

SENATE BILL 334

P2

(3lr1965)

ENROLLED BILL

— Budget and Taxation/Health and Government Operations —

Introduced by **Senator Hayes**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Minority Business Enterprise Program – Extension and**
3 **Reports**

4 FOR the purpose of altering the termination date for certain provisions of law governing
5 the Minority Business Enterprise Program and its application to offshore wind
6 projects and video lottery terminals; altering the date by which certain reports,
7 studies, and guidelines must be submitted; and generally relating to the Minority
8 Business Enterprise Program.

9 BY repealing and reenacting, with amendments,
10 Article – Public Utilities
11 Section 7–704.1(i)(4)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2022 Supplement)

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 BY repealing and reenacting, ~~without~~ with amendments,
 2 Article – State Finance and Procurement
 3 Section 14–309
 4 Annotated Code of Maryland
 5 (2021 Replacement Volume and 2022 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – State Government
 8 Section 9–1A–10(c)
 9 Annotated Code of Maryland
 10 (2021 Replacement Volume and 2022 Supplement)

11 ~~BY repealing and reenacting, with amendments,
 12 Chapter 438 of the Acts of the General Assembly of 2017
 13 Section 3~~

14 BY repealing and reenacting, with amendments,
 15 Chapter 553 of the Acts of the General Assembly of 2020
 16 Section 4 and 5

17 BY repealing and reenacting, with amendments,
 18 Chapter 728 of the Acts of the General Assembly of 2021
 19 Section 2 and 3

20 BY repealing and reenacting, with amendments,
 21 Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters
 22 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the
 23 Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the
 24 General Assembly of 2022
 25 Section 2

26 BY repealing and reenacting, with amendments,
 27 Chapter 641 of the Acts of the General Assembly of 2022
 28 Section 2(b) and (d)

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

31 **Article – Public Utilities**

32 7–704.1.

33 (i) (4) On and after July 1, [2023] ~~2024~~ **2025**, the provisions of this subsection
 34 and any regulations adopted in accordance with this subsection shall be of no effect and
 35 may not be enforced.

36 **Article – State Finance and Procurement**

1 14–309.

2 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations
3 adopted under those sections, shall be of no effect and may not be enforced after July 1,
4 ~~2024~~ 2025.

5 **Article – State Government**

6 9–1A–10.

7 (c) On or after July 1, ~~[2023]~~ ~~2024~~ 2025, the provisions of subsections (a)(1) and
8 (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and
9 (b) of this section shall be of no effect and may not be enforced.

10 ~~Chapter 438 of the Acts of 2017~~

11 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Certification Agency~~
12 ~~designated by the Board of Public Works under § 14–303(b) of the State Finance and~~
13 ~~Procurement Article to certify and decertify minority business enterprises, in consultation~~
14 ~~with the Office of the Attorney General and the Maryland Public Service Commission, shall~~
15 ~~initiate an analysis of the disparity study [entitled “Business Disparities in the Maryland~~
16 ~~Market Area” published on February 8, 2017,] **SUBMITTED IN ACCORDANCE WITH THIS**~~
17 ~~ACT to determine if it applies to the type of work that will likely be performed by an~~
18 ~~approved applicant with respect to an offshore wind project under § 7–704.1 of the Public~~
19 ~~Utilities Article and submit a report on the analysis to the Legislative Policy Committee of~~
20 ~~the General Assembly, in accordance with § 2–1246 of the State Government Article, **ON**~~
21 ~~**OR** before December [1, 2017] **31, 2023.**~~

22 **Chapter 553 of the Acts of 2020**

23 SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency
24 designated by the Board of Public Works under § 14–303(b) of the State Finance and
25 Procurement Article to certify and decertify minority business enterprises, in consultation
26 with the Office of the Attorney General and the Governor’s Office of Small, Minority, and
27 Women Business Affairs, shall initiate an analysis of the Minority Business Enterprise
28 Program requirements of § 10A–404 of the State Finance and Procurement Article[, as
29 enacted by Section 1 of this Act,] and the disparity study submitted in accordance with
30 [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to evaluate
31 compliance with the requirements of any federal and constitutional requirements and
32 submit a report on the analysis to the Legislative Policy Committee of the General
33 Assembly, in accordance with § 2–1257 of the State Government Article, on or before
34 ~~December~~ SEPTEMBER [1, 2022] ~~31 30, 2023~~ 2024.

