

---

By: **Montgomery County Delegation and Prince George's County  
Delegation**

Introduced and read first time: February 9, 2001  
Assigned to: Commerce and Government Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission - Minority Business Enterprise**  
3 **Program - Graduation**  
4 **MC/PG 119-01**

5 FOR the purpose of altering the criteria for a minority business enterprise to  
6 graduate from a certain minority business utilization program of the  
7 Washington Suburban Sanitary Commission; authorizing the Commission to  
8 make a certain determination concerning eligibility for the program; and  
9 generally relating to the Washington Suburban Sanitary Commission and  
10 minority business enterprises.

11 BY repealing and reenacting, with amendments,  
12 Article 29 - Washington Suburban Sanitary District  
13 Section 3-109(c)  
14 Annotated Code of Maryland  
15 (1997 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article 29 - Washington Suburban Sanitary District  
18 Section 3-109(g)  
19 Annotated Code of Maryland  
20 (1997 Replacement Volume and 2000 Supplement)

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

23 **Article 29 - Washington Suburban Sanitary District**

24 3-109.

25 (c) The rules and regulations that establish the program under subsection (b)  
26 of this section shall include provisions that:

- 1           (1)     Recognize the certification of minority business enterprises by the  
2 State certification agency designated under § 14-303(b) of the State Finance and  
3 Procurement Article;
- 4           (2)     Recognize any other certification program that in the judgment of the  
5 WSSC substantially duplicates the requirements of the State certification agency;
- 6           (3)     Provide for minority business participation through subcontracting;
- 7           (4)     Except as provided in paragraph (5) of this subsection, provide for a  
8 system of granting a preference of up to the lesser of 5% or \$50,000 to minority  
9 business enterprises in evaluating bids and proposals;
- 10          (5)     (i)     Subject to the provisions of subparagraphs (ii), (iii), and (iv) of  
11 this paragraph, establish a sheltered market program in which bidding on  
12 procurement contracts designated by the WSSC as appropriate is restricted to  
13 certified minority business enterprises;
- 14                 (ii)     The sheltered market program under this paragraph may not  
15 be utilized until all less restrictive remedies under this subsection and race-neutral  
16 remedies such as assistance with bonding requirements, financing, or bidding  
17 procedures for small firms have been used and found to be ineffective;
- 18                 (iii)    Upon the bid of at least 3 certified minority business  
19 contractors, a contract shall be awarded under this paragraph to the lowest of those  
20 bidders; and
- 21                 (iv)    If fewer than 3 certified minority business enterprises bid on a  
22 contract under this paragraph, the contract shall be awarded under the general  
23 provisions of paragraph (4) of this subsection;
- 24          (6)     Provide for the graduation of a minority business enterprise from the  
25 program [after 5 years; however, if a minority business enterprise was not awarded  
26 at least 3 contracts or a total of \$50,000 in awarded contracts from the WSSC during  
27 the 5-year period, the business may apply for and receive one 2-year extension of  
28 participation in the program] IF THE WSSC DETERMINES THAT THE MINORITY  
29 BUSINESS ENTERPRISE NO LONGER REQUIRES THE ASSISTANCE OR BENEFITS  
30 OFFERED BY THE PROGRAM;
- 31          (7)     Require the solicitation document accompanying each solicitation to  
32 set forth the rules and regulations of the minority business utilization program;
- 33          (8)     Require the geographic location and the principal place of business of  
34 the minority business enterprise to be a consideration for participation in this  
35 program. Montgomery County businesses and Prince George's County businesses  
36 shall each have a targeted percentage of at least 40% of any contracts;
- 37          (9)     Provide for the WSSC to refuse to recognize the certification of any  
38 business found to be in violation of the purposes of the program and to permanently

1 bar any active principals of a violating business from future participation in the  
2 program; and

3           (10)     Permit the waiver of all or part of the provisions of the program for a  
4 specific contract if the WSSC determines that the application of the program to the  
5 contract conflicts with the WSSC's overall objectives and responsibilities, and provide  
6 for the WSSC to report annually to the Montgomery County and Prince George's  
7 County House and Senate Delegations on those waivers.

8           (g)     The provisions of this section shall be void and may not be enforced after  
9 July 1, 2002.

10       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 2001.