

SENATE BILL 498

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2004 Regular Session
4r2295
CF 4r2871

By: **Senators Middleton and Ruben**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Preferences - Rehabilitation and Employment Program**

3 FOR the purpose of establishing the Rehabilitation and Employment Program within
4 the Department of General Services; clarifying the preference priority for
5 certain providers with regard to the State or certain other entities' purchases of
6 certain supplies and services; defining certain terms and altering and clarifying
7 certain terms; clarifying provisions relating to a certain entity as the
8 coordinating entity for the distribution of certain procurement contracts among
9 certain Program providers; specifying certain duties for a certain committee;
10 and generally relating to the process regarding procurement for certain
11 rehabilitation and employment services.

12 BY repealing and reenacting, with amendments,
13 Article - State Finance and Procurement
14 Section 14-101, 14-103, 14-106, and 14-107
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2003 Supplement)

17 BY repealing
18 Article - State Finance and Procurement
19 Section 14-108
20 Annotated Code of Maryland
21 (2001 Replacement Volume and 2003 Supplement)

22 BY adding to
23 Article - State Finance and Procurement
24 Section 14-108
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2003 Supplement)

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

1 **Article - State Finance and Procurement**

2 14-101.

3 (a) In this subtitle the following words have the meanings indicated.

4 [(b) "Sheltered workshop" means an agency:

5 (1) that is organized under the laws of the United States or the State;

6 (2) that is certified as a sheltered workshop by the Wage and Hour
7 Division of the United States Department of Labor;8 (3) that is accredited by the Division of Vocational Rehabilitation of the
9 State Department of Education;10 (4) that is operated in the interest of individuals who have a mental or
11 physical disability, including blindness, that:

12 (i) constitutes a substantial handicap to employment; and

13 (ii) prevents the individual from engaging in normal competitive
14 employment; and15 (5) the net income of which does not inure wholly or partly to the benefit
16 of any shareholder or other individual.]17 (B) "REHABILITATION AND EMPLOYMENT PROVIDER" MEANS AN ENTITY
18 THAT:19 (1) IS ORGANIZED UNDER THE LAWS OF THE UNITED STATES OR OF
20 THIS STATE;21 (2) IS CERTIFIED AS A REHABILITATION AND EMPLOYMENT PROVIDER
22 BY THE DIVISION OF REHABILITATION SERVICES OF THE STATE DEPARTMENT OF
23 EDUCATION;24 (3) IS OPERATED IN THE INTEREST OF INDIVIDUALS WHO HAVE A
25 MENTAL OR PHYSICAL DISABILITY, INCLUDING BLINDNESS, THAT:26 (I) CONSTITUTES A SUBSTANTIAL HANDICAP TO EMPLOYMENT;
27 AND28 (II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN NORMAL
29 COMPETITIVE EMPLOYMENT; AND30 (4) DOES NOT INURE NET INCOME WHOLLY OR PARTLY TO THE BENEFIT
31 OF ANY SHAREHOLDER OR OTHER INDIVIDUAL.

1 (c) "State aided or controlled entity" means any public or quasi-public
2 institution that receives aid from the State or that is owned, controlled, or managed
3 by the State.

4 14-103.

5 (A) The State or a State aided or controlled entity shall buy supplies and
6 services from:

7 (1) State Use Industries, as provided in Title 3, Subtitle 5 of the
8 Correctional Services Article, if State Use Industries provides the supplies or services;

9 (2) Blind Industries and Services of Maryland, if:

10 (i) Blind Industries and Services of Maryland provides the supplies
11 or services; and

12 (ii) State Use Industries does not provide the supplies or services;
13 or

14 (3) [sheltered workshops] THE REHABILITATION AND EMPLOYMENT
15 PROGRAM ESTABLISHED UNDER § 14-108 OF THIS SUBTITLE, if:

16 (i) a [sheltered workshop] REHABILITATION AND EMPLOYMENT
17 PROVIDER provides the supplies or services;

18 (ii) neither State Use Industries nor Blind Industries and Services
19 of Maryland provides the supplies or services; and

20 (iii) the State or a State aided or controlled entity is not required by
21 law to buy the supplies or services from any other unit of the State government.

22 (B) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY SHALL GIVE
23 PREFERENCE TO THE ENTITIES LISTED UNDER SUBSECTION (A) OF THIS SECTION IN
24 THE ORDER THAT THE ENTITIES ARE LISTED.

25 14-106.

26 (a) In this section, "Committee" means the Pricing and Selection Committee
27 for THE Rehabilitation and Employment [Programs] PROGRAM.

28 (b) There is a Pricing and Selection Committee for THE Rehabilitation and
29 Employment [Programs] PROGRAM.

30 (c) The Committee consists of the following 6 members:

31 (1) the Secretary of Transportation or a designee;

32 (2) the Secretary of General Services or a designee;

1 (3) the Secretary of Public Safety and Correctional Services or a
2 designee;

3 (4) the President of Blind Industries and Services of Maryland or a
4 designee; and

5 (5) 2 members of Maryland Works, Inc.

