

# SENATE BILL 23

P2

(71r0985)

## **ENROLLED BILL**

— *Education, Health, and Environmental Affairs / Health and Government Operations* —

Introduced by **Senators Conway, Britt, and Kelley**

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.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement - Small Business Reserve Program - ~~Sunset Extension~~**  
3 **Modifications *Sunset Extension***

4 FOR the purpose of ~~altering certain reporting requirements relating to procurements~~  
5 ~~involving small businesses under the Small Business Reserve Program;~~  
6 continuing until a certain date the provisions of the State Procurement Law  
7 relating to ~~procurements from small businesses under~~ the Small Business  
8 Reserve Program; and generally relating to the Small Business Reserve  
9 Program.

10 BY repealing and reenacting, without amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 Article – State Finance and Procurement  
2 Section 14–501 through 14–505  
3 Annotated Code of Maryland  
4 (2006 Replacement Volume and 2006 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Chapter 75 of the Acts of the General Assembly of 2004  
7 Section 2

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

10 **Article – State Finance and Procurement**

11 14–501.

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

13 (b) “Designated procurement unit” means:

14 (1) the State Treasurer;

15 (2) the Department of Budget and Management;

16 (3) the Department of Business and Economic Development;

17 (4) the Department of the Environment;

18 (5) the Department of General Services;

19 (6) the Department of Health and Mental Hygiene;

20 (7) the Department of Housing and Community Development;

21 (8) the Department of Human Resources;

22 (9) the Department of Juvenile Services;

23 (10) the Department of Labor, Licensing, and Regulation;

24 (11) the Department of Natural Resources;

25 (12) the State Department of Education;

- 1 (13) the Department of State Police;
- 2 (14) the Department of Public Safety and Correctional Services;
- 3 (15) the Department of Transportation;
- 4 (16) the University System of Maryland;
- 5 (17) the Maryland Port Commission;
- 6 (18) the State Retirement Agency;
- 7 (19) the Maryland Insurance Administration;
- 8 (20) the Maryland Stadium Authority;
- 9 (21) the State Lottery Agency; and
- 10 (22) the Morgan State University.

11 (c) “Small business” means:

- 12 (1) a certified minority business enterprise, as defined in § 14–301 of  
13 this title, that meets the criteria specified under paragraph (2) of this subsection; or
- 14 (2) a business, other than a broker, that meets the following criteria:
  - 15 (i) the business is independently owned and operated;
  - 16 (ii) the business is not a subsidiary of another business;
  - 17 (iii) the business is not dominant in its field of operation;
  - 18 (iv) the wholesale operations of the business did not employ  
19 more than 50 persons, and the gross sales of the business did not exceed an average of  
20 \$2,000,000 in its most recently completed 3 fiscal years;
  - 21 (v) the retail operations of the business did not employ more  
22 than 25 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;

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

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

7 (viii) the construction operations of the business did not employ  
8 more than 50 persons, and the gross sales of the business did not exceed an average of  
9 \$7,000,000 in its most recently completed 3 fiscal years.

10 (d) "Small business reserve" means those procurements that are limited to  
11 responses from small businesses under § 14-502(b) of this subtitle.

12 14-502.

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

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

17 (c) A designated procurement unit shall structure its procurement  
18 procedures to achieve a minimum of 10 percent of the unit's total dollar value of goods,  
19 supplies, services, maintenance, construction, construction-related services,  
20 architectural service, and engineering service contracts to be made directly to small  
21 businesses.

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

25 14-503.

26 (a) The Department of General Services shall adopt regulations to establish  
27 procedures for compiling and maintaining a comprehensive bidder's list of qualified  
28 small businesses that shall be posted on the Department's website.

29 (b) Each designated procurement unit shall ensure compliance with the  
30 regulations set forth in subsection (a) of this section.

31 14-504.

