

ENROLLED BILL

-- Health and Government Operations/Education, Health, and Environmental Affairs --

Introduced by **Delegates Murray, Branch, Franchot, Gutierrez, Haynes, Hixson, Hubbard, Madaleno, Marriott, Montgomery, Nathan-Pulliam, Oaks, Paige, Parker, Stern, F. Turner, and ~~Vaughn~~ Vaughn, Benson, Kullen, Mandel, Pendergrass, and V. Turner**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Procurement - Small Business Reserve Program - ~~Contract Minimum~~**
3 **Reporting**

4 FOR the purpose of ~~establishing that only procurement contracts of at least a certain~~
5 ~~amount are subject to the Small Business Reserve Program; providing for the~~
6 ~~application of this Act; and generally relating to a minimum contract amount for~~
7 ~~the Small Business Reserve Program requiring certain units to submit certain~~
8 ~~reports to the Governor's Office of Minority Affairs by certain dates; requiring~~
9 ~~the Governor's Office of Minority Affairs to submit a report to the Board of~~
10 ~~Public Works and the Legislative Policy Committee on or before a certain date;~~
11 ~~and generally relating to reporting requirements under the Small Business~~
12 ~~Reserve Program.~~

13 BY repealing and reenacting, without amendments,

1 Article - State Finance and Procurement
2 Section ~~11-101(x)~~ and ~~14-501(e)~~ 11-101(x), 14-501(c), and 14-502
3 Annotated Code of Maryland
4 (2001 Replacement Volume and 2005 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - State Finance and Procurement
7 Section ~~14-502~~ 14-505
8 Annotated Code of Maryland
9 (2001 Replacement Volume and 2005 Supplement)

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

12 **Article - State Finance and Procurement**

13 11-101.

14 (x) (1) "Unit" means an officer or other entity that is in the Executive
15 Branch of the State government and is authorized by law to enter into a procurement
16 contract.

17 (2) "Unit" does not include:

18 (i) a bistate, multistate, bicounty, or multicounty governmental
19 agency; or

20 (ii) a special tax district, sanitary district, drainage district, soil
21 conservation district, water supply district, or other political subdivision of the State.

22 14-501.

23 (c) "Small business" means:

24 (1) a certified minority business enterprise, as defined in § 14-301 of
25 this title, that meets the criteria specified under paragraph (2) of this subsection; or

26 (2) a business, other than a broker, that meets the following criteria:

27 (i) the business is independently owned and operated;

28 (ii) the business is not a subsidiary of another business;

29 (iii) the business is not dominant in its field of operation;

30 (iv) the wholesale operations of the business did not employ more
31 than 50 persons, and the gross sales of the business did not exceed an average of
32 \$2,000,000 in its most recently completed 3 fiscal years;

1 (v) the retail operations of the business did not employ more than
2 25 persons, and the gross sales of the business did not exceed an average of
3 \$2,000,000 in its most recently completed 3 fiscal years;

4 (vi) the manufacturing operations of the business did not employ
5 more than 100 persons, and the gross sales of the business did not exceed an average
6 of \$2,000,000 in its most recently completed 3 fiscal years;

7 (vii) the service operations of the business did not employ more than
8 100 persons, and the gross sales of the business did not exceed an average of
9 \$2,000,000 in its most recently completed 3 fiscal years; and

10 (viii) the construction operations of the business did not employ more
11 than 50 persons, and the gross sales of the business did not exceed an average of
12 \$7,000,000 in its most recently completed 3 fiscal years.

13 14-502.

14 (a) Except as provided in subsection (d) of this section, this subtitle applies to
15 all procurements by a designated procurement unit.

16 (b) This subsection does not apply to procurements subject to Subtitle 1 of this
17 title.

18 (c) A designated procurement unit shall structure its procurement procedures
19 to achieve a minimum of 10 percent of the unit's total dollar value of ~~EACH~~
20 ~~PROCUREMENT CONTRACT OF AT LEAST \$500,000 FOR~~ goods, supplies, services,
21 maintenance, construction, construction-related services, architectural service, and
22 engineering service contracts to be made directly to small businesses.

23 (d) The total dollar value of procurements by a designated procurement unit
24 does not include the value of contracts to which this section does not apply because of
25 a conflict with federal law.

