



Rep. Arthur Turner

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1 AMENDMENT TO SENATE BILL 1334

2 AMENDMENT NO. _____. Amend Senate Bill 1334 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Business Enterprise for Minorities,
5 Females, and Persons with Disabilities Act is amended by
6 changing Sections 2, 3, 4, 5, 6, 6a, 7, 8, and 8f and by adding
7 Section 4f as follows:

8 (30 ILCS 575/2)

9 (Section scheduled to be repealed on June 30, 2016)

10 Sec. 2. Definitions.

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

13 (1) "Minority person" shall mean a person who is a
14 citizen or lawful permanent resident of the United States
15 and who is any of the following:

16 (a) American Indian or Alaska Native (a person

1 having origins in any of the original peoples of North
2 and South America, including Central America, and who
3 maintains tribal affiliation or community attachment).

4 (b) Asian (a person having origins in any of the
5 original peoples of the Far East, Southeast Asia, or
6 the Indian subcontinent, including, but not limited
7 to, Cambodia, China, India, Japan, Korea, Malaysia,
8 Pakistan, the Philippine Islands, Thailand, and
9 Vietnam).

10 (c) Black or African American (a person having
11 origins in any of the black racial groups of Africa).
12 Terms such as "Haitian" or "Negro" can be used in
13 addition to "Black or African American".

14 (d) Hispanic or Latino (a person of Cuban, Mexican,
15 Puerto Rican, South or Central American, or other
16 Spanish culture or origin, regardless of race).

17 (e) Native Hawaiian or Other Pacific Islander (a
18 person having origins in any of the original peoples of
19 Hawaii, Guam, Samoa, or other Pacific Islands).

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

23 (2.05) "Person with a disability" means a person who is
24 a citizen or lawful resident of the United States and is a
25 person qualifying as being disabled under subdivision
26 (2.1) of this 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 Crohn's disease,

12 cystic fibrosis,

13 deafness,

14 head injury,

15 heart disease,

16 hemiplegia,

17 hemophilia,

18 respiratory or pulmonary dysfunction,

19 an intellectual disability,

20 mental illness,

21 multiple sclerosis,

22 muscular dystrophy,

23 musculoskeletal disorders,

24 neurological disorders, including stroke and

25 epilepsy,

26 paraplegia,

1 quadriplegia and other spinal cord conditions,
2 sickle cell anemia,
3 ulcerative colitis,
4 specific learning disabilities, or
5 end stage renal failure disease; and

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

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

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

22 (4) "Female owned business" means a business ~~concern~~
23 which is at least 51% owned by one or more females, or, in
24 the case of a corporation, at least 51% of the stock in
25 which is owned by one or more females; and the management
26 and daily business operations of which are controlled by

1 one or more of the females who own it.

2 (4.1) "Business owned by a person with a disability"
3 means a business ~~concern~~ that is at least 51% owned by one
4 or more persons with a disability and the management and
5 daily business operations of which are controlled by one or
6 more of the persons with disabilities who own it. A
7 not-for-profit agency for persons with disabilities that
8 is exempt from taxation under Section 501 of the Internal
9 Revenue Code of 1986 is also considered a "business owned
10 by a person with a disability".

11 (4.2) "Council" means the Business Enterprise Council
12 for Minorities, Females, and Persons with Disabilities
13 created under Section 5 of this Act.

14 (5) "State contracts" means all contracts entered into
15 by the State, any agency or department thereof, or any
16 public institution of higher education including community
17 college districts, regardless of the source of the funds
18 with which the contracts are paid, which are not subject to
19 federal reimbursement. "State contracts" does not include
20 contracts awarded by a retirement system, pension fund, or
21 investment board subject to Section 1-109.1 of the Illinois
22 Pension Code. This definition shall control over any
23 existing definition under this Act or applicable
24 administrative rule. ~~"State contracts" shall mean all~~
25 ~~State contracts, funded exclusively with State funds which~~
26 ~~are not subject to federal reimbursement, whether~~

1 ~~competitively bid or negotiated as defined by the Secretary~~
2 ~~of the Council and approved by the Council.~~

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

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

24 (7) "Public institutions of higher education" means
25 the University of Illinois, Southern Illinois University,
26 Chicago State University, Eastern Illinois University,

1 Governors State University, Illinois State University,
2 Northeastern Illinois University, Northern Illinois
3 University, Western Illinois University, the public
4 community colleges of the State, and any other public
5 universities, colleges and community colleges now or
6 hereafter established or authorized by the General
7 Assembly. "State universities" shall mean the Board of
8 Trustees of the University of Illinois, the Board of
9 Trustees of Southern Illinois University, the Board of
10 Trustees of Chicago State University, the Board of Trustees
11 of Eastern Illinois University, the Board of Trustees of
12 Governors State University, the Board of Trustees of
13 Illinois State University, the Board of Trustees of
14 Northeastern Illinois University, the Board of Trustees of
15 Northern Illinois University, and the Board of Trustees of
16 Western Illinois University.

