

# SENATE BILL 368

P2

8lr2581  
CF HB 805

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By: **Senator Conway**

Introduced and read first time: January 30, 2008

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2008

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

23 BY adding to

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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.



1 Article – State Finance and Procurement  
 2 Section 14–108  
 3 Annotated Code of Maryland  
 4 (2006 Replacement Volume and 2007 Supplement)

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

7 **Article – State Finance and Procurement**

8 14–101.

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

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

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

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

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

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

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

19 (ii) prevents the individual from engaging in normal competitive  
 20 employment; and

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

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

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

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

1 (I) CONSTITUTES A SUBSTANTIAL BARRIER TO  
2 EMPLOYMENT; AND

3 (II) PREVENTS THE INDIVIDUAL FROM ENGAGING IN  
4 COMPETITIVE EMPLOYMENT; AND

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

7 (c) "State aided or controlled entity" means any public or quasi-public  
8 institution that receives aid from the State or that is owned, controlled, or managed by  
9 the State.

10 14–103.

11 (A) The State or a State aided or controlled entity shall buy supplies and  
12 services from:

13 (1) Maryland Correctional Enterprises, as provided in Title 3, Subtitle  
14 5 of the Correctional Services Article, if State Use Industries provides the supplies or  
15 services;

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

17 (i) Blind Industries and Services of Maryland provides the  
18 supplies or services; and

19 (ii) Maryland Correctional Enterprises does not provide the  
20 supplies or services; or

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

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

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

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

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

1 14–106.

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

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

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

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

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

10 (3) the Secretary of Public Safety and Correctional Services or a  
11 designee;

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

14 (5) [2 members of Maryland Works, Inc.] **THE ASSISTANT**  
15 **SECRETARY FOR VOCATIONAL REHABILITATION WITHIN THE STATE**  
16 **DEPARTMENT OF EDUCATION OR A DESIGNEE; AND**

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

19 (d) A member of the Committee:

20 (1) may not receive compensation; but

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

23 (e) The Committee shall:

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

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

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

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

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

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

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

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

14 **(1) MAINTAIN A CURRENT LIST OF COMMUNITY SERVICE**  
15 **PROVIDERS;**

16 **(2) PERIODICALLY REVIEW AND REVISE ITS LIST OF COMMUNITY**  
17 **SERVICE PROVIDERS; AND**

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

22 14–107.

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

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

27 **[(1)](2) PERIODICALLY REVIEW AND** revise its list of supplies and  
28 services that [sheltered workshops] **COMMUNITY SERVICE PROVIDERS** provide; and

29 **[(2)](3)** send [the] **ANY REVISED** list to the Secretary of General  
30 Services [and] **WHO SHALL MAKE THE LIST AVAILABLE TO** each person responsible  
31 for buying supplies or services for the State or a State aided or controlled entity.

32 [14–108.

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

4 **14-108.**

5           **(A) IN THIS SECTION, "PROGRAM" MEANS THE EMPLOYMENT WORKS**  
6 **PROGRAM.**

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

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

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

15                   **(1) IDENTIFY POTENTIAL CONTRACTS FOR SUPPLIES AND**  
16 **SERVICES ELIGIBLE FOR PROCUREMENT;**

17                   **(2) ESTABLISH PROCEDURES FOR THE SELECTION OF**  
18 **COMMUNITY SERVICE PROVIDERS TO PERFORM UNDER POTENTIALLY ELIGIBLE**  
19 **CONTRACTS FOR PREFERENCE PROCUREMENT;**

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

22                   **(4) PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO**  
23 **PARTICIPATING COMMUNITY SERVICE PROVIDERS;**

24                   **(5) CONDUCT COST ANALYSES AND MARKET RESEARCH FOR**  
25 **SUBMISSION AND REVIEW BY THE PRICING AND SELECTION COMMITTEE FOR**  
26 **THE PROGRAM;**

27                   **(6) PROVIDE STAFF SUPPORT FOR THE PRICING AND SELECTION**  
28 **COMMITTEE FOR THE PROGRAM; AND**

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.