



Memorandum

To: Governor Pritzker
104th General Assembly Members

From: Alexandria Wilson, Executive Director
Nina Harris, Chairperson

Date: January 30, 2026

Re: Proposed Legislative Changes to Increase Inclusion and Diversity in State Government Report

Introduction

The Commission on Equity and Inclusion's (CEI) mission is to maximize supplier diversity, equity, and inclusion by ensuring access to contracting opportunities, developing procedures and initiatives that make the procurement process inclusive, fair, and equitable, and providing support, education, and mentorship.

Each January, CEI must propose and submit legislative changes to the Governor and the General Assembly to increase inclusion and diversity in state government. This memorandum outlines CEI's legislative proposals for the fiscal year 2026 legislative session. The proposals reflect CEI's ongoing efforts to enhance and refine the State of Illinois' (State) supplier diversity landscape and support CEI's Business Enterprise Program (BEP) goals. As part of CEI's responsibility to advance diversity, equity, and inclusion (DEI) in Illinois procurement, these proposals aim to align policies and practices to better serve diverse business owners and improve Illinois' procurement system. These proposed legislative changes address loopholes that have led to inequities and nationwide trends in provocations, and are designed to codify best practices, address local and national systemic challenges, and establish new mechanisms to maximize supplier diversity in Illinois.

One of the key objectives of the proposals is to establish a legally sound, standardized process for setting contract goals for purchasing entities, ensuring consistent, measurable targets across all agencies, boards, commissions, public universities, and community colleges. Standardization is essential to creating a transparent, equitable process that holds agencies accountable and promotes inclusion aligned with the state's aspirational supplier diversity goals. In addition, CEI is advocating for updates to clarify and formalize existing practices under the BEP, addressing gaps and ambiguities that could hinder effective implementation of diversity goals. These efforts will contribute to the seamless operation of the BEP, ensuring that diverse businesses continue to have a fair opportunity to participate in State contracts. By doing so, Illinois aims to safeguard its reputation for supporting its residents and fostering an inclusive and equitable business environment.

Furthermore, the proposals seek to elevate CEI's role in overseeing and managing BEP activities. By reinforcing CEI's authority over the BEP, the legislative changes will provide CEI with the tools and resources needed to better monitor compliance, assess outcomes, and implement strategies that drive measurable improvements. As the State's lead agency on supplier diversity, CEI's leadership ensures that policies are impactful and sustainable. This proposed shift will enhance CEI's ability to advocate for equity and inclusion within procurement and contribute to the broader objectives of economic justice and opportunity for diverse suppliers.

Finally, the proposals aim to enhance the overall experience of vendors and purchasing entities within the BEP framework. This includes streamlining certification and procurement processes, eliminating unnecessary barriers to participation, and improving transparency and communication among all stakeholders. The ultimate goal is to foster a more inclusive procurement environment in Illinois, where diversity is both an aspiration and a well-supported and fully integrated part of state business operations. Through these proposals, CEI seeks to build a procurement system that reflects Illinois' commitment to diversity, equity, and inclusion, helping to ensure that the economic benefits of government contracts are equitably distributed across all communities.

Proposed Legislative Changes

The underlined text indicates that CEI recommends amending or adding language, while the stricken text indicates that CEI recommends removing language.

Proposal No. 1 – Amend Section 30 ILCS 575/4 (e), (f), and (h)

- (e) Utilization Plans. All State contract solicitations that include Business Enterprise Program participation goals shall require bidders or offerors to include utilization plans. Utilization plans are due at the time of bid or offer submission. Failure to complete and include a utilization plan, including documentation demonstrating good faith efforts when requesting a waiver, shall render the bid or offer non-responsive.
- (f) Except as permitted under this Act or as otherwise mandated by federal regulation, a ~~bidder or offeror whose bid or offer is accepted and who included in that bid a completed~~ utilization plan ~~but who fails to meet the goals set forth in the plan with a curable deficiency~~ shall be notified of the deficiency by the contracting agency or public institution of higher education and shall be given a one period of 10 ~~calendar~~ business days to cure the deficiency ~~by contracting with additional subcontractors who are certified by the Business Enterprise Program or by increasing the work to be performed by previously identified vendors certified by the Business Enterprise Program.~~
- 1) Deficiencies that may be cured include, but are not limited to: (i) ~~scrivener's failure to contract with sufficient subcontractors that are certified by the Business Enterprise Program to meet the stated contract goals;~~ (ii) failure to allocate sufficient work to be performed by previously identified subcontractors certified by the Business Enterprise Program to meet the stated contract goals; (iii) mistakes in the utilization plan, such as scrivener's errors, such as transposed numbers; (ii) ~~information submitted in an and incorrect form or format submissions;~~ and (iii) ~~mistakes resulting from failure to follow instructions or to identify, and failure to adequately document good faith efforts taken to comply with the utilization plan;~~ or (iv) a proposal to use a firm whose Business Enterprise Program certification has lapsed or is not yet recognized is pending.

