

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 324

(Montgomery County Delegation and Prince George's
County Delegation)

Environment and Transportation

Finance

**Washington Suburban Sanitary Commission - Discrimination - Prohibited in
Contracts**
MC/PG 107-19

This bill prohibits the Washington Suburban Sanitary Commission (WSSC) from entering into a contract unless the contract contains a specified nondiscrimination clause. The bill establishes provisions governing the omission of the nondiscrimination clause in a contract or subcontract, the compulsion of a contractor to continue to perform under specified reasons, and the failure of a subcontractor to comply with the requirements of a nondiscrimination clause.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill does not materially affect WSSC's operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: The bill repeals WSSC's nondiscrimination policy currently applicable to water and sewer procurement contracts and makes the nondiscrimination policy applicable to all WSSC contracts.

In general, WSSC is prohibited from discriminating against a person on the basis of sex, race, creed, color, age, mental or physical disability, sexual orientation, religion, marital status, gender identity, or national origin.

In addition, WSSC currently may not award a water and sewer procurement contract unless the contract prohibits the contractor from discriminating 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.

If the nondiscrimination clause is omitted in a water and sewer procurement contract, WSSC is required to provide the contractor with a reasonable opportunity to cure the defect. Accordingly, if the contractor fails to cure the defect, WSSC can void the contract and the contractor is entitled to the reasonable value of work performed and materials provided by the contractor.

Furthermore, WSSC can compel a contractor to continue to perform under a water and sewer procurement contract if the contractor willfully fails to comply with the requirement of a nondiscrimination clause and the contract has not yet been fully executed. If a contractor is compelled to perform under a contract, WSSC 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. WSSC is then required to deduct any money that has been paid under the contract from any money due for the reasonable value of work and materials provided by the contractor.

A contractor can declare a water and sewer procurement contract void if a subcontractor willfully fails to comply with the requirements of a nondiscrimination clause. If the contractor declares the contract to be void, the contractor is liable for no more than the reasonable value of work and materials provided by the subcontractor.

Background: WSSC is among the largest water and wastewater utilities in the country, providing water and sewer services to 1.8 million residents in Montgomery and Prince George's counties. It has approximately 475,000 customer accounts, serves an area of approximately 1,000 square miles, and currently employs more than 1,500 people. The commission operates three reservoirs, two water filtration plants, and six wastewater treatment plants. The six wastewater treatment facilities, as well as the Blue Plains Advanced Wastewater Treatment Plant, handle more than 200 million gallons of wastewater per day. The commission maintains more than 5,700 miles of water main lines and over 5,500 miles of sewer main lines.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Prince George's County; Washington Suburban Sanitary Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2019
an/tso Third Reader - March 6, 2019

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