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**By: Delegates Poole, Benson, Clagett, Dypski, and Snodgrass**

Introduced and read first time: January 26, 1996

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement Law - Conflicts of Interest**

3 FOR the purpose of modifying the Maryland Public Ethics Law to provide that certain  
4 activities do not disqualify a person from participating in or assisting another in  
5 participating in a State procurement; authorizing the Board of Public Works to  
6 allow by regulation certain activities relating to outside assistance without barring  
7 certain participation in the State procurement process; and generally relating to the  
8 prohibition against participation in a procurement after assisting in the drafting of  
9 specifications, an invitation for bids, or a request for proposals involving that  
10 procurement.

11 BY repealing and reenacting, with amendments,

12 Article - State Government

13 Section 15-508

14 Annotated Code of Maryland

15 (1995 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - State Government**

19 15-508.

20 (A) [An individual] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS  
21 SECTION, A PERSON who assists an executive unit in the drafting of specifications, an  
22 invitation for bids, or a request for proposals for a procurement, or a person that employs  
23 the individual, may not:

24 (1) submit a bid or proposal for that procurement; or

25 (2) assist or represent another person, directly or indirectly, who is  
26 submitting a bid or proposal for that procurement.

27 (B) FOR THE PURPOSE OF SUBSECTION (A) OF THIS SECTION, ASSISTING IN  
28 THE DRAFTING OF SPECIFICATIONS, AN INVITATION FOR BIDS, OR A REQUEST FOR  
29 PROPOSALS FOR A PROCUREMENT DOES NOT INCLUDE:

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1 (1) PROVIDING DESCRIPTIVE LITERATURE SUCH AS CATALOG SHEETS,  
2 BROCHURES, TECHNICAL DATA SHEETS, OR STANDARD SPECIFICATION "SAMPLES",  
3 WHETHER REQUESTED BY AN EXECUTIVE AGENCY OR ON AN UNSOLICITED BASIS;

4 (2) SUBMITTING WRITTEN COMMENTS ON A SPECIFICATION PREPARED  
5 BY AN AGENCY OR ON A SOLICITATION FOR A BID OR PROPOSAL WHEN COMMENTS  
6 ARE SOLICITED FROM TWO OR MORE PERSONS AS PART OF A REQUEST FOR  
7 INFORMATION OR A PREBID OR PREPROPOSAL PROCESS; OR

8 (3) PROVIDING SPECIFICATIONS FOR A SOLE SOURCE PROCUREMENT  
9 MADE IN ACCORDANCE WITH § 13-107 OF THE STATE FINANCE AND PROCUREMENT  
10 ARTICLE.

11 (C) A PERSON WHO HAS ASSISTED AN EXECUTIVE AGENCY IN THE DRAFTING  
12 OF SPECIFICATIONS, AN INVITATION FOR BIDS, OR A REQUEST FOR PROPOSALS MAY  
13 SUBMIT A BID OR PROPOSAL OR ASSIST OR REPRESENT ANOTHER PERSON,  
14 DIRECTLY OR INDIRECTLY, WHO IS SUBMITTING A BID OR PROPOSAL FOR THAT  
15 PROCUREMENT IF THE BOARD OF PUBLIC WORKS PROVIDES BY REGULATION THAT,  
16 AS TO THAT TYPE OF OUTSIDE ASSISTANCE OR THAT KIND OF PROCUREMENT:

17 (1) IT IS IN THE BEST INTEREST OF THE STATE FOR AN EXECUTIVE  
18 AGENCY TO OBTAIN OUTSIDE ASSISTANCE IN DRAFTING THE SPECIFICATIONS, THE  
19 INVITATION FOR BIDS, OR THE REQUEST FOR PROPOSALS; AND

20 (2) ALLOWING A PERSON WHO HAS ASSISTED IN DRAFTING THE  
21 SPECIFICATIONS, THE INVITATION FOR BIDS, OR THE REQUEST FOR PROPOSALS TO  
22 PARTICIPATE IN THE SUBMISSION OF A BID OR PROPOSAL FOR THE SAME  
23 PROCUREMENT WILL NOT UNDERMINE THE POTENTIAL FOR EFFECTIVE  
24 BROAD-BASED COMPETITION FOR THAT KIND OF PROCUREMENT.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 July 1, 1996.