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By: ~~Senator Conway~~ **Senators Conway and Greenip**

Introduced and read first time: February 22, 2006

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, March 8, 2006

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Ethics Law - Architectural and Engineering Services - Applicability of**  
 3 **Restrictions on Participation in Procurement**

4 FOR the purpose of providing that certain ~~limitations relating to providing~~  
 5 ~~architectural and engineering services for the design of certain construction~~  
 6 ~~projects do not apply to certain individuals who are associated with certain~~  
 7 ~~certified minority business enterprises~~ persons who do not have certain design  
 8 responsibilities and are not involved in the construction phase of certain  
 9 procurements on behalf of the State, are eligible to be part of certain teams  
 10 bidding on certain construction under the State procurement law, subject to  
 11 certain conditions; providing for the termination of this Act; and generally  
 12 relating to the application of certain restrictions on the participation in certain  
 13 procurements by certain ~~certified minority business enterprises~~ persons.

14 BY repealing and reenacting, with amendments,  
 15 Article - State Government  
 16 Section 15-508  
 17 Annotated Code of Maryland  
 18 (2004 Replacement Volume and 2005 Supplement)  
 19 (As enacted by Chapter 84 of the Acts of 2004)

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

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**Article - State Government**

2 15-508.

3 (a) An individual or a person that employs an individual who assists an  
 4 executive unit in the drafting of specifications, an invitation for bids, a request for  
 5 proposals for a procurement, or the selection or award made in response to an  
 6 invitation for bids or request for proposals may not:

7 (1) submit a bid or proposal for that procurement; or

8 (2) assist or represent another person, directly or indirectly, who is  
 9 submitting a bid or proposal for that procurement.

10 (b) For purposes of subsection (a) of this section, assisting in the drafting of  
 11 specifications, an invitation for bids, or a request for proposals for a procurement does  
 12 not include:

13 (1) providing descriptive literature such as catalogue sheets, brochures,  
 14 technical data sheets, or standard specification "samples", whether requested by an  
 15 executive agency or provided on an unsolicited basis;

16 (2) submitting written comments on a specification prepared by an  
 17 agency or on a solicitation for a bid or proposal when comments are solicited from two  
 18 or more persons as part of a request for information or a prebid or preproposal  
 19 process;

20 (3) providing specifications for a sole source procurement made in  
 21 accordance with § 13-107 of the State Finance and Procurement Article;

22 (4) providing architectural and engineering services for:

23 (i) programming, master planning, or other project planning  
 24 services; or

25 (ii) the design of a construction project if:

26 1. THE DESIGN SERVICES DO NOT INVOLVE LEAD OR PRIME  
 27 DESIGN RESPONSIBILITIES OR CONSTRUCTION PHASE RESPONSIBILITIES ON  
 28 BEHALF OF THE STATE; AND

29 ~~1.~~ 2. A. the anticipated value of the procurement  
 30 contract at the time of advertisement is at least \$2,500,000 and not more than  
 31 \$100,000,000; ~~and~~ OR

32 ~~2.~~ ~~the design services do not involve lead or prime design~~  
 33 ~~responsibilities on construction phase responsibilities on behalf of the State; or~~

34 B. REGARDLESS OF THE AMOUNT OF THE PROCUREMENT  
 35 CONTRACT, THE PAYMENT TO THE INDIVIDUAL OR PERSON FOR THE DESIGN  
 36 SERVICES DOES NOT EXCEED \$500,000; OR

1 (5) providing specifications for an unsolicited proposal procurement  
2 made in accordance with § 13-107.1 of the State Finance and Procurement Article.

3 ~~(C) THE LIMITATIONS SET FORTH IN SUBSECTION (A) OF THIS SECTION DO~~  
4 ~~NOT APPLY TO A PERSON WHO IS PROVIDING ARCHITECTURAL AND ENGINEERING~~  
5 ~~SERVICES FOR THE DESIGN OF A CONSTRUCTION PROJECT DESCRIBED IN~~  
6 ~~SUBSECTION (B)(4)(II) OF THIS SECTION IF THE PERSON:~~

7 ~~(1) IS A CERTIFIED MINORITY BUSINESS ENTERPRISE, AS DEFINED~~  
8 ~~UNDER § 14 301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;~~

9 ~~(2) IS A SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL,~~  
10 ~~AS DEFINED UNDER § 14 301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;~~  
11 ~~AND~~

12 ~~(3) IS IN EITHER OF THE FOLLOWING MINORITY GROUPS:~~

13 ~~(I) AFRICAN AMERICAN; OR~~

14 ~~(II) WOMEN.~~

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
16 effect July 1, 2006. It shall remain effective for a period of 2 years and, at the end of  
17 June 30, 2008, with no further action required by the General Assembly, this Act shall  
18 be abrogated and of no further force and effect.