

HOUSE BILL 1191

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P2

1999 Regular Session
9r2616

By: **Delegate Wood**
Introduced and read first time: March 5, 1999
Assigned to: Rules and Executive Nominations
Re-referred to: Commerce and Government Matters, March 10, 1999

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 24, 1999

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Preferences for Resident Bidders Law - Application to**
3 **Maryland Port Administration and Modification of the Reciprocal**
4 **Preference Program**

5 FOR the purpose of altering the circumstances under which resident bidders for State
6 procurement contracts may be given preference in the procurement process;
7 exempting the Maryland Port Administration from certain provisions of the
8 State procurement law for limited purposes and for a limited period; providing
9 for the application of certain provisions of this Act; defining a term; providing for
10 the effective date of this Act; providing for the termination of certain provisions
11 of this Act; and generally relating to preferences given in the State procurement
12 process and a limited exemption of the certain provisions of the procurement law
13 for the Maryland Port Administration.

14 BY repealing and reenacting, with amendments,
15 Article - State Finance and Procurement
16 Section 14-401
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1998 Supplement)

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

1 **Article - State Finance and Procurement**

2 14-401.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Preference" includes:

5 (i) a percentage preference;

6 (ii) an employee residency requirement; or

7 (iii) any other provision that favors a resident over a nonresident.

8 (3) "Resident bidder" means a bidder whose principal office is located in
9 the State.

10 (4) "SERVICES" MEANS SERVICES, ARCHITECTURAL SERVICES,
11 CONSTRUCTION RELATED SERVICES, ENGINEERING SERVICES, OR ENERGY
12 PERFORMANCE CONTRACT SERVICES, ALL AS DEFINED IN § 11-101 OF THIS ARTICLE.

13 (b) When a unit uses competitive sealed bidding to award a procurement
14 contract, the unit may give a preference to the resident bidder who submits the lowest
15 responsive bid from a resident bidder if:

16 (1) the resident bidder is a responsible bidder;

17 (2) a responsible bidder whose principal office OR OPERATION is in
18 another state submits the lowest responsive bid;

19 (3) the [other] state IN WHICH THE NONRESIDENT BIDDER'S PRINCIPAL
20 OFFICE IS LOCATED OR THE STATES STATE IN WHICH A SIGNIFICANT PORTION OF
21 THE VALUE OF THE SUPPLIES OR SERVICES TO BE PROVIDED BY THE NONRESIDENT
22 BIDDER ORIGINATES OR IS PRODUCED [gives] GIVE HAS ITS PRINCIPAL OPERATION
23 THROUGH WHICH IT WOULD PROVIDE SUPPLIES OR SERVICES GIVES a preference to
24 [its] ~~THEIR~~ residents; and

25 (4) a preference does not conflict with a federal law or grant affecting the
26 procurement contract.

27 (c) (1) [A] AT THE REQUEST OF THE UNIT, A nonresident bidder submitting
28 a proposal for a State project shall [attach to the proposal] PROVIDE a copy of the
29 current statute, resolution, policy, procedure, or executive order [of the resident state
30 of the nonresident bidder] that pertains to [that state's] THE treatment of
31 nonresident bidders BY:

32 (I) THE STATE IN WHICH THE NONRESIDENT BIDDER'S PRINCIPAL
33 OFFICE IS LOCATED; AND

34 (II) THE STATES STATE IN WHICH A SIGNIFICANT PORTION OF THE
35 VALUE OF THE SUPPLIES OR SERVICES TO BE PROVIDED BY THE NONRESIDENT

1 ~~BIDDER ORIGINATES OR IS PRODUCED HAS ITS PRINCIPAL OPERATION THROUGH~~
2 ~~WHICH IT WOULD PROVIDE SUPPLIES OR SERVICES.~~

3 (2) A UNIT MAY GIVE A preference under this section [shall be] THAT IS
4 identical to ANY OF THE FOLLOWING PREFERENCES, OR ANY COMBINATION OF
5 THEM:

6 (I) the preference that the [other] state IN WHICH THE
7 NONRESIDENT BIDDER'S PRINCIPAL OFFICE IS LOCATED gives to its residents; OR

8 (II) ~~THE PREFERENCE THAT ANY OF THE STATES THE STATE IN~~
9 ~~WHICH A SIGNIFICANT PORTION OF THE VALUE OF THE SUPPLIES OR SERVICES TO~~
10 ~~BE PROVIDED BY THE NONRESIDENT BIDDER ORIGINATES OR IS PRODUCED GIVES~~
11 ~~TO ITS RESIDENTS HAS ITS PRINCIPAL OPERATION THROUGH WHICH IT WOULD~~
12 ~~PROVIDE SUPPLIES OR SERVICES.~~

13 SECTION 2. AND BE IT FURTHER ENACTED, That:

14 (a) Except as provided in Title 14, Subtitle 3, Title 15, and Title 17, Subtitles
15 1 and 2 of the State Finance and Procurement Article, Division II of the State Finance
16 and Procurement Article does not apply to the Maryland Port Administration for
17 procurement pertaining to design, construction, or dredging related to a container
18 facility of at least 100 acres at Dundalk Marine Terminal.

19 (b) Notwithstanding the termination provision under Section 4 of this Act, the
20 exception from Division II of the State Finance and Procurement Article under
21 subsection (a) of this section, shall remain in effect for the term of any contract
22 awarded while the exception is in effect.

23 ~~SECTION 2.~~ 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act
24 shall take effect July 1, 1999.

25 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
26 take effect June 1, 1999. Subject to the provisions of Section 2(b) of this Act, it shall
27 remain effective for a period of 2 years and, at the end of May 31, 2001, with no
28 further action required by the General Assembly, Section 2 of this Act shall be
29 abrogated and of no further force and effect.