

HOUSE BILL 629

P2

8lr0072

By: **Chair, Environmental Matters Committee (By Request - Departmental - Transportation)**

Introduced and read first time: February 1, 2008

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Ethics Law - Architectural and Engineering Services - Procurement**

3 FOR the purpose of providing that certain persons who do not have certain design
4 responsibilities and are not involved in the construction phase of certain
5 procurements on behalf of the State are eligible to be part of certain teams
6 bidding on certain construction projects under the State procurement law,
7 subject to certain conditions; repealing certain termination provisions in law;
8 requiring the Maryland Department of Transportation to provide certain
9 reports; and generally relating to permissible participation in certain
10 procurements by certain persons.

11 BY repealing and reenacting, with amendments,
12 Chapter 84 of the Acts of the General Assembly of 2004
13 Section 3, 7, and 8

14 BY repealing
15 Chapter 84 of the Acts of the General Assembly of 2004
16 Section 5

17 BY repealing and reenacting, with amendments,
18 Chapter 549 of the Acts of the General Assembly of 2006
19 Section 2

20 BY repealing and reenacting, without amendments,
21 Article - State Government

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.



1 Section 15-508
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2007 Supplement)

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

6 **Chapter 84 of the Acts of 2004**

7 SECTION 3. AND BE IT FURTHER ENACTED, That on or before September
8 30, 2005, and annually thereafter [through September 30, 2008, inclusive], the
9 Maryland Department of Transportation shall report to the Governor and, in
10 accordance with § 2-1246 of the State Government Article, to the General Assembly
11 regarding the implementation of this Act by the Department during the immediately
12 preceding fiscal year, including the impact of this Act on small business and minority
13 business enterprises.

14 [SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding the
15 abrogation of this Act, this Act shall be applicable to any procurement contract in
16 connection with a project or program for which:

17 (1) final review under the National Environmental Policy Act or the
18 Maryland Environmental Policy Act is completed on or before June 30, 2008; or

19 (2) an appropriation has been included on or before June 30, 2008, in
20 the development and evaluation portion of the Consolidated Transportation Program.]

21 SECTION 7. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
22 take effect July 1, 2004. [It shall remain effective for a period of 4 years and 3 months
23 and, at the end of September 30, 2008, with no further action required by the General
24 Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.]

25 SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in
26 Sections 6 and 7 of this Act, this Act shall take effect July 1, 2004. [It shall remain
27 effective for a period of 4 years and, at the end of June 30, 2008, with no further action
28 required by the General Assembly, this Act shall be abrogated and of no further force
29 and effect.]

30 **Chapter 549 of the Acts of 2006**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2006. [It shall remain effective for a period of 2 years and, at the end of June
33 30, 2008, with no further action required by the General Assembly, this Act shall be
34 abrogated and of no further force and effect.]

35 **Article - State Government**

1 15-508.

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

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

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

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

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

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

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

20 (4) providing architectural and engineering services for:

21 (i) programming, master planning, or other project planning
22 services; or

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

24 1. the design services do not involve lead or prime design
25 responsibilities or construction phase responsibilities on behalf of the State; and

26 2. A. the anticipated value of the procurement
27 contract at the time of advertisement is at least \$2,500,000 and not more than
28 \$100,000,000; or

29 B. regardless of the amount of the procurement contract,
30 the payment to the individual or person for the design services does not exceed
31 \$500,000; or

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.