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

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

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Committee Report: Favorable  
House action: Adopted  
Read second time: March 15, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission - Nondiscrimination Policy**  
3 **MC/PG 125-01**

4 FOR the purpose of prohibiting the Washington Suburban Sanitary Commission  
5 (WSSC) from discriminating against any person based on certain factors;  
6 requiring certain contracts to include certain provisions pertaining to  
7 nondiscrimination; authorizing the WSSC and certain contractors to void  
8 certain contracts; limiting the liability of the WSSC and certain contractors  
9 under certain contracts; authorizing the WSSC to compel performance under  
10 certain contracts; and generally relating to the WSSC and nondiscrimination  
11 policies.

12 BY adding to  
13 Article 29 - Washington Suburban Sanitary District  
14 Section 1-107 and 3-102(h)  
15 Annotated Code of Maryland  
16 (1997 Replacement Volume and 2000 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article 29 - Washington Suburban Sanitary District  
19 Section 3-102(b)  
20 Annotated Code of Maryland  
21 (1997 Replacement Volume and 2000 Supplement)

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

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

4 1-107.

5 THE WSSC MAY NOT DISCRIMINATE AGAINST A PERSON ON THE BASIS OF SEX,  
6 RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL HANDICAP, SEXUAL ORIENTATION,  
7 OR NATIONAL ORIGIN.

8 3-102.

9 (b) This section only applies to design/build contracts and construction  
10 contracts.

11 (H) (1) THE WSSC MAY NOT AWARD A CONTRACT TO A CONTRACTOR UNLESS  
12 THE CONTRACT CONTAINS PROVISIONS OBLIGATING THE CONTRACTOR:

13 (I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN  
14 EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE,  
15 CREED, COLOR, AGE, MENTAL OR PHYSICAL HANDICAP, SEXUAL ORIENTATION, OR  
16 NATIONAL ORIGIN; AND

17 (II) TO INCLUDE A SIMILAR NONDISCRIMINATION CLAUSE IN ALL  
18 SUBCONTRACTS.

19 (2) (I) IF THE NONDISCRIMINATION CLAUSE IS OMITTED FROM A  
20 CONTRACT OR SUBCONTRACT THE WSSC SHALL PROVIDE A REASONABLE  
21 OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO THE PROVISIONS OF THIS  
22 SUBSECTION.

23 (II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT, THE WSSC  
24 MAY DECLARE THE CONTRACT TO BE VOID, AND THE CONTRACTOR IS ENTITLED TO  
25 THE REASONABLE VALUE OF WORK THAT HAS BEEN PERFORMED AND MATERIALS  
26 THAT HAVE BEEN PROVIDED.

27 (III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT  
28 REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

29 (3) IF A CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE  
30 REQUIREMENTS OF THE NONDISCRIMINATION CLAUSE AND THE CONTRACT IS  
31 PARTLY EXECUTORY, THE WSSC MAY COMPEL THE CONTRACTOR TO CONTINUE TO  
32 PERFORM UNDER THE CONTRACT, BUT THE WSSC:

33 (I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF  
34 WORK PERFORMED AND MATERIALS PROVIDED AFTER THE DATE ON WHICH THE  
35 BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN DISCOVERED; AND

1 (II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER THE  
2 CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS  
3 PARAGRAPH.

4 (4) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE  
5 REQUIREMENTS OF A NONDISCRIMINATION CLAUSE, THE CONTRACTOR MAY  
6 DECLARE THE SUBCONTRACT TO BE VOID. IN THAT EVENT, THE CONTRACTOR IS  
7 LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED OR  
8 MATERIALS PROVIDED.

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