17 (8) "Certification" means a determination made by the
18 Council or by one delegated authority from the Council to
19 make certifications, or by a State agency with statutory
20 authority to make such a certification, that a business
21 entity is a business owned by a minority, female, or person
22 with a disability for whatever purpose. A business owned
23 and controlled by females shall be certified as a "female
24 owned business". A business owned and controlled by females
25 who are also minorities shall be certified as both a
26 "female owned business" and a "minority owned business".

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

18 (10) "Business ~~concern or business~~" means a business
19 that has annual gross sales of less than \$75,000,000 as
20 evidenced by the federal income tax return of the business.
21 A firm with gross sales in excess of this cap may apply to
22 the Council for certification for a particular contract if
23 the firm can demonstrate that the contract would have
24 significant impact on businesses owned by minorities,
25 females, or persons with disabilities as suppliers or
26 subcontractors or in employment of minorities, females, or

1 persons with disabilities.

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

11 (Source: P.A. 97-227, eff. 1-1-12; 97-396, eff. 1-1-12; 97-813,
12 eff. 7-13-12; 98-95, eff. 7-17-13.)

13 (30 ILCS 575/3) (from Ch. 127, par. 132.603)

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

15 Sec. 3. Implementation and applicability. This Act shall be
16 applied to all State agencies and public institutions of higher
17 education ~~State universities~~.

18 (Source: P.A. 85-729.)

19 (30 ILCS 575/4) (from Ch. 127, par. 132.604)

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

21 Sec. 4. Award of State contracts.

22 (a) Except as provided in subsections (b) and (c), not less
23 than 20% of the total dollar amount of State contracts, as
24 defined by the Secretary of the Council and approved by the

1 Council, shall be established as a goal to be awarded to
2 businesses owned by minorities, females, and persons with
3 disabilities; provided, however, that of the total amount of
4 all State contracts awarded to businesses owned by minorities,
5 females, and persons with disabilities pursuant to this
6 Section, contracts representing at least 11% shall be awarded
7 to businesses owned by minorities, contracts representing at
8 least 7% shall be awarded to female-owned businesses, and
9 contracts representing at least 2% shall be awarded to
10 businesses owned by persons with disabilities.

11 The above percentage relates to the total dollar amount of
12 State contracts during each State fiscal year, calculated by
13 examining independently each type of contract for each agency
14 or public institutions of higher education ~~university~~ which
15 lets such contracts. Only that percentage of arrangements which
16 represents the participation of businesses owned by
17 minorities, females, and persons with disabilities on such
18 contracts shall be included.

19 (b) In the case of State construction contracts, the
20 provisions of subsection (a) requiring a portion of State
21 contracts to be awarded to businesses owned and controlled by
22 persons with disabilities do not apply. The following goals are
23 established for State construction contracts: not ~~Not~~ less than
24 20% ~~10%~~ of the total dollar amount of State construction
25 contracts is established as a goal to be awarded to minority
26 and female owned businesses, and contracts representing 50% of

1 the amount of all State construction contracts awarded to
2 minority and female owned businesses shall be awarded to female
3 owned businesses.

4 (c) In the case of all work undertaken by the University of
5 Illinois related to the planning, organization, and staging of
6 the games, the University of Illinois shall establish a goal of
7 awarding not less than 25% of the annual dollar value of all
8 contracts, purchase orders, and other agreements (collectively
9 referred to as "the contracts") to minority-owned businesses or
10 businesses owned by a person with a disability and 5% of the
11 annual dollar value the contracts to female-owned businesses.
12 For purposes of this subsection, the term "games" has the
13 meaning set forth in the Olympic Games and Paralympic Games
14 (2016) Law.

15 (d) Within one year after April 28, 2009 (the effective
16 date of Public Act 96-8), the Department of Central Management
17 Services shall conduct a social scientific study that measures
18 the impact of discrimination on minority and female business
19 development in Illinois. Within 18 months after April 28, 2009
20 (the effective date of Public Act 96-8), the Department shall
21 issue a report of its findings and any recommendations on
22 whether to adjust the goals for minority and female
23 participation established in this Act. Copies of this report
24 and the social scientific study shall be filed with the
25 Governor and the General Assembly.

26 (e) Notwithstanding any provision of law to the contrary

1 and except as otherwise mandated by federal law or regulation,
2 those who submit bids or proposals for State construction
3 contracts subject to the provisions of this Act, whose bids or
4 proposals are successful but that fail to meet the goals set
5 forth in subsection (b) of this Section, shall be notified of
6 that deficiency and shall be afforded a period not to exceed 30
7 days to cure that deficiency in the bid or proposal. The
8 deficiency in the bid or proposal may only be cured by hiring
9 additional personnel who are minorities, females, or persons
10 with disabilities, or by contracting with additional
11 subcontractors who are owned by minorities, females, or persons
12 with disabilities. ~~Those who submit bids or proposals for State~~
13 ~~contracts shall not be given a period after the bid or proposal~~
14 ~~is submitted to cure deficiencies in the bid or proposal under~~
15 ~~this Act unless mandated by federal law or regulation.~~

16 (Source: P.A. 96-7, eff. 4-3-09; 96-8, eff. 4-28-09; 96-706,
17 eff. 8-25-09; 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
18 for the effective date of changes made by P.A. 96-795);
19 96-1000, eff. 7-2-10.)

20 (30 ILCS 575/4f new)

21 Sec. 4f. Award of State contracts.

22 (1) It is hereby declared to be the public policy of
23 the State of Illinois to promote and encourage each State
24 agency and public institution of higher education to use
25 businesses owned by minorities, females, and persons with

1 disabilities in the area of goods and services, including,
2 but not limited to, insurance services, investment
3 management services, information technology services,
4 accounting services, architectural and engineering
5 services, and legal services. Furthermore, each State
6 agency and public institution of higher education shall
7 utilize such firms to the greatest extent feasible within
8 the bounds of financial and fiduciary prudence, and take
9 affirmative steps to remove any barriers to the full
10 participation of such firms in the procurement and
11 contracting opportunities afforded.

12 (a) When a State agency or public institution of
13 higher education awards a contract for insurance
14 services, for each State agency or public institution
15 of higher education, it shall be the goal to use
16 insurance brokers owned by minorities, females, and
17 persons with disabilities as defined by this Act, for
18 not less than 20% of the total annual premiums or fees.

19 (b) When a State agency or public institution of
20 higher education awards a contract for investment
21 services, for each State agency or public institution
22 of higher education, it shall be the goal to use
23 emerging investment managers owned by minorities,
24 females, and persons with disabilities as defined by
25 this Act, for not less than 20% of the total funds
26 under management. Furthermore, it is the goal that not

1 less than 20% of the direct asset managers of the State
2 funds be minorities, females, and persons with
3 disabilities.

4 (c) When a State agency or public institution of
5 higher education awards contracts for information
6 technology services, accounting services,
7 architectural and engineering services, and legal
8 services, for each State agency and public institution
9 of higher education, it shall be the goal to use such
10 firms owned by minorities, females, and persons with
11 disabilities as defined by this Act and lawyers who are
12 minorities, females, and persons with disabilities as
13 defined by this Act, for not less than 20% of the total
14 dollar amount of State contracts.

15 (2) As used in this Section:

16 "Accounting services" means the measurement,
17 processing and communication of financial information
18 about economic entities including, but is not limited
19 to, financial accounting, management accounting,
20 auditing, cost containment and auditing services,
21 taxation and accounting information systems.

22 "Architectural and engineering services" means
23 professional services of an architectural or
24 engineering nature, or incidental services, that
25 members of the architectural and engineering
26 professions, and individuals in their employ, may

1 logically or justifiably perform, including studies,
2 investigations, surveying and mapping, tests,
3 evaluations, consultations, comprehensive planning,
4 program management, conceptual designs, plans and
5 specifications, value engineering, construction phase
6 services, soils engineering, drawing reviews,
7 preparation of operating and maintenance manuals, and
8 other related services.

9 "Emerging investment manager" means an investment
10 manager or claims consultant having assets under
11 management below \$10 billion or otherwise adjudicating
12 claims.

13 "Information technology services" means, but is
14 not limited to, specialized technology-oriented
15 solutions by combining the processes and functions of
16 software, hardware, networks, telecommunications, web
17 designers, cloud developing resellers, and
18 electronics.

19 "Insurance broker" means an insurance brokerage
20 firm, claims administrator, or both, that procures,
21 places all lines of insurance, or administers claims
22 with annual premiums or fees of at least \$5,000,000 but
23 not more than \$10,000,000.

24 "Legal services" means work performed by a lawyer
25 including, but not limited to, contracts in
26 anticipation of litigation, enforcement actions, or

1 investigations.

2 (3) Each State agency and public institutions of higher
3 education shall adopt policies that identify its plan and
4 implementation procedures for increasing the use of
5 service firms owned by minorities, females, and persons
6 with disabilities.

