

SENATE BILL 187

P2

9lr1114
CF 9lr1680

By: **Senators Pugh, Conway, Exum, Glassman, Harrington, Lenett, McFadden, Muse, and Peters**

Introduced and read first time: January 22, 2009

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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 2008 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;

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

12 (10) promoting development of uniform State procurement procedures
13 to the extent possible.

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

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

22 **(D) (1) IN THIS SUBSECTION, "CONTRACT BUNDLING" MEANS THE**
23 **CONSOLIDATION OF TWO OR MORE PROCUREMENT REQUIREMENTS FOR GOODS**
24 **OR SERVICES INTO A SINGLE SOLICITATION SEEKING OFFERS FOR A SINGLE**
25 **CONTRACT THAT IS UNLIKELY TO BE ACCESSIBLE FOR AWARD TO A SMALL**
26 **BUSINESS OR MINORITY BUSINESS ENTERPRISE.**

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

31 **(I) PRECLUDING PARTICIPATION BY MINORITY BUSINESS**
32 **ENTERPRISES UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE OR ANY OTHER**
33 **SMALL BUSINESS AS DEFINED UNDER TITLE 14, SUBTITLE 2 OF THIS ARTICLE;**

1 (II) LIMITING THE NUMBER OF COMPETITIVE BIDDERS OR
2 OFFERORS;

3 (III) LIMITING PARTICIPATION TO A PREDETERMINED
4 GROUP OF BIDDERS OR OFFERORS; OR

5 (IV) CONTRACT BUNDLING.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2009.