

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 479

(Senator Conway, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

---

Transportation - Procurement for MARC Service

---

This bill requires an “entity” that submits a formal Maryland Area Regional Commuter (MARC) train service bid or offer to the State, or a local government, to disclose specified information relating to World War II deportations.

The bill takes effect June 1, 2011.

---

Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances, but operations related to review of bids could be affected.

**Local Effect:** None.

**Small Business Effect:** None.

---

Analysis

**Bill Summary:** An “entity” is (1) a corporation, affiliate, or other similar organization or a successor in interest of the corporation, affiliate, or similar organization that controls, or is controlled or owned or partially owned by or under common control with, a corporation that had “direct involvement in the deportation of victims”; or (2) a member of a partnership or a consortium that includes an entity that certifies that it had “direct involvement in the deportation of victims.” Two or more entities are considered the same entity when (1) one entity is a wholly owned subsidiary of the other; or (2) one entity owns, or directly or indirectly controls, more than 50% of the voting securities of the other entity, regardless of whether the equity interest in that other entity is owned by a

foreign government. If an equity interest in an entity is or was owned by a foreign government, that equity interest must be attributed to the entity.

“Direct involvement in the deportation of victims” means ownership or operation of the trains on which individuals were transported to extermination camps, death camps, or any facility used to transition individuals to extermination camps or death camps, during the period from September 1, 1939, through September 2, 1945.

The bill applies to an entity that had direct involvement in the deportation of victims and submits a bid or offer on a procurement contract to provide MARC service that is funded in whole or in part with public funds. Entities must comply with the bill’s requirements in order to be considered a responsible bidder or offeror for a procurement contract to provide MARC service.

Before a unit of State or local government may award a procurement contract to an entity subject to the bill’s provisions, the entity must provide the Maryland State Archives (MSA) with the following information, as it relates to the deportation of victims: (1) a written statement concerning whether the entity has any records relating to deportations and specified information regarding the location of such records; (2) a detailed index of the records, including specified information; (3) if the entity no longer has property taken or confiscated from each victim, specified written information regarding such property; and (4) a written statement concerning whether the entity has provided restitution or reparations to all identifiable victims and, if so, a detailed description of how the restitution or reparations applies specifically to the deportation of each victim.

In conjunction with the submission of a bid or offer, entities must submit to the appropriate unit of State and local government (1) a statement that the entity had direct involvement in the deportation of victims; and (2) an estimated date for submitting the required information to MSA. The entity must provide notification if there is any change in the estimated submission date.

Before a unit of State or local government may award a procurement contract to provide MARC service to an entity, the entity must assemble specified records related to the deportation of victims and contract with an archivist and an historian to conduct an initial analysis of the records in a specified manner. After the initial analysis is completed and approved by MSA, the entity must contract with an archivist and an historian to ensure that the final process of assembling records is completed in a manner that meets specified requirements. After being assembled, all records must be submitted to MSA.

The bill requires MSA to (1) approve archivists and historians that an entity utilizes; (2) review the initial report an entity submits to ensure it is consistent with specified standards; and (3) provide guidance for and oversight of the process of assembling records as needed. After receiving the required records from entities, MSA must (1) make a specified final determination that the records were assembled appropriately

and are complete and accurate; and (2) provide written notice of the determination to the entity and to the relevant unit of State or local government. The bill authorizes MSA to use a designee to carry out specified provisions in the bill.

At least 30 days prior to awarding a MARC procurement contract to an entity, a unit of State or local government must publish notice of its intent to award the procurement contract. Such contracts may not be awarded (1) to entities that do not comply with the bill; or (2) before MSA provides a specified final written determination to the unit.

An entity that meets the bill's requirements and is awarded a procurement contract to provide MARC service is considered to have satisfied the bill's requirements for all future procurement contracts to provide MARC service. An entity or any other bidder or offeror for a procurement contract to provide MARC service may not submit a protest relating to the bill's requirements.

**Current Law:** Consistent with provisions in the State Finance and Procurement Article, the Secretary of Transportation may contract with any person to provide services, supplies, construction, and maintenance for the Maryland Department of Transportation or for any transportation-related purpose. Entities that submit State procurement bids or proposals are not currently required to report World War II deportation-related information.

**Background:** The CSX Corporation has expressed its intent to discontinue providing commuter train service on the Camden line, which runs between Baltimore and Washington, DC, and the Brunswick line, which extends from Washington, DC, to Martinsburg, West Virginia. In response, the Maryland Transit Administration (MTA) initiated a process of procuring a third-party operator to provide service on the two CSX-owned lines. However, MTA cancelled the bidding process in November 2010 and noted that the request for proposals had generated insufficient competition.

Keolis Rail Services America was recently awarded a contract to operate the Virginia Railway Express trains, which run out of Union Station in Washington, DC. Several reports indicated that Keolis Rail Services America submitted a bid to MTA to provide service on the Camden and Brunswick lines. Keolis Rail Services America's majority shareholder is the French National Railroad SNCF, which has received significant criticism concerning its relationship with the Nazi regime during World War II.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 520 (Delegate Rosenberg, *et al.*) - Health and Government Operations.

**Information Source(s):** Board of Public Works, Department of Budget and Management, Department of General Services, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2011  
ncs/lgc Revised - Enrolled Bill - April 28, 2011

---

Analysis by: Amanda Mock

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510