

HOUSE BILL 19

P2

3lr0778

(PRE-FILED)

By: **Delegate B. Robinson**

Requested: November 13, 2012

Introduced and read first time: January 9, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Minority Business Enterprise Waiver Disclosure Act**

3 FOR the purpose of altering the frequency and content of certain reports on waivers of
4 minority business enterprise goals as submitted by certain units to the Board of
5 Public Works and the Governor's Office of Minority Affairs; requiring the
6 Governor's Office of Minority Affairs to post certain reports on its Web site; and
7 generally relating to waivers of minority business enterprise goals.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 14–302(a)(8)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 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 14–302.

17 (a) (8) (i) 1. If a contractor, including a certified minority business
18 enterprise, does not achieve all or a part of the minority business enterprise
19 participation goals on a contract, the unit shall make a finding of whether the
20 contractor has demonstrated that the contractor took all necessary and reasonable
21 steps to achieve the goals, including compliance with paragraph (6) of this subsection.

22 2. A waiver of any part of the minority business
23 enterprise goals for a contract shall be granted if a contractor provides a reasonable
24 demonstration of good-faith efforts to achieve the goals.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) If the unit determines that a waiver should be granted in
2 accordance with subparagraph (i) of this paragraph, the unit may not require the
3 contractor to renegotiate any subcontract in order to achieve a different result.

4 (iii) The head of the unit may waive any of the requirements of
5 this subsection relating to the establishment, use, and waiver of contract goals for a
6 sole source, expedited, or emergency procurement in which the public interest cannot
7 reasonably accommodate use of those requirements.

8 (iv) 1. Except for waivers granted in accordance with
9 subparagraph (iii) of this paragraph, when a waiver determination is made, the unit
10 shall issue the determination in writing.

11 2. The head of the unit shall:

12 A. keep one copy of the waiver determination and the
13 reasons for the determination; and

14 B. forward one copy of the waiver determination to the
15 Governor's Office of Minority Affairs.

16 (v) On or before [July 31 of each year] **THE FIRST DAY OF**
17 **EACH MONTH**, each unit shall submit directly to the Board of Public Works and the
18 Governor's Office of Minority Affairs [an annual] **A MONTHLY** report of waivers
19 requested and waivers granted under this paragraph.

20 (vi) The report required under subparagraph (v) of this
21 paragraph shall contain the following information on those contracts where the unit
22 considered a contractor's request for waiver of all or a portion of the minority business
23 enterprise goals:

24 1. the contract titles, numbers, and dates;

25 2. the number of waiver requests received, **THE NAMES**
26 **OF THE CONTRACTORS THAT SUBMITTED THE WAIVER REQUESTS, AND A LIST**
27 **OF THE EFFORTS MADE TO ACHIEVE THE MINORITY BUSINESS ENTERPRISE**
28 **GOALS OF THE CONTRACTS FOR WHICH A WAIVER IS BEING REQUESTED;**

29 3. the number of waiver requests granted, **THE NAMES**
30 **OF THE CONTRACTORS THAT WERE GRANTED WAIVERS, AND THE REASONS FOR**
31 **GRANTING THE WAIVERS;** and

32 4. any other information specifically requested by the
33 Board.

1 **(VII) EACH MONTH, THE GOVERNOR'S OFFICE OF MINORITY**
2 **AFFAIRS SHALL POST ON ITS WEB SITE EACH REPORT RECEIVED IN**
3 **ACCORDANCE WITH SUBPARAGRAPHS (V) AND (VI) OF THIS PARAGRAPH.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2013.