



SB 858
Procurement and Correctional Facilities – Employment Opportunities for
Formerly Incarcerated Individuals
Judicial Proceedings Committee
Position: Favorable with Amendment

Maryland AGC, the Maryland Chapter of the Associated General Contractors of America, provides professional education, business development, and advocacy for commercial construction companies and vendors, both open shop and union. AGC of America is the nation’s largest and oldest trade association for the construction industry. AGC of America represents more than 26,000 firms, including over 6,500 of America’s leading general contractors, and over 9,000 specialty-contracting firms, all through a nationwide network of chapters. If amended appropriately, Maryland AGC supports SB 858 and respectfully urges the bill be given a favorable report with amendments.

SB 858 would establish a special procurement process applicable to correctional facilities at the state and local level. The intention is to enable as many formerly incarcerated individuals to gain employment and facilitate their return to productive citizenship. SB 858 does this by making the award of contracts subject to a preference for the bidder that employs the highest number of formerly incarcerated individuals and by creating a set of “reasonable accommodations” and mandatory hiring requirements applicable to formerly incarcerated individuals.

Maryland AGC endorses the objective of giving formerly incarcerated individuals a second chance and an opportunity to find gainful employment. Many construction companies are willing to hire these individuals, provided they can meet the requirements of the job. These companies usually have some form of a mentoring program to help these individuals reenter the workforce successfully.

There are a number of issues with SB 858 that would need to be addressed to make it practicable and workable:

1. §8-7A-02(B) mandates contractors hire formerly incarcerated individuals for every open job. While the bill makes some allowance for conditions of parole and for lack of essential skills, it forces bidders to hire a less qualified formerly incarcerated individual and reject individuals who are qualified to perform work from day 1 and have skills beyond the bare essential requirements of the job.
2. The bill appears to confuse a reasonable accommodation with a feasible accommodation. What is feasible may be totally unreasonable. Contractors should not be required to go to any imaginable length (feasible) but only to do what is reasonable, i.e., possible without making significant or costly changes in work arrangements.
3. §8-7A-02(E) imposes an unreasonable burden on employers to report “a description for each type of job and rate of compensation for each type of job in the contractor’s organization”; this on its face includes not just craft jobs but all jobs, whether or not related to work at correctional facilities, and up to and including senior management. For some jobs, compensation is a business secret and should not be required to be reported. Moreover, subparagraph (5) requires contractors to try to imagine every possible set of post-release restrictions that might be applicable to an individual job and what “reasonable accommodation” may or may not be possible. A similar problem is incorporated in subsection (F)(1).

It may be possible to deal with the issues identified above and still meet the underlying objective of the bill. Accordingly, Maryland AGC respectfully urges the Committee to adopt such amendments and, as amended, to give SB 858 a favorable report.

Champe C. McCulloch
McCulloch Government Relations, Inc.
Lobbyist for Maryland AGC