

SENATE BILL 541

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2000 Regular Session
0lr1960
CF 0lr1858

By: **Senator McCabe**
Introduced and read first time: February 4, 2000
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 17, 2000

CHAPTER _____

1 AN ACT concerning

2 **State Government - Procurement - Conflict of Interests**

3 FOR the purpose of providing that an individual who assists in a selection or award
4 made in response to a solicitation for bids or a request for ~~proposal~~ proposals in
5 a State procurement, or the employer of that individual, may not submit a bid or
6 proposal or assist another person who submits a bid or proposal; ~~extending this~~
7 ~~prohibition and existing prohibitions relating to conflict of interests in State~~
8 ~~procurement to an individual who employs the individual who assists in the~~
9 ~~procurement process; requiring an individual under contract with an executive~~
10 ~~unit of State government, who assists in, influences, or otherwise affects the~~
11 ~~formation, award, or execution of a State procurement to file a disclosure~~
12 ~~statement containing information relating to the individual's consultants,~~
13 ~~employer, employer's corporate structure, and employer's subsidiaries; requiring~~
14 ~~disclosure of the clients of the individual, the individual's employer, and any~~
15 ~~subsidiaries of the individual's employer, and the general nature of the work~~
16 ~~performed for each client~~ requiring that an invitation for bids or request for
17 proposals for the selection of a consultant who will assist in specified State
18 contracting activities require the submission of an affidavit addressing conflicts
19 of interest; requiring the Board of Public Works to adopt certain regulations;
20 and generally relating to prohibitions against and disclosures relating to
21 conflicts of interest in the State procurement process.

22 BY repealing and reenacting, with amendments,
23 Article - State Government
24 Section 15-508
25 Annotated Code of Maryland
26 (1999 Replacement Volume)

1 BY adding to
2 Article - ~~State Government~~ State Finance and Procurement
3 Section ~~15-509~~ 13-212
4 Annotated Code of Maryland
5 (~~1999~~ 1995 Replacement Volume and 1999 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - State Government**

9 15-508.

10 (a) An individual OR A PERSON THAT EMPLOYS AN INDIVIDUAL who assists
11 an executive unit in the drafting of specifications, an invitation for bids, [or] a
12 request for proposals for a procurement, or THE SELECTION OR AWARD MADE IN
13 RESPONSE TO AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS [a person that
14 employs the individual,] may not:

15 (1) submit a bid or proposal for that procurement; or

16 (2) assist or represent another person, directly or indirectly, who is
17 submitting a bid or proposal for that procurement.

18 (b) For purposes of subsection (a) of this section, assisting in the drafting of
19 specifications, an invitation for bids, or a request for proposals for a procurement does
20 not include:

21 (1) providing descriptive literature such as catalogue sheets, brochures,
22 technical data sheets, or standard specification "samples", whether requested by an
23 executive agency or provided on an unsolicited basis;

24 (2) submitting written comments on a specification prepared by an
25 agency or on a solicitation for a bid or proposal when comments are solicited from two
26 or more persons as part of a request for information or a prebid or preproposal
27 process;

28 (3) providing specifications for a sole source procurement made in
29 accordance with § 13-107 of the State Finance and Procurement Article; or

30 (4) providing architectural and engineering services for programming,
31 master planning, or other project planning services.

32 ~~15-509.~~

33 ~~(A) AN INDIVIDUAL UNDER CONTRACT WITH AN EXECUTIVE UNIT OF THE~~
34 ~~STATE WHO ASSISTS IN, INFLUENCES, OR OTHERWISE AFFECTS THE FORMATION,~~
35 ~~AWARD, OR EXECUTION OF ANY STATE CONTRACT, PURCHASE, OR SALE SHALL FILE~~

~~1 A STATEMENT WITH THE ETHICS COMMISSION THAT CONTAINS THE SCHEDULES
2 DISCLOSING THE INFORMATION AND INTERESTS SPECIFIED IN THIS SECTION.~~

~~3 (B) THE STATEMENT SHALL INCLUDE A SCHEDULE LISTING:~~

~~4 (1) ALL CURRENT PRIVATE OR PUBLIC SECTOR CLIENTS FROM WHOM
5 THE CONSULTANT HAS RECEIVED A FEE FOR SERVICES IN CONNECTION WITH
6 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT;~~

~~7 (2) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH OF
8 THE CLIENTS LISTED; AND~~

~~9 (3) ANY SUBCONSULTANT WHO ASSISTED IN THE PERFORMING OF THE
10 SERVICES, ACCOMPANIED BY A SEPARATE SCHEDULE MEETING THE REQUIREMENTS
11 OF ITEMS (1) AND (2) OF THIS SUBSECTION WITH RESPECT TO THAT
12 SUBCONSULTANT.~~

~~13 (C) IF THE INDIVIDUAL IS EMPLOYED BY A CORPORATION OR IF A CLIENT
14 LISTED IN SUBSECTION (B)(1) OF THIS SECTION IS A CORPORATION, THE STATEMENT
15 REQUIRED UNDER THIS SECTION SHALL INCLUDE, FOR EACH CORPORATION:~~

~~16 (1) A SCHEDULE OF THE OFFICERS, DIRECTORS, AND EACH DIRECT OR
17 INDIRECT OWNER OF ANY EQUITY SECURITY OR OTHER OWNERSHIP INTEREST IN
18 THE CORPORATION;~~

~~19 (2) A SCHEDULE OF ANY APPLICABLE PARENT CORPORATION OF THE
20 CORPORATION AND ALL SUBSIDIARY CORPORATIONS OF THAT PARENT
21 CORPORATION;~~

~~22 (3) A SCHEDULE OF ANY SUBSIDIARY CORPORATIONS OF THE
23 CORPORATION; AND~~

~~24 (4) A SCHEDULE LISTING:~~

~~25 (1) ANY CLIENTS OF THE APPLICABLE PARENT OR SUBSIDIARY
26 CORPORATIONS THAT HAVE RECEIVED A FEE FOR SERVICES IN CONNECTION WITH
27 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT; AND~~

~~28 (II) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH
29 OF THE CLIENTS LISTED.~~

~~30 (D) IF THE CORPORATION IS A PUBLICLY TRADED CORPORATION, THE
31 DISCLOSURE UNDER SUBSECTION (C)(1) OF THIS SECTION NEED ONLY CONTAIN THE
32 NAMES AND ADDRESSES OF THOSE KNOWN TO THE CORPORATION TO BENEFICIALLY
33 OWN 5% OR MORE OF THE PUBLICLY HELD SECURITIES OF THE CORPORATION.~~

1 Article - State Finance and Procurement2 13-212.

3 (A) EACH INVITATION FOR BIDS OR REQUEST FOR PROPOSALS FOR A
4 CONTRACT THAT WILL INVOLVE THE SELECTION OF A CONSULTANT WHO IS TO
5 ASSIST THE UNIT IN THE FORMATION, AWARD, OR EXECUTION OF ANY STATE
6 CONTRACT SHALL REQUIRE THAT A BIDDER OR OFFEROR PROVIDE TO THE UNIT AN
7 AFFIDAVIT THAT DISCLOSES ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST OF
8 WHICH THE BIDDER OR OFFEROR KNOWS, OR CAN REASONABLY BE EXPECTED TO
9 KNOW, IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SECTION.

10 (B) THE BOARD SHALL ADOPT REGULATIONS CONCERNING THE DISCLOSURE
11 AND EVALUATION OF CONFLICT OF INTERESTS UNDER THIS SECTION.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2000.