By: Delegate Harris Delegates Harris, Alston, Bagnall, Bhandari, Cullison, Guzzone, Hill, S. Johnson, Kaiser, Kerr, Lopez, Martinez, Pena-Melnyk, Rosenberg, Ross, Taveras, White Holland, Woods, and Woorman

Introduced and read first time: January 31, 2025 Assigned to: Health and Government Operations

Committee Report: Favorable with amendments House action: Adopted Read second time: March 1, 2025

CHAPTER _____

1 AN ACT concerning

State Procurement – Minority Business Enterprise Program – Extension and Reports

- FOR the purpose of altering the termination date for certain provisions of law governing
 the Minority Business Enterprise Program and its application to <u>public-private</u>
 <u>partnerships</u>, offshore wind projects, and video lottery terminals; altering the date
- by which certain reports, studies, and guidelines must be submitted; and generally
 relating to the Minority Business Enterprise Program.
- 8 relating to the Minority Business Enterprise Progr
- 9 BY repealing and reenacting, with amendments,
- 10 Article Public Utilities
- 11 Section 7–704.1(j)(4)
- 12 Annotated Code of Maryland
- 13 (2020 Replacement Volume and 2024 Supplement)
- 14 BY adding to
- 15 <u>Article State Finance and Procurement</u>
- 16 <u>Section 10A–404</u>
- 17 <u>Annotated Code of Maryland</u>
- 18 (2021 Replacement Volume and 2024 Supplement)
- 19 BY repealing and reenacting, with amendments,
- 20 Article State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	Section 14–309 Annotated Code of Maryland (2021 Replacement Volume and 2024 Supplement)
	BY repealing and reenacting, with amendments, Article – State Government Section 9–1A–10(c) Annotated Code of Maryland (2021 Replacement Volume and 2024 Supplement)
9 10 11 12	BY repealing and reenacting, with amendments, Chapter 553 of the Acts of the General Assembly of 2020, as amended by Chapters 137 and 138 of the Acts of the General Assembly of 2023 Section <u>4 and</u> 5
$13 \\ 14 \\ 15 \\ 16$	BY repealing and reenacting, with amendments, Chapter 728 of the Acts of the General Assembly of 2021, as amended by Chapters 137 and 138 of the Acts of the General Assembly of 2023 Section 2 and 3
17 18 19 20 21 22 23	BY repealing and reenacting, with amendments, Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the Acts of the General Assembly of 2017, Chapter 117 of the Acts of the General Assembly of 2022, and Chapters 137 and 138 of the Acts of the General Assembly of 2023 Section 2
24 25 26 27	BY repealing and reenacting, with amendments, Chapter 641 of the Acts of the General Assembly of 2022, as amended by Chapters 137 and 138 of the Acts of the General Assembly of 2023 Section 2(b) and (d)
$28 \\ 29$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
30	Article – Public Utilities
31	7-704.1.
32 33 34	(j) (4) On and after July 1, [2025] 2026 , the provisions of this subsection and any regulations adopted in accordance with this subsection shall be of no effect and may not be enforced.
35	Article – State Finance and Procurement

36 <u>10A-404.</u>

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4 (B) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES 5 CONSTITUTION, THE PROVISIONS OF THE MINORITY BUSINESS ENTERPRISE 6 (C) (1) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A 9 PUBLIC-PRIVATE PARTNERSHIPS ESTABLISHED UNDER THIS TITLE. 8 (C) (1) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A 9 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A-203 OF THIS TITLE 10 UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE 10 OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, THE OFFICE OF THE 21 OF SMALL, MINORITY, AND WOMEN BUSINESS ENTERPRISE PARTICIPATION 11 GOALS AND PROCEDURES FOR THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES 12 REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION 14 GOALS AND PROCEDURES FOR THE PROJECT. 15 (2) TO THE EXTENT PRACTICABLE, GOALS AND PROCEDURES 16 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON 17 THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE 18 IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14-302 AND 14-303.0F THIS ARTICLE. 14-303 OF THIS ARTICLE. 14 14-303 OF THIS ARTICLE. 14 14 <th>$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$</th> <th>(A) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE ARE HEREBY INCORPORATED.</th>	$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	(A) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE ARE HEREBY INCORPORATED.
9 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A-203 OF THIS TITLE 10 UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE 11 OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, THE OFFICE OF THE 12 ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES 12 ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES 12 ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES 13 REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION 14 GOALS AND PROCEDURES FOR THE PROJECT. 15 (2) TO THE EXTENT PRACTICABLE, GOALS AND PROCEDURES 14 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON 17 THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE 18 IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14-302 AND 19 14-309. 21 The provisions of §§ 14-301 through 14-305 of this subtitle, and any regulations 22 14-309. 23 Igo25] 2026. 24 Article - State Government 25 9-1A-10. 26 (c) On or after July 1, [2025] 2026, the provisions of subsections (a)(1) and (2) and (b)	$5 \\ 6$	(B) <u>TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES</u> <u>CONSTITUTION, THE PROVISIONS OF THE MINORITY BUSINESS ENTERPRISE</u> <u>PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE SHALL APPLY TO</u>
16 ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON 17 THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE 18 IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14–302 AND 19 14–303 OF THIS ARTICLE. 20 14–309. 21 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, [2025] 2026. 24 Article – State Government 25 9–1A–10. 26 (c) On or after July 1, [2025] 2026, the provisions of subsections (a)(1) and (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and (b) of this section shall be of no effect and may not be enforced. 29 Chapter 553 of the Acts of 2020, as amended by Chapters 137 and 138 of the Acts of 2023 31 SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation	9 10 11 12 13	PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A-203 OF THIS TITLE UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, THE OFFICE OF THE ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION
 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, [2025] 2026. Article - State Government 9–1A–10. (c) On or after July 1, [2025] 2026, the provisions of subsections (a)(1) and (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and (b) of this section shall be of no effect and may not be enforced. Chapter 553 of the Acts of 2020, as amended by Chapters 137 and 138 of the Acts of 2023 SECTION 4. AND BE IT FURTHER ENACTED. That the certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation 	16 17 18	ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14–302 AND
 9-1A-10. (c) On or after July 1, [2025] 2026, the provisions of subsections (a)(1) and (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and (b) of this section shall be of no effect and may not be enforced. Chapter 553 of the Acts of 2020, as amended by Chapters 137 and 138 of the Acts of 2023 SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation 	$21\\22$	The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1,
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30of 202331SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency32designated by the Board of Public Works under § 14–303(b) of the State Finance and33Procurement Article to certify and decertify minority business enterprises, in consultation	27	and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and (b)
 32 designated by the Board of Public Works under § 14–303(b) of the State Finance and 33 Procurement Article to certify and decertify minority business enterprises, in consultation 		
	$\frac{32}{33}$	designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation

Women Business Affairs, shall initiate an analysis of the Minority Business Enterprise Program requirements of § 10A-404 of the State Finance and Procurement Article and the disparity study submitted in accordance with this Act to evaluate compliance with the requirements of any federal and constitutional requirements and submit a report on the analysis to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, on or before September 30, [2024] 2025.

7 SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency 8 designated by the Board of Public Works under § 14-303(b) of the State Finance and 9 Procurement Article to certify and decertify minority business enterprises, in consultation 10 with the Office of the Attorney General and the Governor's Office of Small, Minority, and 11 Women Business Affairs, shall initiate an analysis of the disparity study submitted in 12accordance with this Act to determine if it applies to the type of work that will be likely to 13 be performed by an approved applicant with respect to an offshore wind project under § 147-704.1(i) of the Public Utilities Article as enacted by Section 2 of this Act and submit a report on the analysis to the Legislative Policy Committee of the General Assembly, in 1516 accordance with § 2–1257 of the State Government Article, on or before September 30, 17[2024] **2025**.

18 Chapter 728 of the Acts of 2021, as amended by Chapters 137 and 138 of the Acts 19 of 2023

SECTION 2. AND BE IT FURTHER ENACTED, That on or before July 1, [2025] 21 2026, the Special Secretary for the Office of Small, Minority, and Women Business Affairs, 22 in consultation with the Secretary of Transportation and the Attorney General, shall 23 establish policies and guidelines for the implementation of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, [2025] 2026, the Governor's Office of Small, Minority, and Women Business Affairs shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the establishment of minority business enterprise subgoals in accordance with this Act, including:

- (1) whether the establishment of minority business enterprise subgoals
 was practicable based on the type of capital project; and
- (2) whether any changes should be made to the capital minority business
 enterprise subgoal framework established by this Act.

Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts of 2013, Chapter 340 of the Acts of 2017, Chapter 117 of the Acts of 2022, and Chapters 137 and 138 of the Acts of 2023

36 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in 37 consultation with the General Assembly and the Office of the Attorney General, shall 38 initiate a study of the Minority Business Enterprise Program to evaluate the Program's 39 continued compliance with the requirements of the Croson decision and any subsequent

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1 federal or constitutional requirements. In preparation for the study, the Board of Public $\mathbf{2}$ Works may adopt regulations authorizing a unit of State government to require bidders 3 and offerors to submit information necessary for the conduct of the study. The Board of 4 Public Works may designate that certain information received in accordance with $\mathbf{5}$ regulations adopted under this section shall be confidential. Notwithstanding that certain 6 information may be designated by the Board of Public Works as confidential, the 7 Certification Agency may provide the information to any person that is under contract with 8 the Certification Agency to assist in conducting the study. The study shall also evaluate race-neutral programs and other methods that can be used to address the needs of minority 9 10 businesses. The final report on the study shall be submitted to the Legislative Policy 11 Committee of the General Assembly, in accordance with § 2–1257 of the State Government 12Article, on or before September 30, [2024] **2025**, so that the General Assembly may review the report before the [2025] 2026 Session. 13

Chapter 641 of the Acts of 2022, as amended by Chapters 137 and 138 of the Acts of 2023

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

17 (b) The certification agency and the Governor's Office of Small, Minority, and 18 Women Business Affairs shall submit the findings of the study required under subsection 19 (a) of this section to the Legislative Policy Committee, in accordance with § 2–1257 of the 20 State Government Article, on or before December 31, [2025] **2026**, so that the General 21 Assembly may review the findings before the [2026] **2027** Session.

22(d) The Governor's Office of Small, Minority, and Women Business Affairs, in 23consultation with the certification agency and the Office of the Attorney General, shall 24develop race- and gender-neutral approaches to address the needs of minority and 25women-owned businesses in the brokerage and investment management services industry 26and market and submit its report to the Legislative Policy Committee, in accordance with 27§ 2–1257 of the State Government Article, on or before December 31, [2025] 2026, so that 28the General Assembly may review, consider, and adopt race- and gender-neutral 29alternatives to remedial measures that are not race and gender neutral.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 31 1, 2025.