

SENATE BILL 368

P2

8lr2581
CF 8lr2360

By: **Senator Conway**

Introduced and read first time: January 30, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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
21 Annotated Code of Maryland
22 (2006 Replacement Volume and 2007 Supplement)

23 BY adding to
24 Article – State Finance and Procurement
25 Section 14–108
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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 14–101.

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

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

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

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

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

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

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

15 (ii) prevents the individual from engaging in normal competitive
16 employment; and

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

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

22 (2) **IS APPROVED FOR PARTICIPATION IN THE**
23 **EMPLOYMENT WORKS PROGRAM BY THE DIVISION OF REHABILITATION**
24 **SERVICES IN THE STATE DEPARTMENT OF EDUCATION;**

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

27 (I) **CONSTITUTES A SUBSTANTIAL BARRIER TO**
28 **EMPLOYMENT; AND**

29 (II) **PREVENTS THE INDIVIDUAL FROM ENGAGING IN**
30 **COMPETITIVE EMPLOYMENT; AND**

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

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

6 14–103.

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

9 (1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle
10 5 of the Correctional Services Article, if State Use Industries provides the supplies or
11 services;

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

13 (i) Blind Industries and Services of Maryland provides the
14 supplies or services; and

15 (ii) Maryland Correctional Enterprises does not provide the
16 supplies or services; or

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

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

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

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

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

28 14–106.

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

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

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

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

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

6 (3) the Secretary of Public Safety and Correctional Services or a
7 designee;

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

10 (5) [2 members of Maryland Works, Inc.] **THE ASSISTANT**
11 **SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE**
12 **DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

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

15 (d) A member of the Committee:

16 (1) may not receive compensation; but

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

19 (e) The Committee shall:

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

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

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

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

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

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

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

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

11 (1) **MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE**
12 **PROVIDERS;**

13 (2) **PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY**
14 **SERVICE PROVIDERS; AND**

15 (3) **SEND ANY REVISED LIST TO THE SECRETARY OF GENERAL**
16 **SERVICES WHO SHALL MAKE THE LIST AVAILABLE TO EACH PERSON**
17 **RESPONSIBLE FOR BUYING SUPPLIES OR SERVICES FOR THE STATE OR A STATE**
18 **AIDED OR CONTROLLED ENTITY.**

19 14–107.

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

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

24 [(1)](2) **PERIODICALLY REVIEW AND** revise its list of supplies and
25 services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

26 [(2)](3) send [the] **ANY REVISED** list to the Secretary of General
27 Services [and] **WHO SHALL MAKE THE LIST AVAILABLE TO** each person responsible
28 for buying supplies or services for the State or a State aided or controlled entity.

29 [14–108.

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

1 **14-108.**

2 (A) IN THIS SECTION, "PROGRAM" MEANS THE EMPLOYMENT WORKS
3 PROGRAM.

4 (B) THERE IS AN EMPLOYMENT WORKS PROGRAM IN THE
5 DEPARTMENT OF GENERAL SERVICES.

6 (C) THE SECRETARY OF GENERAL SERVICES SHALL DESIGNATE
7 MARYLAND WORKS, INC., OR ANOTHER APPROPRIATE COORDINATING ENTITY,
8 TO FACILITATE THE DISTRIBUTION OF PROCUREMENT CONTRACTS FOR
9 SUPPLIES AND SERVICES AMONG COMMUNITY SERVICE PROVIDERS.

10 (D) THE COORDINATING ENTITY DESIGNATED UNDER SUBSECTION (C)
11 OF THIS SECTION SHALL:

12 (1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND
13 SERVICES ELIGIBLE FOR PROCUREMENT;

14 (2) ESTABLISH PROCEDURES FOR THE SELECTION OF
15 COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE
16 CONTRACTS FOR PREFERENCE PROCUREMENT;

17 (3) ESTABLISH PROCEDURES FOR REMEDIATION OF
18 NONCOMPLIANCE WITH STATE OR PROGRAM POLICIES;

19 (4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO
20 PARTICIPATING COMMUNITY SERVICE PROVIDERS;

21 (5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR
22 SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR
23 THE PROGRAM;

24 (6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION
25 COMMITTEE FOR THE PROGRAM; AND

26 (7) SERVE AS A MONITORING AGENT TO ENSURE THAT HIGH
27 QUALITY STANDARDS ARE MET AND MAINTAINED BY THE PROGRAM AND ITS
28 PARTICIPATING COMMUNITY SERVICE PROVIDERS.

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