3)
19 imposition of a penalty not to exceed any profit acquired
20 as a result of violation, or (4) any combination thereof.
21 Such procedures shall require prior approval by Council.

22 (d) To devise appropriate policies, regulations and
23 procedures for including participation by businesses owned
24 by minorities, females, and persons with disabilities as
25 prime contractors including, but not limited to, (i)
26 encouraging the inclusions of qualified businesses owned

1 by minorities, females, and persons with disabilities on
2 solicitation lists, (ii) investigating the potential of
3 blanket bonding programs for small construction jobs,
4 (iii) investigating and making recommendations concerning
5 the use of the sheltered market process.

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

8 (f) To accept donations and, with the approval of the
9 Council or the Director of Central Management Services,
10 grants related to the purposes of this Act; to conduct
11 seminars related to the purpose of this Act and to charge
12 reasonable registration fees; and to sell directories,
13 vendor lists and other such information to interested
14 parties, except that forms necessary to become eligible for
15 the program shall be provided free of charge to a business
16 or individual applying for the program.

17 (Source: P.A. 94-793, eff. 5-19-06.)

18 Section 15. The Local Government Professional Services
19 Selection Act is amended by changing Sections 4, 5, 6, and 7
20 and by adding Sections 9 and 10 as follows:

21 (50 ILCS 510/4) (from Ch. 85, par. 6404)

22 Sec. 4. Public notice. Present provisions of law
23 notwithstanding, in the procurement of architectural,
24 engineering or land surveying services, each political

1 subdivision which utilizes architectural, engineering or land
2 surveying services shall permit firms engaged in the lawful
3 practice of their professions to annually file a statement of
4 qualifications and performance data with the political
5 subdivision.

6 Except as provided otherwise in Section 9 of this Act,
7 whenever ~~whenever~~ a project requiring architectural,
8 engineering or land surveying services is proposed for a
9 political subdivision, the political subdivision shall, unless
10 it has a satisfactory relationship for services with one or
11 more firms:

12 (1) Mail a notice requesting a statement of interest in the
13 specific project to all firms who have a current statement of
14 qualifications and performance data on file with the political
15 subdivision; or

16 (2) Place an advertisement in a secular English language
17 daily newspaper of general circulation throughout such
18 political subdivision, requesting a statement of interest in
19 the specific project and further requesting statements of
20 qualifications and performance data from those firms which do
21 not have such a statement on file with the political
22 subdivision. Such advertisement shall state the day, hour and
23 place the statement of interest and the statements of
24 qualifications and performance data shall be due.

25 (Source: P.A. 85-854.)

1 (50 ILCS 510/5) (from Ch. 85, par. 6405)

2 Sec. 5. Evaluation Procedure. Except as provided otherwise
3 in Section 9 of this Act, a ~~A~~ political subdivision shall,
4 unless it has a satisfactory relationship for services with one
5 or more firms, evaluate the firms submitting letters of
6 interest, taking into account qualifications, ability of
7 professional personnel, past record and experience,
8 performance data on file, willingness to meet time
9 requirements, location, workload of the firm, and such other
10 qualifications-based factors as the political subdivision may
11 determine in writing are applicable. The political subdivision
12 may conduct discussions with and require public presentations
13 by firms deemed to be the most qualified regarding their
14 qualifications, approach to the project, and ability to furnish
15 the required services. In no case shall a political
16 subdivision, prior to selecting a firm for negotiation under
17 Section 7, seek formal or informal submission of verbal or
18 written estimates of costs or proposals in terms of dollars,
19 hours required, percentage of construction cost, or any other
20 measure of compensation.

21 (Source: P.A. 94-1097, eff. 2-2-07.)

22 (50 ILCS 510/6) (from Ch. 85, par. 6406)

23 Sec. 6. Selection procedure. Except as provided otherwise
24 in Section 9 of this Act, on ~~on~~ the basis of evaluations,
25 discussions and presentations, the political subdivision

1 shall, unless it has a satisfactory relationship for services
2 with one or more firms, select no less than 3 firms which it
3 determines to be the most qualified to provide services for the
4 project and rank them in order of qualifications to provide
5 services regarding the specific project. The political
6 subdivision shall then contact the firm ranked most preferred
7 and attempt to negotiate a contract at a fair and reasonable
8 compensation, taking into account the estimated value, scope,
9 complexity, and professional nature of the services to be
10 rendered. If fewer than 3 firms submit letters of interest and
11 the political subdivision determines that one or both of those
12 firms are so qualified, the political subdivision may proceed
13 to negotiate a contract pursuant to this Section and Section 7.
14 (Source: P.A. 85-854.)

