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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

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## A BILL ENTITLED

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1	AN	ACT.	concerning
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4	HOR the nurnose	of increasing	the minimiim	percentage of the tota	L dollar value of
_	1 OIL are purpose	or mercusing	uic iiiiiiiiiiiiiiiii	percentage of the tota	i dollar varue or

- 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
- 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
- specified category of minority business enterprise by the number of certain
- remaining categories of minority business enterprise for addition to the goals of
- certain remaining categories of minority business enterprise; continuing until a
- 16 certain date certain provisions of the State Procurement Law relating to
- procurement from minority businesses; requiring a certain study and the
- 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:

32

33

(i)

1.

34 enterprises, through written notice that:

36 subparagraph; and

## **HOUSE BILL 1412** 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 Except for leases of real property and except as provided in (a) (1) 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 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 consider the practical severability of the construction projects. (ii) 27 With respect to the Maryland Department of Transportation, the 28 provisions of paragraph (2)(i) of this subsection shall apply only to construction contracts in excess of [\$100,000] \$50,000. 30 To achieve the result specified in paragraph (1) or (2) of this 31 subsection, a contractor shall:

identify specific work categories appropriate for subcontracting;

describes the categories of work under item (i) of this

at least 10 days before bid opening, solicit minority business

## **HOUSE BILL 1412**

1 2	solicited and specific	instructio	2. provides information regarding the type of work being ons on how to submit a bid;	
3	this paragraph;	(iii)	attempt to make personal contact with the firms in item (ii) of	
5 6	requirements or to obt	(iv) tain a wai	assist minority business enterprises to fulfill bonding iver of those requirements;	
	business enterprises, a	(v) attend pre	in order to publicize contracting opportunities to minority bid meetings or other meetings scheduled by the unit;	
	businesses with whor minority and nonmin		upon acceptance of a bid, provide the unit with a list of minority tractor negotiated, including price quotes from as.	
13 14	(5) in good faith, with pa	(i) aragraph (	The unit shall make a finding whether the contractor complied, (4) of this subsection.	
	this subsection, the u subcontract in order t		If the unit finds the contractor complied with paragraph (4) of our require the contractor to renegotiate any e a different result.	
20 21 22 23	(A) (b) (1) IN SEEKING TO ACHIEVE THE GOALS DESCRIBED IN SUBSECTION (A) OF THIS SECTION, EACH UNIT SHALL TRY TO ENSURE THAT A MINIMUM OF 5% OF THE 30% TOTAL DOLLAR VALUE OF A PROCUREMENT CONTRACT GOAL IS MADE DIRECTLY OR INDIRECTLY FROM CERTIFIED MINORITY BUSINESS ENTERPRISES THAT ARE AT LEAST 51% OWNED AND CONTROLLED BY ONE OR MORE INDIVIDUALS WHO ARE MEMBERS OF EACH OF THE FOLLOWING DISADVANTAGED SOCIAL OR ECONOMIC GROUPS:			
25		(I)	AFRICAN AMERICANS;	
26		(II)	AMERICAN INDIANS;	
27		(III)	ASIANS;	
28		(IV)	HISPANICS;	
29		(V)	WOMEN; OR	
30		(VI)	PHYSICALLY OR MENTALLY DISABLED INDIVIDUALS.	
33 34	CERTIFIED MINOR PROCUREMENT C	SULTS IN RITY BU ONTRAC	UNIT SHALL STRUCTURE PROCUREMENT PROCEDURES TO N THIS SUBSECTION AND SHALL INCLUDE A MEANS FOR A SINESS ENTERPRISE TO WAIVE PARTICIPATION IN A CT AND FOR A CONTRACTOR TO DEMONSTRATE THAT NO SINESS ENTERPRISES IN ONE OF THE CATEGORIES LISTED.	

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- 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.
- 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.