1 (a) Any procurement by a designated procurement unit of goods, supplies,  
2 services, maintenance, construction, construction-related services, architectural  
3 services, and engineering services shall be eligible for designation for the small  
4 business reserve.

5 (b) A solicitation for procurement that has been designated for a small  
6 business reserve shall be published in the same manner as required for an invitation  
7 for bids as set forth in § 13-103(c) of this article.

8 (c) The procurement officer of a designated procurement unit shall award a  
9 procurement contract designated for a small business reserve to the small business  
10 that submits a responsive bid that:

11 (1) is the lowest bid price;

12 (2) if the invitation for bids so provides, is the lowest evaluated bid  
13 price; or

14 (3) is the bid or proposal most favorable to the State within the small  
15 business reserve.

16 14-505.

17 (a) Within 90 days after the end of each fiscal year, each designated  
18 procurement unit shall submit a report on the operation and effectiveness of the Small  
19 Business Reserve Program that complies with subsection (d)(2) of this section to the  
20 Board of Public Works.

21 (b) Within 60 days after receipt of all reports required under subsection (a) of  
22 this section, the Board of Public Works shall compile the information and report on the  
23 operation and effectiveness of the entire Small Business Reserve Program to the  
24 Legislative Policy Committee, subject to § 2-1246 of the State Government Article.

25 (c) Within 60 days after the enactment of the budget bill by the General  
26 Assembly, each designated procurement unit shall submit a report to the Governor's  
27 Office of Minority Affairs that complies with the reporting requirements set forth in  
28 COMAR 21.11.01.06.

29 (d) (1) Within 90 days after the end of each fiscal year, each unit shall  
30 submit a report to the Governor's Office of Minority Affairs that complies with the  
31 requirements of paragraph (2) of this subsection.

1 (2) For the preceding fiscal year, the report shall:

2 (i) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER §~~  
 3 ~~14-501(C)(2)(IV) THROUGH (VII) OF THIS SUBTITLE,~~ the total number and the  
 4 dollar value of payments the unit made to small businesses under designated small  
 5 business reserve contracts;

6 (ii) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER §~~  
 7 ~~14-501(C)(2)(IV) THROUGH (VII) OF THIS SUBTITLE,~~ the total number and the  
 8 dollar value of payments the unit made to small businesses under nondesignated  
 9 small business reserve contracts, including purchase card procurements;

10 (iii) state, ~~BY INDUSTRY SECTOR AS IDENTIFIED UNDER §~~  
 11 ~~14-501(C)(2)(IV) THROUGH (VII) OF THIS SUBTITLE,~~ the total dollar value of  
 12 payments the unit made under procurement contracts; ~~and~~ ~~and~~

13 ~~(IV) ANALYZE AND DETERMINE WHETHER CURRENT~~  
 14 ~~ELIGIBILITY STANDARDS ARE APPROPRIATE OR INSUFFICIENT AND A BARRIER~~  
 15 ~~TO THE UNIT'S ABILITY TO MEET THE 10% GOAL UNDER § 14-502 OF THIS~~  
 16 ~~SUBTITLE; AND~~

17 ~~(iv) (v)~~ (iv) contain other such information as required by the  
 18 Governor's Office of Minority Affairs.

19 (e) On or before December 31 of each year, the Governor's Office of Minority  
 20 Affairs shall submit to the Board of Public Works and, subject to § 2-1246 of the State  
 21 Government Article, to the Legislative Policy Committee a report summarizing the  
 22 information the office receives under subsection (b) of this section.

### 23 Chapter 75 of the Acts of 2004

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 25 October 1, 2004. It shall remain effective for a period of [3 years] **6 YEARS** and, at the  
 26 end of [September 30, 2007] **SEPTEMBER 30, 2010**, with no further action required  
 27 by the General Assembly, this Act, and any regulations adopted under the provisions  
 28 of this Act, shall be abrogated and of no further force and effect.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 30 July 1, 2007.