7 (4) The Council shall file no later than March 1 of
8 each year an annual report to the Governor and the General
9 Assembly. The report filed with the General Assembly shall
10 be filed as required in Section 3.1 of the General Assembly
11 Organization Act. This report shall: (i) identify the
12 services firms used by each State agency and public
13 institution of higher education, (ii) identify the actions
14 it has undertaken to increase the use of service firms
15 owned by minorities, females, and persons with
16 disabilities, including encouraging non-minority owned
17 firms to use other service firms owned by minorities,
18 females, and persons with disabilities as subcontractors
19 when the opportunities arise, (iii) state any
20 recommendations made by the Council to each State agency
21 and public institution of higher education to increase
22 participation by the use of service firms owned by
23 minorities, females, and persons with disabilities, and
24 (iv) include the following:

25 (A) For insurance services: the names of the
26 insurance brokers or claims consultants used, the

1 total of risk managed by each State agency and public
2 institution of higher education by insurance brokers,
3 the total commissions, fees paid, or both, the lines or
4 insurance policies placed, and the amount of premiums
5 placed; and the percentage of the risk managed by
6 insurance brokers, the percentage of total commission,
7 fees paid, or both, the lines or insurance policies
8 placed, and the amount of premiums placed with each by
9 the insurance brokers owned by minorities, females,
10 and persons with disabilities by each State agency and
11 public institution of higher education.

12 (B) For investment management services: the names
13 of the investment managers used, the total funds under
14 management of investment managers; the total
15 commissions, fees paid, or both; the total and
16 percentage of funds under management of emerging
17 investment managers owned by minorities, females, and
18 persons with disabilities, including the total and
19 percentage of total commissions, fees paid, or both by
20 each State agency and public institution of higher
21 education.

22 (C) The names of service firms, the percentage and
23 total dollar amount paid for professional services by
24 category by each State agency and public institution of
25 higher education.

26 (D) The names of service firms, the percentage and

1 total dollar amount paid for services by category to
2 firms owned by minorities, females, and persons with
3 disabilities by each State agency and public
4 institution of higher education.

5 (E) The total number of contracts awarded for
6 services by category and the total number of contracts
7 awarded to firms owned by minorities, females, and
8 persons with disabilities by each State agency and
9 public institution of higher education.

10 (5) The status of the utilization of services shall be
11 discussed at each of the regularly scheduled Business
12 Enterprise Council meetings. Time shall be allotted for the
13 Council to receive, review, and discuss the progress of the
14 use of service firms owned by minorities, females, and
15 persons with disabilities by each State agency and public
16 institutions of higher education; and any evidence
17 regarding past or present racial, ethnic, or gender-based
18 discrimination which directly impacts State agency or
19 public institutions of higher education contracting with
20 such firms. If after reviewing such evidence the Council
21 finds that there is or has been such discrimination against
22 a specific group, race or sex, the Council shall establish
23 sheltered markets or adjust existing sheltered markets
24 tailored to address the Council's specific findings for the
25 divisions of work specified in paragraphs (a), (b), and (c)
26 of subsection (1) of this Section.

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 institutions of higher education
17 ~~public universities~~ shall be appointed by the Governor. These
18 members shall serve 2 year terms and shall be eligible for
19 reappointment. Any vacancy occurring on the Council shall also
20 be filled by the Governor. Any member appointed to fill a
21 vacancy occurring prior to the expiration of the term for which
22 his predecessor was appointed shall be appointed for the
23 remainder of such term. Members of the Council shall serve
24 without compensation but shall be reimbursed for any ordinary
25 and necessary expenses incurred in the performance of their

1 duties.

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

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

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

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

19 (b) Maintain a list of all businesses legitimately
20 classified as businesses owned by minorities, females, or
21 persons with disabilities to provide to State agencies and
22 public institutions of higher education ~~State~~
23 ~~universities~~.

24 (c) Review rules and regulations for the
25 implementation of the program for businesses owned by
26 minorities, females, and persons with disabilities.

1 (d) Review compliance plans submitted by each State
2 agency and public institutions of higher education ~~State~~
3 ~~university~~ pursuant to this Act.

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

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

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

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

24 (4) Any Council member who has direct financial or personal
25 interest in any measure pending before the Council shall
26 disclose this fact to the Council and refrain from

1 participating in the determination upon such measure.

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

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

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

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

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

1 solicitation lists, (ii) investigating the potential of
2 blanket bonding programs for small construction jobs,
3 (iii) investigating and making recommendations concerning
4 the use of the sheltered market process.

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

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

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

17 (30 ILCS 575/6) (from Ch. 127, par. 132.606)

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

19 Sec. 6. Agency compliance plans. Each State agency and
20 public institutions of higher education ~~State university~~ under
21 the jurisdiction of this Act shall file with the Council an
22 annual compliance plan which shall outline the goals of the
23 State agency or public institutions of higher education ~~State~~
24 ~~university~~ for contracting with businesses owned by
25 minorities, females, and persons with disabilities for the then

1 current fiscal year, the manner in which the agency intends to
2 reach these goals and a timetable for reaching these goals. The
3 Council shall review and approve the plan of each State agency
4 and public institutions of higher education ~~State university~~
5 and may reject any plan that does not comply with this Act or
6 any rules or regulations promulgated pursuant to this Act.

