

**Department of Legislative Services**  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 919 (Delegate K. Young, *et al.*)  
Health and Government Operations

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**Procurement - Nondiscrimination Clauses and State Policy Prohibiting  
Discrimination**

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This bill expands the State’s commercial nondiscrimination policy by establishing that it is the policy of the State not to enter into a contract with a business entity that has discriminated in the formation or composition of a board of directors on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, or sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics. It also updates and makes conforming changes to the required nondiscrimination clause in State contracts.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect governmental operations or finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Chapter 283 of 2006 established a commercial nondiscrimination policy that prohibits the State from entering into a procurement contract with a business entity that has discriminated against vendors, suppliers, subcontractors, or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, disability, or any other unlawful use of characteristics. Chapter 283 also established a process to adjudicate complaints of discrimination and included penalties against any business that is found to have violated the commercial nondiscrimination

policy. Finally, it required that specific certifications relating to the nondiscrimination policy be included in State procurement contracts.

The requirement for State construction contracts and subcontracts to contain a nondiscrimination clause was initiated by Chapter 448 of 1961. The State may declare a contract to be void if the nondiscrimination clause is omitted from either a contract or a subcontract. If a contractor willfully fails to comply with the requirements of a nondiscrimination clause and the contract is partly executory, the State may compel the contractor to continue to perform work under the contract. Even so, the State is liable for no more than the reasonable value of work performed and materials provided. A contractor may similarly void a subcontract if the subcontractor willfully fails to comply with the requirements of a nondiscrimination clause. The Board of Public Works must investigate any charge related to a violation of a nondiscrimination clause in a construction contract or subcontract; if it concludes the charge is true, the board may invoke any remedy available by law.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 971 (Senator Kagan) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Commission on Civil Rights; Department of General Services; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2017  
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