

Chapter 652

(House Bill 871)

AN ACT concerning

Consolidation of the Procurement Improvement Council and the Council for the Procurement of Health, Educational, and Social Services

FOR the purpose of merging the Procurement Improvement Council and the Council for the Procurement of Health, Educational, and Social Services; altering the duties and membership of the Procurement Improvement Council; repealing provisions of law relating to the Council for the Procurement of Health, Educational, and Social Services; requiring the Procurement Improvement Council to report to certain committees of the General Assembly on or before a certain date; declaring the intent of the General Assembly; and generally relating to the Procurement Improvement Council and the Council for the Procurement of Health, Educational, and Social Services.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 12–105
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

BY repealing
 Article – State Finance and Procurement
 Section 12–110
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – State Finance and Procurement

12–105.

- (a) In this section, “Council” means the Procurement Improvement Council.
- (b) There is a Procurement Improvement Council.
- (c) (1) The Council consists of the following [12] **20** members:
 - (i) the State Treasurer;
 - (ii) the Chancellor of the University System of Maryland;

(iii) [the Secretary of Budget and Management;

(iv)] the Chief Procurement Officer;

[(v)] **(IV)** the Secretary of Information Technology;

[(vi)] **(V)** the Secretary of Transportation;

[(vii)] **(VI)** the Procurement Advisor of the Board;

[(viii)] **(VII)** the Special Secretary for the Office of Small, Minority, and Women Business Affairs;

[(ix) the Director of the Governor's Office of Performance Improvement;]

(VIII) THE SECRETARY OF JUVENILE SERVICES;

(IX) THE SECRETARY OF HUMAN SERVICES;

(X) THE SECRETARY OF HEALTH;

(XI) THE STATE SUPERINTENDENT OF SCHOOLS;

[(x)] (XII) THE FOLLOWING INDIVIDUALS, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

1. a representative of local government who has expertise in local procurement matters[, appointed by the Governor with the advice and consent of the Senate]; [and]

2. **TWO REPRESENTATIVES OF SOCIAL SERVICE PROVIDERS IN THE STATE; AND**

3. **A REPRESENTATIVE OF A MINORITY-, WOMEN-, OR VETERAN-OWNED BUSINESS;**

[(xi)] (XIII) [two] THREE members of the general public APPOINTED BY THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY, OF WHOM:

1. at least one [of whom has] **SHALL HAVE** expertise in State procurement matters[, appointed by the Governor with the advice and consent of the Senate]; **AND**

2. AT LEAST TWO SHALL REPRESENT A MINORITY-, WOMEN-, OR VETERAN-OWNED BUSINESS;

(XIV) A MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(XV) A MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE.

(2) (i) If the State Treasurer is unable to attend a meeting of the Council, the Treasurer may designate the Deputy Treasurer to attend the meeting.

(ii) If a member of the Council listed in paragraph (1)(ii) through [(ix)] **(XI)** of this subsection is unable to attend a meeting of the Council, the member may designate a senior management staff member with experience in procurement to attend the meeting.

(d) The Chief Procurement Officer is Chairman of the Council.

(e) The Council shall meet at least quarterly each year.

(f) The Chief Procurement Officer is the principal staff of the Council and the Council shall have any additional staff authorized in accordance with the State budget.

(g) The Council shall:

(1) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, including policies, procedures, and forms for all procurement activity and contract management;

(2) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;

(3) provide a forum for the discussion of specific procurement issues and problems that arise, including:

(i) procurement officer training;

(ii) risk analysis and insurance requirements;

(iii) management of eMaryland Marketplace and other Internet procurement resources;

(iv) **USE OF EMARYLAND MARKETPLACE AND COMPLIANCE WITH § 17-502 OF THIS ARTICLE;**

(V) use of intergovernmental cooperative purchasing agreements;
and

[(v)] (VI) any other issues or problems identified by the Council;

(4) advise the Board on problems in the procurement process and make recommendations for improvement of the process;

(5) review existing procurement regulations to:

(i) determine whether they fulfill the intent and purpose of the law, especially as it relates to fostering broad-based competition; and

(ii) make recommendations on the regulations, if revising and restructuring them will result in easier understanding and use; and

(6) advise the General Assembly on proposed legislation in order to enhance the efficiency and transparency of State procurement.

[12-110.

(a) (1) In this section the following words have the meanings indicated.

