

SENATE BILL 323

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C8
SB 526/03 - FIN/EHE

2004 Regular Session
4r1818
CF 4r2841

By: **Senators Jones, Britt, Conway, Currie, Exum, Garagiola, Gladden,
Green, Hughes, Kelley, Lawlah, and McFadden**

Introduced and read first time: February 2, 2004
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 18, 2004

CHAPTER _____

1 AN ACT concerning

2 **Economic Development Financial Assistance - Minority Business Enterprise**
3 **Procurement Goals**

4 FOR the purpose of requiring that a recipient of certain financial assistance awarded
5 under the Economic Development Opportunities Program Fund and the
6 Maryland Economic Development Assistance Authority and Fund to comply
7 with certain minority business enterprise procurement goals under certain
8 circumstances; requiring that certain minority business enterprise procurement
9 goals be included in certain financial assistance agreements; authorizing the
10 Department of Business and Economic Development to require certain
11 recipients of financial assistance to submit certain information; requiring the
12 Department to submit an annual report to a certain committee; defining certain
13 terms; providing for a delayed effective date; and generally relating to applying
14 minority business enterprise procurement goals to financial assistance for
15 economic development awarded under the Economic Development
16 Opportunities Program Fund and the Maryland Economic Development
17 Assistance Authority and Fund.

18 BY renumbering
19 Article 83A - Business and Economic Development
20 Section 5-1411
21 to be Section 5-1412
22 Annotated Code of Maryland
23 (2003 Replacement Volume)

24 BY adding to

1 Article 83A - Business and Economic Development
 2 Section 5-1411
 3 Annotated Code of Maryland
 4 (2003 Replacement Volume)

5 BY adding to
 6 Article - State Finance and Procurement
 7 Section 7-314(q)
 8 Annotated Code of Maryland
 9 (2001 Replacement Volume and 2003 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That Section(s) 5-1411 of Article 83A - Business and Economic
 12 Development of the Annotated Code of Maryland be renumbered to be Section(s)
 13 5-1412.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 15 read as follows:

16 **Article 83A - Business and Economic Development**

17 5-1411.

18 (A) (1) THIS SECTION APPLIES TO FINANCIAL ASSISTANCE UNDER THIS
 19 SUBTITLE THAT EXCEEDS \$100,000.

20 (2) THIS SECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE USED
 21 SOLELY FOR THE PURPOSE OF ACQUIRING REAL PROPERTY OR STRUCTURES ON
 22 REAL PROPERTY.

23 (B) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE TO A
 24 LOCAL GOVERNMENT:

25 (1) IF THE LOCAL GOVERNMENT HAS A PROGRAM FOR PROMOTING
 26 PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES THAT IS
 27 ACCEPTABLE TO THE DEPARTMENT, THE LOCAL GOVERNMENT SHALL APPLY THE
 28 REQUIREMENTS OF THAT PROGRAM TO THE PROCUREMENT OF GOODS OR SERVICES
 29 MADE WITH THE PROCEEDS FROM THE FINANCIAL ASSISTANCE; BUT

30 (2) IF THE LOCAL GOVERNMENT DOES NOT HAVE A PROGRAM THAT IS
 31 ACCEPTABLE TO THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION,
 32 THE LOCAL GOVERNMENT IS SUBJECT TO SUBSECTION (C) OF THIS SECTION.

33 (C) (1) IN THIS SUBSECTION, "MINORITY BUSINESS ENTERPRISE" ~~MEANS:~~

34 ~~(1) AN INDIVIDUAL WHO HAS A SOCIAL OR ECONOMIC~~
 35 ~~IMPEDIMENT THAT:~~

1 ~~1. IS BEYOND THE PERSONAL CONTROL OF THE INDIVIDUAL,~~
 2 ~~SUCH AS FINANCIAL CAPACITY, GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS,~~
 3 ~~OR LACK OF FORMAL EDUCATION; AND~~

4 ~~2. DOES NOT LIMIT THE ABILITY OF THE INDIVIDUAL TO~~
 5 ~~PROVIDE THE REQUIRED GOODS OR SERVICES; OR~~

6 ~~(H) A BUSINESS ENTITY THAT IS AT LEAST 51% OWNED AND~~
 7 ~~CONTROLLED BY INDIVIDUALS WHO MEET THE STANDARDS UNDER ITEM (I) OF THIS~~
 8 ~~PARAGRAPH HAS THE MEANING STATED IN § 14-301 OF THE STATE FINANCE AND~~
 9 ~~PROCUREMENT ARTICLE.~~

10 (2) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SUBTITLE
 11 TO AN ENTITY OTHER THAN A LOCAL GOVERNMENT, THE ENTITY SHALL AGREE TO
 12 INCLUDE IN THE AGREEMENT PROVIDING THE FINANCIAL ASSISTANCE A PROVISION
 13 ACCEPTABLE TO THE DEPARTMENT THAT WOULD ENCOURAGE THE PROCUREMENT
 14 FROM MINORITY BUSINESS ENTERPRISES OF GOODS OR SERVICES PURCHASED WITH
 15 THE PROCEEDS FROM THE FINANCIAL ASSISTANCE.

