

SENATE BILL 82

Unofficial Copy
P2
SB 133/02 - EHE

2003 Regular Session
3lr0798

By: **Senator Mooney**

Introduced and read first time: January 21, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of requiring procurement units to establish procurement procedures
5 to try to award a certain percentage of their total procurement dollars to
6 Hispanic-owned businesses; and generally relating to minority business
7 participation in State procurement.

8 BY repealing and reenacting, with amendments,
9 Article - State Finance and Procurement
10 Section 14-302(a)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

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

15 **Article - State Finance and Procurement**

16 14-302.

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

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

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

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

5 [(iii)] (IV) an overall minimum of 25% of the unit's total dollar
6 value of procurement contracts is to be made directly or indirectly from all certified
7 minority 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. A MINIMUM OF 2% OF THE UNIT'S TOTAL DOLLAR VALUE
20 OF CONSTRUCTION CONTRACTS IS TO BE MADE DIRECTLY OR INDIRECTLY FROM
21 CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED BY THE CERTIFICATION
22 AGENCY AS HISPANIC-OWNED BUSINESSES; AND

23 [3.] 4. an overall minimum of 25% of the unit's total dollar
24 value of construction contracts is to be made directly or indirectly from all certified
25 minority business enterprises.

26 (ii) The unit shall:

27 1. consider the practical severability of the construction
28 projects; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect October 1, 2003.