

SENATE BILL 202

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SB 658/99 - FIN

2000 Regular Session
0lr0144
CF 0lr0161

By: **The President (Administration) and Senators Bromwell, Della, Kelley,
Dorman, Exum, Currie, Green, Stone, Sfikas, Mitchell, Lawlah, Pinsky,
Frosh, Dyson, Collins, and Conway**

Introduced and read first time: January 24, 2000
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 7, 2000

CHAPTER _____

1 AN ACT concerning

2 **Procurement - Prevailing Wage - School Construction**

3 FOR the purpose of repealing a certain limitation on the applicability of the
4 Prevailing Wage Law to the construction of an elementary or secondary school;
5 requiring that certain school contracts be awarded with consideration given to
6 the bidder's plans for utilization of minority contractors; requiring that a certain
7 questionnaire include certain information; and generally relating to the
8 definitions of "public body" and "public work" under the Prevailing Wage Law.

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 17-201
12 Annotated Code of Maryland
13 (1995 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Education
16 Section 5-112(c)
17 Annotated Code of Maryland
18 (1999 Replacement Volume)

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 17-201.

3 (a) In this subtitle, unless the context indicates otherwise, the following words
4 have the meanings indicated.

5 (b) "Apprentice" means an individual who:

6 (1) is at least 16 years old;

7 (2) has signed with an employer or employer's agent, an association of
8 employers, an organization of employees, or a joint committee from both, an
9 agreement including a statement of:

10 (i) the trade, craft, or occupation that the individual is learning;
11 and

12 (ii) the beginning and ending dates of the apprenticeship; and

13 (3) is registered in a program of the Council or the Bureau of
14 Apprenticeship and Training of the United States Department of Labor.

15 (c) "Commissioner" means:

16 (1) the Commissioner of Labor and Industry;

17 (2) the Deputy Commissioner of Labor and Industry; or

18 (3) an authorized representative of the Commissioner.

19 (d) "Construction" includes all:

20 (1) building;

21 (2) reconstructing;

22 (3) improving;

23 (4) enlarging;

24 (5) painting and decorating;

25 (6) altering;

26 (7) maintaining; and

27 (8) repairing.

28 (e) "Council" means the Apprenticeship and Training Council.

1 (f) (1) "Employee" means an apprentice or worker employed by a contractor
2 or subcontractor under a public work contract.

3 (2) "Employee" does not include an individual employed by a public body.

4 (g) (1) "Locality" means the county in which the work is to be performed.

5 (2) If the public work is located within 2 or more counties, the locality
6 includes all counties in which the public work is located.

7 (h) "Prevailing wage rate" means the hourly rate of wages paid in the locality
8 as determined by the Commissioner under § 17-208 of this subtitle.

9 (i) (1) "Public body" means:

10 (i) the State;

11 (ii) except as provided in paragraph (2)(i) of this subsection, a unit
12 of the State government or instrumentality of the State;

13 (iii) any political subdivision, agency, person, or entity[:

14 1. with respect to the construction of an elementary or
15 secondary school for which 75% or more of the money used for construction is State
16 money; or

17 2.] with respect to the construction of any [other] public work
18 for which 50% or more of the money used for construction is State money; and

19 (iv) notwithstanding paragraph (2)(ii) of this subsection, a political
20 subdivision if its governing body:

21 1. provides by ordinance or resolution that the political
22 subdivision is covered by this subtitle; and

23 2. gives written notice of that ordinance or resolution to the
24 Commissioner.

25 (2) "Public body" does not include:

26 (i) a unit of the State government or instrumentality of the State
27 funded wholly from a source other than the State; or

28 (ii) any political subdivision, agency, person, or entity[:

29 1. with respect to the construction of an elementary or
30 secondary school for which less than 75% of the money used for construction is State
31 money; or

32 2.] with respect to the construction of any [other] public work
33 for which less than 50% of the money used for construction is State money.

1 (j) (1) Subject to paragraph (2) of this subsection, "public work" means a
 2 structure or work, including a bridge, building, ditch, road, alley, waterwork, or
 3 sewage disposal plant, that:

4 (i) is constructed for public use or benefit; or

5 (ii) is paid for wholly or partly by public money.

6 (2) "Public work" does not include[:

7 (i)] , unless let to contract, a structure or work whose construction
 8 is performed by a public service company under order of the Public Service
 9 Commission or other public authority regardless of:

10 [1.] (I) public supervision or direction; or

11 [2.] (II) payment wholly or partly from public money[; or

12 (ii) an elementary or secondary school if:

13 1. the school is not in a county covered under subsection

14 (i)(1)(iv) of this section; and

15 2. the State provides less than 75% of the money for

16 construction].

17 (k) "Public work contract" means a contract for construction of a public work.

18 (l) "Worker" means a laborer or mechanic.

19 **Article - Education**

20 5-112.

21 (c) (1) A contract for the school building, improvements, supplies, or other
 22 equipment shall be awarded to the lowest responsible bidder who conforms to
 23 specifications with consideration given to:

24 (i) The quantities involved;

25 (ii) The time required for delivery;

26 (iii) The purpose for which required;

27 (iv) The competency and responsibility of the bidder; [and]

28 (v) The ability of the bidder to perform satisfactory service; AND

29 (VI) THE PLAN FOR UTILIZATION OF MINORITY CONTRACTORS.

1 (2) The county board may reject any and all bids and readvertise for
2 other bids.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the prequalification
4 questionnaires administered by county boards of education for the purposes of
5 soliciting bids for school construction shall include questions regarding the diversity
6 of the board of directors of interested contractors.

7 ~~SECTION 2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect July 1, 2000.