- 2) Cure is not authorized if the bidder or offeror submits a blank utilization plan, a utilization plan that shows a lack of reasonable effort to complete the form on time, or a utilization plan that states the contract will be self-performed, by a non-certified vendor, without ~~showing good faith efforts or~~ a request for a waiver.
 - 3) All cure activity shall address the deficiencies identified by the purchasing agency or public institution of higher education and shall require clear documentation, ~~including that of good faith efforts, to~~ addressing those deficiencies.
 - 4) Any increase in cost to a contract for the addition of a subcontractor to cure a bid's deficiency shall not affect the bid price and shall not be used in the request for an exemption under this Act.
 - 5) The purchasing agency or public institution of higher education shall make the determination whether the cure is adequate. ~~Vendors certified with the Business Enterprise Program at the time and date submittals are due and who do not submit a utilization plan or have utilization plan deficiencies shall have 10 business days to submit a utilization plan or to correct the utilization plan deficiencies.~~
- (h) State agencies and public institutions of higher education shall notify the Commission on Equity and Inclusion of all ~~non-responsive~~ bids or proposals for State contracts deemed non-responsive due to deficient Utilization Plan submissions.

Rationale and Impact

The proposed amendments to Section 575/4(e), (f), and (h) of the BEP Act aim to improve clarity and effectiveness by restructuring the section into more organized components. The BEP Act states that purchasing entities are responsible for offering Utilization Plan (U-Plan) cures and making cure determinations. The way curable deficiencies are listed is confusing and leads purchasing entities to believe they can also make waiver determinations. The BEP Act also states that goal waiver determinations are made by the BEP Council. The BEP Council delegated that responsibility to the BEP staff in its bylaws and via formal resolution. The term "accepted" in Section 4(e) of the BEP Act is vague because it can mean "awarded" or "received."

By specifying clear, actionable guidelines for curing U-Plan deficiencies, this proposal helps ensure that all State contracts requiring BEP participation goals remain compliant while allowing adequate time to correct errors. Specifically, the change from "calendar days" to "business days" for the cure period ensures sufficient time for contractors to address deficiencies and submit corrections, aligning the cure period with typical working hours and practices in public procurement. This amendment will enhance the fairness and consistency of the process and reduce confusion.

This proposal extends the cure period and takes a more standardized approach to identifying and addressing curable deficiencies. It eliminates ambiguity by listing specific mistakes that can be corrected, such as minor errors in submitted plans. This ensures vendors understand which issues are correctable and can be resolved before being deemed non-responsive. The proposal also ensures that, when a deficiency is identified, bidders and offerors may correct it by engaging additional certified subcontractors or increasing work for existing subcontractors, thereby fostering compliance with BEP participation goals.

The changes also strengthen oversight by ensuring CEI receives notifications only for non-responsive bids related to supplier diversity issues, thereby streamlining reporting and reducing unnecessary administrative burdens. With these revisions, CEI is positioned to hold vendors accountable, increase transparency, and support vendors and purchasing entities in meeting supplier diversity goals. This enhanced oversight aligns with CEI's mission of advancing diversity and inclusion while providing contractors a fair opportunity to rectify minor submission errors. This change in law is necessary to eliminate confusion regarding goal waiver and U-Plan cure determination authority, which U-Plan deficiencies are curable, and what an accepted bid is.

Proposal No. 2 – Amend Section 30 ILCS 575/7(3)

- (3) Waivers. Where a particular contract requires a vendor to meet a goal established pursuant to this Act, the vendor shall have the right to request a waiver from such requirements ~~prior to the contract award~~ prior to bid opening or proposal due date. The vendor shall also have the right to request a waiver from such requirement after contract award if no certified vendor is available to replace a non-performing certified vendor. The Business Enterprise Program shall evaluate ~~a vendor's~~ such requests for a waiver based on the vendor's documented good faith efforts to meet the contract-specific Business Enterprise Program goal. The Council shall grant the waiver when the contractor demonstrates that there has been made a good faith effort to comply with the goals for participation by businesses owned by minorities, women, and persons with disabilities. Any such waiver shall also be transmitted in writing to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

Rationale and Impact

The purpose of this legislative proposal is also to allow prime contractors the ability to request a waiver from meeting the BEP goals if a non-performing BEP-certified vendor cannot be replaced by another qualified BEP-certified vendor after contract execution. Currently, the BEP Act does not allow prime contractors to request a waiver from meeting BEP goals when a non-performing BEP-certified vendor cannot be replaced by another qualified BEP-certified vendor after contract execution. Without this clarification, the unmodified language could be interpreted to mean that vendors may submit waiver requests at any time before the award is made. This problematic interpretation would allow for multiple submissions and prolong the review and evaluation periods.