7 (a) The compliance plan shall also include, but not be
8 limited to, (1) a policy statement, signed by the State agency
9 or public institution of higher education ~~State university~~
10 head, expressing a commitment to encourage the use of
11 businesses owned by minorities, females, and persons with
12 disabilities, (2) the designation of the liaison officer
13 provided for in Section 5 of this Act, (3) procedures to
14 distribute to potential contractors and vendors the list of all
15 businesses legitimately classified as businesses owned by
16 minorities, females, and persons with disabilities and so
17 certified under this Act, (4) procedures to set separate
18 contract goals on specific prime contracts and purchase orders
19 with subcontracting possibilities based upon the type of work
20 or services and subcontractor availability, (5) procedures to
21 assure that contractors and vendors make good faith efforts to
22 meet contract goals, (6) procedures for contract goal
23 exemption, modification and waiver, and (7) the delineation of
24 separate contract goals for businesses owned by minorities,
25 females, and persons with disabilities.

26 (b) Approval of the compliance plans shall include such

1 delegation of responsibilities to the requesting State agency
2 or public institution of higher education ~~State university~~ as
3 the Council deems necessary and appropriate to fulfill the
4 purpose of this Act. Such responsibilities may include, but
5 need not be limited to those outlined in subsections (1), (2)
6 and (3) of Section 7 and paragraph (a) of Section 8.

7 (c) Each State agency and public institution of higher
8 education ~~State university~~ under the jurisdiction of this Act
9 shall file with the Council an annual report of its utilization
10 of businesses owned by minorities, females, and persons with
11 disabilities during the preceding fiscal year including lapse
12 period spending and a mid-fiscal year report of its utilization
13 to date for the then current fiscal year. The reports shall
14 include a self-evaluation of the efforts of the State agency or
15 public institution of higher education ~~State university~~ to meet
16 its goals under the Act.

17 (d) Notwithstanding any provisions to the contrary in this
18 Act, any State agency or public institution of higher education
19 ~~State university~~ which administers a construction program, for
20 which federal law or regulations establish standards and
21 procedures for the utilization of minority, disadvantaged, and
22 female-owned business, shall implement a disadvantaged
23 business enterprise program to include minority, disadvantaged
24 and female-owned businesses, using the federal standards and
25 procedures for the establishment of goals and utilization
26 procedures for the State-funded, as well as the federally

1 assisted, portions of the program. In such cases, these goals
2 shall not exceed those established pursuant to the relevant
3 federal statutes or regulations. Notwithstanding the
4 provisions of Section 8b, the Illinois Department of
5 Transportation is authorized to establish sheltered markets
6 for the State-funded portions of the program consistent with
7 federal law and regulations. Additionally, a compliance plan
8 which is filed by such State agency or public institution of
9 higher education ~~State university~~ pursuant to this Act, which
10 incorporates equivalent terms and conditions of its
11 federally-approved compliance plan, shall be deemed approved
12 under this Act.

13 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

14 (30 ILCS 575/6a) (from Ch. 127, par. 132.606a)

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

16 Sec. 6a. Notice of contracts to Council. Except in case of
17 emergency as defined in the Illinois Procurement Code
18 ~~Purchasing Act~~, or as authorized by rule promulgated by the
19 Department of Central Management Services, each agency and
20 public institution of higher education ~~State university~~ under
21 the jurisdiction of this Act shall notify the Secretary of the
22 Council of proposed contracts for professional and artistic
23 services and provide the information in the form and detail as
24 required by rule promulgated by the Department of Central
25 Management Services. Notification may be made through direct

1 written communication to the Secretary to be received at least
2 14 days before execution of the contract (or the solicitation
3 response date, if applicable) or by advertising in the official
4 State newspaper for at least 3 days, the last of which must be
5 at least 10 days after the first publication. The agency or
6 public institution of higher education ~~university~~ must
7 consider any vendor referred by the Secretary before execution
8 of the contract. The provisions of this Section shall not apply
9 to any State agency or public institution of higher education
10 ~~State university~~ that has awarded contracts for professional
11 and artistic services to businesses owned by minorities,
12 females, and persons with disabilities totalling in the
13 aggregate \$40,000,000 ~~\$5,000,000~~ or more during the preceding
14 fiscal year.

15 (Source: P.A. 87-628; 88-377; 88-597, eff. 8-28-94.)

16 (30 ILCS 575/7) (from Ch. 127, par. 132.607)

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

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

19 (1) Individual contract exemptions. The Council, on its own
20 initiative or at the request of the affected agency, public
21 institution of higher education ~~university~~, or recipient of a
22 grant or loan of State funds of \$250,000 or more complying with
23 Section 45 of the State Finance Act, may permit an individual
24 contract or contract package, (related contracts being bid or
25 awarded simultaneously for the same project or improvements) be

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

12 (2) Class exemptions.

