

SENATE BILL 772

P2

8lr3104

By: **Senators Pugh and McFadden**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Structuring and Bundling of Procurements**

3 FOR the purpose of prohibiting a unit of State government subject to the State
4 procurement law from structuring or bundling a procurement for the purpose of
5 precluding or limiting participation by certain entities under certain
6 circumstances; and generally relating to prohibitions governing the structuring
7 or bundling of a procurement.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 11–201
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2007 Supplement)

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

15 **Article – State Finance and Procurement**

16 11–201.

17 (a) The purposes and policies of this Division II include:

18 (1) providing for increased confidence in State procurement;

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 (2) ensuring fair and equitable treatment of all persons who deal with
2 the State procurement system;

3 (3) providing safeguards for maintaining a State procurement system
4 of quality and integrity;

5 (4) fostering effective broad-based competition in the State through
6 support of the free enterprise system;

7 (5) promoting increased long-term economic efficiency and
8 responsibility in the State by encouraging the use of recycled materials;

9 (6) providing increased economy in the State procurement system;

10 (7) getting the maximum benefit from the purchasing power of the
11 State;

12 (8) simplifying, clarifying, and modernizing the law that governs State
13 procurement;

14 (9) allowing the continued development of procurement regulations,
15 policies, and practices in the State; and

16 (10) promoting development of uniform State procurement procedures
17 to the extent possible.

18 (b) Unless otherwise indicated, this Division II shall be construed liberally
19 and applied to promote the purposes and policies enumerated in subsection (a) of this
20 section.

21 (c) If a provision of this Division II is inconsistent with a federal law,
22 regulation, or grant agreement or other federal requirement that governs procurement
23 or a procurement contract or with the terms of a gift, as defined in Article 1, § 22 of the
24 Code, the federal requirement or the terms of the gift control the procurement or
25 procurement contract.

26 (D) ~~A~~ **EXCEPT FOR THE PURPOSE OF A UNIT'S PARTICIPATION IN THE**
27 **SMALL BUSINESS RESERVE PROGRAM IN ACCORDANCE WITH TITLE 14,**
28 **SUBTITLE 5 OF THIS ARTICLE, A UNIT SUBJECT TO THIS DIVISION II MAY NOT**
29 **STRUCTURE OR BUNDLE A PROCUREMENT FOR THE PURPOSE OF:**

30 (1) **PRECLUDING PARTICIPATION BY MINORITY BUSINESS**
31 **ENTERPRISES UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE;**

32 (2) **LIMITING THE NUMBER OF COMPETITIVE BIDDERS OR**
33 **OFFERORS; OR**

1 (3) LIMITING PARTICIPATION TO A PREDETERMINED GROUP OF
2 **BIDDERS OR OFFERORS.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.