

HOUSE BILL 871

P2, P1

(11r1982)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Charles**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

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

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

13 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Article – State Finance and Procurement
 2 Section 12–105
 3 Annotated Code of Maryland
 4 (2015 Replacement Volume and 2020 Supplement)

5 BY repealing
 6 Article – State Finance and Procurement
 7 Section 12–110
 8 Annotated Code of Maryland
 9 (2015 Replacement Volume and 2020 Supplement)

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

12 **Article – State Finance and Procurement**

13 12–105.

14 (a) In this section, “Council” means the Procurement Improvement Council.

15 (b) There is a Procurement Improvement Council.

16 (c) (1) The Council consists of the following [12] **20** members:

17 (i) the State Treasurer;

18 (ii) the Chancellor of the University System of Maryland;

19 (iii) [the Secretary of Budget and Management;

20 (iv)] the Chief Procurement Officer;

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

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

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

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

26 [(ix) the Director of the Governor’s Office of Performance
 27 Improvement;]

28 **(VIII) THE SECRETARY OF JUVENILE SERVICES;**

1 **(IX) THE SECRETARY OF HUMAN SERVICES;**

2 **(X) THE SECRETARY OF HEALTH;**

3 **(XI) THE STATE SUPERINTENDENT OF SCHOOLS;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (g) The Council shall:

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

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

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

13 (i) procurement officer training;

14 (ii) risk analysis and insurance requirements;

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

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

19 (v) use of intergovernmental cooperative purchasing agreements;
20 and

21 ~~[(v)]~~ (vi) any other issues or problems identified by the Council;

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

24 (5) review existing procurement regulations to:

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

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

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

1 [12–110.

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

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

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

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

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

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

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

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

17 (i) the State Treasurer;

18 (ii) the Attorney General;

19 (iii) the Chief Procurement Officer;

20 (iv) the State Superintendent of Schools;

21 (v) the Secretary of Budget and Management;

22 (vi) the Secretary of Juvenile Services;

23 (vii) the Secretary of Human Services;

24 (viii) the Secretary of Health;

25 (ix) the Director of the Governor’s Grants Office;

26 (x) the Executive Director of the Governor’s Office of Crime
27 Prevention, Youth, and Victim Services;

1 (xi) the Deputy Director of the Division of Children and Youth of the
2 Governor's Office of Crime Prevention, Youth, and Victim Services;

3 (xii) the Special Secretary for the Office of Small, Minority, and
4 Women Business Affairs;

5 (xiii) the Procurement Advisor of the Board;

6 (xiv) four representatives of private organizations with experience
7 providing human services funded by contracts through State units, appointed by the
8 Governor;

9 (xv) a member of the Senate, appointed by the President of the
10 Senate; and

11 (xvi) a member of the House of Delegates, appointed by the Speaker
12 of the House.

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

15 (ii) If a member of the Council listed in paragraph (1)(ii) through
16 (xiii) of this subsection is unable to attend a meeting of the Council, the member may
17 designate another senior management staff member with experience in procurement to
18 attend the meeting.

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

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

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

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

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

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

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

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

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

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

4 (1) the agencies represented on the Council; and

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

7 (g) The Council shall:

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

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

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

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

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

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31,
32 2022, the Procurement Improvement Council shall submit a report to the Senate Education,

1 Health, and Environmental Affairs Committee and the House Health and Government
 2 Operations Committee, in accordance with § 2-1257 of the State Government Article, that
 3 provides:

4 (1) guidelines on how to identify entities that are required to publish notices
 5 of procurement and awards of procurement on eMaryland Marketplace under §
 6 17-502(a) of the State Finance and Procurement Article;

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

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

15 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the
 16 General Assembly that a business, or representative of a business, participating in the
 17 Procurement Improvement Council, will not be favored in, disfavored in, or disqualified
 18 from the selection of contracts with, or eligibility for benefits from, the State on the grounds
 19 of the business's role in the Council.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.