Vetoed Bills

and

Messages

from the

Governor of Maryland

A total of 4 bills were vetoed by the Governor following the 2023 Regular Session of the General Assembly. Of these vetoed bills, 2 originated in the Senate and 2 of them originated in the House of Delegates. Pursuant to the provisions of Article II, Section 17 of the Maryland Constitution, these bills will be returned to the General Assembly immediately after the Legislature has organized at the next Regular or Special Session to be reconsidered in order to determine whether the veto is sustained or overridden.

2023 Session

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List of Senate Bills Vetoed

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Vetoed Senate Bills and Messages

May 19, 2023

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

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed SB 144 – Public Utilities – Energy Efficiency and Conservation Programs – Energy Performance Targets and Low–Income Housing.

This bill requires the Department of Housing and Community Development (DHCD) to procure or provide energy efficiency and conservation (EE&C) programs and services for electricity customers for the 2024–2026 EmPOWER Maryland Program cycle, subject to specified requirements.

House Bill 169, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 144.

Sincerely,

Wes Moore
Governor

Senate Bill 144

AN ACT concerning

Public Utilities – Energy Efficiency and Conservation Programs – Energy Performance Targets and Low–Income Housing

FOR the purpose of requiring the Public Service Commission to include certain information on low–income energy efficiency and conservation programs in a certain annual report to the General Assembly; requiring the Department of Housing and Community Development to procure or provide for electricity customers energy efficiency and conservation programs and services designed to achieve certain target annual incremental gross energy savings in certain years; requiring certain contractors used for the programs under this Act to meet certain job requirements; requiring the Department to update the weather–normalized gross retail sales against which savings are measured for certain plans; requiring the target annual incremental gross energy savings to be achieved based on an average of certain Department plans; requiring the Department, on or before certain dates and with a

certain frequency, to submit a plan to the Commission for achieving the electricity savings and demand reduction target; requiring the Department to develop a plan to coordinate and leverage funding sources to support certain energy efficiency and other home upgrades and a plan to provide energy efficiency retrofits to all low–income households by a certain date; establishing the Green and Healthy Task Force to analyze and advance the coordination of resources to address the housing needs of low–income communities; requiring a certain certification agency to initiate a certain study regarding energy efficiency and conservation services and certain remedial measures; and generally relating to energy performance targets and low–income housing.

BY repealing and reenacting, with amendments,
Article – Public Utilities
Section 7–211(k)
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

BY adding to
Article – Public Utilities
Section 7–211.1 and 7–211.2
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

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

Article – Public Utilities

7–211.

(k) On or before May 1 of each year, the Commission, in consultation with the Maryland Energy Administration, shall report, subject to § 2–1257 of the State Government Article, to the General Assembly on:

(1) the status of programs and services to encourage and promote the efficient use and conservation of energy, including an evaluation of the impact of the programs and services that are directed to low–income communities, low– to moderate–income communities to the extent possible, and other particular classes of ratepayers;

(2) a recommendation for the appropriate funding level to adequately fund these programs and services; **[**and**]**

(3) FOR THE LOW–INCOME PROGRAMS UNDER § 7–211.1 OF THIS SUBTITLE, INFORMATION THE DEPARTMENT OF HOUSING AND COMMUNITY

DEVELOPMENT PROVIDES TO THE COMMISSION UNDER § 7–211.1(H) OF THIS SUBTITLE; AND

[(3)**] (4)** in accordance with subsection (c) of this section, the per capita electricity consumption and the peak demand for the previous calendar year.

7–211.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(3) "LOW–INCOME PROGRAM" MEANS A PROGRAM THAT DELIVERS ENERGY EFFICIENCY AND CONSERVATION MEASURES TO REDUCE UTILITY EXPENSES FOR BUILDING OWNERS, MANAGERS, AND TENANTS OF HOUSING WITH RESIDENTS WHO QUALIFY FOR THE DEPARTMENT'S LOW–INCOME ASSISTANCE PROGRAMS, INCLUDING:

(I) THE EMPOWER MARYLAND PROGRAM;

(II) THE MULTIFAMILY ENERGY EFFICIENCY AND HOUSING AFFORDABILITY PROGRAM; AND

(III) THE WEATHERIZATION ASSISTANCE PROGRAM.

(4) "LOW–INCOME RESIDENTIAL" MEANS A COMMUNITY, BUILDING, OR HOUSEHOLD WITH RESIDENTS WHO QUALIFY FOR THE DEPARTMENT'S LOW–INCOME PROGRAMS.

(5) "TASK FORCE" MEANS THE GREEN AND HEALTHY TASK FORCE ESTABLISHED UNDER § 7–211.2 OF THIS SUBTITLE.

(B) (1) FOR THE 2024–2026 PROGRAM CYCLE, THE DEPARTMENT SHALL PROCURE OR PROVIDE FOR ELECTRICITY CUSTOMERS ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES.

