

HOUSE BILL 805

P2

8lr2360
CF SB 368

By: Delegates Weldon, Bates, G. Clagett, Hecht, Miller, ~~and Stull~~ Stull, Hammen, Pendergrass, Beitzel, Benson, Bromwell, Costa, Donoghue, Elliott, Hubbard, Kach, Kipke, Kullen, McDonough, Mizeur, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Reznik, Riley, Tarrant, and V. Turner

Introduced and read first time: February 6, 2008
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 12, 2008

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Preferences – Employment Works Program**

3 FOR the purpose of naming a certain preference procurement program within the
4 Department of General Services as the Employment Works Program; clarifying
5 the preference priority for certain providers with regard to purchases of certain
6 supplies and services by the State or by certain other entities; altering the
7 membership of the Pricing and Selection Committee for the Program; defining,
8 altering, and clarifying certain terms; clarifying provisions relating to a certain
9 entity as the coordinating entity for the distribution of certain procurement
10 contracts among certain Program providers; specifying duties for a certain
11 committee; and generally relating to the Employment Works Program and the
12 procurement process relating to certain community service providers.

13 BY repealing and reenacting, with amendments,
14 Article – State Finance and Procurement
15 Section 14–101, 14–103, 14–106, and 14–107
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2007 Supplement)

18 BY repealing
19 Article – State Finance and Procurement
20 Section 14–108

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 Annotated Code of Maryland
2 (2006 Replacement Volume and 2007 Supplement)

3 BY adding to
4 Article – State Finance and Procurement
5 Section 14–108
6 Annotated Code of Maryland
7 (2006 Replacement Volume and 2007 Supplement)

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 14–101.

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

13 (b) [“Sheltered workshop” means an agency:

14 (1) that is organized under the laws of the United States or the State;

15 (2) that is certified as a sheltered workshop by the Wage and Hour
16 Division of the United States Department of Labor;

17 (3) that is accredited by the Division of Rehabilitation Services of the
18 State Department of Education;

19 (4) that is operated in the interest of individuals who have a mental or
20 physical disability, including blindness, that:

21 (i) constitutes a substantial handicap to employment; and

22 (ii) prevents the individual from engaging in normal competitive
23 employment; and

24 (5) the net income of which does not inure wholly or partly to the
25 benefit of any shareholder or other individual] **“COMMUNITY SERVICE PROVIDER”**
26 **MEANS AN ENTITY THAT:**

27 (1) **IS ORGANIZED UNDER THE LAWS OF THE UNITED**
28 **STATES OR THIS STATE;**

29 (2) ~~IS APPROVED~~ **IS ACCREDITED BY THE DIVISION OF**
30 **REHABILITATION SERVICES OF THE STATE DEPARTMENT OF EDUCATION FOR**
31 **PARTICIPATION IN THE EMPLOYMENT WORKS PROGRAM BY THE DIVISION OF**
32 **REHABILITATION SERVICES IN THE STATE DEPARTMENT OF EDUCATION;**

1 **(3) IS OPERATED IN THE INTEREST OF INDIVIDUALS WHO**
2 **HAVE A MENTAL OR PHYSICAL DISABILITY, INCLUDING BLINDNESS, THAT:**

3 **(I) CONSTITUTES A SUBSTANTIAL BARRIER TO**
4 **EMPLOYMENT; AND**

5 **(II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN**
6 **COMPETITIVE EMPLOYMENT; AND**

7 **(4) DOES NOT INURE NET INCOME WHOLLY OR PARTLY TO**
8 **THE BENEFIT OF ANY SHAREHOLDER OR OTHER INDIVIDUAL.**

9 (c) “State aided or controlled entity” means any public or quasi-public
10 institution that receives aid from the State or that is owned, controlled, or managed by
11 the State.

12 14–103.

13 **(A)** The State or a State aided or controlled entity shall buy supplies and
14 services from:

15 (1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle
16 5 of the Correctional Services Article, if State Use Industries provides the supplies or
17 services;

18 (2) Blind Industries and Services of Maryland, if:

19 (i) Blind Industries and Services of Maryland provides the
20 supplies or services; and

21 (ii) Maryland Correctional Enterprises does not provide the
22 supplies or services; or

23 (3) [sheltered workshops] **THE EMPLOYMENT WORKS PROGRAM**
24 **ESTABLISHED UNDER § 14–108 OF THIS SUBTITLE, if:**

25 (i) a [sheltered workshop] **COMMUNITY SERVICE PROVIDER**
26 provides the supplies or services;

27 (ii) neither Maryland Correctional Enterprises nor Blind
28 Industries and Services of Maryland provides the supplies or services; and

29 (iii) the State or a State aided or controlled entity is not required
30 by law to buy the supplies or services from any other unit of the State government.

1 **(B) THE STATE OR A STATE AIDED OR CONTROLLED ENTITY SHALL**
2 **GIVE PREFERENCE TO THE ENTITIES LISTED UNDER SUBSECTION (A) OF THIS**
3 **SECTION IN THE ORDER THAT THE ENTITIES ARE LISTED.**

4 14–106.