26 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
27 ~~construed to apply only prospectively and may not be applied or interpreted to have~~
28 ~~any effect on or application to any procurement contract awarded before the effective~~
29 ~~date of this Act.~~
30 14-505.

31 (a) Within 90 days after the end of each fiscal year, each designated
32 procurement unit shall submit a report on the operation and effectiveness of the
33 Small Business Reserve Program THAT COMPLIES WITH SUBSECTION (D)(2) OF THIS
34 SECTION to the Board of Public Works.

35 (b) Within 60 days after receipt of all reports required under subsection (a) of
36 this section, the Board of Public Works shall compile the information and report on
37 THE OPERATION AND EFFECTIVENESS OF the entire Small Business Reserve

1 Program to the Legislative Policy Committee, subject to § 2-1246 of the State

2 Government Article.

3 ~~(C) (1) WITHIN 45 60 DAYS AFTER THE ENACTMENT OF THE BUDGET BILL BY~~
4 ~~THE GENERAL ASSEMBLY, EACH DESIGNATED PROCUREMENT UNIT SHALL SUBMIT A~~
5 ~~REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS THAT COMPLIES WITH~~
6 ~~THE REPORTING REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION SET~~
7 ~~FORTH IN COMAR 21.11.01.06.~~

8 ~~(2) FOR THE FISCAL YEAR BEGINNING JULY 1 FOLLOWING THE~~
9 ~~ENACTMENT OF THE BUDGET BILL, THE REPORT SHALL:~~

10 ~~(I) STATE THE TOTAL DOLLAR VALUE OF PAYMENTS THE UNIT~~
11 ~~PLANS TO MAKE UNDER PROCUREMENT CONTRACTS;~~

12 ~~(II) STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF~~
13 ~~PAYMENTS THE UNIT PLANS TO MAKE TO SMALL BUSINESSES UNDER DESIGNATED~~
14 ~~AND NONDESIGNATED SMALL BUSINESS RESERVE CONTRACTS, INCLUDING~~
15 ~~PURCHASE CARD PROCUREMENTS;~~

16 ~~(III) INDICATE THE PERCENTAGE THOSE PAYMENTS TO SMALL~~
17 ~~BUSINESSES UNDER DESIGNATED AND NONDESIGNATED SMALL BUSINESS RESERVE~~
18 ~~CONTRACTS, INCLUDING PURCHASE CARD PROCUREMENTS, REPRESENT OF THE~~
19 ~~TOTAL PAYMENTS THE UNIT PLANS TO MAKE UNDER PROCUREMENT CONTRACTS;~~
20 ~~AND~~

21 ~~(IV) CONTAIN OTHER INFORMATION AS REQUIRED BY THE~~
22 ~~GOVERNOR'S OFFICE OF MINORITY AFFAIRS.~~

23 (D) (1) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, EACH UNIT
24 SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS THAT
25 COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

26 (2) FOR THE PRECEDING FISCAL YEAR, THE REPORT SHALL:

27 (I) STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF
28 PAYMENTS THE UNIT MADE TO SMALL BUSINESSES UNDER DESIGNATED SMALL
29 BUSINESS RESERVE CONTRACTS;

30 (II) STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF
31 PAYMENTS THE UNIT MADE TO SMALL BUSINESSES UNDER NONDESIGNATED SMALL
32 BUSINESS RESERVE CONTRACTS, INCLUDING PURCHASE CARD PROCUREMENTS;

33 (III) STATE THE TOTAL DOLLAR VALUE OF PAYMENTS THE UNIT
34 MADE UNDER PROCUREMENT CONTRACTS; AND

35 (IV) CONTAIN OTHER SUCH INFORMATION AS REQUIRED BY THE
36 GOVERNOR'S OFFICE OF MINORITY AFFAIRS.

1 (E) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE GOVERNOR'S OFFICE OF
2 MINORITY AFFAIRS SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS AND, SUBJECT
3 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE POLICY
4 COMMITTEE A REPORT SUMMARIZING THE INFORMATION THE OFFICE RECEIVES
5 UNDER SUBSECTION (B) OF THIS SECTION.

6 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect ~~October 1, 2006~~ June 1, 2006.