

SENATE BILL 191

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P2  
HB 1276/98 - CGM

1999 Regular Session  
9r1257

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By: **Senators Mitchell and Conway**

Introduced and read first time: February 1, 1999

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Service Contracts - Standards for Privatization**

3 FOR the purpose of establishing standards and procedures for procurement of  
4 services that are currently provided by a unit of State government; requiring an  
5 invitation for bids under this Act to contain certain information; requiring the  
6 Board of Public Works to make a certain certification before approving a  
7 contract under this Act; prohibiting certain State employees from accepting  
8 certain employment for a certain period of time; and generally relating to  
9 proposed procurement contracts for services currently provided by State  
10 government.

11 BY adding to

12 Article - State Finance and Procurement

13 Section 12-110

14 Annotated Code of Maryland

15 (1995 Replacement Volume and 1998 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - State Government

18 Section 15-503

19 Annotated Code of Maryland

20 (1995 Replacement Volume and 1998 Supplement)

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

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

23 **Article - State Finance and Procurement**

24 12-110.

25 (A) THIS SECTION APPLIES TO A PROPOSED PROCUREMENT CONTRACT FOR  
26 SERVICES THAT ARE CURRENTLY PROVIDED BY A UNIT UNDER ITS PUBLIC  
27 AUTHORITY.

1 (B) (1) A CONTRACT UNDER THIS SECTION SHALL BE BASED ON  
2 COMPETITIVE SEALED BIDS.

3 (2) AN INVITATION FOR BIDS UNDER THIS SUBSECTION SHALL:

4 (I) STATE THE WAGES TO BE PAID UNDER THE CONTRACT; AND

5 (II) REQUIRE THE CONTRACTOR TO:

6 1. PROVIDE HEALTH INSURANCE FOR EMPLOYEES WHO  
7 WORK MORE THAN 20 HOURS PER WEEK;

8 2. STATE THE CONTRACTOR'S NEUTRALITY CONCERNING AN  
9 EMPLOYEE'S RIGHT TO COLLECTIVE BARGAINING;

10 3. OFFER JOBS TO QUALIFIED EMPLOYEES OF THE UNIT  
11 WHO WILL BE TERMINATED AS A RESULT OF THE CONTRACT; AND

12 4. COMPLY WITH STATE AND FEDERAL LAW REGARDING  
13 EMPLOYEE RIGHTS, EQUAL EMPLOYMENT OPPORTUNITY, AND NONDISCRIMINATION.

14 (3) WAGES PAID UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION SHALL  
15 BE THE LESSER OF:

16 (I) THE AVERAGE PRIVATE SECTOR WAGE FOR COMPARABLE  
17 WORK, AS DETERMINED BY THE DEPARTMENT OF LEGISLATIVE SERVICES; AND

18 (II) IN THE STANDARD PAY PLAN, THE STEP 1 WAGE WITHIN THE  
19 GRADE AT WHICH THE POSITION WOULD BE CLASSIFIED IF THE JOB WAS  
20 PERFORMED BY A PUBLIC EMPLOYEE.

21 (4) HEALTH INSURANCE PROVIDED UNDER PARAGRAPH (2)(II)1 OF THIS  
22 SUBSECTION SHALL INCLUDE IMMEDIATE FAMILY MEMBERS OF THE EMPLOYEE,  
23 AND THE EMPLOYER CONTRIBUTION SHALL BE THE SAME PORTION AS THAT PAID BY  
24 THE STATE FOR ITS EMPLOYEES.

25 (C) IF A CONTRACT IS PROPOSED UNDER THIS SECTION, THE AFFECTED UNIT  
26 SHALL PREPARE A STATEMENT OF ITS INTERNAL COSTS TO PROVIDE THE SERVICE  
27 UTILIZING PUBLIC EMPLOYEES.

28 (D) BEFORE AWARDING A CONTRACT UNDER THIS SECTION, THE BOARD OF  
29 PUBLIC WORKS SHALL CERTIFY THAT:

30 (1) THE QUALITY OF SERVICES TO BE PROVIDED BY THE CONTRACTOR  
31 WILL BE AT LEAST EQUAL TO THE QUALITY OF SERVICES PROVIDED BY THE UNIT;

32 (2) THE CONTRACTOR HAS NO RECORD OF NONCOMPLIANCE WITH ANY  
33 FEDERAL OR STATE LAW OR REGULATION; AND

34 (3) AWARD OF THE CONTRACT IS IN THE PUBLIC INTEREST.

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**Article - State Government**

2 15-503.

3 (a) This section does not apply to members of the General Assembly.

4 (b) An official or employee may not be employed by an entity that is a party to  
5 a contract that binds or purports to bind the State if:6 (1) the duties of the official or employee include matters substantially  
7 relating to or affecting the subject matter of the contract; and8 (2) the contract binds or purports to bind the State to pay more than  
9 \$1,000.10 (C) (1) THIS SUBSECTION APPLIES TO A CONTRACT GOVERNED BY § 12-110  
11 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.12 (2) AN INDIVIDUAL WHO HAS MANAGEMENT RESPONSIBILITIES WITHIN  
13 A UNIT OF STATE GOVERNMENT MAY NOT, FOR A PERIOD OF 1 YEAR FROM THE  
14 TERMINATION OF STATE EMPLOYMENT, ACCEPT EMPLOYMENT FROM A PERSON  
15 WHO IS AWARDED A CONTRACT UNDER § 12-110 OF THE STATE FINANCE AND  
16 PROCUREMENT ARTICLE TO PERFORM SERVICES THAT WERE FORMERLY  
17 PERFORMED BY THE UNIT THAT EMPLOYED THE INDIVIDUAL.18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 1999.