

STATE OF MARYLAND  
OFFICE OF THE GOVERNOR

---



WES MOORE  
GOVERNOR

STATE HOUSE  
100 STATE CIRCLE  
ANNAPOLIS, MARYLAND 21401-1925  
(410) 974-3901  
(TOLL FREE) 1-800-811-8336

TTY USERS CALL VIA MD RELAY

May 19, 2023

The Honorable Bill Ferguson  
President of the Senate of Maryland  
H-107 State House  
Annapolis, MD 21401

The Honorable Adrienne A. Jones  
Speaker of the House of Delegates  
H-101 State House  
Annapolis, MD 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed SB 217/HB 472 – Transit – Commuter Bus Service – Procurement.

As we work in partnership with the legislature at the task of rebuilding State government, one of my administration's key goals has been to make the procurement process more efficient, transparent, and fair. In particular, my administration is working to ensure that small business owners and minority- and women-owned businesses have equitable opportunities to compete for and receive procurement awards. This commitment was underscored by my issuance of Executive Order 01.01.2023.03, which required State agencies to collect and report information on their procurement processes and progress in meeting MBE goals.

SB 217/HB 472 would require the Maryland Transit Administration (MTA) to utilize the Competitive Sealed Proposal method of procurement in selecting commuter bus service providers. Currently, State procurement law identifies multiple methods available to State procurement officials depending on the nature and circumstances of the procurement. Historically, Commuter Bus procurements have been conducted using the Invitation For Bid procurement method because MTA is clear on the scope of work and contract requirements. The MTA's Commuter Bus routes and schedules

are developed based on ridership data and fixed with certainty from point A to point B.

A legislative mandate requiring the utilization of one procurement method for a specific scope of services would be precedent setting. In practice, this precedent would undercut the ability of procurement officers in State agencies to manage their procurements for maximum efficiency. Furthermore, it would open up the possibility that other current or potential contractors would advocate for restrictive procurement language in statute in order to stack the deck in favor of their bids. In essence, this would allow the procurement process to favor those potential contractors with the most political power and influence rather than those who can provide the best service at the best price to the taxpayer.

The specific proposal in this bill is of concern as well, in addition to the precedent it sets. The MTA has advised that switching to the competitive sealed method of procurement would lengthen the time of a procurement from 6–8 months to 12 months. This extended time frame and more extensive process for developing bids would in effect prevent smaller businesses, including some minority– and women–owned businesses, from being able to compete for the procurement. Furthermore, the reduction of competition resulting from this limitation in bidders would likely result in an increase in costs for commuter bus contracts. While the MTA is unable to determine what the potential increase would be, they point out that even a 15 percent increase in commuter bus contracts would cost the state an additional \$8.4 million annually.

My administration will continue to work in partnership with the General Assembly to achieve a mutually shared goal: a fair, transparent, and equitable procurement system. We can accomplish that goal without enacting restrictive requirements that limit the ability of our skilled procurement officers and agencies from conducting procurements that are in the best interest of the taxpayers and our state. I believe that this legislation would be a hindrance to that critically important goal.

For these reasons, I have vetoed Senate Bill 217/House Bill 472.

Sincerely,

Wes Moore  
Governor