The current “prior to contract award” language in Section 7(3) of the BEP Act creates operational delays and administrative inefficiencies for purchasing entities. Because vendors can submit multiple waiver requests up to the award date, entities often face repeated review cycles that can stall the procurement process and significantly delay contract execution. Changing the deadline to “prior to bid opening or proposal due date” will align the waiver process with the solicitation timeline, ensuring all waiver requests are reviewed once, before evaluation and the non-responsive determination, and reducing unnecessary interruptions to the award process.

By requiring waiver requests to be submitted before bid opening or the proposal due date, the proposed change will streamline procurement timelines, reduce administrative burdens, and prevent prolonged delays in contract awards. This adjustment will encourage vendors to finalize and submit their waiver requests alongside their bid and offer submissions, ensuring purchasing entities can complete evaluations without repeated interruptions. The result will be greater efficiency, faster award processing, and improved predictability in the procurement process, while maintaining fairness and

transparency for all vendors.

Another crucial benefit of this change is that it gives prime contractors the flexibility to maintain project timelines and quality while adhering to BEP goals to the best of their ability. By offering this option, the proposal strengthens the relationship between prime contractors and BEP-certified vendors by acknowledging the practical limitations of finding suitable replacements while maintaining accountability to the supplier diversity goals. The ability of prime vendors to request such a waiver ensures that contracts are not stalled or compromised by vendor performance issues. While CEI's mission is to support BEP-certified vendors, all vendors, regardless of certification, must meet contractual standards to ensure the success of the procurement process. This amendment offers a balanced solution that encourages inclusion without compromising business relationships.

Proposal No. 3 – Amend Section 30 ILCS 575/2(A)(4.5)

(4.5) “Subcontractor” means a person or entity that enters into a contractual agreement with a prime vendor to provide, on behalf of the prime vendor, goods, services, real property, or remuneration or other monetary consideration that is the subject of the primary State contract. “Subcontractor” includes a sublessee under a State contract. For purposes of meeting the established Business Enterprise Program contract goals, “subcontractor” also includes certified vendors engaged as second-tier subcontractors under a contractual agreement with a first-tier subcontractor.

Rationale and Impact

With this amendment, CEI seeks to update and strengthen the definition of subcontractor in the BEP Act to include second-tier certified subcontractors. Currently, the BEP Act excludes second-tier certified subcontractors from the definition of subcontractors. This change will create a definition for second-tier subcontractors and allow BEP-certified vendors who are performing on a contract as second-tier subcontractors (i.e., subcontractors hired by first-tier subcontractors to perform on the contract) to be counted in meeting the established BEP contract goal (if the prime vendor provides monthly documentation reporting the utilization of those vendors in the Supplier Diversity Management Portal).

This change expands contracting opportunities for BEP-certified firms. Many BEP-certified firms participate in large State contracts through second-tier roles because first-tier opportunities are often limited or highly competitive. Counting second-tier participation ensures these firms receive formal recognition for the meaningful work they are already performing. When second-tier participation counts toward BEP goals, prime vendors have an incentive to develop multi-layered subcontracting networks, engage smaller BEP firms earlier, and promote mentorship and capacity-building within their supply chains.

Proposal No. 4 – Amend Sections 30 ILCS 575/3.5(a) and (b)

- (a) The Business Enterprise Program ~~may~~ shall establish uniform standards for calculating contract specific Business Enterprise Program goals for all State contracts and State construction contracts subject to this Act.
- (b) Each State agency that is subject to this Act and each public institution of higher education that is subject to this Act ~~may~~ shall, in accordance with the provisions of this Act, set goals concerning

participation in State contracts, including State construction contracts, to which the State agency or public institution of higher education is party. Goals involving State contracts above the small purchase threshold, as defined in Section 20-20 of the Illinois Procurement Code, ~~may~~ shall be submitted to the Business Enterprise Program for approval, denial, or modification.

Rationale and Impact

The proposal to amend Sections 30 ILCS 575/3.5(a) and (b) aims to strengthen the BEP's authority by replacing the word “may” with “shall.” This change removes ambiguity and ensures that standardized contract-specific BEP goals are mandatory rather than optional. A standardized approach enhances operational efficiency across entities and promotes legal defensibility by ensuring consistent, transparent processes. This revision empowers CEI to enforce uniformity in setting and managing goals for all State contracts, including State construction contracts, ensuring consistency across the State’s procurement processes.

