

HOUSE BILL 646

P2

3lr2649
CF SB 578

By: **Delegates Charles, Amprey, and Smith**

Introduced and read first time: February 6, 2023

Assigned to: Health and Government Operations and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Minority Business Enterprises and Small Business**
3 **Enterprises – Procurement Forecast, Employee Performance, and Outreach**
4 **(Small Business Protection Act of Maryland)**

5 FOR the purpose of requiring each unit to publish on the unit’s website annually a certain
6 procurement forecast; requiring a unit determining eligibility for a merit increase or
7 performance–based promotion for a certain procurement officer or certain other
8 employee to consider certain efforts by the officer or employee in meeting certain
9 minority enterprise participation goals; prohibiting a certain procurement officer or
10 certain other employee from receiving a certain promotion or merit increase under
11 certain circumstances; requiring a certain procurement officer or certain other
12 employee to have their employment with the unit terminated or be reassigned to a
13 certain other position under certain circumstances; requiring the Office of Small,
14 Minority, and Women Business Affairs to consult with each primary procurement
15 unit to identify potential contracting opportunities for and increase outreach efforts
16 to small businesses; requiring the Office to develop a certain program; and generally
17 relating to minority business enterprise and small business enterprise participation
18 in State procurement.

19 BY adding to

20 Article – State Finance and Procurement
21 Section 14–302(a)(16) and 14–302.1
22 Annotated Code of Maryland
23 (2021 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – State Government
26 Section 9–302
27 Annotated Code of Maryland
28 (2021 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – State Government
3 Section 9–304.1
4 Annotated Code of Maryland
5 (2021 Replacement Volume and 2022 Supplement)

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

8 **Article – State Finance and Procurement**

9 14–302.

10 (a) **(16) ON OR BEFORE MAY 1 EACH YEAR, EACH UNIT SHALL PUBLISH ON**
11 **THE UNIT’S WEBSITE A PROCUREMENT FORECAST LISTING ALL KNOWN AND**
12 **ANTICIPATED PROCUREMENTS TO BE MADE BY THE UNIT IN THE UPCOMING FISCAL**
13 **YEAR, INCLUDING AN ESTIMATION OF THE ANTICIPATED MINORITY BUSINESS**
14 **ENTERPRISE PARTICIPATION GOALS FOR EACH PROCUREMENT.**

15 **14–302.1.**

16 (A) **NOTWITHSTANDING ANY OTHER LAW, WHEN A UNIT IS DETERMINING**
17 **ELIGIBILITY FOR A MERIT INCREASE OR PERFORMANCE–BASED PROMOTION FOR A**
18 **PROCUREMENT OFFICER OR OTHER EMPLOYEE RESPONSIBLE FOR PROCURING**
19 **GOODS AND SERVICES ON BEHALF OF THE UNIT, THE UNIT SHALL CONSIDER THE**
20 **EFFORTS OF THE PROCUREMENT OFFICER OR EMPLOYEE TO ASSIST THE UNIT IN**
21 **MEETING A MINORITY BUSINESS ENTERPRISE GOAL SET IN ACCORDANCE WITH THIS**
22 **SUBTITLE.**

23 (B) **NOTWITHSTANDING ANY OTHER LAW, IF A UNIT DOES NOT MEET A**
24 **MINORITY BUSINESS ENTERPRISE GOAL SET IN ACCORDANCE WITH THIS SUBTITLE,**
25 **THE UNIT’S PROCUREMENT OFFICER AND ANY OTHER EMPLOYEE RESPONSIBLE FOR**
26 **PROCURING GOODS AND SERVICES ON BEHALF OF THAT UNIT:**

27 (1) **MAY NOT RECEIVE ANY MERIT INCREASE OR PROMOTION BASED**
28 **ON THEIR PERFORMANCE DURING ANY FISCAL YEAR IN WHICH THE GOAL IS NOT MET**
29 **AND THERE IS NO IMPROVEMENT OVER THE PREVIOUS FISCAL YEAR TOWARD**
30 **MEETING THAT GOAL; AND**

31 (2) **IF THERE IS NO IMPROVEMENT TOWARD MEETING THE GOAL**
32 **OVER 3 CONSECUTIVE FISCAL YEARS, SHALL HAVE THEIR EMPLOYMENT WITH THE**
33 **UNIT TERMINATED OR BE REASSIGNED TO A POSITION THAT DOES NOT INCLUDE**
34 **INVOLVEMENT WITH THE UNIT’S PROCUREMENT ACTIVITIES.**

35 **Article – State Government**

1 9-302.

2 There is an Office of Small, Minority, and Women Business Affairs in the Executive
3 Department.

4 **9-304.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "PRIMARY PROCUREMENT UNIT" HAS THE MEANING STATED IN §
8 11-101 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

9 (3) "SMALL BUSINESS" HAS THE MEANING STATED IN § 14-501 OF
10 THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (B) THE OFFICE SHALL CONSULT WITH EACH PRIMARY PROCUREMENT
12 UNIT TO IDENTIFY POTENTIAL CONTRACTING OPPORTUNITIES FOR AND INCREASE
13 OUTREACH EFFORTS TO SMALL BUSINESSES.

14 (C) THE OFFICE, IN CONSULTATION WITH THE PRIMARY PROCUREMENT
15 UNITS, SHALL DEVELOP A PROGRAM TO:

16 (1) IDENTIFY AND INCREASE AWARENESS OF PROCUREMENT
17 OPPORTUNITIES FOR SMALL BUSINESSES CONTRACTS FOR SERVICES AND
18 SUPPLIES;

19 (2) ASSIST SMALL BUSINESSES IN COMPLYING WITH PROCEDURES
20 WITH BIDDING ON A PROCUREMENT CONTRACT OR RESPONDING TO A REQUEST FOR
21 PROPOSALS.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2023.