By: Delegates Murray, Branch, Franchot, Gutierrez, Haynes, Hixson, Hubbard, Madaleno, Marriott, Montgomery, Nathan-Pulliam, Oaks, Paige, Parker, Stern, F. Turner, and Vaughn <u>Vaughn, Benson, Kullen,</u> <u>Mandel, Pendergrass, and V. Turner</u>

Introduced and read first time: February 6, 2006 Assigned to: Health and Government Operations

Committee Report: Favorable with amendments House action: Adopted Read second time: March 22, 2006

CHAPTER_____

1 AN ACT concerning

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Procurement - Small Business Reserve Program - Contract Minimum <u>Reporting</u>

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 <u>the Governor's Office of Minority Affairs to submit a report to the Board of</u>
- 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 <u>Reserve Program</u>.

13 BY repealing and reenacting, without amendments,

- 14 Article State Finance and Procurement
- 15 Section $\frac{11 \cdot 101(x)}{11 \cdot 101(x)}$ and $\frac{14 \cdot 501(c)}{11 \cdot 101(x)}$, $\frac{14 \cdot 501(c)}{14 \cdot 501(c)}$, and $\frac{14 \cdot 502}{14 \cdot 502}$
- 16 Annotated Code of Maryland
- 17 (2001 Replacement Volume and 2005 Supplement)
- 18 BY repealing and reenacting, with amendments,
- 19 Article State Finance and Procurement
- 20 Section <u>14-502</u> <u>14-505</u>
- 21 Annotated Code of Maryland
- 22 (2001 Replacement Volume and 2005 Supplement)

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1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 2 MARYLAND, That the Laws of Maryland read as follows: 3 **Article - State Finance and Procurement** 4 11-101. "Unit" means an officer or other entity that is in the Executive 5 (x) (1)6 Branch of the State government and is authorized by law to enter into a procurement 7 contract. "Unit" does not include: 8 (2)9 (i) a bistate, multistate, bicounty, or multicounty governmental 10 agency; or 11 (ii) a special tax district, sanitary district, drainage district, soil 12 conservation district, water supply district, or other political subdivision of the State. 13 14-501. "Small business" means: 14 (c) 15 a certified minority business enterprise, as defined in § 14-301 of (1)16 this title, that meets the criteria specified under paragraph (2) of this subsection; or 17 (2)a business, other than a broker, that meets the following criteria: 18 (i) the business is independently owned and operated; 19 (ii) the business is not a subsidiary of another business; 20 the business is not dominant in its field of operation; (iii) 21 the wholesale operations of the business did not employ more (iv) 22 than 50 persons, and the gross sales of the business did not exceed an average of 23 \$2,000,000 in its most recently completed 3 fiscal years; 24 the retail operations of the business did not employ more than (v) 25 25 persons, and the gross sales of the business did not exceed an average of 26 \$2,000,000 in its most recently completed 3 fiscal years; 27 the manufacturing operations of the business did not employ (vi) 28 more than 100 persons, and the gross sales of the business did not exceed an average 29 of \$2,000,000 in its most recently completed 3 fiscal years; 30 (vii) the service operations of the business did not employ more than

- 31 100 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; and

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1 (viii) the construction operations of the business did not employ more 2 than 50 persons, and the gross sales of the business did not exceed an average of 3 \$7,000,000 in its most recently completed 3 fiscal years.

4 14-502.

5 (a) Except as provided in subsection (d) of this section, this subtitle applies to 6 all procurements by a designated procurement unit.

7 (b) This subsection does not apply to procurements subject to Subtitle 1 of this 8 title.

9 (c) A designated procurement unit shall structure its procurement procedures

10 to achieve a minimum of 10 percent of the unit's total dollar value of EACH

11 PROCUREMENT CONTRACT OF AT LEAST \$500,000 FOR goods, supplies, services,

12 maintenance, construction, construction-related services, architectural service, and

13 engineering service contracts to be made directly to small businesses.

