

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 520

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Train”; strike beginning with “– Disclosure” in line 2 down through “Deportations” in line 3; strike beginning with “requiring” in line 4 down through “service.” in line 14, and substitute “prohibiting certain entities from being considered a responsible bidder or offeror for certain contracts to provide Maryland Area Commuter Rail (MARC) service unless the entities comply with certain requirements; requiring that, in conjunction with the submission of certain bids or offers, certain entities provide certain units with a certain statement and estimated date for completing a certain process of assembling records; requiring certain entities to notify certain units of changes to a certain estimated date; requiring certain entities to comply with certain requirements for a certain process of assembling records; requiring certain entities to contract with certain archivists and historians to conduct a certain initial analysis and ensure that a certain process of assembling records is conducted in a certain manner; establishing requirements for a certain initial analysis; requiring certain entities to submit certain information to the State Archivist after a certain process of assembling records is completed; requiring the State Archivist to approve certain archivists, historians, and initial reports; requiring the State Archivist to provide certain guidance and oversight; requiring the State Archivist to make certain determinations and provide certain written notice of the determination to certain units; authorizing the State Archivist to use a designee to carry out certain provisions; requiring certain units to provide notice of intent to award certain contracts within a certain period of time; prohibiting certain units from awarding certain contracts to certain entities that do not comply with certain provisions; authorizing certain units to award certain entities after receiving certain notice; providing that certain prohibitions do not apply if a contract is awarded to certain bidders or offerors; authorizing certain entities to award certain contracts to certain entities after receiving certain notice; providing that, notwithstanding certain requirements, certain units may award certain contracts to certain bidders or offerors;

(Over)

prohibiting certain entities, bidders, or offerors from submitting certain protests; requiring that certain entities that submit certain bids or proposals to the Maryland Transit Administration comply with certain requirements; providing for the application of this Act; defining certain terms; and generally relating to procurement for MARC service and requirements for assembling records and disclosing information related to the deportation of victims."; and in line 17, strike "12-504" and substitute "12-511".

AMENDMENT NO. 2

On page 2, strike in their entirety lines 9 and 10, inclusive; in lines 11 and 16, strike "(C)" and "(D)", respectively, and substitute "(B)" and "(C)", respectively; in lines 11, 20, and 22, in each instance, after "INVOLVEMENT" insert "IN THE DEPORTATION OF VICTIMS"; in line 12, strike "DEPORTED" and substitute "TRANSPORTED"; in line 15, strike "JANUARY 1, 1942" and substitute "SEPTEMBER 1, 1939"; in the same line, strike "DECEMBER 31, 1944" and substitute "SEPTEMBER 2, 1945"; in line 18, after "ORGANIZATION" insert "OR A SUCCESSOR IN INTEREST OF THE CORPORATION, AFFILIATE, OR SIMILAR ORGANIZATION"; in lines 19 and 22, in each instance, strike "HAS" and substitute "HAD"; after line 22, insert:

"(D) "MARC" MEANS THE MARYLAND AREA RAIL COMMUTER.";

and strike beginning with "OF" in line 24 down through "1944" in line 27.

On page 3, after line 3, insert:

"(F) "PROCESS OF ASSEMBLING THE RECORDS" MEANS TO:

(1) ORGANIZE, DIGITIZE, AND MAKE RECORDS AVAILABLE TO THE PUBLIC IN AN INTERNET ACCESSIBLE, ELECTRONIC FORMAT THAT IS SEARCHABLE AND ANALYZABLE; AND

(2) PREPARE TO SUBMIT THE INFORMATION DESCRIBED IN § 12-507 OF THIS SUBTITLE TO THE STATE ARCHIVIST.”;

in line 4, strike “(F)” and substitute:

“(G) (1) “RECORDS” MEANS MATERIAL RELATING TO THE DEPORTATION OF VICTIMS.