Proposal No. 5 – Amend Section 30 ILCS 575/7(2)(a)

(a) Creation. The Council, on its own initiative, or at the written request of the affected agency or public institution of higher education, may permit an entire class of contracts be made exempt from State contracting goals for businesses owned by minorities, women, and persons with disabilities whenever there has been a determination, reduced to writing and based on the best information available at the time of the determination, that there is an insufficient number of qualified businesses owned by minorities, women, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals within that class. Any such exemption shall be given by the Council to the Bureau on Apprenticeship Programs and Clean Energy Jobs.

Rationale and Impact

This proposal seeks to amend Section 30 ILCS 575/7(2)(a) to provide the Business Enterprise Council for Minorities, Women, and Persons with Disabilities (BEP Council) the explicit authority to independently create and maintain a list of class exemptions for state contracts. Currently, the BEP Act specifies that class exemptions may be created only upon request from purchasing entities. However, prior administrative rules issued by the Illinois Department of Central Management Services (CMS) allowed the BEP Council to independently compile a list of class exemptions, which conflicted with the statute. By addressing this conflict, this proposal will grant the BEP Council the legal authority to continue maintaining an annual class exemption list for purchasing entities to use when setting contract goals and reporting on spending with minority-owned, women-owned, and disability-owned businesses.

Proposal No. 6 – Amend Section 30 ILCS 575/2(A)(1)(d)

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

Rationale and Impact

Amending Section 2(A)(1)(d) to remove the phrase “and other Spanish culture or origin” will reinforce the integrity, clarity, and equity of the BEP Act by ensuring that eligibility aligns with the

program's foundational purpose: supporting businesses owned by individuals who have historically faced systemic discrimination in the United States. This change closes an unintended loophole that currently allows individuals of European Spanish descent who have not experienced the same patterns of race-based exclusion as Latino communities in the United States to qualify for a program designed to remedy the effects of marginalization.

By refining the definition, the State strengthens the legal defensibility of the BEP program, reduces the risk of misapplication or inconsistent certification decisions, and ensures that limited supplier diversity resources are directed toward the communities the legislature intended to uplift. The amendment also promotes greater consistency with federal and national supplier diversity standards, which distinguish between Hispanic or Latino identities and European Spanish heritage, thereby improving alignment across certification systems and reducing confusion for vendors and agencies.

Proposal No. 7 – Remove Section 30 ILCS 575/81

~~Sec. 81. Certification recognition. Notwithstanding any rule or provision of law to the contrary, the Business Enterprise Program shall recognize and accept the certifications of businesses that have been certified as minority owned businesses or women owned businesses by the City of Chicago, Cook County, or other entities approved by the Business Enterprise Council for purposes of participating in the Business Enterprise Program, provided that the City of Chicago, Cook County, or other entities approved by the Business Enterprise Council have certification requirements more restrictive than that required by the Business Enterprise Program under this Act, including, but not limited to, an income level requirement.~~

Rationale and Impact

Removing Section 81 will restore coherence and consistency to the BEP Act by ensuring that all recognition certifications are evaluated under a single, uniform standard namely, the requirement in Section 5(2)(a) that partner entities maintain certification procedures that equal or exceed BEP's own standards. The current "more restrictive" language in Section 81 creates an unnecessary and confusing secondary threshold that does not align with the BEP Act's intent. In practice, this inconsistency can lead to the acceptance of certifications that are technically more restrictive in one area but weaker or misaligned in others, resulting in uneven application of eligibility criteria across vendors. Striking Section 81 eliminates this ambiguity and strengthens CEI's ability to uphold a fair, predictable, and legally defensible certification framework.

This amendment also enhances the integrity and credibility of the BEP program by ensuring that recognition certifications are granted only when partner entities maintain comprehensive standards that truly match or exceed BEP's requirements, not simply when they impose a single restrictive element such as an income cap. The current language risks allowing entities with narrower but not necessarily stronger certification criteria to qualify for automatic recognition, which can dilute BEP and create inequities among vendors. By removing Section 81, CEI reinforces its statutory responsibility to safeguard the program from inconsistent or incomplete certification practices and ensures that all vendors, regardless of the certifying body, are held to the same rigorous and equitable standards.

Additionally, striking Section 81 will improve administrative efficiency and reduce confusion for vendors, purchasing entities, and recognition partners. The "more restrictive" clause has historically created interpretive challenges, forcing CEI to reconcile conflicting statutory directives and evaluate

recognition partners under two different standards. Eliminating this conflicting language streamlines the recognition process, clarifies expectations for partner entities, and reduces the risk of disputes or appeals stemming from inconsistent interpretations. This clarity supports stronger intergovernmental collaboration, improves vendor trust in the certification system, and ensures that BEP's recognition framework remains aligned with best practices in supplier diversity and public procurement.