16 (3) IN NEGOTIATING THE PROVISION REQUIRED UNDER PARAGRAPH (2)
 17 OF THIS SUBSECTION, THE DEPARTMENT SHALL TAKE INTO ACCOUNT RELEVANT
 18 FACTORS, INCLUDING:

19 (I) THE INTENDED USE OF THE PROCEEDS FROM THE FINANCIAL
 20 ASSISTANCE; AND

21 (II) THE FEASIBILITY OF OBTAINING THE REQUIRED GOODS OR
 22 SERVICES FROM MINORITY BUSINESS ENTERPRISES.

23 (D) THE DEPARTMENT MAY REQUIRE THAT A RECIPIENT OF FINANCIAL
 24 ASSISTANCE UNDER THIS SUBTITLE SUBMIT TO THE DEPARTMENT A LIST, OR AN
 25 UPDATED LIST, OF THE MINORITY BUSINESS ENTERPRISES FROM WHICH GOODS OR
 26 SERVICES WERE PROCURED AND THE NATURE AND DOLLAR AMOUNT OF THE GOODS
 27 OR SERVICES.

28 **Article - State Finance and Procurement**

29 7-314.

30 (Q) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
 31 MEANINGS INDICATED.

32 (II) "FINANCIAL ASSISTANCE" MEANS A GRANT, LOAN, OR
 33 INVESTMENT PROVIDED UNDER THIS SUBSECTION THAT EXCEEDS \$100,000.

34 (III) "POLITICAL SUBDIVISION" INCLUDES AN AGENCY OR OTHER
 35 INSTRUMENTALITY OF THE POLITICAL SUBDIVISION.

1 (2) THIS SUBSECTION DOES NOT APPLY TO FINANCIAL ASSISTANCE
2 USED SOLELY FOR THE PURPOSE OF ACQUIRING REAL PROPERTY OR STRUCTURES
3 ON REAL PROPERTY.

4 (3) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS SECTION TO
5 A POLITICAL SUBDIVISION:

6 (I) IF THE POLITICAL SUBDIVISION HAS A PROGRAM FOR
7 PROMOTING PROCUREMENT OPPORTUNITIES AMONG MINORITY BUSINESSES THAT
8 IS ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT,
9 THE POLITICAL SUBDIVISION SHALL APPLY THE REQUIREMENTS OF THAT PROGRAM
10 TO THE PROCUREMENT OF GOODS OR SERVICES MADE WITH THE PROCEEDS FROM
11 THE FINANCIAL ASSISTANCE; BUT

12 (II) IF THE POLITICAL SUBDIVISION DOES NOT HAVE A PROGRAM
13 THAT IS ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC
14 DEVELOPMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE POLITICAL
15 SUBDIVISION IS SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION.

16 (4) (I) IN THIS PARAGRAPH, "MINORITY BUSINESS ENTERPRISE"
17 ~~MEANS:~~

18 1. ~~AN INDIVIDUAL WHO HAS A SOCIAL OR ECONOMIC~~
19 ~~IMPEDIMENT THAT:~~

20 A. ~~IS BEYOND THE PERSONAL CONTROL OF THE INDIVIDUAL,~~
21 ~~SUCH AS FINANCIAL CAPACITY, GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS,~~
22 ~~OR LACK OF FORMAL EDUCATION; AND~~

23 B. ~~DOES NOT LIMIT THE ABILITY OF THE INDIVIDUAL TO~~
24 ~~PROVIDE THE REQUIRED GOODS OR SERVICES; OR~~

25 2. ~~A BUSINESS ENTITY THAT IS AT LEAST 51% OWNED AND~~
26 ~~CONTROLLED BY INDIVIDUALS WHO MEET THE STANDARDS UNDER ITEM 1 OF THIS~~
27 ~~SUBPARAGRAPH HAS THE MEANING STATED IN § 14-301 OF THE STATE FINANCE AND~~
28 ~~PROCUREMENT ARTICLE.~~

29 (II) WITH RESPECT TO FINANCIAL ASSISTANCE UNDER THIS
30 SECTION TO AN ENTITY OTHER THAN A POLITICAL SUBDIVISION, THE ENTITY SHALL
31 AGREE TO INCLUDE IN THE AGREEMENT PROVIDING THE FINANCIAL ASSISTANCE A
32 PROVISION ACCEPTABLE TO THE DEPARTMENT OF BUSINESS AND ECONOMIC
33 DEVELOPMENT THAT WOULD ENCOURAGE THE PROCUREMENT FROM MINORITY
34 BUSINESS ENTERPRISES OF GOODS OR SERVICES PURCHASED WITH THE PROCEEDS
35 FROM THE FINANCIAL ASSISTANCE.

36 (III) IN NEGOTIATING THE PROVISION REQUIRED UNDER
37 SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE DEPARTMENT OF BUSINESS AND
38 ECONOMIC DEVELOPMENT SHALL TAKE INTO ACCOUNT RELEVANT FACTORS,
39 INCLUDING:

