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By: **Delegate C. Davis**

Introduced and read first time: February 26, 2002

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Procurement - Minority Business Participation - Hispanic-Owned**  
3                                   **Businesses**

4 FOR the purpose of requiring procurement units to establish a procurement goal  
5     awarding a certain percentage of their total procurement dollars to  
6     Hispanic-owned businesses; altering the percentage of a unit's total dollars to  
7     be made from African American-owned businesses; and generally relating to  
8     minority business participation in State procurement.

9 BY repealing and reenacting, with amendments,  
10    Article - State Finance and Procurement  
11    Section 14-302(a)  
12    Annotated Code of Maryland  
13    (2001 Replacement Volume)

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

16                                   **Article - State Finance and Procurement**

17 14-302.

18     (a)     (1)     Except for leases of real property and except as provided in  
19     paragraphs (2) and (3) of this subsection, each unit shall structure procurement  
20     procedures, consistent with the purposes of this subtitle, to try to achieve the  
21     following results:

22                                   (i)     a minimum of [7%] 2.5% of the unit's total dollar value of  
23     procurement contracts is to be made directly or indirectly from certified minority  
24     business enterprises classified by the certification agency as African  
25     American-owned businesses;

26                                   (ii)    a minimum of 10% of the unit's total dollar value of  
27     procurement contracts is to be made directly or indirectly from certified minority

1 business enterprises classified by the certification agency as women-owned  
2 businesses; [and]

3 (III) A MINIMUM OF 2% OF THE UNIT'S TOTAL DOLLAR VALUE OF  
4 PROCUREMENT CONTRACTS IS TO BE MADE DIRECTLY OR INDIRECTLY FROM  
5 CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED BY THE CERTIFICATION  
6 AGENCY AS HISPANIC-OWNED BUSINESSES; AND

7 [(iii)] (IV) an overall minimum of 25% of the unit's total dollar value  
8 of procurement contracts is to be made directly or indirectly from all certified  
9 minority business enterprises.

10 (2) (i) Except as provided in paragraph (3) of this subsection, in  
11 procurement for construction, each unit shall structure procurement procedures,  
12 consistent with the purposes of this subtitle, to try to achieve the following results:

13 1. a minimum of [7%] 2.5% of the unit's total dollar value of  
14 construction contracts is to be made directly or indirectly from certified minority  
15 business enterprises classified by the certification agency as African  
16 American-owned businesses;

17 2. a minimum of 10% of the unit's total dollar value of  
18 construction contracts is to be made directly or indirectly from certified minority  
19 business enterprises classified by the certification agency as women-owned  
20 businesses; [and]

21 3. A MINIMUM OF 2% OF THE UNIT'S TOTAL DOLLAR VALUE  
22 OF PROCUREMENT CONTRACTS IS TO BE MADE DIRECTLY OR INDIRECTLY FROM  
23 CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED BY THE CERTIFICATION  
24 AGENCY AS HISPANIC-OWNED BUSINESSES; AND

25 [3.] 4. an overall minimum of 25% of the unit's total dollar  
26 value of construction contracts is to be made directly or indirectly from all certified  
27 minority business enterprises.

28 (ii) The unit shall:

29 1. consider the practical severability of the construction  
30 projects; and

31 2. implement a program that will enable the unit to evaluate  
32 each contract to determine the appropriateness of the goal.

33 (3) With respect to the Maryland Department of Transportation, the  
34 provisions of paragraph (2)(i) of this subsection shall apply only to construction  
35 contracts in excess of \$50,000.

36 (4) Each unit shall meet the maximum feasible portion of the goals  
37 stated in paragraphs (1), (2), and (3) of this subsection by using race-neutral

1 measures to facilitate minority business enterprise participation in the procurement  
2 process.

3 (5) To achieve the result specified in paragraph (1) or (2) of this  
4 subsection, a contractor, including a contractor that is a certified minority business  
5 enterprise, shall:

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

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

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

11 2. provides information regarding the type of work being  
12 solicited and specific instructions on how to submit a bid;

13 (iii) attempt to make personal contact with the firms in item (ii) of  
14 this paragraph;

15 (iv) assist minority business enterprises to fulfill bonding  
16 requirements or to obtain a waiver of those requirements;

17 (v) in order to publicize contracting opportunities to minority  
18 business enterprises, attend prebid meetings or other meetings scheduled by the unit;  
19 and

20 (vi) upon acceptance of a bid, provide the unit with a list of minority  
21 businesses with whom the contractor negotiated, including price quotes from  
22 minority and nonminority firms.

23 (6) (i) The unit shall make a finding whether the contractor complied,  
24 in good faith, with paragraph (5) of this subsection.

25 (ii) If the unit finds the contractor complied with paragraph (5) of  
26 this subsection, the unit may not require the contractor to renegotiate any  
27 subcontract in order to achieve a different result.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2002.