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**By: Delegate Poole (Governor's Task Force on Procurement)**

Introduced and read first time: January 29, 1997

Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 1997

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## CHAPTER \_\_\_\_

1 AN ACT concerning

**2 State Procurement Law - Intergovernmental Cooperative Purchasing Agreements**

3 FOR the purpose of authorizing a primary procurement unit to sponsor or participate in  
4 an intergovernmental cooperative purchasing agreement under specified  
5 circumstances; specifying that an intergovernmental cooperative purchasing  
6 agreement sponsored by a primary procurement unit be awarded in accordance with  
7 the procurement law and that specified procedures apply; providing that when a  
8 primary procurement unit participates in an intergovernmental cooperative  
9 purchasing agreement, any protest or contract claim shall be handled in accordance  
10 with the terms of the agreement; authorizing a political subdivision of the State to  
11 participate in an intergovernmental cooperative purchasing agreement sponsored by  
12 a primary procurement unit in a certain manner; specifying situations under which  
13 an intergovernmental cooperative purchasing agreement is appropriate; prohibiting  
14 a primary procurement unit from participating under a federal contract if the  
15 State's participation is valued at less than a specified denomination; defining certain  
16 terms; and generally relating to authorization for the use of intergovernmental  
17 cooperative purchasing agreements.

18 BY repealing and reenacting, with amendments,  
19 Article - State Finance and Procurement  
20 Section 13-102  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume and 1996 Supplement)

23 BY adding to  
24 Article - State Finance and Procurement  
25 Section 13-110  
26 Annotated Code of Maryland

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1 (1995 Replacement Volume and 1996 Supplement)

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

4 **Article - State Finance and Procurement**

5 13-102.

6 (a) Except as provided in Subtitle 3 of this title, all procurement by units shall be  
7 by competitive sealed bids unless one of the following methods specifically is authorized:

8 (1) competitive sealed proposals under § 13-104 or § 13-105 of this subtitle;

9 (2) noncompetitive negotiation under § 13-106 of this subtitle;

10 (3) sole source procurement under § 13-107 of this subtitle;

11 (4) emergency or expedited procurement under § 13-108 of this subtitle;

12 [or]

13 (5) small procurement under § 13-109 of this subtitle; OR

14 (6) AN INTERGOVERNMENTAL COOPERATIVE PURCHASING  
15 AGREEMENT UNDER § 13-110 OF THIS SUBTITLE.

16 (b) (1) In awarding a procurement contract for human, social, cultural, or  
17 educational service, the preferred method is by competitive sealed proposals under §  
18 13-104 of this subtitle.

19 (2) In awarding a procurement contract for a lease of real property, the  
20 preferred method is by competitive sealed proposals under § 13-105 of this subtitle.

21 (3) PROCUREMENT UNDER AN INTERGOVERNMENTAL COOPERATIVE  
22 PURCHASING AGREEMENT IS APPROPRIATE IN SITUATIONS WHERE THE STATE IS  
23 EXPECTED TO ACHIEVE A BETTER PRICE AS THE RESULT OF ECONOMIES OF SCALE  
24 OR TO OTHERWISE BENEFIT BY PURCHASING IN COOPERATION WITH ANOTHER  
25 GOVERNMENTAL ENTITY.

26 13-110.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

29 (2) "GOVERNMENTAL ENTITY" MEANS:

30 (I) THE FEDERAL GOVERNMENT OR AN AGENCY OR OTHER  
31 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT;

32 (II) ANOTHER STATE OR AN AGENCY OR OTHER  
33 INSTRUMENTALITY OF ANOTHER STATE;

34 (III) A BISTATE OR MULTISTATE AGENCY;

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1 (IV) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL  
2 SUBDIVISION OF THE STATE OR OF ANOTHER STATE, OR AN AGENCY OR OTHER  
3 INSTRUMENTALITY OF THE POLITICAL SUBDIVISION;

4 (V) A BICOUNTY OR MULTICOUNTY AGENCY; OR

5 (VI) A PRIMARY PROCUREMENT UNIT.

