

Chapter 161

(House Bill 324)

AN ACT concerning

**Washington Suburban Sanitary Commission – Discrimination – Prohibited in
Contracts**

MC/PG 107-19

FOR the purpose of prohibiting the Washington Suburban Sanitary Commission from entering into a contract unless the contract contains a certain nondiscrimination provision; requiring the Commission to provide a contractor a reasonable opportunity to cure a certain defect in a contract or subcontract; authorizing the Commission to void a contract if a contractor fails to cure a certain defect; establishing that a contractor is entitled to the reasonable value of certain work and materials if the contractor fails to cure a certain defect; stating that a contract remains in force according to revised terms if a contractor cures a certain defect; authorizing the Commission to compel a contractor to continue performance under a contract under certain circumstances; establishing that the Commission is liable for no more than the reasonable value of certain work and materials provided by the contractor after a certain date if the Commission compels performance; requiring the Commission to deduct money paid under a certain contract from money due for the reasonable value of certain work and materials provided by the contractor after a certain date if the Commission compels performance; authorizing a contractor to void a subcontract if the subcontractor fails to comply with the requirements of a nondiscrimination provision; establishing that a contractor is liable for no more than the reasonable value of certain work and materials provided by a subcontractor if a contractor voids a subcontract under certain circumstances; repealing a certain provision requiring a nondiscrimination clause in certain contracts; and generally relating to the Washington Suburban Sanitary Commission and nondiscrimination provisions in contracts entered into by the Commission.

BY adding to

Article – Public Utilities

Section 17-402.1

Annotated Code of Maryland

(2010 Replacement Volume and 2018 Supplement)

BY repealing

Article – Public Utilities

Section 20-106

Annotated Code of Maryland

(2010 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That Section(s) 20–106 of Article – Public Utilities of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utilities

17–402.1.

(A) (1) THE COMMISSION MAY NOT ENTER INTO A CONTRACT UNLESS THE CONTRACT CONTAINS A PROVISION OBLIGING THE CONTRACTOR:

(I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE, CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION, RELIGION, MARITAL STATUS, GENDER IDENTITY, OR NATIONAL ORIGIN; AND

(II) TO INCLUDE A SIMILAR NONDISCRIMINATION PROVISION IN ALL SUBCONTRACTS.

(2) (I) IF THE NONDISCRIMINATION PROVISION IS OMITTED FROM A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO THIS SECTION.

(II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:

1. THE COMMISSION MAY DECLARE THE CONTRACT TO BE VOID; AND

2. THE CONTRACTOR IS ENTITLED TO THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR.

(III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

(B) (1) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY COMPEL A CONTRACTOR TO CONTINUE TO PERFORM UNDER A CONTRACT IF:

(I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION PROVISION; AND

(II) THE CONTRACT IS PARTIALLY EXECUTORY.

(2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS SUBSECTION, THE COMMISSION:

(I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN DISCOVERED; AND

(II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS PARAGRAPH.

(C) (1) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE REQUIREMENTS OF A NONDISCRIMINATION PROVISION, THE CONTRACTOR MAY DECLARE THE SUBCONTRACT TO BE VOID.

(2) IF A CONTRACTOR DECLARES A SUBCONTRACT TO BE VOID UNDER THIS SUBSECTION, THE CONTRACTOR IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF WORK PERFORMED OR MATERIALS PROVIDED BY THE SUBCONTRACTOR.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 18, 2019.