14 (d) The total dollar value of procurements by a designated procurement unit 15 does not include the value of contracts to which this section does not apply because of 16 a conflict with federal law.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be

18 construed to apply only prospectively and may not be applied or interpreted to have

19 any effect on or application to any procurement contract awarded before the effective

20 date of this Act.

21 <u>14-505.</u>

22 (a) Within 90 days after the end of each fiscal year, each designated

23 procurement unit shall submit a report on the operation and effectiveness of the

24 Small Business Reserve Program THAT COMPLIES WITH SUBSECTION (D)(2) OF THIS

25 SECTION to the Board of Public Works.

26 (b) Within 60 days after receipt of all reports required under subsection (a) of

27 this section, the Board of Public Works shall compile the information and report on

28 THE OPERATION AND EFFECTIVENESS OF the entire Small Business Reserve

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

30 Government Article.

31 (C) (1) WITHIN 45 DAYS AFTER THE ENACTMENT OF THE BUDGET BILL BY
32 THE GENERAL ASSEMBLY, EACH DESIGNATED PROCUREMENT UNIT SHALL SUBMIT A
33 REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS THAT COMPLIES WITH
34 THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

35(2)FOR THE FISCAL YEAR BEGINNING JULY 1 FOLLOWING THE36ENACTMENT OF THE BUDGET BILL, THE REPORT SHALL:

37(I)STATE THE TOTAL DOLLAR VALUE OF PAYMENTS THE UNIT38PLANS TO MAKE UNDER PROCUREMENT CONTRACTS;

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STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF 1 (II)2 PAYMENTS THE UNIT PLANS TO MAKE TO SMALL BUSINESSES UNDER DESIGNATED 3 AND NONDESIGNATED SMALL BUSINESS RESERVE CONTRACTS, INCLUDING **4 PURCHASE CARD PROCUREMENTS;** 5 (III) INDICATE THE PERCENTAGE THOSE PAYMENTS TO SMALL 6 BUSINESSES UNDER DESIGNATED AND NONDESIGNATED SMALL BUSINESS RESERVE 7 CONTRACTS, INCLUDING PURCHASE CARD PROCUREMENTS, REPRESENT OF THE 8 TOTAL PAYMENTS THE UNIT PLANS TO MAKE UNDER PROCUREMENT CONTRACTS; 9 AND 10 (IV)CONTAIN OTHER INFORMATION AS REQUIRED BY THE 11 GOVERNOR'S OFFICE OF MINORITY AFFAIRS. 12 (D) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, EACH UNIT (1)13 SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS THAT 14 COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION. 15 (2) FOR THE PRECEDING FISCAL YEAR, THE REPORT SHALL: STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF 16 (I) 17 PAYMENTS THE UNIT MADE TO SMALL BUSINESSES UNDER DESIGNATED SMALL 18 BUSINESS RESERVE CONTRACTS; 19 (II) STATE THE TOTAL NUMBER AND THE DOLLAR VALUE OF 20 PAYMENTS THE UNIT MADE TO SMALL BUSINESSES UNDER NONDESIGNATED SMALL 21 BUSINESS RESERVE CONTRACTS, INCLUDING PURCHASE CARD PROCUREMENTS; STATE THE TOTAL DOLLAR VALUE OF PAYMENTS THE UNIT 22 (III) 23 MADE UNDER PROCUREMENT CONTRACTS; AND CONTAIN OTHER SUCH INFORMATION AS REQUIRED BY THE 24 (IV)25 GOVERNOR'S OFFICE OF MINORITY AFFAIRS. 26 (E) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE GOVERNOR'S OFFICE OF 27 MINORITY AFFAIRS SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS AND, SUBJECT 28 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE POLICY 29 COMMITTEE A REPORT SUMMARIZING THE INFORMATION THE OFFICE RECEIVES 30 UNDER SUBSECTION (B) OF THIS SECTION.

31 SECTION 3. <u>2.</u> AND BE IT FURTHER ENACTED, That this Act shall take 32 effect October 1, 2006 June 1, 2006.

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