(2)”;

in lines 5, 6, 7, 8, 9, 10, 11, and 12, strike “(1)”, “(2)”, “(3)”, “(4)”, “(5)”, “(6)”, “(7)”, and “(8)”, respectively, and substitute “(I)”, “(II)”, “(III)”, “(IV)”, “(V)”, “(VI)”, “(VII)”, and “(VIII)”, respectively;

and after line 13, insert:

“(H) “VICTIM” MEANS AN INDIVIDUAL WHO WAS ON AN ENTITY’S TRAIN FOR THE PURPOSE OF BEING TRANSPORTED TO AN EXTERMINATION CAMP, DEATH CAMP, OR A FACILITY USED TO TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS DURING THE PERIOD BEGINNING ON SEPTEMBER 1, 1939 AND ENDING ON SEPTEMBER 2, 1945.”.

AMENDMENT NO. 3

On page 4, in lines 3 and 13, in each instance, strike “HAS” and substitute “HAD”; in lines 3 and 13, in each instance, after “INVOLVEMENT” insert “IN THE DEPORTATION OF VICTIMS”; in line 4, after “BID” insert “OR OFFER TO A UNIT OF STATE OR LOCAL GOVERNMENT”; strike beginning with “WITH” in line 4 down through “GOVERNMENT” in line 6; in lines 6 and 11, in each instance, strike “TRAIN”; after line 7, insert:

(Over)

“12-504.

AN ENTITY MAY NOT BE CONSIDERED A RESPONSIBLE BIDDER OR OFFEROR FOR A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE UNLESS THE ENTITY COMPLIES WITH THE REQUIREMENTS OF §§ 12-505 THROUGH 12-507 OF THIS SUBTITLE.”;

in line 8, strike “12-504.” and substitute “12-505.”; in line 9, strike “BEFORE SUBMITTING” and substitute “IN CONJUNCTION WITH THE SUBMISSION OF”; in the same line, strike “FORMAL”; in the same line, after “BID” insert “OR OFFER”; in line 10, strike “THE DEPARTMENT OR OTHER UNIT OF THE” and substitute “A UNIT OF”; in line 11, after “SHALL” insert “SUBMIT TO THE UNIT”; in line 12, strike “CERTIFY TO THE DEPARTMENT OR UNIT WHETHER” and substitute “A STATEMENT THAT”; strike beginning with “DISCLOSE” in line 14 down through “SECTION” in line 15 and substitute “AN ESTIMATED DATE FOR COMPLETING THE PROCESS OF ASSEMBLING THE RECORDS AND PROVIDING INFORMATION TO THE STATE ARCHIVIST IN ACCORDANCE WITH §§ 12-506 AND 12-507 OF THIS SUBTITLE”; after line 15, insert:

“(B) THE ENTITY SHALL NOTIFY THE UNIT OF ANY CHANGE IN THE ESTIMATED DATE THAT WAS SUBMITTED TO THE UNIT IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

12-506.

(A) BEFORE A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN ENTITY SUBJECT TO THIS SUBTITLE, THE ENTITY SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION FOR THE PROCESS OF ASSEMBLING THE RECORDS RELATED TO THE DEPORTATION OF VICTIMS.

(B) (1) AN ENTITY SHALL CONTRACT WITH AN ARCHIVIST AND A HISTORIAN TO CONDUCT AN INITIAL ANALYSIS OF THE RECORDS.

(2) THE ARCHIVIST AND HISTORIAN THAT CONDUCT THE INITIAL ANALYSIS SHALL:

(I) BE APPROVED BY THE STATE ARCHIVIST;

(II) BE INDEPENDENT OF THE ENTITY; AND

(III) CONDUCT THE ANALYSIS IN ACCORDANCE WITH THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS.

(3) THE INITIAL ANALYSIS SHALL INCLUDE:

(I) AN INSPECTION OF EACH LOCATION IN WHICH THE ENTITY MAINTAINS RECORDS THAT MAY BE RELATED TO THE DEPORTATION OF VICTIMS; AND

(II) A REPORT SUBMITTED TO THE STATE ARCHIVIST.

(4) THE INITIAL REPORT SUBMITTED TO THE STATE ARCHIVIST SHALL INCLUDE:

(I) A LIST OF EACH LOCATION INSPECTED AND AN ASSESSMENT OF WHETHER THE LOCATION MAINTAINS ANY RECORDS;

(Over)

(II) AN OUTLINE AND ASSESSMENT OF THE QUALITY OF THE RECORDS;

(III) A TIMELINE FOR THE PROCESS TO ASSEMBLE THE RECORDS; AND

(IV) AN ESTIMATED COST TO ASSEMBLE THE RECORDS.

