

SENATE BILL 334

P2

3lr1965
CF HB 809

By: **Senator Hayes**

Introduced and read first time: January 27, 2023

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2023

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)

14 BY repealing and reenacting, ~~without~~ with amendments,
15 Article – State Finance and Procurement
16 Section 14–309
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – State Government
21 Section 9–1A–10(c)
22 Annotated Code of Maryland

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.



1 (2021 Replacement Volume and 2022 Supplement)

2 ~~BY repealing and reenacting, with amendments,~~
 3 ~~Chapter 438 of the Acts of the General Assembly of 2017~~
 4 ~~Section 3~~

5 BY repealing and reenacting, with amendments,
 6 Chapter 553 of the Acts of the General Assembly of 2020
 7 Section 4 and 5

8 BY repealing and reenacting, with amendments,
 9 Chapter 728 of the Acts of the General Assembly of 2021
 10 Section 2 and 3

11 BY repealing and reenacting, with amendments,
 12 Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters
 13 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the
 14 Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the
 15 General Assembly of 2022
 16 Section 2

17 BY repealing and reenacting, with amendments,
 18 Chapter 641 of the Acts of the General Assembly of 2022
 19 Section 2(b) and (d)

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

22 **Article – Public Utilities**

23 7–704.1.

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

27 **Article – State Finance and Procurement**

28 14–309.

29 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations
 30 adopted under those sections, shall be of no effect and may not be enforced after July 1,
 31 ~~2024~~ 2025.

32 **Article – State Government**

33 9–1A–10.

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

4 ~~Chapter 438 of the Acts of 2017~~

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

16 **Chapter 553 of the Acts of 2020**

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

29 SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency
 30 designated by the Board of Public Works under § 14-303(b) of the State Finance and
 31 Procurement Article to certify and decertify minority business enterprises, in consultation
 32 with the Office of the Attorney General and the Governor’s Office of Small, Minority, and
 33 Women Business Affairs, shall initiate an analysis of the disparity study submitted in
 34 accordance with [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to
 35 determine if it applies to the type of work that will be likely to be performed by an approved
 36 applicant with respect to an offshore wind project under § 7-704.1(i) of the Public Utilities
 37 Article as enacted by Section 2 of this Act and submit a report on the analysis to the
 38 Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the
 39 State Government Article, on or before [December 1, 2022] **SEPTEMBER 30, 2024.**

1 **Chapter 728 of the Acts of 2021**

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

7 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1,
 8 2022] **31, 2023 2025**, the Governor's Office of Small, Minority, and Women Business
 9 Affairs shall report to the General Assembly, in accordance with § 2-1257 of the State
 10 Government Article, on the establishment of minority business enterprise subgoals in
 11 accordance with this Act, including:

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

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

16 **Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts**
 17 **of 2013, Chapter 340 of the Acts of 2017, and Chapter 117 of the Acts of 2022**

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in
 19 consultation with the General Assembly and the Office of the Attorney General, shall
 20 initiate a study of the Minority Business Enterprise Program to evaluate the Program's
 21 continued compliance with the requirements of the Croson decision and any subsequent
 22 federal or constitutional requirements. In preparation for the study, the Board of Public
 23 Works may adopt regulations authorizing a unit of State government to require bidders
 24 and offerors to submit information necessary for the conduct of the study. The Board of
 25 Public Works may designate that certain information received in accordance with
 26 regulations adopted under this section shall be confidential. Notwithstanding that certain
 27 information may be designated by the Board of Public Works as confidential, the
 28 Certification Agency may provide the information to any person that is under contract with
 29 the Certification Agency to assist in conducting the study. The study shall also evaluate
 30 race-neutral programs and other methods that can be used to address the needs of minority
 31 businesses. The final report on the study shall be submitted to the Legislative Policy
 32 Committee of the General Assembly, in accordance with § 2-1257 of the State Government
 33 Article, **ON OR** before ~~[September 30,] DECEMBER 31, 2023~~ **2024**, so that the General
 34 Assembly may review the report before the ~~2024~~ **2025** Session.

35 **Chapter 641 of the Acts of 2022**

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

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

6 (d) The Governor's Office of Small, Minority, and Women Business Affairs, in
7 consultation with the certification agency and the Office of the Attorney General, shall
8 develop race- and gender-neutral approaches to address the needs of minority and
9 women-owned businesses in the brokerage and investment management services industry
10 and market and submit its report to the Legislative Policy Committee, in accordance with
11 § 2-1257 of the State Government Article, on or before December [1, 2022] **31, ~~2023~~ 2025**,
12 so that the General Assembly may review, consider, and adopt race- and gender-neutral
13 alternatives to remedial measures that are not race and gender neutral.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
15 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.