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By: **Delegates Morhaim, Patterson, McIntosh, Barve, Benson, Bronrott,  
Burns, Goldwater, Hammen, Haynes, Hubbard, Hurson, Lee, Moe,  
Murray, Nathan-Pulliam, Oaks, Owings, V. Turner, and Vaughn**

Introduced and read first time: February 5, 2004

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Minority Business Enterprises - Subcontracting**  
3 **Requirements**

4 FOR the purpose of providing that contractors that are certified as minority business  
5 enterprises are exempt from complying with certain provisions for  
6 subcontracting with certified minority business enterprises under certain  
7 circumstances; and generally relating to minority business participation in  
8 State procurement contracts.

9 BY repealing and reenacting, without amendments,  
10 Article - State Finance and Procurement  
11 Section 14-302(a)(1) and (2)  
12 Annotated Code of Maryland  
13 (2001 Replacement Volume and 2003 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - State Finance and Procurement  
16 Section 14-302(a)(5), (6), and (7)  
17 Annotated Code of Maryland  
18 (2001 Replacement Volume and 2003 Supplement)

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

21 **Article - State Finance and Procurement**

22 14-302.

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

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

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

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

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

15 1. a minimum of 7% 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 African  
18 American-owned businesses;

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

23 3. an overall minimum of 25% of the unit's total dollar value  
24 of construction contracts is to be made directly or indirectly from all certified minority  
25 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 (5) [To] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION,  
32 TO achieve the result specified in paragraph (1) or (2) of this subsection, a [contractor,  
33 including a contractor that is a certified minority business enterprise,] CONTRACTOR  
34 shall:

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

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

1 describes the categories of work under item (i) of this  
2 subparagraph; and

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

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

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

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

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

15 (6) WITH RESPECT TO CONTRACTORS THAT ARE CERTIFIED MINORITY  
16 BUSINESS ENTERPRISES, THE PROVISIONS OF PARAGRAPH (5) OF THIS SUBSECTION  
17 SHALL APPLY ONLY TO CONTRACTS IN EXCESS OF \$200,000.

18 [(6)] (7) (i) [The] UNLESS A CONTRACTOR IS EXEMPT UNDER  
19 PARAGRAPH (6) OF THIS SUBSECTION, THE unit shall make a finding whether the  
20 contractor complied, in good faith, with paragraph (5) of this subsection.

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

24 [(7)] (8) If, during the performance of a contract, a certified minority  
25 business enterprise contractor or subcontractor becomes ineligible to participate in  
26 the Minority Business Enterprise Program because one or more of its owners has a  
27 personal net worth that exceeds the amount specified in § 14-301(i)(3) of this subtitle:

28 (i) that ineligibility alone may not cause the termination of the  
29 certified minority business enterprise's contractual relationship for the remainder of  
30 the term of the contract; and

31 (ii) the certified minority business enterprise's participation under  
32 the contract shall continue to be counted toward the program and contract goals.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 October 1, 2004.