

SENATE BILL 334

P2

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By: **Senator Hayes**

Introduced and read first time: January 27, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

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 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
23 (2021 Replacement Volume and 2022 Supplement)

24 BY repealing and reenacting, with amendments,
25 Chapter 438 of the Acts of the General Assembly of 2017
26 Section 3

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Chapter 553 of the Acts of the General Assembly of 2020
3 Section 4

4 BY repealing and reenacting, with amendments,
5 Chapter 728 of the Acts of the General Assembly of 2021
6 Section 2 and 3

7 BY repealing and reenacting, with amendments,
8 Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters
9 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the
10 Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the
11 General Assembly of 2022
12 Section 2

13 BY repealing and reenacting, with amendments,
14 Chapter 641 of the Acts of the General Assembly of 2022
15 Section 2(b) and (d)

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

18 Article – Public Utilities

19 7–704.1.

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

23 Article – State Finance and Procurement

24 14–309.

25 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations
26 adopted under those sections, shall be of no effect and may not be enforced after July 1,
27 2024.

28 Article – State Government

29 9–1A–10.

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

33 Chapter 438 of the Acts of 2017

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

12 Chapter 553 of the Acts of 2020

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

25 Chapter 728 of the Acts of 2021

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

30 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1,
31 2022] **31, 2023**, the Governor’s Office of Small, Minority, and Women Business Affairs
32 shall report to the General Assembly, in accordance with § 2–1257 of the State Government
33 Article, on the establishment of minority business enterprise subgoals in accordance with
34 this Act, including:

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

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

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

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

20 **Chapter 641 of the Acts of 2022**

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

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

27 (d) The Governor's Office of Small, Minority, and Women Business Affairs, in
 28 consultation with the certification agency and the Office of the Attorney General, shall
 29 develop race- and gender-neutral approaches to address the needs of minority and
 30 women-owned businesses in the brokerage and investment management services industry
 31 and market and submit its report to the Legislative Policy Committee, in accordance with
 32 § 2-1257 of the State Government Article, on or before December [1, 2022] **31, 2023**, so
 33 that the General Assembly may review, consider, and adopt race- and gender-neutral
 34 alternatives to remedial measures that are not race and gender neutral.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 36 1, 2023.