

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 715

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “establishing” in line 5 down through “waivers;” in line 10; in line 10, after “regulations” insert “relating to the appointment of an individual to review certain waivers and make certain determinations”; strike beginning with “clarifying” in line 11 down through “entity” in line 12 and substitute “providing for the termination of this Act”; in line 16, after “11-203(a)” insert “and 14-302(a)”; in line 21, strike “14-302(a)” and substitute “14-303(b)”; and strike lines 24 through 28, inclusive.

AMENDMENT NO. 2

On page 4, strike beginning with “TITLE” in line 13 down through “(VII)” in line 15; in line 16, strike the brackets; in the same line, strike “(VIII)”; after line 17, insert:

“(2) EXCEPT FOR PROCUREMENT UNDER SUBSECTION (A)(1)(I) AND (2)(I) AND (VI) OF THIS SECTION, THE PROVISIONS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE (“MINORITY BUSINESS PARTICIPATION”) SHALL APPLY TO EACH PROCUREMENT ENUMERATED IN SUBSECTION (A) OF THIS SECTION.”;

and in lines 18, 21, and 32, strike “(2)”, “(3)”, and “(4)”, respectively, and substitute “(3)”, “(4)”, and “(5)”, respectively.

AMENDMENT NO. 3

On pages 6 and 7, strike beginning with line 30 on page 6 down through line 23 on page 7 and substitute:

“14-303.

(b) These regulations shall include:

(Over)

(1) provisions designating one agency to certify and decertify minority business enterprises for all units through a single process that meets applicable federal requirements;

(2) a requirement that the solicitation document accompanying each solicitation set forth the expected degree of minority business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; and

(ii) the availability of certified minority business enterprises to respond competitively to the potential subcontract opportunities;

(3) a requirement that the unit provide a current list of certified minority business enterprises to each prospective contractor;

(4) provisions to ensure the uniformity of requests for bids on subcontracts;

(5) provisions relating to the timing of requests for bids on subcontracts and of submission of bids on subcontracts;

(6) provisions designed to ensure that a fiscal disadvantage to the State does not result from an inadequate response by minority business enterprises to a request for bids;

(7) provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority business enterprise portion of the joint venture;

(8) consistent with § 14-302(a)(5) of this subtitle, provisions relating to:

(I) any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation; AND

(II) THE APPOINTMENT OF A NEUTRAL NONGOVERNMENTAL INDIVIDUAL WHO SHALL:

1. REVIEW EACH WAIVER GRANTED UNDER THE WAIVER PROCESS ESTABLISHED IN ACCORDANCE WITH SUBITEM (I) OF THIS ITEM;

AND

2. DETERMINE WHETHER THE WAIVER COMPLIES WITH ALL RELEVANT STATUTORY AND REGULATORY REQUIREMENTS;

(9) provisions requiring a monthly submission to the unit by minority business enterprises acknowledging all payments received in the preceding 30 days under a contract governed by this subtitle;

(10) a requirement that a unit shall verify and maintain data concerning payments received by minority business enterprises, including a requirement that, upon completion of a project, the unit shall compare the total dollar value actually received by minority business enterprises with the amount of contract dollars initially awarded, and an explanation of any discrepancies therein;

(11) a requirement that a unit verify that minority business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(12) provisions establishing a graduation program based on the financial viability of the minority business enterprise, using annual gross receipts or other economic indicators as may be determined by the Board; and

(13) other provisions that the Board considers necessary or appropriate to encourage participation by minority business enterprises and to protect the integrity of the procurement process.”.

AMENDMENT NO. 4

On page 7, in line 25, after “2003.” insert “It shall remain effective until the expiration of Title 14, Subtitle 3 of the State Finance and Procurement Article, as enacted by Section 1 of Chapter 339 of the Acts of the General Assembly of 2001.”.