6 (3) "INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT"  
7 MEANS A CONTRACT:

8 (I) 1. ENTERED INTO BY AT LEAST ONE GOVERNMENTAL  
9 ENTITY AND A PERSON SELECTED IN A MANNER THAT IS CONSISTENT WITH THE  
10 PURPOSES SET FORTH UNDER § 11-201 OF THIS ARTICLE;

11 2. THAT IS AVAILABLE FOR USE BY THE GOVERNMENTAL  
12 ENTITY ENTERING THE CONTRACT AND AT LEAST ONE ADDITIONAL  
13 GOVERNMENTAL ENTITY WHICH MAY, BUT NEED NOT BE, AN ORIGINAL PARTY TO  
14 THE CONTRACT; AND

15 3. THAT IS INTENDED TO PROMOTE EFFICIENCY AND  
16 SAVINGS THAT CAN RESULT FROM INTERGOVERNMENTAL COOPERATIVE  
17 PURCHASING; OR

18 (II) BETWEEN A PRIMARY PROCUREMENT UNIT AND A PERSON  
19 WHO, AT THE TIME THE INTERGOVERNMENTAL COOPERATIVE PURCHASING  
20 AGREEMENT IS AWARDED, HAS A CONTRACT WITH THE FEDERAL GOVERNMENT OR  
21 AN AGENCY OR OTHER INSTRUMENTALITY OF THE FEDERAL GOVERNMENT, AND  
22 WHO AGREES TO PROVIDE THE UNIT WITH IDENTICAL PRICES, TERMS, AND  
23 CONDITIONS AS STIPULATED IN THE FEDERAL CONTRACT.

24 (B) (1) SUBJECT TO § 12-107 OF THIS ARTICLE AND PARAGRAPH (3) OF THIS  
25 SUBSECTION, WHENEVER A PRIMARY PROCUREMENT UNIT PROCUREMENT  
26 OFFICER DETERMINES THAT IT IS IN THE BEST INTEREST OF THE STATE TO SPONSOR  
27 OR PARTICIPATE IN AN INTERGOVERNMENTAL COOPERATIVE PURCHASING  
28 AGREEMENT, WITH THE APPROVAL OF THE UNIT HEAD AND SUBJECT TO ANY  
29 OTHER APPROVAL REQUIRED BY LAW, THE PRIMARY PROCUREMENT UNIT MAY  
30 BECOME A PARTY TO OR PARTICIPATE UNDER THE AGREEMENT.

31 (2) A DETERMINATION UNDER THIS SUBSECTION SHALL BE IN WRITING  
32 AND INCLUDE A STATEMENT THAT THE INTERGOVERNMENTAL COOPERATIVE  
33 PURCHASING AGREEMENT:

34 (I) WILL PROVIDE COST BENEFITS TO THE STATE, PROMOTE  
35 ADMINISTRATIVE EFFICIENCIES, OR PROMOTE INTERGOVERNMENTAL  
36 COOPERATION; AND

37 (II) IS NOT INTENDED TO EVADE THE PURPOSES OF THIS DIVISION  
38 II.

39 (3) A PRIMARY PROCUREMENT UNIT MAY NOT PARTICIPATE UNDER A  
40 FEDERAL CONTRACT IF THE STATE'S PARTICIPATION IS VALUED AT LESS THAN  
41 \$250,000.

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1 (C) (1) IF A PRIMARY PROCUREMENT UNIT SPONSORS AN  
2 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:

3 (I) THE CONTRACT SHALL BE AWARDED IN THE SAME MANNER AS  
4 THE CONTRACT WOULD BE AWARDED UNDER THIS DIVISION II IF THE UNIT WAS  
5 THE SOLE PARTICIPANT UNDER THE CONTRACT; AND

6 (II) ALL PROCEDURES UNDER THIS DIVISION II, INCLUDING  
7 PROCEDURES GOVERNING CONTRACT CLAIMS AND PROTESTS, SHALL APPLY.

8 (2) A POLITICAL SUBDIVISION OF THE STATE MAY PARTICIPATE UNDER  
9 ANY INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SPONSORED  
10 BY A PRIMARY PROCUREMENT UNIT IN A MANNER CONSISTENT WITH THE TERMS  
11 OF THE AGREEMENT.

12 (D) IF A PRIMARY PROCUREMENT UNIT PARTICIPATES IN AN  
13 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, ANY PROTEST  
14 OR CONTRACT CLAIM INVOLVING THE AGREEMENT SHALL BE HANDLED IN  
15 ACCORDANCE WITH THE TERMS OF THE AGREEMENT.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 ~~October~~ July 1, 1997.