

HOUSE BILL 871

P2, P1

1lr1982
CF SB 564

By: **Delegate Charles**

Introduced and read first time: January 29, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

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; declaring the intent of the General Assembly; and generally relating to the
9 Procurement Improvement Council and the Council for the Procurement of Health,
10 Educational, and Social Services.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 12–105
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2020 Supplement)

16 BY repealing
17 Article – State Finance and Procurement
18 Section 12–110
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2020 Supplement)

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

23 **Article – State Finance and Procurement**

24 12–105.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) There is a Procurement Improvement Council.

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

3 (i) the State Treasurer;

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

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

6 (iv)] the Chief Procurement Officer;

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

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

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

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

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

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

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

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

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

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

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

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

25 3. **A REPRESENTATIVE OF A MINORITY-, WOMEN-, OR**

1 VETERAN-OWNED BUSINESS;

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

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

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

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

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

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

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

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

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

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

23 (g) The Council shall:

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

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

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

- 1 (i) procurement officer training;
- 2 (ii) risk analysis and insurance requirements;
- 3 (iii) management of eMaryland Marketplace and other Internet
4 procurement resources;
- 5 (iv) **USE OF EMARYLAND MARKETPLACE AND COMPLIANCE**
6 **WITH § 17-502 OF THIS ARTICLE;**
- 7 (v) use of intergovernmental cooperative purchasing agreements;
8 and
- 9 ~~[(v)]~~ (vi) any other issues or problems identified by the Council;

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

12 (5) review existing procurement regulations to:

- 13 (i) determine whether they fulfill the intent and purpose of the law,
14 especially as it relates to fostering broad-based competition; and
- 15 (ii) make recommendations on the regulations, if revising and
16 restructuring them will result in easier understanding and use; and

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

19 [12-110.

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

21 (2) "Council" means the Council for the Procurement of Health,
22 Educational, and Social Services.

23 (3) "Health, educational, and social services" means services procured to
24 provide or assist in providing:

- 25 (i) support, care, or shelter to third-party clients under a contract;
26 or
- 27 (ii) training to third-party clients under a contract.

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

1 Study the Procurement of Health, Education, and Social Services by State Agencies.

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

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

5 (i) the State Treasurer;

6 (ii) the Attorney General;

7 (iii) the Chief Procurement Officer;

8 (iv) the State Superintendent of Schools;

9 (v) the Secretary of Budget and Management;

10 (vi) the Secretary of Juvenile Services;

11 (vii) the Secretary of Human Services;

12 (viii) the Secretary of Health;

13 (ix) the Director of the Governor's Grants Office;

14 (x) the Executive Director of the Governor's Office of Crime
15 Prevention, Youth, and Victim Services;

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

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

20 (xiii) the Procurement Advisor of the Board;

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

24 (xv) a member of the Senate, appointed by the President of the
25 Senate; and

26 (xvi) a member of the House of Delegates, appointed by the Speaker
27 of the House.

28 (2) (i) If the State Treasurer is unable to attend a meeting of the

1 Council, the Treasurer may designate a Deputy Treasurer to attend the meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (g) The Council shall:

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

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

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

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

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

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

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
21 Assembly that a business, or representative of a business, participating in the Procurement
22 Improvement Council, will not be favored in, disfavored in, or disqualified from the
23 selection of contracts with, or eligibility for benefits from, the State on the grounds of the
24 business's role in the Council.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2021.