Finally, this amendment positions the BEP program for long-term stability by reinforcing a single, principled standard for recognition certification. As more entities seek recognition partnerships with the State, it is essential that CEI maintain clear authority to evaluate their certification processes holistically, not merely based on whether one element is more restrictive.

Proposal No. 8 – Amend Section 30 ILCS 575/5(2)(a)

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

- (a) Devise a certification procedure to assure that businesses taking advantage of this Act are legitimately classified as businesses owned by minorities, women, or persons with disabilities and a registration procedure to recognize, ~~without additional evidence of Business Enterprise Program eligibility,~~ the certification of businesses owned by minorities, women, or persons with disabilities certified by the City of Chicago, Cook County, or other jurisdictional programs ~~with requirements and procedures equaling or exceeding those in this Act.~~

Rationale and Impact

This proposal seeks to amend Section 5(2)(a) of the BEP Act in an effort to significantly strengthen the integrity and reliability of the BEP certification process by allowing CEI to request supplemental documentation when necessary to verify eligibility. The current requirement to accept recognition certifications "without additional evidence of BEP eligibility" limits CEI's ability to confirm key criteria such as ownership, control, personal net worth, or operational independence, when partner entities use different standards or documentation practices. Removing this restriction ensures CEI can conduct appropriate due diligence, prevent misclassification, and safeguard the program from fraud, abuse, or inadvertent errors.

Updating this section also modernizes the statute to reflect the evolving landscape of supplier diversity certification. The "equaling or exceeding" requirement has become increasingly impractical as recognition partners, such as the City of Chicago and Cook County, have updated their certification processes in ways that differ from BEP's criteria. Strict adherence to the current statutory language risks severing long standing recognition relationships with these partners, which would create unnecessary administrative burdens for vendors and reduce the efficiency of the certification ecosystem. By removing the rigid "equaling or exceeding" clause, CEI can maintain recognition agreements with trusted partners while still ensuring that all certifications meet the core intent and protections of the BEP Act.

This amendment will also improve consistency, clarity, and fairness across the certification process. Under the current language, CEI must navigate conflicting statutory directives, while balancing the requirement to accept certain certifications automatically with the responsibility to ensure that all certified vendors meet BEP's eligibility standards. This tension can lead to inconsistent outcomes, confusion among vendors, and challenges during appeals or audits. Removing the restrictive clauses

allows CEI to apply a single, coherent standard to all recognition certifications, ensuring that every vendor regardless of certifying entity is evaluated with the same level of scrutiny and fairness. This strengthens the program's legal defensibility and reduces the risk of disputes stemming from inconsistent interpretations.

Proposal No. 9 – Amend Section 30 ILCS 575/2(A)(1)

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

- (3) "Minority person" shall mean a person who is a citizen or lawful permanent resident of the United States and who is any of the following:
 - (a) American Indian or Alaska Native (a person having origins in any of the original peoples of North and South America, including Central America, and who maintains tribal affiliation or community attachment).
 - (b) Asian (a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, but not limited to, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam).
 - (c) Black or African American (a person having origins in any of the black racial groups of Africa).
 - (d) Hispanic or Latino (a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race).
 - (e) Native Hawaiian or Other Pacific Islander (a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands).
 - (f) Any individual found by the Council to have sustained actual racial or ethnic discrimination and decreased opportunities to compete in Illinois markets or to do business with the State of Illinois on account of such discrimination.

Rationale and Impact

Expanding the definition of "minority person" in Section 2(A)(1) strengthens the BEP Act by giving CEI and the BEP Council the authority to recognize additional socially and economically disadvantaged groups whose experiences of discrimination are not currently reflected in statute. Illinois' demographic landscape and market conditions have evolved significantly since the BEP Act was first enacted, and the rigid, enumerated list of groups in current law does not account for communities that have faced persistent exclusion but lack a statutory pathway to recognition.

This amendment also enhances the legal defensibility of the BEP program. Courts have increasingly scrutinized race and gender-based classifications, requiring governments to demonstrate that such programs are narrowly tailored, evidence-based, and grounded in current market conditions. Allowing CEI to recognize additional disadvantaged groups through a criteria-based process rather than relying solely on a fixed statutory list brings the BEP Act into closer alignment with federal disadvantaged business programs, which use similar flexible frameworks. This alignment reduces the risk of constitutional challenges by ensuring that BEP eligibility is tied to demonstrable disadvantage rather than static racial categories, and it strengthens the State's ability to defend the program as a necessary tool to remedy documented inequities in State contracting.