(2) (I) SUBJECT TO PARAGRAPH (3)(III) OF THIS SUBSECTION, THE PROGRAMS AND SERVICES REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE DESIGNED TO ACHIEVE TARGET ANNUAL INCREMENTAL GROSS ENERGY SAVINGS OF:

1. 0.53% IN 2024;

2. 0.72% IN 2025; AND

3. 1% IN 2026.

(II) THE DEPARTMENT MAY USE THE SAVINGS ACHIEVED THROUGH ALL FUNDING SOURCES TOWARD CALCULATING THE TARGET ANNUAL INCREMENTAL GROSS ENERGY SAVINGS, IF THE FUNDING SOURCES MEET THE STANDARDS OF PROGRAMS FUNDED THROUGH:

1. THE EMPOWER SURCHARGE; OR

2. THE U.S. DEPARTMENT OF ENERGY.

(3) (I) THE ENERGY SAVINGS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE CALCULATED AS A PERCENTAGE OF THE 2016 WEATHER–NORMALIZED GROSS LOW–INCOME RESIDENTIAL RETAIL SALES FOR ALL ELECTRIC COMPANIES.

(II) THE 2016 WEATHER–NORMALIZED GROSS LOW–INCOME RESIDENTIAL RETAIL SALES FOR ALL ELECTRIC COMPANIES SHALL BE DETERMINED BY MULTIPLYING THE AVERAGE 2016 RESIDENTIAL HOUSEHOLD ELECTRICITY USAGE FOR ALL ELECTRIC COMPANIES BY THE NUMBER OF HOUSEHOLDS:

1. WITH INCOMES BELOW 250% OF THE FEDERAL POVERTY LEVEL AS DETERMINED BY THE FEDERAL CENSUS; OR

2. THAT MEET THE ELIGIBILITY CRITERIA APPROVED BY THE COMMISSION FOR LOW–INCOME PROGRAMS.

(III) THE TARGET ANNUAL INCREMENTAL GROSS ENERGY SAVINGS REQUIRED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION APPLIES TO ALL ENERGY TYPES SUBJECT TO THE TARGETED ANNUAL INCREMENTAL GROSS ENERGY SAVINGS REQUIRED UNDER § 7–211(G) OF THIS SUBTITLE.

(4) FOR WEATHERIZATION OF LEASED OR RENTED RESIDENCES, THE DEPARTMENT SHALL ADOPT REGULATIONS TO ENSURE THAT:

(I) THE BENEFITS OF WEATHERIZATION ASSISTANCE, INCLUDING UTILITY BILL REDUCTION AND PRESERVATION OF AFFORDABLE HOUSING STOCK, ACCRUE PRIMARILY TO LOW–INCOME TENANTS OCCUPYING A LEASED OR RENTED RESIDENCE; AND

(II) THE RENT ON THE RESIDENCE IS NOT INCREASED AND THE TENANT IS NOT EVICTED AS A RESULT OF WEATHERIZATION PROVIDED UNDER THIS SECTION.

(5) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE PROGRAMS AND SERVICES PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT USE THERMAL INSULATING MATERIALS FOR BUILDING ELEMENTS, INCLUDING WALLS, FLOORS, CEILINGS, ATTICS, AND ROOF INSULATION, THAT CONTAIN FORMALDEHYDE.

(II) THERMAL INSULATING MATERIALS FOR BUILDING ELEMENTS MAY NOT CONTAIN FORMALDEHYDE IF THE FORMALDEHYDE:

1. WAS INTENTIONALLY ADDED; OR

2. IS PRESENT IN THE PRODUCT AT GREATER THAN 0.1% BY WEIGHT.

(6) ~~(I) THE DEPARTMENT SHALL GIVE PREFERENCE TO CONTRACTORS THAT ARE MINORITY-OWNED, WOMEN-OWNED, OR VETERAN-OWNED BUSINESSES IN THE STATE FOR PROCUREMENT PROCESSES RELATED TO EMPOWER PROGRAMS.~~

~~(II)~~ THE DEPARTMENT'S APPROVED CONTRACTORS USED FOR THE PROGRAMS UNDER THIS SECTION SHALL MEET THE FOLLOWING JOB REQUIREMENTS:

~~1.~~ (I) PAY AT LEAST 150% OF THE STATE MINIMUM WAGE;

~~2.~~ (II) PROVIDE CAREER ADVANCEMENT TRAINING;

~~3.~~ (III) AFFORD EMPLOYEES THE RIGHT TO BARGAIN COLLECTIVELY FOR WAGES AND BENEFITS;

~~4.~~ (IV) PROVIDE PAID LEAVE;

~~5.~~ (V) BE CONSIDERED COVERED EMPLOYMENT FOR PURPOSES OF UNEMPLOYMENT INSURANCE BENEFITS IN ACCORDANCE WITH TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE;

~~6.~~ (VI) ENTITLE THE EMPLOYEE TO WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE;