(2) “Council” means the Council for the Procurement of Health, Educational, and Social Services.

(3) “Health, educational, and social services” means services procured to provide or assist in providing:

(i) support, care, or shelter to third-party clients under a contract;
or

(ii) training to third-party clients under a contract.

(4) “Task Force Report” means the report entitled “Task Force Report to the Governor and the General Assembly on Procurement of Health, Education and Social Services by State Agencies” that was issued on November 30, 2011, by the Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies.

(b) There is a Council for the Procurement of Health, Educational, and Social Services.

(c) (1) The Council consists of the following members:

- (i) the State Treasurer;
 - (ii) the Attorney General;
 - (iii) the Chief Procurement Officer;
 - (iv) the State Superintendent of Schools;
 - (v) the Secretary of Budget and Management;
 - (vi) the Secretary of Juvenile Services;
 - (vii) the Secretary of Human Services;
 - (viii) the Secretary of Health;
 - (ix) the Director of the Governor's Grants Office;
 - (x) the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services;
 - (xi) the Deputy Director of the Division of Children and Youth of the Governor's Office of Crime Prevention, Youth, and Victim Services;
 - (xii) the Special Secretary for the Office of Small, Minority, and Women Business Affairs;
 - (xiii) the Procurement Advisor of the Board;
 - (xiv) four representatives of private organizations with experience providing human services funded by contracts through State units, appointed by the Governor;
 - (xv) a member of the Senate, appointed by the President of the Senate; and
 - (xvi) a member of the House of Delegates, appointed by the Speaker of the House.
- (2) (i) If the State Treasurer is unable to attend a meeting of the Council, the Treasurer may designate a Deputy Treasurer to attend the meeting.
- (ii) If a member of the Council listed in paragraph (1)(i) through (xiii) of this subsection is unable to attend a meeting of the Council, the member may

designate another senior management staff member with experience in procurement to attend the meeting.

(3) (i) This paragraph applies to members of the Council appointed under paragraph (1)(xiv) of this subsection.

(ii) On or after July 1, 2014, the term of a member is 4 years.

(iii) The terms of members are staggered as required by the terms provided for members of the Council on July 1, 2014.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(vi) A member may not serve more than two consecutive terms, except that a member appointed before July 1, 2014, may serve one additional 4-year term when the member's current term expires.

(vii) The Governor may remove a member for neglect of duty, incompetence, or misconduct.

(d) The Chief Procurement Officer is the Chair of the Council.

(e) The Council shall meet at least twice each year.

(f) The staffing responsibilities of the Council shall be shared by:

(1) the agencies represented on the Council; and

(2) additional staff that the Board authorizes in accordance with the State budget.

(g) The Council shall:

(1) advise the Board on specific steps necessary to implement the recommendations of the Task Force Report;

(2) monitor and report to the Board the progress of implementation of the recommendations in the Task Force Report;

(3) establish subcommittees or working committees consisting of members of the Council and interested parties to address or study specific issues;

(4) with regard to the procurement of health, educational, and social services:

(i) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;

(ii) provide a forum for the discussion of specific procurement issues and problems that arise;

(iii) advise the Board on problems in the procurement process and make recommendations for improvement to the procurement process; and

(iv) review existing procurement regulations to determine whether they fulfill the intent and purpose of the law, especially as the law relates to fostering broad-based competition and making effective use of State funds for the delivery of health, educational, and social services; and

(5) on or before December 31 of each year, report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the Council's activities and recommendations regarding the procurement of health, educational, and social services by State agencies.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2022, the Procurement Improvement Council shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, that provides:

(1) guidelines on how to identify entities that are required to publish notices of procurement and awards of procurement on eMaryland Marketplace under § 17-502(a) of the State Finance and Procurement Article;

(2) guidelines on how to identify entities that do not comply with the requirement to publish notices of procurement and awards of procurement on eMaryland Marketplace and the reasons why the entities do not publish the required notices and awards; and

(3) recommendations on strategies and enforcement mechanisms to improve compliance by entities required to publish notices of procurement and awards of procurement on eMaryland Marketplace, including any necessary legislation to authorize or implement the strategies and enforcement mechanisms.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a business, or representative of a business, participating in the Procurement Improvement Council, will not be favored in, disfavored in, or disqualified

from the selection of contracts with, or eligibility for benefits from, the State on the grounds of the business's role in the Council.

SECTION ~~3~~ 4 AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.