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By: **Senators Conway, Blount, Currie, Dyson, Exum, Forehand, Frosh,  
Hollinger, Hughes, Kelley, Lawlah, McFadden, Mitchell, Neall, Pinsky,  
Ruben, Sfikas, Teitelbaum, and Van Hollen**

Introduced and read first time: January 30, 2002  
Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Minority Business Participation**

3 FOR the purpose of altering the requirements by the Minority Business Participation  
4 Program by removing certain notice requirements and requiring bidders and  
5 offerors on certain procurement contracts to include certain information relating  
6 to their minority business status and the minority business enterprise  
7 subcontractors they will use in the event of contract award; limiting the ability  
8 of contractors to substitute subcontractors for those identified in certain bids or  
9 proposals; and generally relating to the participation of minority business  
10 enterprises in procurement contracts.

11 BY repealing and reenacting, with amendments,  
12 Article - State Finance and Procurement  
13 Section 14-302(a)  
14 Annotated Code of Maryland  
15 (2001 Replacement Volume)

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

18 **Article - State Finance and Procurement**

19 14-302.

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

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

1 (ii) a minimum of 10% of the unit's total dollar value of  
2 procurement contracts is to be made directly or indirectly from certified minority  
3 business enterprises classified by the certification agency as women-owned  
4 businesses; and

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

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

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

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

19 3. an overall minimum of 25% of the unit's total dollar value  
20 of construction contracts is to be made directly or indirectly from all certified minority  
21 business enterprises.

22 (ii) The unit shall:

23 1. consider the practical severability of the construction  
24 projects; and

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

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

30 (4) Each unit shall meet the maximum feasible portion of the goals  
31 stated in paragraphs (1), (2), and (3) of this subsection by using race-neutral  
32 measures to facilitate minority business enterprise participation in the procurement  
33 process.

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

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

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

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

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

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

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

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

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

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

19 (ii) If the unit finds the contractor complied with paragraph (5) of  
20 this subsection, the unit may not require the contractor to renegotiate any  
21 subcontract in order to achieve a different result] A BIDDER OR OFFEROR ON A  
22 PROCUREMENT CONTRACT SHALL INCLUDE THE FOLLOWING INFORMATION IN ITS  
23 BID OR PROPOSAL:

24 (I) WHETHER IT QUALIFIES AS A CERTIFIED MINORITY BUSINESS  
25 ENTERPRISE;

26 (II) A LIST OF THE CERTIFIED MINORITY BUSINESS ENTERPRISES  
27 THAT WILL PERFORM WORK AS SUBCONTRACTORS IF THE BIDDER OR OFFEROR IS  
28 AWARDED THE CONTRACT;

29 (III) THE TYPE OF WORK EACH OF THE LISTED MINORITY BUSINESS  
30 ENTERPRISE SUBCONTRACTORS WILL PERFORM; AND

31 (IV) THE APPROXIMATE DOLLAR VALUE THAT EACH OF THE  
32 MINORITY BUSINESS ENTERPRISE SUBCONTRACTORS WILL BE AWARDED.

33 (6) A BIDDER OR OFFEROR THAT HAS IDENTIFIED MINORITY BUSINESS  
34 ENTERPRISE SUBCONTRACTORS UNDER THIS SUBSECTION AND HAS BEEN AWARDED  
35 A PROCUREMENT CONTRACT MAY NOT SUBSTITUTE A DIFFERENT SUBCONTRACTOR  
36 UNLESS:

1 (I) THE CONTRACTOR SUBMITS COMPELLING, LEGITIMATE  
2 GROUNDS FOR SUBSTITUTION IN WRITING TO THE PROCUREMENT OFFICER ; AND

3 (II) THE PROCUREMENT OFFICER PROVIDES EXPRESS WRITTEN  
4 APPROVAL BEFORE THE CONTRACTOR COMMENCES WORK.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
6 effect July 1, 2002.