15 (50 ILCS 510/7) (from Ch. 85, par. 6407)

16 Sec. 7. Contract negotiation. Except as provided otherwise
17 in Section 9 of this Act:

18 (1) The political subdivision shall prepare a written
19 description of the scope of the proposed services to be used as
20 a basis for negotiations and shall negotiate a contract with
21 the highest qualified firm at compensation that the political
22 subdivision determines in writing to be fair and reasonable. In
23 making this decision the political subdivision shall take into
24 account the estimated value, scope, complexity and
25 professional nature of the services to be rendered.

1 (2) If the political subdivision is unable to negotiate a
2 satisfactory contract with the firm which is most preferred,
3 negotiations with that firm shall be terminated. The political
4 subdivision shall then begin negotiations with the firm which
5 is next preferred. If the political subdivision is unable to
6 negotiate a satisfactory contract with that firm, negotiations
7 with that firm shall be terminated. The political subdivision
8 shall then begin negotiations with the firm which is next
9 preferred.

10 (3) If the political subdivision is unable to negotiate a
11 satisfactory contract with any of the selected firms, the
12 political subdivision shall re-evaluate the architectural,
13 engineering or land surveying services requested, including
14 the estimated value, scope, complexity and fee requirements.
15 The political subdivision shall then compile a second list of
16 not less than three qualified firms and proceed in accordance
17 with the provisions of this Act.

18 (Source: P.A. 85-854.)

19 (50 ILCS 510/9 new)

20 Sec. 9. Procurement of certain contracts. Notwithstanding
21 any provision of this Act to the contrary, a political
22 subdivision seeking to procure architectural, engineering, or
23 land surveying services, where the majority of the funding for
24 the project to which the services relate, or for which the
25 services are contemplated, will be provided by the State or any

1 agency thereof, including, but not limited to, direct
2 appropriations and proceeds from the sale of bonds, the
3 political subdivision shall use the process provided for the
4 procurement of architectural, engineering, and land surveying
5 services by State agencies under the Architectural,
6 Engineering, and Land Surveying Qualifications Based Selection
7 Act.

8 (50 ILCS 510/10 new)

9 Sec. 10. Affirmative action. Nothing in this Act shall be
10 deemed to prohibit or restrict political subdivisions from
11 establishing or maintaining affirmative action contracting
12 goals for minorities or women, or small business setaside
13 programs, now or hereafter established by ordinance or rule.

14 Section 20. The Public Community College Act is amended by
15 adding Section 3-65 as follows:

16 (110 ILCS 805/3-65 new)

17 Sec. 3-65. Contracting with minority owned and female owned
18 businesses.

19 (a) Notwithstanding any other provision of this Act,
20 community college boards organized under this Act shall:

21 (1) on or before March 1, 2014, designate an officer as
22 the point of contact for minority owned and female owned
23 businesses;

1 (2) on or before March 1, 2014, adopt a resolution that
2 outlines the goals of the public community college for
3 contracting with minority owned and female owned
4 businesses for the then current fiscal year, the manner in
5 which the public community college intends to reach these
6 goals, and a timetable for reaching these goals; and

7 (3) present a report on January 1, 2017 to the General
8 Assembly indicating the total dollar value of contracts
9 awarded to minority owned and female owned businesses
10 between January 1, 2014 and December 31, 2017, and the
11 total dollars paid to minority owned and female owned
12 businesses between January 1, 2014 and December 31, 2017.
13 These amounts shall also be expressed as a percentage of
14 the total work performed by the entity submitting the
15 report.

16 (b) For the purposes of this Section:

17 "Female owned business" shall have the meaning
18 ascribed to it in paragraph (4) of subsection (A) of
19 Section 2 of the Business Enterprise for Minorities,
20 Females, and Persons with Disabilities Act.

21 "Minority owned business" shall have the meaning
22 ascribed to it in paragraph (3) of subsection (A) of
23 Section 2 of the Business Enterprise for Minorities,
24 Females, and Persons with Disabilities Act.

25 Section 99. Effective date. This Act takes effect January

1 1, 2014."