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

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

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

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

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

22 Each public notice required by law of the award of a State
23 contract shall include for each bid submitted for that contract
24 the following: (i) the bidder's name, (ii) the bid amount,
25 (iii) the bid's percentage of disadvantaged business
26 utilization plan, and (iv) the bid's percentage of business

1 enterprise program utilization plan.

2 (Source: P.A. 96-1064, eff. 7-16-10.)

3 (30 ILCS 575/8) (from Ch. 127, par. 132.608)

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

5 Sec. 8. Enforcement. The Council shall make such findings,
6 recommendations and proposals to the Governor as are necessary
7 and appropriate to enforce this Act. If, as a result of its
8 monitoring activities, the Council determines that its goals
9 and policies are not being met by any State agency or public
10 institution of higher education ~~State university~~, the Council
11 may recommend any or all of the following actions:

12 (a) Establish enforcement procedures whereby the Council
13 may recommend to the appropriate State agency, public
14 institutions of higher education ~~State university~~, or law
15 enforcement officer that legal or administrative remedies be
16 initiated for violations of contract provisions or rules issued
17 hereunder or by a contracting State agency or public
18 institutions of higher education ~~State university~~. State
19 agencies and public institutions of higher education ~~State~~
20 ~~universities~~ shall be authorized to adopt remedies for such
21 violations which shall include (1) termination of the contract
22 involved, (2) prohibition of participation of the respondents
23 in public contracts for a period not to exceed one year, (3)
24 imposition of a penalty not to exceed any profit acquired as a
25 result of violation, or (4) any combination thereof.

1 (b) If the Council concludes that a compliance plan
2 submitted under Section 6 is unlikely to produce the
3 participation goals for businesses owned by minorities,
4 females, and persons with disabilities within the then current
5 fiscal year, the Council may recommend that the State agency or
6 public institution of higher education ~~State university~~ revise
7 its plan to provide additional opportunities for participation
8 by businesses owned by minorities, females, and persons with
9 disabilities. Such recommended revisions may include, but
10 shall not be limited to, the following:

11 (i) assurances of stronger and better focused
12 solicitation efforts to obtain more businesses owned by
13 minorities, females, and persons with disabilities as
14 potential sources of supply;

15 (ii) division of job or project requirements, when
16 economically feasible, into tasks or quantities to permit
17 participation of businesses owned by minorities, females,
18 and persons with disabilities;

19 (iii) elimination of extended experience or
20 capitalization requirements, when programmatically
21 feasible, to permit participation of businesses owned by
22 minorities, females, and persons with disabilities;

23 (iv) identification of specific proposed contracts as
24 particularly attractive or appropriate for participation
25 by businesses owned by minorities, females, and persons
26 with disabilities, such identification to result from and

1 be coupled with the efforts of subparagraphs (i) through
2 (iii);

3 (v) implementation of those regulations established
4 for the use of the sheltered market process.

5 (Source: P.A. 88-377; 88-597, eff. 8-28-94.)

6 (30 ILCS 575/8f)

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

8 Sec. 8f. Annual report. The Council shall file no later
9 than March 1 of each year, an annual report that shall detail
10 the level of achievement toward the goals specified in this Act
11 over the 3 most recent fiscal years. The annual report shall
12 include, but need not be limited to the following:

13 (1) a summary detailing expenditures ~~State~~
14 ~~appropriations~~ subject to the goals, the actual goals
15 specified, and the goals attained by each State agency and
16 public institution of higher education ~~State university~~;

17 (2) a summary of the number of contracts awarded and
18 the average contract amount by each State agency and public
19 institution of higher education ~~State university~~;

20 (3) an analysis of the level of overall goal
21 achievement concerning purchases from minority businesses,
22 female-owned businesses, and businesses owned by persons
23 with disabilities;

24 (4) an analysis of the number of businesses owned by
25 minorities, females, and persons with disabilities that

1 are certified under the program as well as the number of
2 those businesses that received State procurement
3 contracts; and

4 (5) a summary of the number of contracts awarded to
5 businesses with annual gross sales of less than \$1,000,000;
6 of \$1,000,000 or more, but less than \$5,000,000; of
7 \$5,000,000 or more, but less than \$10,000,000; and of
8 \$10,000,000 or more.