(C) (1) AFTER THE INITIAL ANALYSIS IS CONCLUDED AND THE STATE ARCHIVIST HAS APPROVED THE INITIAL REPORT IN ACCORDANCE WITH § 12-508(A)(2)(I) OF THIS SUBTITLE, THE ENTITY SHALL CONTRACT WITH AN ARCHIVIST AND A HISTORIAN TO ENSURE THAT THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETED IN A MANNER CONSISTENT WITH:

(I) THE INITIAL REPORT; AND

(II) THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS.

(2) THE ARCHIVIST AND HISTORIAN CONTRACTED WITH TO CARRY OUT PARAGRAPH (1) OF THIS SUBSECTION:

(I) SHALL BE APPROVED BY THE STATE ARCHIVIST; AND

(II) MAY BE THE ARCHIVIST AND HISTORIAN THAT CONDUCTED THE INITIAL ANALYSIS OR ANOTHER ARCHIVIST AND HISTORIAN APPROVED BY THE STATE ARCHIVIST.

(D) AFTER THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETE, THE ENTITY SHALL PROVIDE THE INFORMATION REQUIRED UNDER § 12-507 OF THIS SUBTITLE TO THE STATE ARCHIVIST.”;

in line 16, strike “(B) AN” and substitute:

“12-507.

BEFORE A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN”;

in the same line, after “SUBTITLE” insert “, THE ENTITY”; strike beginning with “STATE” in line 16 down through “1944” in line 20 and substitute “PROVIDE THE STATE ARCHIVIST WITH THE FOLLOWING INFORMATION AS IT RELATES TO THE DEPORTATION OF VICTIMS”; in line 21, after “(1)” insert “A WRITTEN STATEMENT PROVIDING:”; in the same line, strike “HAS ANY” and substitute “POSSESSES, HAS CUSTODY OF, OR CONTROLS”; in line 22, strike “DEPORTATIONS IN ITS POSSESSION, CUSTODY, OR CONTROL” and substitute “THE DEPORTATION OF VICTIMS”; in line 23, strike “THE” and substitute “EACH”; and in line 25, strike “ANY” and substitute “EACH”.

AMENDMENT NO. 4

On page 5, in line 2, strike “IN CONNECTION WITH THE DEPORTATIONS” and substitute “FROM EACH VICTIM”; in lines 4 and 5, strike “IN CONNECTION WITH THE DEPORTATIONS” and substitute “FROM EACH VICTIM, A WRITTEN DESCRIPTION OF”; in line 15, after “ACTIVITY;” insert “AND”; strike beginning with “IF” in line 16 down through “(5)” in line 20 and substitute “A WRITTEN STATEMENT CONCERNING”; in line 22, strike “REPORT” and substitute “DESCRIPTION”; in the same line, after “RESTITUTION” insert “OR REPARATIONS”; in line 23, strike

(Over)

“INDIVIDUALS DEPORTED BY THE ENTITY” and substitute “THE DEPORTATION OF EACH VICTIM”; after line 23, insert:

“12-508.

(A) THE STATE ARCHIVIST SHALL:

(1) APPROVE AN ARCHIVIST AND HISTORIAN TO CONDUCT THE INITIAL ANALYSIS REQUIRED UNDER § 12-506(B) OF THIS SUBTITLE;

(2) WITHIN 14 DAYS AFTER RECEIVING THE INITIAL REPORT SUBMITTED IN ACCORDANCE WITH § 12-506(B) OF THIS SUBTITLE:

(I) REVIEW THE REPORT AND DETERMINE WHETHER, IN THE PROFESSIONAL OPINION OF THE STATE ARCHIVIST, THE REPORT IS CONSISTENT WITH THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS; AND

(II) APPROVE AN ARCHIVIST AND HISTORIAN THAT WILL ENSURE THAT THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETED IN A MANNER CONSISTENT WITH:

1. THE INITIAL REPORT; AND

2. THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS;

(3) AS NEEDED, PROVIDE GUIDANCE FOR AND OVERSIGHT OF THE PROCESS OF ASSEMBLING THE RECORDS;

(4) AFTER RECEIVING FROM AN ENTITY THE INFORMATION REQUIRED UNDER § 12-507 OF THIS SUBTITLE, DETERMINE WHETHER, IN THE PROFESSIONAL OPINION OF THE STATE ARCHIVIST:

(I) THE PROCESS OF ASSEMBLING THE RECORDS IS COMPLETE;

(II) THE PROCESS OF ASSEMBLING THE RECORDS WAS COMPLETED IN A MANNER CONSISTENT WITH:

1. THE INITIAL REPORT SUBMITTED IN ACCORDANCE WITH § 12-506(B) OF THIS SUBTITLE; AND

2. THE STANDARDS OF THE SOCIETY OF AMERICAN ARCHIVISTS AND THE COUNCIL OF STATE ARCHIVISTS; AND

(III) THE INFORMATION SUBMITTED UNDER § 12-507 OF THIS SUBTITLE IS AS COMPLETE AND ACCURATE AS POSSIBLE; AND

(5) PROVIDE WRITTEN NOTICE OF THE DETERMINATION MADE UNDER ITEM (4) OF THIS SUBSECTION TO:

(I) THE ENTITY; AND

(II) IF THE STATE ARCHIVIST DETERMINES THAT THE ENTITY MET THE REQUIREMENTS SET FORTH IN ITEM (4)(I), (II), AND (III) OF THIS SUBSECTION, TO THE UNIT OF STATE OR LOCAL GOVERNMENT AWARDDING THE PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE.

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(B) THE STATE ARCHIVIST MAY USE A DESIGNEE TO CARRY OUT ANY PROVISION OF THIS SECTION.

12-509.

(A) AT LEAST 30 DAYS BEFORE AWARDING A PROCUREMENT CONTRACT ON WHICH AN ENTITY SUBJECT TO THIS SUBTITLE SUBMITTED A BID OR OFFER, A UNIT OF STATE OR LOCAL GOVERNMENT SHALL PUBLISH NOTICE OF ITS INTENT TO AWARD THE PROCUREMENT CONTRACT.

(B) A UNIT OF STATE OR LOCAL GOVERNMENT MAY NOT AWARD A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN ENTITY THAT DOES NOT COMPLY WITH §§ 12-505 THROUGH 12-507 OF THIS SUBTITLE.

(C) A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO AN ENTITY ONLY AFTER THE UNIT RECEIVES THE NOTICE FROM THE STATE ARCHIVIST IN ACCORDANCE WITH § 12-508(A)(5) OF THIS SUBTITLE.

(D) NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBTITLE, A UNIT OF STATE OR LOCAL GOVERNMENT MAY AWARD A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE TO A BIDDER OR OFFEROR THAT IS NOT AN ENTITY SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE.

12-510.

AN ENTITY AWARDED A PROCUREMENT CONTRACT TO PROVIDE MARC SERVICE IN ACCORDANCE WITH § 12-509(C) OF THIS SUBTITLE IS CONSIDERED TO HAVE SATISFIED THE REQUIREMENTS OF §§ 12-505 THROUGH 12-507 OF

THIS SUBTITLE FOR ALL FUTURE PROCUREMENT CONTRACTS TO PROVIDE
MARC SERVICE.

12-511.

THE ENTITY OR ANY OTHER BIDDER OR OFFEROR FOR A PROCUREMENT
CONTRACT TO PROVIDE MARC SERVICE MAY NOT SUBMIT A PROTEST UNDER §
15-217 OF THIS ARTICLE RELATING TO THE REQUIREMENTS OF THIS
SUBTITLE.”;

in line 26, after “ADMINISTRATION” insert “ON A PROCUREMENT CONTRACT”;
strike beginning with “TRAIN” in line 27 down through “REGION” in line 28 and
substitute “SERVICE THAT IS FUNDED IN WHOLE OR IN PART BY PUBLIC FUNDS”;
and in line 32, strike “October 1, 2011” and substitute “June 1, 2011”.