5 (a) In this section, “Committee” means the Pricing and Selection Committee
6 for [Rehabilitation and Employment Programs] **THE EMPLOYMENT WORKS**
7 **PROGRAM.**

8 (b) There is a Pricing and Selection Committee for [Rehabilitation and
9 Employment Programs] **THE EMPLOYMENT WORKS PROGRAM.**

10 (c) The Committee consists of the following 6 members:

11 (1) the Secretary of Transportation or a designee;

12 (2) the Secretary of General Services or a designee;

13 (3) the Secretary of Public Safety and Correctional Services or a
14 designee;

15 (4) the President of Blind Industries and Services of Maryland or a
16 designee; [and]

17 (5) [2 members of Maryland Works, Inc.] **THE ASSISTANT**
18 **SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE**
19 **DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

20 **(6) THE SECRETARY OF THE DEPARTMENT OF LABOR,**
21 **LICENSING, AND REGULATION OR A DESIGNEE.**

22 (d) A member of the Committee:

23 (1) may not receive compensation; but

24 (2) is entitled to reimbursement for expenses under the Standard
25 State Travel Regulations as provided in the State budget.

26 (e) The Committee shall:

27 (1) establish procedures to govern procurement of supplies and
28 services from [sheltered workshops] **COMMUNITY SERVICE PROVIDERS;**

1 (2) from the State procurement list, choose appropriate supplies and
2 services for [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** to offer for
3 procurement;

4 (3) provide that the State procure those supplies and services from a
5 [sheltered workshop] **COMMUNITY SERVICE PROVIDER**;

6 (4) if supplies or services are not available for procurement from a unit
7 of the State government, determine whether supplies or services are available from a
8 [sheltered workshop] **COMMUNITY SERVICE PROVIDER**;

9 (5) determine the fair market price of supplies and services that
10 [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide;

11 (6) in accordance with market conditions, adjust prices for the supplies
12 and services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide;
13 and

14 (7) at the request of a [sheltered workshop] **COMMUNITY SERVICE**
15 **PROVIDER**, review [or] **AND, IF APPROPRIATE**, change the price of a supply or
16 service.

17 **(F) IN ADDITION TO THE DUTIES SPECIFIED UNDER SUBSECTION (E) OF**
18 **THIS SECTION, THE COMMITTEE SHALL:**

19 **(1) MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE**
20 **PROVIDERS;**

21 **(2) PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY**
22 **SERVICE PROVIDERS; AND**

23 **(3) SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL**
24 **SERVICES WHO SHALL MAKE THE LIST AVAILABLE TO EACH PERSON**
25 **RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE**
26 **AIDED OR CONTROLLED ENTITY.**

27 14–107.

28 [Periodically the] **THE Pricing and Selection Committee** for [Rehabilitation and
29 Employment Programs] **THE EMPLOYMENT WORKS PROGRAM** shall:

30 **(1) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES THAT**
31 **COMMUNITY SERVICE PROVIDERS PROVIDE;**

32 **[(1)](2) PERIODICALLY REVIEW AND** revise its list of supplies and
33 services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

1 ~~[(2)]~~**(3)** send [the] **ANY REVISED** list to the Secretary of General
2 Services [and] **WHO SHALL MAKE THE LIST AVAILABLE TO** each person responsible
3 for buying supplies or services for the State or a State aided or controlled entity.

4 [14–108.

5 The Secretary of General Services shall designate Maryland Works, Inc., or
6 another appropriate coordinating entity, to facilitate the distribution of procurement
7 contracts for supplies and services among sheltered workshops.]

8 **14–108.**

9 **(A) IN THIS SECTION, “PROGRAM” MEANS THE EMPLOYMENT WORKS**
10 **PROGRAM.**

11 **(B) THERE IS AN EMPLOYMENT WORKS PROGRAM IN THE**
12 **DEPARTMENT OF GENERAL SERVICES.**

13 **(C) THE SECRETARY OF GENERAL SERVICES SHALL DESIGNATE**
14 **MARYLAND WORKS, INC., OR ANOTHER APPROPRIATE COORDINATING ENTITY,**
15 **TO FACILITATE THE DISTRIBUTION OF PROCUREMENT CONTRACTS FOR**
16 **SUPPLIES AND SERVICES AMONG COMMUNITY SERVICE PROVIDERS.**

17 **(D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C)**
18 **OF THIS SECTION SHALL:**

19 **(1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND**
20 **SERVICES ELIGIBLE FOR PROCUREMENT;**

21 **(2) ESTABLISH PROCEDURES FOR THE SELECTION OF**
22 **COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE**
23 **CONTRACTS FOR PREFERENCE PROCUREMENT;**

24 **(3) ESTABLISH PROCEDURES FOR REMEDIATION OF**
25 **NONCOMPLIANCE WITH STATE OR PROGRAM POLICIES;**

26 **(4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO**
27 **PARTICIPATING COMMUNITY SERVICE PROVIDERS;**

28 **(5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR**
29 **SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR**
30 **THE PROGRAM;**

1 **(6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION**
2 **COMMITTEE FOR THE PROGRAM; AND**

3 **(7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH**
4 **QUALITY STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS**
5 **PARTICIPATING COMMUNITY SERVICE PROVIDERS.**

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.