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

10 Section 10. The Illinois Pension Code is amended by
11 changing Section 1-109.1 as follows:

12 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

13 Sec. 1-109.1. Allocation and delegation of fiduciary
14 duties.

15 (1) Subject to the provisions of Section 22A-113 of this
16 Code and subsections (2) and (3) of this Section, the board of
17 trustees of a retirement system or pension fund established
18 under this Code may:

19 (a) Appoint one or more investment managers as
20 fiduciaries to manage (including the power to acquire and
21 dispose of) any assets of the retirement system or pension
22 fund; and

23 (b) Allocate duties among themselves and designate
24 others as fiduciaries to carry out specific fiduciary

1 activities other than the management of the assets of the
2 retirement system or pension fund.

3 (2) The board of trustees of a pension fund established
4 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
5 transfer its investment authority, nor transfer the assets of
6 the fund to any other person or entity for the purpose of
7 consolidating or merging its assets and management with any
8 other pension fund or public investment authority, unless the
9 board resolution authorizing such transfer is submitted for
10 approval to the contributors and pensioners of the fund at
11 elections held not less than 30 days after the adoption of such
12 resolution by the board, and such resolution is approved by a
13 majority of the votes cast on the question in both the
14 contributors election and the pensioners election. The
15 election procedures and qualifications governing the election
16 of trustees shall govern the submission of resolutions for
17 approval under this paragraph, insofar as they may be made
18 applicable.

19 (3) Pursuant to subsections (h) and (i) of Section 6 of
20 Article VII of the Illinois Constitution, the investment
21 authority of boards of trustees of retirement systems and
22 pension funds established under this Code is declared to be a
23 subject of exclusive State jurisdiction, and the concurrent
24 exercise by a home rule unit of any power affecting such
25 investment authority is hereby specifically denied and
26 preempted.

1 (4) For the purposes of this Code, "emerging investment
2 manager" means a qualified investment adviser that manages an
3 investment portfolio of at least \$10,000,000 but less than
4 \$10,000,000,000 and is a "minority owned business", "female
5 owned business" or "business owned by a person with a
6 disability" as those terms are defined in the Business
7 Enterprise for Minorities, Females, and Persons with
8 Disabilities Act.

9 It is hereby declared to be the public policy of the State
10 of Illinois to encourage the trustees of public employee
11 retirement systems, pension funds, and investment boards to use
12 emerging investment managers in managing their system's
13 assets, encompassing all asset classes, and increase the
14 racial, ethnic, and gender diversity of its fiduciaries, to the
15 greatest extent feasible within the bounds of financial and
16 fiduciary prudence, and to take affirmative steps to remove any
17 barriers to the full participation in investment opportunities
18 afforded by those retirement systems, pension funds, and
19 investment boards.

20 On or before January 1, 2010, a retirement system, pension
21 fund, or investment board subject to this Code, except those
22 whose investments are restricted by Section 1-113.2 of this
23 Code, shall adopt a policy that sets forth goals for
24 utilization of emerging investment managers. This policy shall
25 include quantifiable goals for the management of assets in
26 specific asset classes by emerging investment managers. The

1 retirement system, pension fund, or investment board shall
2 establish 3 separate goals for: (i) emerging investment
3 managers that are minority owned businesses; (ii) emerging
4 investment managers that are female owned businesses; and (iii)
5 emerging investment managers that are businesses owned by a
6 person with a disability. The goals established shall be based
7 on the percentage of total dollar amount of investment service
8 contracts let to minority owned businesses, female owned
9 businesses, and businesses owned by a person with a disability,
10 as those terms are defined in the Business Enterprise for
11 Minorities, Females, and Persons with Disabilities Act. The
12 retirement system, pension fund, or investment board shall
13 annually review the goals established under this subsection.

14 If in any case an emerging investment manager meets the
15 criteria established by a board for a specific search and meets
16 the criteria established by a consultant for that search, then
17 that emerging investment manager shall receive an invitation by
18 the board of trustees, or an investment committee of the board
19 of trustees, to present his or her firm for final consideration
20 of a contract. In the case where multiple emerging investment
21 managers meet the criteria of this Section, the staff may
22 choose the most qualified firm or firms to present to the
23 board.

24 The use of an emerging investment manager does not
25 constitute a transfer of investment authority for the purposes
26 of subsection (2) of this Section.

1 (5) Each retirement system, pension fund, or investment
2 board subject to this Code, except those whose investments are
3 restricted by Section 1-113.2 of this Code, shall establish a
4 policy that sets forth goals for increasing the racial, ethnic,
5 and gender diversity of its fiduciaries, including its
6 consultants and senior staff. Each system, fund, and investment
7 board shall annually review the goals established under this
8 subsection.

9 (6) On or before January 1, 2010, a retirement system,
10 pension fund, or investment board subject to this Code, except
11 those whose investments are restricted by Section 1-113.2 of
12 this Code, shall adopt a policy that sets forth goals for
13 utilization of businesses owned by minorities, females, and
14 persons with disabilities for all contracts and services. The
15 goals established shall be based on the percentage of total
16 dollar amount of all contracts let to minority owned
17 businesses, female owned businesses, and businesses owned by a
18 person with a disability, as those terms are defined in the
19 Business Enterprise for Minorities, Females, and Persons with
20 Disabilities Act. The retirement system, pension fund, or
21 investment board shall annually review the goals established
22 under this subsection.