35 SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency
36 designated by the Board of Public Works under § 14–303(b) of the State Finance and

1 Procurement Article to certify and decertify minority business enterprises, in consultation
 2 with the Office of the Attorney General and the Governor's Office of Small, Minority, and
 3 Women Business Affairs, shall initiate an analysis of the disparity study submitted in
 4 accordance with [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to
 5 determine if it applies to the type of work that will be likely to be performed by an approved
 6 applicant with respect to an offshore wind project under § 7-704.1(i) of the Public Utilities
 7 Article as enacted by Section 2 of this Act and submit a report on the analysis to the
 8 Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the
 9 State Government Article, on or before [December 1, 2022] **SEPTEMBER 30, 2024.**

10 Chapter 728 of the Acts of 2021

11 SECTION 2. AND BE IT FURTHER ENACTED, That on or before [June 30, 2022]
 12 ~~SEPTEMBER 1, 2024~~ **JULY 1, 2025**, the Special Secretary for the Office of Small,
 13 Minority, and Women Business Affairs, in consultation with the Secretary of
 14 Transportation and the Attorney General, shall establish policies and guidelines for the
 15 implementation of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1,
 17 2022] **31, ~~2023~~ 2025**, the Governor's Office of Small, Minority, and Women Business
 18 Affairs shall report to the General Assembly, in accordance with § 2-1257 of the State
 19 Government Article, on the establishment of minority business enterprise subgoals in
 20 accordance with this Act, including:

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

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

25 Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts 26 of 2013, Chapter 340 of the Acts of 2017, and Chapter 117 of the Acts of 2022

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in
 28 consultation with the General Assembly and the Office of the Attorney General, shall
 29 initiate a study of the Minority Business Enterprise Program to evaluate the Program's
 30 continued compliance with the requirements of the Croson decision and any subsequent
 31 federal or constitutional requirements. In preparation for the study, the Board of Public
 32 Works may adopt regulations authorizing a unit of State government to require bidders
 33 and offerors to submit information necessary for the conduct of the study. The Board of
 34 Public Works may designate that certain information received in accordance with
 35 regulations adopted under this section shall be confidential. Notwithstanding that certain
 36 information may be designated by the Board of Public Works as confidential, the
 37 Certification Agency may provide the information to any person that is under contract with
 38 the Certification Agency to assist in conducting the study. The study shall also evaluate
 39 race-neutral programs and other methods that can be used to address the needs of minority

1 businesses. The final report on the study shall be submitted to the Legislative Policy
 2 Committee of the General Assembly, in accordance with § 2–1257 of the State Government
 3 Article, **ON OR** before ~~September 30,~~ **DECEMBER 31, 2023** **2024**, so that the General
 4 Assembly may review the report before the ~~2024~~ **2025** Session.

5 **Chapter 641 of the Acts of 2022**

6 SECTION 2. AND BE IT FURTHER ENACTED, That:

7 (b) The certification agency and the Governor’s Office of Small, Minority, and
 8 Women Business Affairs shall submit the findings of the study required under subsection
 9 (a) of this section to the Legislative Policy Committee, in accordance with § 2–1257 of the
 10 State Government Article, on or before **[July 1, 2023]** **DECEMBER 31, 2023** **2025**, so that
 11 the General Assembly may review the findings before the ~~2024~~ **2026** Session.

12 (d) The Governor’s Office of Small, Minority, and Women Business Affairs, in
 13 consultation with the certification agency and the Office of the Attorney General, shall
 14 develop race– and gender–neutral approaches to address the needs of minority and
 15 women–owned businesses in the brokerage and investment management services industry
 16 and market and submit its report to the Legislative Policy Committee, in accordance with
 17 § 2–1257 of the State Government Article, on or before December **[1, 2022]** **31, 2023** **2025**,
 18 so that the General Assembly may review, consider, and adopt race– and gender–neutral
 19 alternatives to remedial measures that are not race and gender neutral.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 21 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.