

HOUSE BILL 1412

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2000 Regular Session
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CF SB 808

By: **Delegates Dobson, Marriott, Gladden, Doory, Paige, Swain, Montague,
Kirk, V. Jones, Fulton, and Phillips**
Introduced and read first time: March 3, 2000
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Minority Business Enterprise Participation**

3 FOR the purpose of increasing the minimum percentage of the total dollar value of
4 procurement contracts made directly or indirectly from minority businesses that
5 a unit of State government is to try to achieve; decreasing the amount of a
6 Maryland Department of Transportation construction contract that is
7 negotiated competitively and not subject to provisions of law regarding minority
8 business enterprise goals; requiring a unit of State government to try to ensure
9 that a certain percentage of a certain minority business enterprise goal is made
10 by specified categories of minority business enterprises; requiring a unit of State
11 government to structure certain procurement procedures; requiring a unit of
12 State government to divide a certain percentage goal that is not met by a
13 specified category of minority business enterprise by the number of certain
14 remaining categories of minority business enterprise for addition to the goals of
15 certain remaining categories of minority business enterprise; continuing until a
16 certain date certain provisions of the State Procurement Law relating to
17 procurement from minority businesses; requiring a certain study and the
18 issuance of a certain report by a certain date; and generally relating to minority
19 business participation in State procurement.

20 BY repealing and reenacting, with amendments,
21 Article - State Finance and Procurement
22 Section 13-304(b), 13-310(d), 14-302, and 14-309
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1999 Supplement)

25 BY repealing and reenacting, with amendments,
26 Chapter 116 of the Acts of the General Assembly of 1995
27 Section 2

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

1 **Article - State Finance and Procurement**

2 13-304.

3 (b) The procedures of each selection board shall ensure that a
4 recommendation to the Board of Public Works for the award of a procurement
5 contract for architectural or engineering services costing over \$100,000 AS TO THE
6 GENERAL SELECTION BOARD AND OVER \$50,000 AS TO THE TRANSPORTATION
7 SELECTION BOARD is made on a competitive basis and includes an evaluation of the
8 technical proposals and qualifications of at least 2 persons.

9 13-310.

10 (d) A transportation unit shall negotiate competitively each procurement
11 contract for architectural or engineering services costing [\$100,000] \$50,000 or less at
12 a price that the transportation unit determines to be fair and reasonable.

13 14-302.

14 (a) (1) Except for leases of real property and except as provided in
15 paragraphs (2) and (3) of this subsection, each unit shall structure procurement
16 procedures, consistent with the purposes of this subtitle, to try to achieve the result
17 that a minimum of [14%] 30% of the unit's total dollar value of procurement contracts
18 is made directly or indirectly from certified minority business enterprises IN
19 ACCORDANCE WITH THIS SECTION.

20 (2) Except as provided in paragraph (3) of this subsection, in
21 procurement for construction, each unit shall:

22 (i) structure procurement procedures, consistent with the purposes
23 of this subtitle, to try to achieve the result that a minimum of [14%] 30% of the unit's
24 total dollar value of construction contracts is made directly or indirectly from certified
25 minority business enterprises; and

26 (ii) consider the practical severability of the construction projects.

27 (3) With respect to the Maryland Department of Transportation, the
28 provisions of paragraph (2)(i) of this subsection shall apply only to construction
29 contracts in excess of [\$100,000] \$50,000.

30 (4) To achieve the result specified in paragraph (1) or (2) of this
31 subsection, a contractor shall:

32 (i) identify specific work categories appropriate for subcontracting;

33 (ii) at least 10 days before bid opening, solicit minority business
34 enterprises, through written notice that:

35 1. describes the categories of work under item (i) of this
36 subparagraph; and

1 IN PARAGRAPH (1) OF THIS SUBSECTION ARE AVAILABLE OR ABLE TO MEET
2 REQUIREMENTS OF A CONTRACT.

3 (3) IF A UNIT DETERMINES NO CERTIFIED MINORITY BUSINESS
4 ENTERPRISE IN ONE OF THE CATEGORIES LISTED IN PARAGRAPH (1) OF THIS
5 SUBSECTION IS AVAILABLE OR ABLE TO PARTICIPATE IN A PROCUREMENT
6 CONTRACT, THE 5% GOAL ESTABLISHED UNDER THIS SUBSECTION FOR THAT
7 CATEGORY OF CERTIFIED MINORITY BUSINESS ENTERPRISE SHALL BE DIVIDED BY
8 THE NUMBER OF REMAINING CATEGORIES OF CERTIFIED MINORITY BUSINESS
9 ENTERPRISE LISTED IN PARAGRAPH (1) OF THIS SUBSECTION AND SHALL BE ADDED
10 TO THE GOAL FOR EACH REMAINING CATEGORY OF CERTIFIED MINORITY BUSINESS
11 ENTERPRISE.

12 (C) (1) The provisions of §§ 14-301(e) and 14-303 of this subtitle and
13 subsection (a) of this section are inapplicable to the extent that any unit determines
14 the provisions to be in conflict with any applicable federal program requirement.

15 (2) The determination under this subsection shall be included with the
16 report required under § 14-305 of this subtitle.

17 14-309.

18 The provisions of §§ 14-301 through 14-305 of this subtitle, and any regulations
19 adopted under those sections, shall be of no effect AFTER JULY 1, 2002 and may not be
20 enforced after July 1, [2000] 2002.

21

Chapter 116 of the Acts of 1995

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency,
23 in consultation with the General Assembly, shall initiate a study of the Minority
24 Business Enterprise Program to evaluate the Program's continued compliance with
25 the requirements of the Croson decision and any subsequent federal or constitutional
26 requirements. The study shall also evaluate race neutral programs and other
27 methods that can be used to address the needs of minority businesses. The final
28 report on the study shall be submitted to the Legislative Policy Committee of the
29 General Assembly prior to September 30, [1999] 2000 so that the General Assembly
30 may review the report prior to the [2000] 2001 Session.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2000.