23 (7) On or before January 1, 2010, a retirement system,
24 pension fund, or investment board subject to this Code, except
25 those whose investments are restricted by Section 1-113.2 of
26 this Code, shall adopt a policy that sets forth goals for

1 increasing the utilization of minority broker-dealers. For the
2 purposes of this Code, "minority broker-dealer" means a
3 qualified broker-dealer who meets the definition of "minority
4 owned business", "female owned business", or "business owned by
5 a person with a disability", as those terms are defined in the
6 Business Enterprise for Minorities, Females, and Persons with
7 Disabilities Act. The retirement system, pension fund, or
8 investment board shall annually review the goals established
9 under this Section.

10 (8) Each retirement system, pension fund, and investment
11 board subject to this Code, except those whose investments are
12 restricted by Section 1-113.2 of this Code, shall submit a
13 report to the Governor and the General Assembly by January 1 of
14 each year that includes the following: (i) the policy adopted
15 under subsection (4) of this Section, including the names and
16 addresses of the emerging investment managers used, percentage
17 of the assets under the investment control of emerging
18 investment managers for the 3 separate goals, and the actions
19 it has undertaken to increase the use of emerging investment
20 managers, including encouraging other investment managers to
21 use emerging investment managers as subcontractors when the
22 opportunity arises; (ii) the policy adopted under subsection
23 (5) of this Section; (iii) the policy adopted under subsection
24 (6) of this Section; (iv) the policy adopted under subsection
25 (7) of this Section, including specific actions undertaken to
26 increase the use of minority broker-dealers; and (v) the policy

1 adopted under subsection (9) of this Section.

2 (9) On or before February 1, 2015, a retirement system,
3 pension fund, or investment board subject to this Code, except
4 those whose investments are restricted by Section 1-113.2 of
5 this Code, shall adopt a policy that sets forth goals for
6 increasing the utilization of minority investment managers.
7 For the purposes of this Code, "minority investment manager"
8 means a qualified investment manager that manages an investment
9 portfolio and meets the definition of "minority owned
10 business", "female owned business", or "business owned by a
11 person with a disability", as those terms are defined in the
12 Business Enterprise for Minorities, Females, and Persons with
13 Disabilities Act.

14 It is hereby declared to be the public policy of the State
15 of Illinois to encourage the trustees of public employee
16 retirement systems, pension funds, and investment boards to use
17 minority investment managers in managing their systems'
18 assets, encompassing all asset classes, and to increase the
19 racial, ethnic, and gender diversity of their fiduciaries, to
20 the greatest extent feasible within the bounds of financial and
21 fiduciary prudence, and to take affirmative steps to remove any
22 barriers to the full participation in investment opportunities
23 afforded by those retirement systems, pension funds, and
24 investment boards.

25 The retirement system, pension fund, or investment board
26 shall establish 3 separate goals for: (i) minority investment

1 managers that are minority owned businesses; (ii) minority
2 investment managers that are female owned businesses; and (iii)
3 minority investment managers that are businesses owned by a
4 person with a disability. The retirement system, pension fund,
5 or investment board shall annually review the goals established
6 under this Section.

7 If in any case a minority investment manager meets the
8 criteria established by a board for a specific search and meets
9 the criteria established by a consultant for that search, then
10 that minority investment manager shall receive an invitation by
11 the board of trustees, or an investment committee of the board
12 of trustees, to present his or her firm for final consideration
13 of a contract. In the case where multiple minority investment
14 managers meet the criteria of this Section, the staff may
15 choose the most qualified firm or firms to present to the
16 board.

17 The use of a minority investment manager does not
18 constitute a transfer of investment authority for the purposes
19 of subsection (2) of this Section.

20 (10) Beginning January 1, 2016, it shall be the goal for a
21 retirement system, pension fund, or investment board subject to
22 this Code to use emerging investment managers for not less than
23 20% of the total funds under management. Furthermore, it shall
24 be the goal that not less than 20% of investment advisors be
25 minorities, females, and persons with disabilities as those
26 terms are defined in the Business Enterprise for Minorities,

1 Females, and Persons with Disabilities Act. It shall be the
2 goal to utilize businesses owned by minorities, females, and
3 persons with disabilities for not less than 20% of contracts
4 awarded for "information technology services", "accounting
5 services", "insurance brokers", "architectural and engineering
6 services", and "legal services" as those terms are defined in
7 the Act.

8 (Source: P.A. 98-1022, eff. 1-1-15.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law."