

# HOUSE BILL 313

P2

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CF 0lr2506

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By: **Delegates D. Barnes, Acevero, Barron, Branch, Brooks, Crutchfield, D.M. Davis, Fennell, Haynes, Ivey, Lehman, Pena-Melnyk, Proctor, Smith, Valderrama, Valentino-Smith, and Wells**

Introduced and read first time: January 20, 2020

Assigned to: Environment and Transportation and Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnership Agreements – Minority Business Enterprise**  
3 **Program**

4 FOR the purpose of providing, under certain circumstances, that the provisions of the  
5 Minority Business Enterprise Program apply to public-private partnerships;  
6 prohibiting the Board of Public Works from approving a public-private partnership  
7 agreement until the reporting agency, in consultation with certain entities,  
8 establishes certain minority business enterprise goals and procedures; requiring  
9 that certain goals and procedures be based on the requirements of certain provisions  
10 of law; and generally relating to public-private partnerships and minority business  
11 enterprises.

12 BY adding to

13 Article – State Finance and Procurement  
14 Section 10A-404  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – State Finance and Procurement  
19 Section 11-203(h)  
20 Annotated Code of Maryland  
21 (2015 Replacement Volume and 2019 Supplement)

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

24 **Article – State Finance and Procurement**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10A-404.**

2 (A) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY  
3 FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM  
4 UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE ARE HEREBY INCORPORATED.

5 (B) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES  
6 CONSTITUTION, THE PROVISIONS OF THE MINORITY BUSINESS ENTERPRISE  
7 PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE SHALL APPLY TO  
8 PUBLIC-PRIVATE PARTNERSHIPS ESTABLISHED UNDER THIS TITLE.

9 (C) (1) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A  
10 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A-203 OF THIS TITLE  
11 UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE  
12 OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, THE OFFICE OF THE  
13 ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES  
14 REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION  
15 GOALS AND PROCEDURES FOR THE PROJECT.

16 (2) TO THE EXTENT PRACTICABLE, GOALS AND PROCEDURES  
17 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON  
18 THE REQUIREMENTS OF:

19 (i) TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE  
20 IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14-302 AND  
21 14-303 OF THIS ARTICLE; AND

22 (ii) REGULATIONS ADOPTED SPECIFICALLY TO IMPLEMENT  
23 THIS SECTION.

24 11-203.

25 (h) (1) Except as provided in paragraph (2) of this subsection, this division does  
26 not apply to a public-private partnership under Title 10A of this article.

27 (2) To the extent otherwise required by law, the following provisions of this  
28 division apply to a public-private partnership under Title 10A of this article:

29 (i) § 11-205 of this subtitle ("Collusion");

30 (ii) § 11-205.1 of this subtitle ("Falsification, concealment, etc. of  
31 material facts");

1 (iii) Title 12, Subtitle 4 of this article (“Policies and Procedures for  
2 Exempt Units”);

3 (iv) § 13–219 of this article (“Required clauses – Nondiscrimination  
4 clause”);

5 (v) **TITLE 14, SUBTITLE 3 OF THIS ARTICLE (“MINORITY  
6 BUSINESS PARTICIPATION”);**

7 [(v)] **(VI)** Title 17, Subtitle 1 of this article (“Security for  
8 Construction Contracts”);

9 [(vi)] **(VII)** Title 17, Subtitle 2 of this article (“Prevailing Wage Rates  
10 – Public Work Contracts”); and

11 [(vii)] **(VIII)** Title 18 of this article (“Living Wage”).

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2020.