

# HOUSE BILL 324

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By: **Montgomery County Delegation and Prince George's County Delegation**

Introduced and read first time: January 28, 2019

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Discrimination – Prohibited in**  
3 **Contracts**

4 **MC/PG 107–19**

5 FOR the purpose of prohibiting the Washington Suburban Sanitary Commission from  
6 entering into a contract unless the contract contains a certain nondiscrimination  
7 provision; requiring the Commission to provide a contractor a reasonable  
8 opportunity to cure a certain defect in a contract or subcontract; authorizing the  
9 Commission to void a contract if a contractor fails to cure a certain defect;  
10 establishing that a contractor is entitled to the reasonable value of certain work and  
11 materials if the contractor fails to cure a certain defect; stating that a contract  
12 remains in force according to revised terms if a contractor cures a certain defect;  
13 authorizing the Commission to compel a contractor to continue performance under a  
14 contract under certain circumstances; establishing that the Commission is liable for  
15 no more than the reasonable value of certain work and materials provided by the  
16 contractor after a certain date if the Commission compels performance; requiring the  
17 Commission to deduct money paid under a certain contract from money due for the  
18 reasonable value of certain work and materials provided by the contractor after a  
19 certain date if the Commission compels performance; authorizing a contractor to void  
20 a subcontract if the subcontractor fails to comply with the requirements of a  
21 nondiscrimination provision; establishing that a contractor is liable for no more than  
22 the reasonable value of certain work and materials provided by a subcontractor if a  
23 contractor voids a subcontract under certain circumstances; repealing a certain  
24 provision requiring a nondiscrimination clause in certain contracts; and generally  
25 relating to the Washington Suburban Sanitary Commission and nondiscrimination  
26 provisions in contracts entered into by the Commission.

27 BY adding to  
28 Article – Public Utilities  
29 Section 17–402.1

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2010 Replacement Volume and 2018 Supplement)

3 BY repealing  
4 Article – Public Utilities  
5 Section 20–106  
6 Annotated Code of Maryland  
7 (2010 Replacement Volume and 2018 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
9 That Section(s) 20–106 of Article – Public Utilities of the Annotated Code of Maryland be  
10 repealed.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
12 as follows:

13 **Article – Public Utilities**

14 **17–402.1.**

15 **(A) (1) THE COMMISSION MAY NOT ENTER INTO A CONTRACT UNLESS**  
16 **THE CONTRACT CONTAINS A PROVISION OBLIGING THE CONTRACTOR:**

17 **(I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN**  
18 **EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE,**  
19 **CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION,**  
20 **RELIGION, MARITAL STATUS, GENDER IDENTITY, OR NATIONAL ORIGIN; AND**

21 **(II) TO INCLUDE A SIMILAR NONDISCRIMINATION PROVISION IN**  
22 **ALL SUBCONTRACTS.**

23 **(2) (I) IF THE NONDISCRIMINATION PROVISION IS OMITTED FROM**  
24 **A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE**  
25 **CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO**  
26 **THIS SECTION.**

27 **(II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:**

28 **1. THE COMMISSION MAY DECLARE THE CONTRACT TO**  
29 **BE VOID; AND**

30 **2. THE CONTRACTOR IS ENTITLED TO THE REASONABLE**  
31 **VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR.**

32 **(III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT**

1 REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

2 (B) (1) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY  
3 COMPEL A CONTRACTOR TO CONTINUE TO PERFORM UNDER A CONTRACT IF:

4 (I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE  
5 REQUIREMENTS OF A NONDISCRIMINATION PROVISION; AND

6 (II) THE CONTRACT IS PARTIALLY EXECUTORY.

7 (2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS  
8 SUBSECTION, THE COMMISSION:

9 (I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF  
10 WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE  
11 DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN  
12 DISCOVERED; AND

13 (II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER  
14 THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS  
15 PARAGRAPH.

16 (C) (1) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE  
17 REQUIREMENTS OF A NONDISCRIMINATION PROVISION, THE CONTRACTOR MAY  
18 DECLARE THE SUBCONTRACT TO BE VOID.

19 (2) IF A CONTRACTOR DECLARES A SUBCONTRACT TO BE VOID UNDER  
20 THIS SUBSECTION, THE CONTRACTOR IS LIABLE FOR NO MORE THAN THE  
21 REASONABLE VALUE OF WORK PERFORMED OR MATERIALS PROVIDED BY THE  
22 SUBCONTRACTOR.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2019.