

SENATE BILL 649

P2

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By: **Senators Griffith, Pinsky, Sydnor, Beidle, Jackson, McCray, Guzzone, Augustine, Elfreth, Smith, and West**

Introduced and read first time: January 29, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Department of General Services – MBE Program Compliance**
3 **Officer**

4 FOR the purpose of requiring the Secretary of General Services, in consultation with the
5 Chief Procurement Officer in the Department of General Services, to appoint an
6 MBE Program Compliance Officer in the Office of State Procurement to ensure
7 compliance by certain procurement units with the participation goals of the State
8 Minority Business Enterprise Program; requiring the Officer to report on certain
9 matters to the Board of Public Works and the Legislative Policy Committee of the
10 General Assembly on or before a certain date each year; requiring certain
11 procurement units to submit certain periodic and annual reports to the Officer; and
12 generally relating to the MBE Program Compliance Officer in the Department of
13 General Services.

14 BY repealing and reenacting, without amendments,
15 Article – State Finance and Procurement
16 Section 11–101(a) and (d) and 14–302(a)(1)(i)1.
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2020 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – State Finance and Procurement
21 Section 14–302(a)(9)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2020 Supplement)

24 BY adding to
25 Article – State Finance and Procurement
26 Section 14–306
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2015 Replacement Volume and 2020 Supplement)

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

Article – State Finance and Procurement

11–101.

(a) In this Division II the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is provided for a particular title or provision.

(d) “Board” means the Board of Public Works.

14–302.

(a) (1) (i) 1. Except for leases of real property, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve an overall percentage goal of the unit’s total dollar value of procurement contracts being made directly or indirectly to certified minority business enterprises.

(9) (i) 1. If a contractor, including a certified minority business enterprise, does not achieve all or a part of the minority business enterprise participation goals on a contract, the unit shall make a finding of whether the contractor has demonstrated that the contractor took all necessary and reasonable steps to achieve the goals, including compliance with paragraph (7) of this subsection.

2. A waiver of any part of the minority business enterprise goals for a contract shall be granted if a contractor provides a reasonable demonstration of good–faith efforts to achieve the goals.

(ii) If the unit determines that a waiver should be granted in accordance with subparagraph (i) of this paragraph, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

(iii) The head of the unit may waive any of the requirements of this subsection relating to the establishment, use, and waiver of contract goals for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those requirements.

(iv) 1. Except for waivers granted in accordance with subparagraph (iii) of this paragraph, when a waiver determination is made, the unit shall issue the determination in writing.

1 **(I) THE MINORITY BUSINESS ENTERPRISE PARTICIPATION**
2 **GOAL SET BY A UNIT FOR ITS PROCUREMENT CONTRACTS; AND**

3 **(II) THE ACTUAL PARTICIPATION OF MINORITY BUSINESS**
4 **ENTERPRISES IN THAT UNIT'S PROCUREMENT CONTRACTS AT THE END OF THE**
5 **FISCAL YEAR; AND**

6 **(3) ANY OTHER RELEVANT INFORMATION AS REQUIRED BY THE**
7 **BOARD.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2021.