6 (d) A member of the Committee:

7 (1) may not receive compensation; but

8 (2) is entitled to reimbursement for expenses under the Standard State
9 Travel Regulations as provided in the State budget.

10 (e) The Committee shall:

11 (1) establish procedures to govern procurement of supplies and services
12 from [sheltered workshops] REHABILITATION AND EMPLOYMENT PROVIDERS;

13 (2) from the State procurement list, choose appropriate supplies and
14 services for [sheltered workshops] REHABILITATION AND EMPLOYMENT PROVIDERS
15 to offer for procurement;

16 (3) provide that the State procure those supplies and services from a
17 [sheltered workshop] REHABILITATION AND EMPLOYMENT PROVIDER;

18 (4) if supplies or services are not available for procurement from a unit of
19 the State government, determine whether supplies or services are available from a
20 [sheltered workshop] REHABILITATION AND EMPLOYMENT PROVIDER;

21 (5) determine the fair market price of supplies and services that
22 [sheltered workshops] REHABILITATION AND EMPLOYMENT PROVIDERS provide;

23 (6) in accordance with market conditions, adjust prices for the supplies
24 and services that [sheltered workshops] REHABILITATION AND EMPLOYMENT
25 PROVIDERS provide; and

26 (7) at the request of a [sheltered workshop] REHABILITATION AND
27 EMPLOYMENT PROVIDER, review or change the price of a supply or service.

28 (F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF THIS
29 SECTION, THE COMMITTEE SHALL:

30 (1) MAINTAIN A CURRENT LIST OF REHABILITATION AND EMPLOYMENT
31 PROVIDERS;

32 (2) PERIODICALLY REVIEW AND REVISE ITS LIST OF REHABILITATION
33 AND EMPLOYMENT PROVIDERS; AND

1 (3) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL SERVICES
2 AND MAKE THE LIST AVAILABLE TO EACH PERSON RESPONSIBLE FOR BUYING
3 SUPPLIES OR SERVICES FOR THE STATE OR A STATE AIDED OR CONTROLLED ENTITY.
4 14-107.

5 [Periodically the] THE Pricing and Selection Committee for THE Rehabilitation
6 and Employment [Programs] PROGRAM shall:

7 (1) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT
8 REHABILITATION AND EMPLOYMENT PROVIDERS PROVIDE;

9 (2) PERIODICALLY REVIEW AND revise its list of supplies and services
10 that [sheltered workshops] REHABILITATION AND EMPLOYMENT PROVIDERS
11 provide; and

12 [(2)] (3) send [the] ANY REVISED list to the Secretary of General
13 Services and MAKE THE LIST AVAILABLE TO each person responsible for buying
14 supplies or services for the State or a State aided or controlled entity.

15 [14-108.

16 The Secretary of General Services shall designate Maryland Works, Inc., or
17 another appropriate coordinating entity, to facilitate the distribution of procurement
18 contracts for supplies and services among sheltered workshops.]

19 14-108.

20 (A) IN THIS SECTION, "PROGRAM" MEANS THE REHABILITATION AND
21 EMPLOYMENT PROGRAM.

22 (B) THERE IS A REHABILITATION AND EMPLOYMENT PROGRAM IN THE
23 DEPARTMENT OF GENERAL SERVICES.

24 (C) THE SECRETARY OF GENERAL SERVICES SHALL DESIGNATE MARYLAND
25 WORKS, INC., OR ANOTHER APPROPRIATE COORDINATING ENTITY, TO FACILITATE
26 THE DISTRIBUTION OF PROCUREMENT CONTRACTS FOR SUPPLIES AND SERVICES
27 AMONG REHABILITATION AND EMPLOYMENT PROVIDERS.

28 (D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C) OF
29 THIS SECTION SHALL:

30 (1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND SERVICES
31 ELIGIBLE FOR PROCUREMENT;

32 (2) ESTABLISH PROCEDURES FOR THE SELECTION OF REHABILITATION
33 AND EMPLOYMENT PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE
34 CONTRACTS FOR PREFERENCE PROCUREMENT;

35 (3) ESTABLISH PROCEDURES FOR REMEDIATION ON NONCOMPLIANCE
36 WITH STATE OR PROGRAM POLICIES;

1 (4) PROVIDE TRAINING, TECHNICAL ASSISTANCE, AND OTHER NEEDS TO
2 REHABILITATION AND EMPLOYMENT PROVIDERS;

3 (5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR
4 SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR THE
5 REHABILITATION AND EMPLOYMENT PROGRAM;

6 (6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION
7 COMMITTEE FOR THE REHABILITATION AND EMPLOYMENT PROGRAM; AND

8 (7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH QUALITY
9 STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS REHABILITATION
10 AND EMPLOYMENT PROVIDERS.

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