In addition, the amendment promotes greater fairness and consistency across Illinois' supplier diversity ecosystem. Under the current statute, some communities that face measurable discrimination

in Illinois markets, such as certain Middle Eastern, North African, or Afro-Latino groups, lack a clear path to recognition, even when data shows they experience barriers comparable to those of groups already listed in the Act. Providing CEI with the authority to evaluate and recognize additional groups ensures that BEP can address inequities wherever they occur, rather than being constrained by outdated statutory language. This strengthens the program's ability to fulfill its core mission.

Proposal No. 10 – Add Section 30 ILCS 575/2(A)(15) and Amend Section 30 ILCS 575/4(a)

Section 2(A)

- (15) "Economically disadvantaged" means an individual whose personal net worth is less than \$2,000,000.00, adjusted annually for inflation, such annual adjustment to begin January 1, 2026, based on the Consumer Price Index published by the United States Bureau of Labor Statistics.

Section 4

- (a) Except as provided in subsection (b), not less than 30% of the total dollar amount of State contracts, as defined by the Secretary of the Council and approved by the Council, shall be established as an aspirational goal to be awarded to businesses owned by economically disadvantaged minorities, women, and persons with disabilities; provided, however, that of the total amount of all State contracts awarded to businesses owned by minorities, women, and persons with disabilities pursuant to this Section, contracts representing at least 16% shall be awarded to businesses owned by minorities, contracts representing at least 10% shall be awarded to women-owned businesses, and contracts representing at least 4% shall be awarded to businesses owned by persons with disabilities.

Rationale and Impact

Amending Sections 2(A)(15) and 4(a) of the BEP Act to define and include economically disadvantaged minorities, women, and persons with disabilities strengthens the program's legal foundation and ensures that BEP goals are more precisely targeted to the individuals the program is intended to support. By explicitly acknowledging economic disadvantage within these groups, the BEP Act becomes more narrowly tailored, an essential requirement for the long-term constitutional defensibility of any program that incorporates race- or gender-conscious elements.

This change enhances the program's fairness and credibility by ensuring that BEP participation reflects genuine need and aligns with the State's equity mission. Without a statutory definition of economic disadvantage, the current framework risks providing contracting advantages to individuals who are not meaningfully limited by systemic barriers, which can undermine public confidence and dilute the program's impact. By incorporating economic disadvantage into the aspirational goal mandate, CEI can more effectively identify and support businesses that face the greatest obstacles to competing in Illinois markets. This creates a more equitable distribution of opportunities and strengthens the program's ability to address disparities in business ownership, revenue, and access to capital.

This legislative change positions BEP to adapt to evolving legal, demographic. As courts continue to scrutinize race and gender-based programs, states must demonstrate that their initiatives are both evidence-based and narrowly tailored to address documented inequities.

Proposal No. 11 – Add Section 30 ILCS 575/4(c) and Amend Section 30 ILCS 575/8(3)

Section 4(c)

(c) Penalty. A prime vendor that has not met the goals described in subsections (a) and (b) of this Section for a particular contract, as otherwise modified in this Act, shall be fined not less than the shortfall in the stated goal.

- (1) Failure of a prime vendor to pay the fine shall result in disqualification from further state contracts.
- (2) The Commission shall establish rules and procedures for imposing and collecting the fine.

Section 8(3)

- (3) Prior to the expiration or termination of a contract, State agencies and public institutions of higher education shall evaluate the contractor's fulfillment of the contract goals for participation by certified businesses owned by minorities, women, and persons with disabilities. The agency or public institution of higher education shall prepare a report of the vendor's compliance with the contract goals and file it with the Secretary. If the Secretary determines that the vendor did not fulfill the contract goals, the vendor shall be in breach of the contract and may be subject to remedies or sanctions, unless the vendor can show that it made good faith efforts to meet the contract goals. ~~Such remedies or sanctions for failing to make good faith efforts may include (i) disqualification of the contractor from doing business with the State for a period of no more than one year or (ii) cancellation, without any penalty to the State, of any contract entered into by the vendor.~~

Rationale and Impact

Currently, the BEP Council has no legal authority to perform formal investigations or resolve private contract breach claims. This proposal grants the BEP Council enforcement power to conduct formal investigations concerning prime and subcontractor conflict resolution and insufficient BEP participation. It also authorizes the BEP Council to make a formal punitive determination based on the investigation.

The addition of Section 4(c) provides the BEP Council with a clear mechanism to hold prime vendors accountable when they fail to meet BEP participation goals. A fine tied directly to the shortfall creates a transparent, measurable consequence that is proportionate to the level of noncompliance. This approach is far more effective than the current all or nothing remedies, which are rarely used because they jeopardize essential State services and expose CEI to liability. The new penalty structure also incentivizes prime vendors to engage meaningfully with BEP-certified subcontractors throughout the life of the contract, rather than treating BEP goals as optional. It reinforces the seriousness of BEP commitments and strengthens the program's credibility with vendors, purchasing entities, and the public.

The current requirement permits CEI (in rule) or the BEP Council Secretary (in the BEP Act) to conduct investigations, without a formal investigatory authority, into alleged contract breaches. If breaches are found, CEI can cancel the contract and/or suspend the vendor for up to a year. First,

neither CEI nor the BEP Council Secretary has investigative powers to determine whether a breach has occurred. Moreover, neither the CEI nor the BEP Council Secretary has the expertise to delve into another purchasing entity's contracts to make such a determination. Even if CEI had such powers, cancelling a contract that is essential to State operations is not a good enforcement tool and subjects CEI to civil liability. Suspending a vendor is equally problematic.

Amending Section 8(3) to remove outdated enforcement language also clarifies CEI's role and eliminates statutory contradictions that currently undermine the program. The revised framework grants the BEP Council explicit authority to conduct formal investigations related to insufficient BEP participation and subcontractor conflicts, authority that is essential for fair and consistent enforcement. By empowering the Council to make formal determinations and impose penalties, the amendment ensures that enforcement decisions are grounded in documented findings rather than discretionary or ad hoc interpretations. This improves transparency, reduces disputes, and aligns the BEP Act with best practices in supplier diversity oversight.

Proposal No. 12 – Add Section 30 ILCS 575/2(16) and Amend Section 30 ILCS 575/8i

Section 2

- (16) “Renewal” means an agreement between the parties to a State contract, except for real property and capital improvement leases, to authorize an additional contract period under the terms and conditions of the renewal provision in the original contract.

Section 8i.

~~State agencies and public institutions of higher education shall:~~

- ~~(a) review all existing contracts prior to the time of renewal to determine if the contract goal is being met by the prime vendor;~~
- ~~(b) review all existing contracts prior to the time of renewal to determine if the contract goal should be increased based upon market conditions and availability of firms certified pursuant to this Act;~~
- ~~(c) review existing contracts with no contract goal to determine if a goal can be established; if it is determined that a contract goal can be established, the State agency or public institution of higher education shall encourage the prime vendor to amend the contract to include the contract goal; a prime contractor shall be required to complete a utilization plan to demonstrate how it intends to meet the contract goal; and~~
- ~~(d) review renewals at least 6 months prior to renewal to allow adequate time to rebid if it is determined that the prime contractor has not demonstrated good faith efforts towards meeting the contract goal.~~

~~All renewals shall be subject to any amendments made to this Act, or amendments made to any administrative rules adopted under this Act, that become effective prior to the date of renewal.~~

~~The requirements of this Section shall not apply to construction and construction related services procurements.~~

- (A) State agencies and public institutions of higher education shall notify the Commission of its intent to exercise a renewal provision on its contracts at least 60 days prior to the exercise of

such provision.

(B) For State contracts for which State agencies and public institutions of higher education provided the notification indicated in in subparagraph (A), the Commission shall:

(1) determine if the prime vendor is meeting the contract goal; and

(2) determine if the contract goal can be increased or decreased pursuant to the uniform standards for calculating contract-specific Business Enterprise Program goals for all State contract subject to this Act.

(a) If, upon such review, the Commission determines that the goal can be modified, the contract goal shall be modified accordingly.

(b) If, upon such review, the Commission determines that a goal can be established on a State contract that had no goal, the prime contractor shall complete a utilization plan to demonstrate how it intends to meet the contract goal.

(C) Renewals shall be subject to any amendments made to this Act, or amendments made to any administrative rules adopted under this Act, that become effective prior to the date of renewal.

(D) The requirements of this Section shall not apply to construction and construction-related services procurements.

Rationale and Impact

Adding a clear renewal definition brings the statute into alignment with the Chief Procurement Officers' administrative rules and eliminates longstanding ambiguity for purchasing entities, vendors, and procurement professionals. Without a statutory definition, stakeholders often interpret renewal inconsistently, leading to confusion about when BEP goals apply, when U-Plans must be updated, and how contract renewals should be evaluated for compliance. Adding this definition creates uniformity, ensuring that all parties operate under the same expectations, and reduces the risk of disputes or the inconsistent application of BEP requirements.

By clarifying what constitutes a renewal, CEI can more accurately track vendor participation, enforce BEP goals, and ensure that certified firms have equitable access to opportunities throughout the full lifecycle of a contract. It also helps purchasing entities plan procurement timelines more effectively and provides vendors with a clearer understanding of when they may need to reengage with primes or update their participation commitments.

Proposal No. 13 – Amend Section 30 ILCS 575/5(1)

(1) To help implement, monitor, and enforce the goals of this Act, there is created the Business Enterprise Council for Minorities, Women, and Persons with Disabilities, hereinafter referred to as the Council, composed of the Chairperson of the Commission on Equity and Inclusion and their community college representative selection, the Comptroller, or his or her designee, the Secretary Secretaries of Human Services and the Department of Innovation and Technology, and the Directors of the Department of Human Rights, the Department of Commerce and Economic

Opportunity, the Department of Central Management Services, ~~the Department of Transportation~~ and the Capital Development Board, or their duly appointed representatives, ~~with the Comptroller, or his or her designee, serving as a an advisory member of the Council.~~ Ten individuals representing businesses that are minority-owned, women-owned, or owned by persons with disabilities, 2 individuals representing the business community, and a representative of public institutions of higher education shall be appointed by the Governor. These members shall serve 2-year terms and shall be eligible for reappointment. Any vacancy occurring on the Council shall also be filled by the Governor. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Members of the Council shall serve without compensation but shall be reimbursed for any ordinary and necessary expenses incurred in the performance of their duties.

Rationale and Impact

Through this change, CEI seeks to strengthen the structure, functionality, and representativeness of the BEP Council by ensuring that its membership reflects the full range of agencies and institutions engaged in state procurement and supplier diversity. The current statutory composition, particularly the inclusion of IDOT, whose procurement is largely governed by federal Disadvantaged Business Enterprise rules rather than the BEP Act, creates misalignment between BEP Council membership and the program's operational needs at this time. Presently, the absence of a community college representative leaves a significant portion of the higher education procurement landscape without a voice, despite the substantial contracting activity and supplier diversity opportunities within the community college system. Adding a dedicated community college seat ensures more equitable representation, strengthens coordination across higher education, and brings valuable on-the-ground insights into the BEP Council's policy and goal-setting work.

Updating the Comptroller's role from advisory to full voting membership also has important operational benefits. The current structure makes it difficult for the BEP Council to consistently achieve quorum, delaying decision-making, slowing policy development, and undermining the BEP Council's ability to fulfill its statutory responsibilities. Allowing the Comptroller's designee to count toward quorum and vote as a full member increases stability, improves meeting efficiency, and helps ensure the BEP Council can act promptly on matters affecting BEP certification and compliance.

Proposal No. 14 – Amend Section 30 ILCS 575/8g(a)

- (a) The Commission on Equity and Inclusion shall provide a report to the Council identifying all State agency non-construction solicitations that exceed \$20,000,000 and that have less than a 230% established goal prior to publication.

Rationale and Impact

This proposal amends Section 30 ILCS 575/8g(a) to require CEI to provide the BEP Council with a report identifying all State agency non-construction solicitations exceeding \$20,000,000 that have an established BEP goal of less than 30% prior to publication. The current statute still references the former 20% aspirational goal, which no longer reflects CEI's updated policy direction. Aligning the reporting requirement with the new 30% aspirational goal ensures that the BEP Council receives accurate, relevant information and can effectively monitor whether agencies are setting goals that meaningfully advance supplier diversity.

Proposal No. 15 – Amend Section 30 ILCS 575/4(a)

- (a) Except as provided in subsection (b), not less than 30% of the total dollar amount of State contracts, ~~as defined by the Secretary of the Council and approved by the Council~~, shall be established as an aspirational goal to be awarded to businesses owned by minorities, women, and persons with disabilities[.]”

Rationale and Impact

CEI proposes this change to amend Section 30 ILCS 575/4(a) to eliminate redundancy and clarify the language regarding the aspirational goal for supplier diversity in State contracts. The terms “not less than 30% of the total dollar amount” and “State contracts” are already defined elsewhere within the BEP Act and administrative rules. The proposal simplifies the language by removing the reference to the BEP Council Secretary’s authority for these definitions. It ensures that the definitions outlined in the BEP Act are not unnecessarily conflicted elsewhere or confusing.

Conclusion

CEI will continue its proactive collaboration with key legislators, offering our subject-matter expertise to support and shape legislation that advances supplier diversity in Illinois. CEI’s work will continue to focus on additional legislative efforts that expand economic opportunities for businesses owned by minorities, women, persons with disabilities, and veterans. By lending our expertise to diversity and inclusion initiatives, CEI will help ensure that Illinois continues to foster a diverse and competitive supplier base that reflects the State's full range of talent and innovation. This ongoing collaboration will be essential for keeping supplier diversity at the forefront of legislative agendas and creating meaningful policy changes that benefit diverse businesses.

CEI is committed to acting swiftly to ensure that legislative changes translate into tangible benefits for diverse businesses in Illinois. The goal is to enable CEI to hit the ground running when new laws are enacted and deliver measurable results that support Illinois' supplier diversity objectives. Through these efforts, CEI will continue to be a leader in advancing economic opportunities for all Illinois residents, regardless of background or status.