

**SB0004/904138/1**

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 4  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “clarifying” in line 6 down through “contract;” in line 8; in line 10, after “Committee;” insert “altering certain findings of the General Assembly;”; and in line 15, strike “14-302” and substitute “14-301.1”.

AMENDMENT NO. 2

On pages 2 through 8, strike beginning with line 1 on page 2 through line 17 on page 8, inclusive, and substitute:

“14-301.1.

The General Assembly finds the following:

(1) the State of Maryland wishes to provide all of its citizens with equal access to business formation and business growth opportunities;

(2) the elimination of discrimination against minority– and women–owned businesses is of paramount importance to the future welfare of the State;

(3) the General Assembly has received and carefully reviewed the disparity study entitled [“The State of Minority– and Women–Owned Business Enterprise: Evidence from Maryland” commissioned by the General Assembly and published on February 17, 2011] “**BUSINESS DISPARITIES IN THE MARYLAND MARKET AREA**” COMMISSIONED BY THE GENERAL ASSEMBLY AND PUBLISHED ON FEBRUARY 8, 2017 (the Study), and finds that the Study provides a strong basis in evidence demonstrating persistent discrimination against minority– and women–owned businesses;

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(4) based on its review of the Study, the General Assembly finds that:

(i) there are substantial and statistically significant adverse disparities [between the availability and utilization of minorities and women] THAT ARE CONSISTENT WITH DISCRIMINATION AGAINST MINORITIES AND NONMINORITY WOMEN IN WAGES, FIRM FORMATION, ENTREPRENEURIAL EARNINGS, AND ACCESS TO CAPITAL in the private sector in the same geographic markets and industry categories in which the State does business;

(ii) the State would become a passive participant in private sector racial and gender discrimination if it ceased or curtailed its remedial efforts, including the operation of the Minority Business Enterprise Program;

(iii) there are substantial and statistically significant adverse disparities [for all racial and ethnic groups and nonminority women combined in all major contracting categories in State procurement] THAT ARE CONSISTENT WITH DISCRIMINATION AGAINST MINORITIES AND NONMINORITY WOMEN IN STATE PROCUREMENT;

(iv) there are substantial and statistically significant adverse disparities [for all individual racial and ethnic groups and for nonminority women in most major industry categories in State procurement] THAT ARE CONSISTENT WITH DISCRIMINATION AGAINST ALL INDIVIDUAL MINORITY GROUPS AND FOR NONMINORITY WOMEN IN MOST MAJOR INDUSTRY CATEGORIES IN STATE PROCUREMENT;

(v) there is ample evidence that discrimination in the private sector has depressed firm formation and firm growth among minority and nonminority women entrepreneurs; and

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(vi) there is powerful and persuasive qualitative [and anecdotal] evidence, BOTH STATISTICAL AND ANECDOTAL, of discrimination against minority and nonminority women business owners in both the public and private sectors;

(5) as a result of ongoing discrimination and the present day effects of past discrimination, minority- and women-owned businesses combined continue to be very significantly underutilized relative to their availability to perform work in the [sectors] OVERWHELMING MAJORITY OF THE PROCUREMENT CATEGORIES in which the State does business;

(6) minority prime contractors also are subject to discrimination and confront especially daunting barriers in attempting to compete with very large and long-established nonminority companies;

(7) despite the fact that the State has employed, and continues to employ, numerous and robust race-neutral remedies, including aggressive outreach and advertising, training and education, small business programs, efforts to improve access to capital, and other efforts, there is a strong basis in evidence that discrimination persists even in public sector procurement where these efforts have been employed;

(8) NOTWITHSTANDING THE LEVELS OF PARTICIPATION ACHIEVED WHEN RACE-CONSCIOUS MEASURES ARE USED, IN THE ABSENCE OF MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS FOR STATE PROCUREMENT, THERE IS A SUBSTANTIAL DECREASE IN THE OVERALL UTILIZATION OF MINORITY- AND WOMEN-OWNED BUSINESSES;

[(8)] (9) this subtitle ensures that race-neutral efforts will be used to the maximum extent feasible and that race-conscious measures will be used only where necessary to eliminate discrimination that was not alleviated by race-neutral efforts;

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[(9)] (10) this subtitle continues and enhances efforts to ensure that the State limits the burden on nonminority businesses as much as possible by ensuring that all goals are developed using the best available data and that waivers are available whenever contractors make good faith efforts; [and]

(11) THIS SUBTITLE ENSURES THAT THE OPERATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM IS CONSISTENT WITH THE STUDY DATA AND NARROWLY TAILORED TO THE COMPELLING INTERESTS OF THE STATE; AND

[(10)] (12) State efforts to support the development of competitively viable minority- and women-owned business enterprises will assist in reducing discrimination and creating jobs for all citizens of Maryland.”.

AMENDMENT NO. 3

On page 9, in line 25, strike “**STATE OF**” and substitute “**PRIME CONTRACTOR OF THE STATE’S**”.

AMENDMENT NO. 4

On page 11, in line 15, strike “**2018**” and substitute “**2022**”; in line 33, strike “**2017**” and substitute “**2021**”; and in the same line, strike “**2018**” and substitute “**2022**”.