

HOUSE BILL 53

P2

3lr0783

(PRE-FILED)

By: **Delegate B. Robinson**

Requested: November 13, 2012

Introduced and read first time: January 9, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Use of State Residents and Businesses**

3 FOR the purpose of requiring a State procurement unit to adopt regulations
4 concerning the use of State residents and businesses for certain procurement
5 contracts; specifying that the regulations require a unit to make a certain
6 determination before awarding each procurement concerning resident bidders
7 or resident offerors; requiring that the regulations encourage a nonresident
8 bidder or nonresident offeror that is awarded a procurement contract to employ
9 State residents and use State businesses in the performance of the procurement
10 contract; and generally relating to regulations concerning the use of State
11 residents and businesses for procurement contracts.

12 BY repealing and reenacting, with amendments,
13 Article – State Finance and Procurement
14 Section 14–401
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

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

19 **Article – State Finance and Procurement**

20 14–401.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Preference” includes:

23 (i) a percentage preference;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) an employee residency requirement; or

2 (iii) any other provision that favors a resident over a
3 nonresident.

4 (3) “Resident bidder” means a bidder whose principal office is located
5 in the State.

6 (4) “Resident offeror” means an offeror whose principal office is located
7 in the State.

8 (5) “Services” means services, architectural services, construction
9 related services, engineering services, or energy performance contract services, all as
10 defined in § 11–101 of this article.

11 (b) When a unit uses competitive sealed bidding to award a procurement
12 contract, the unit may give a preference to the resident bidder who submits the lowest
13 responsive bid from a resident bidder if:

14 (1) the resident bidder is a responsible bidder;

15 (2) a responsible bidder whose principal office or operation is in
16 another state submits the lowest responsive bid;

17 (3) the state in which the nonresident bidder’s principal office is
18 located or the state in which the nonresident bidder has its principal operation
19 through which it would provide supplies or services gives a preference to its residents;
20 and

21 (4) a preference does not conflict with a federal law or grant affecting
22 the procurement contract.

23 (c) When a unit uses competitive sealed proposals to award a procurement
24 contract, the unit may give a preference to resident offerors if:

25 (1) a responsible offeror whose principal office or operation is in
26 another state submits a proposal;

27 (2) the state in which the nonresident offerors principal office is
28 located or the state in which the nonresident offeror has its principal operation
29 through which it would provide the subject of the contract gives a preference to its
30 residents; and

31 (3) the preference does not conflict with a federal law or grant
32 affecting the procurement contract.

1 (d) (1) At the request of the unit, a nonresident bidder or nonresident
2 offeror submitting a proposal for a State project shall provide a copy of the current
3 statute, resolution, policy, procedure, or executive order that pertains to the treatment
4 of nonresident bidders or nonresident offerors by:

5 (i) the state in which the nonresident bidder's or nonresident
6 offerors principal office is located; and

7 (ii) the state in which the nonresident bidder or nonresident
8 offeror has its principal operation through which it would provide supplies or services.

9 (2) A unit may give a preference under this section that is identical to
10 any of the following preferences, or any combination of them:

11 (i) the preference that the state in which the nonresident
12 bidder's or nonresident offeror's principal office is located gives to its residents; or

13 (ii) the preference that the state in which the nonresident
14 bidder or nonresident offeror has its principal operation through which it would
15 provide supplies or services gives to its residents.

16 **(E) A UNIT SHALL ADOPT REGULATIONS THAT:**

17 **(1) REQUIRE THAT A DETERMINATION BE MADE BEFORE**
18 **AWARDING EACH PROCUREMENT WHETHER A RESIDENT BIDDER OR RESIDENT**
19 **OFFEROR CAN SATISFY THE PROCUREMENT CONTRACT; AND**

20 **(2) STRONGLY ENCOURAGE A NONRESIDENT BIDDER OR**
21 **NONRESIDENT OFFEROR THAT IS AWARDED A PROCUREMENT CONTRACT TO**
22 **EMPLOY RESIDENTS OF AND USE BUSINESSES IN THE STATE TO THE GREATEST**
23 **EXTENT PRACTICABLE IN THE PERFORMANCE OF THE PROCUREMENT**
24 **CONTRACT.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2013.