

## Chapter 728

**(Senate Bill 909)**

AN ACT concerning

**Capital Projects – Minority Business Enterprise Goals**

FOR the purpose of requiring the Governor’s Office of Small, Minority, and Women Business Affairs, prior to the release of State funds for a certain capital project, to review the project for subcontracting opportunities under the State Minority Business Enterprise Program and, if practicable, establish minority business enterprise subgoals for the project; requiring the Governor’s Office of Small, Minority, and Women Business Affairs to consider minority business enterprises when setting certain subgoals; requiring the recipient of the State funds, if subgoals are established for the project, to make a certain certification to the Department of General Services or to request a certain waiver from the Governor’s Office of Small, Minority, and Women Business Affairs; requiring the Governor’s Office of Small, Minority, and Women Business Affairs to review a request for a waiver and report the revised subgoals to the Department; requiring the Department to submit a certain report to the Governor and the General Assembly on or before a certain date each year; requiring the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish policies and guidelines for the implementation of this Act on or before a certain date; requiring the Governor’s Office of Small, Minority, and Women Business Affairs to report to the General Assembly on the establishment of certain minority business enterprise subgoals on or before a certain date; providing for the construction of this Act; providing for a delayed effective date for certain provisions of this Act; defining a certain term; and generally relating to the application of minority business subcontracting goals to capital projects.

BY adding to

Article – State Finance and Procurement

Section 3–610

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****3–610.**

**(A) IN THIS SECTION, “DEPARTMENT” MEANS THE DEPARTMENT OF GENERAL SERVICES.**

**(B) THIS SECTION APPLIES TO A CAPITAL PROJECT THAT RECEIVES AT LEAST ~~\$500,000~~ \$3,000,000 IN STATE FUNDS IN A SINGLE FISCAL YEAR AND IS FUNDED IN THE ANNUAL STATE CAPITAL BUDGET AS:**

- (1) A MISCELLANEOUS GRANT PROGRAM;**
- (2) A LOCAL HOUSE OF DELEGATES INITIATIVE; OR**
- (3) A LOCAL SENATE INITIATIVE.**

**(C) (1) PRIOR TO THE RELEASE OF STATE FUNDS FOR A CAPITAL PROJECT THAT MEETS THE CONDITIONS OF SUBSECTION (B) OF THIS SECTION, THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL:**

~~**(1)**~~ **(1) REVIEW THE CAPITAL PROJECT FOR SUBCONTRACTING OPPORTUNITIES UNDER THE PROVISIONS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE; AND**

~~**(2)**~~ **(II) IF PRACTICABLE, ESTABLISH MINORITY BUSINESS ENTERPRISE SUBGOALS FOR THE CAPITAL PROJECT.**

**(2) IN SETTING SUBGOALS UNDER THIS SUBSECTION, THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL CONSIDER THE AVAILABILITY AND CAPACITY OF MINORITY BUSINESS ENTERPRISES IN MARYLAND AND IN THE COUNTY WHERE THE PROJECT IS LOCATED TO FULFILL THE SUBGOAL.**

**(D) (1) IF THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS ESTABLISHES MINORITY BUSINESS ENTERPRISE SUBGOALS FOR THE CAPITAL PROJECT, THE RECIPIENT OF THE STATE FUNDS SHALL:**

**(I) CERTIFY TO THE DEPARTMENT THAT THE RECIPIENT EXPECTS TO ACHIEVE THE SUBGOALS; OR**

**(II) REQUEST A WAIVER OF ALL OR PART OF THE SUBGOALS FROM THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS.**

**(2) THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL REVIEW A REQUEST FOR A WAIVER UNDER PARAGRAPH**

**(1)(II) OF THIS SUBSECTION AND REPORT THE REVISED SUBGOALS FOR THE CAPITAL PROJECT TO THE DEPARTMENT.**

**(E) (1) ON OR BEFORE JULY 31 EACH YEAR, THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE NUMBER OF WAIVERS GRANTED FOR CAPITAL PROJECTS THAT MEET THE CONDITIONS OF SUBSECTION (B) OF THIS SECTION IN THE PRIOR FISCAL YEAR.**

**(2) THE REPORT SHALL INCLUDE:**

**(I) A DESCRIPTION OF THE CAPITAL PROJECT;**

**(II) WHETHER THE WAIVER WAS A PARTIAL OR FULL WAIVER;**

**AND**

**(III) THE JUSTIFICATION FOR THE WAIVER.**

SECTION 2. AND BE IT FURTHER ENACTED, That on or before June 30, 2022, the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish policies and guidelines for the implementation of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1, 2022, the Governor’s Office of Small, Minority, and Women Business Affairs shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the establishment of minority business enterprise subgoals in accordance with this Act, including:

(1) whether the establishment of minority business enterprise subgoals was practicable based on the type of capital project; and

(2) whether any changes should be made to the capital minority business enterprise subgoal framework established by this Act.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act may not be construed to prevent a capital project that is subject to the provisions of this Act, and for which a waiver of the minority business enterprise subcontracting goal established for the capital project is requested, from receiving funds appropriated for the project under the annual capital budget bill for the State.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2022.

SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in Section ~~4~~ 5 of this Act, this Act shall take effect July 1, 2021.

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