

HOUSE BILL 1107

P2

7lr2866

By: **Delegate Rosenberg**

Introduced and read first time: February 9, 2017

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Intergovernmental Cooperative Purchasing Agreements**

3 FOR the purpose of requiring a certain procurement officer to make a certain determination
4 before a primary procurement unit is authorized to take certain action regarding an
5 intergovernmental cooperative purchasing agreement; requiring a certain
6 determination to include certain evidence and a certain statement; requiring a
7 primary procurement unit to post certain determinations on the primary
8 procurement unit's Web site; clarifying that a certain contract be awarded in a
9 certain manner, including compliance with certain notice requirements; and
10 generally relating to intergovernmental cooperative purchasing agreements.

11 BY repealing and reenacting, without amendments,
12 Article – State Finance and Procurement
13 Section 13–110(a)(1) and (4)
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – State Finance and Procurement
18 Section 13–110(b)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2016 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – State Finance and Procurement**

2 13–110.

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

4 (4) “Intergovernmental cooperative purchasing agreement” means a
5 contract:

6 (i) 1. entered into by at least one governmental entity and a
7 person selected in a manner that is consistent with the purposes set forth under § 11–201
8 of this article;

9 2. that is available for use by the governmental entity
10 entering the contract and at least one additional governmental entity which may, but need
11 not be, an original party to the contract; and

12 3. that is intended to promote efficiency and savings that can
13 result from intergovernmental cooperative purchasing; or

14 (ii) between a primary procurement unit and a person who, at the
15 time the intergovernmental cooperative purchasing agreement is awarded, has a contract
16 with the federal government or an agency or other instrumentality of the federal
17 government, and who agrees to provide the unit with identical prices, terms, and conditions
18 as stipulated in the federal contract.

19 (b) (1) Subject to § 12–107 of this article, [whenever] a primary procurement
20 unit procurement officer [determines that it is in the best interest of the State to sponsor
21 or participate in an intergovernmental cooperative purchasing agreement, with the
22 approval of the unit head and subject to any other approval required by law,] **SHALL MAKE**
23 **A DETERMINATION, IN ACCORDANCE WITH PARAGRAPH (2) OR (3) OF THIS**
24 **SUBSECTION, BEFORE** the primary procurement unit may [become a party to or
25 participate under the agreement]:

26 (I) **INITIALLY SPONSOR OR PARTICIPATE IN AN**
27 **INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT;**

28 (II) **RENEW AN INTERGOVERNMENTAL COOPERATIVE**
29 **PURCHASING AGREEMENT; OR**

30 (III) **MODIFY AN INTERGOVERNMENTAL COOPERATIVE**
31 **PURCHASING AGREEMENT.**

32 **(2) A DETERMINATION UNDER PARAGRAPH (1)(I) OF THIS**
33 **SUBSECTION SHALL BE IN WRITING AND INCLUDE:**

1 (I) SUFFICIENT EVIDENCE THAT THE INTERGOVERNMENTAL
 2 COOPERATIVE PURCHASING AGREEMENT:

3 1. WILL PROVIDE COST BENEFITS TO THE STATE; OR

4 2. WILL PROMOTE ADMINISTRATIVE EFFICIENCIES OR
 5 PROMOTE INTERGOVERNMENTAL COOPERATION; AND

6 (II) A STATEMENT THAT THE INTERGOVERNMENTAL
 7 COOPERATIVE PURCHASING AGREEMENT:

8 1. IS IN THE BEST INTEREST OF THE STATE; AND

9 2. IS NOT INTENDED TO EVADE THE PURPOSES OF THIS
 10 DIVISION II.

11 ~~(2)~~ **(3)** A determination under PARAGRAPH (1)(II) OR (III) OF this
 12 subsection shall be in writing and include [a statement]:

13 **(I) SUFFICIENT EVIDENCE** that the intergovernmental cooperative
 14 purchasing agreement:

15 **[(i)] 1.** will provide cost benefits to the State[,]; AND

16 **2. WILL** promote administrative efficiencies, or promote
 17 intergovernmental cooperation; and

18 **(ii) A STATEMENT THAT THE INTERGOVERNMENTAL**
 19 **COOPERATIVE PURCHASING AGREEMENT:**

20 **1. IS IN THE BEST INTEREST OF THE STATE; AND**

21 **2. is not intended to evade the purposes of this Division II.**

22 ~~(3)~~ **(4)** A PRIMARY PROCUREMENT UNIT SHALL POST EACH
 23 DETERMINATION REQUIRED UNDER THIS SUBSECTION ON THE PRIMARY
 24 PROCUREMENT UNIT'S WEB SITE.

25 ~~[(3)]~~ ~~(4)~~ **(5)** If a primary procurement unit sponsors OR PARTICIPATES IN
 26 an intergovernmental cooperative purchasing agreement:

27 **(I) THE INTERGOVERNMENTAL COOPERATIVE PURCHASING**
 28 **AGREEMENT SHALL BE APPROVED BY THE UNIT HEAD AND IS SUBJECT TO ANY**
 29 **OTHER APPROVAL REQUIRED BY LAW;**

1 [(i)] (II) the contract shall be awarded in the same manner as the
2 contract would be awarded under this Division II if the unit was the sole participant under
3 the contract, **INCLUDING COMPLIANCE WITH ALL NOTICE REQUIREMENTS**; and

4 [(ii)] (III) all procedures under this Division II, including procedures
5 governing contract claims and protests, shall apply.

6 [(4)] ~~(5)~~ (6) If a primary procurement unit participates in an
7 intergovernmental cooperative purchasing agreement, any protest or contract claim
8 involving the agreement shall be handled in accordance with the terms of the agreement.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.