~~7.~~ (VII) **BE COMPLIANT WITH FEDERAL AND STATE WAGE AND HOUR LAWS FOR THE PREVIOUS 3 YEARS;**

~~8.~~ (VIII) **OFFER EMPLOYER–PROVIDED HEALTH INSURANCE BENEFITS WITH MONTHLY PREMIUMS THAT DO NOT EXCEED 8.5% OF THE EMPLOYEE'S NET MONTHLY EARNINGS; AND**

~~9.~~ (IX) **OFFER RETIREMENT BENEFITS.**

(C) THE WEATHER–NORMALIZED GROSS RETAIL SALES AGAINST WHICH THE SAVINGS ARE MEASURED SHALL:

(1) REFLECT SALES ASSOCIATED WITH THE LOW–INCOME RESIDENTIAL CUSTOMER CLASS SERVED BY PROGRAMS ADMINISTERED BY THE DEPARTMENT; AND

(2) BE UPDATED BY THE DEPARTMENT FOR EACH PLAN SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION.

(D) THE TARGET ANNUAL INCREMENTAL GROSS ENERGY SAVINGS SHALL BE ACHIEVED BASED ON THE 3–YEAR AVERAGE OF DEPARTMENT PLANS SUBMITTED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.

(E) (1) ON OR BEFORE SEPTEMBER 1, 2023, THE DEPARTMENT SHALL SUBMIT A PLAN TO THE COMMISSION THAT DETAILS PROPOSALS FOR ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGET UNDER SUBSECTION (B) OF THIS SECTION FOR 2024.

(2) ON OR BEFORE SEPTEMBER 1, 2024, AND EVERY 3 YEARS THEREAFTER, THE DEPARTMENT SHALL SUBMIT A PLAN TO THE COMMISSION THAT DETAILS PROPOSALS FOR ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGET UNDER SUBSECTION (B) OF THIS SECTION FOR THE 3 SUBSEQUENT CALENDAR YEARS.

(3) THE PLAN SHALL INCLUDE:

(I) A DESCRIPTION OF THE PROPOSED ENERGY EFFICIENCY AND CONSERVATION PROGRAMS AND SERVICES;

(II) A DESCRIPTION OF THE STEPS PROPOSED TO ENSURE INSULATION MATERIALS MEET THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION;

(III) ANTICIPATED COSTS;

(IV) PROJECTED ELECTRICITY SAVINGS;

(V) A PROPOSED AVERAGE LIFETIME MEASURE THRESHOLD THAT ENCOURAGES THE DELIVERY OF INSULATION AND WEATHERIZATION MEASURES, DEVELOPED THROUGH A STAKEHOLDER ENGAGEMENT PROCESS; AND

(VI) ANY OTHER INFORMATION THAT THE COMMISSION REQUESTS.

(4) THE DEPARTMENT SHALL PROVIDE THE COMMISSION WITH AN UPDATE EVERY 6 MONTHS ON PLAN IMPLEMENTATION AND PROGRESS TOWARD ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGET UNDER SUBSECTION (B) OF THIS SECTION.

(5) THE COMMISSION SHALL REVIEW A PLAN TO DETERMINE WHETHER THE PLAN IS ADEQUATE FOR ACHIEVING THE TARGET.

(F) THE COMMISSION SHALL WORK WITH THE DEPARTMENT TO ESTABLISH ANY PROCEDURES NECESSARY TO DEVELOP AND IMPLEMENT A PLAN FOR ACHIEVING THE ELECTRICITY SAVINGS AND DEMAND REDUCTION TARGET UNDER SUBSECTION (B) OF THIS SECTION, INCLUDING SECURING COOPERATION FROM ELECTRIC COMPANIES RELATED TO:

(1) FUNDING;

(2) COMMUNICATIONS;

(3) REFERRALS;

(4) DATA SHARING; AND

(5) ANY OTHER COOPERATION THAT THE COMMISSION DETERMINES IS NECESSARY TO ACHIEVE THE ELECTRICITY SAVINGS UNDER SUBSECTION (B) OF THIS SECTION.

(G) (1) THE DEPARTMENT SHALL DEVELOP A PLAN TO COORDINATE FUNDING SOURCES AND LEVERAGE THE GREATEST FUNDING POSSIBLE TO SUPPORT:

(I) HEALTH AND SAFETY UPGRADES;

(II) WEATHERIZATION;

(III) ENERGY EFFICIENCY; AND

(IV) OTHER GENERAL MAINTENANCE FOR LOW–INCOME HOUSING.

(2) THE PLAN SHALL COORDINATE FUNDING AMONG:

(I) THE STRATEGIC ENERGY INVESTMENT FUND;

(II) FEDERAL WEATHERIZATION ASSISTANCE PROGRAMS;

(III) RATEPAYER CONTRIBUTIONS TO:

1. THE EMPOWER MARYLAND LIMITED INCOME ENERGY EFFICIENCY PROGRAM; AND

2. THE MULTIFAMILY ENERGY EFFICIENCY AND HOUSING AFFORDABILITY PROGRAM;

(IV) THE MARYLAND AFFORDABLE HOUSING TRUST FUND;

(V) U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS, INCLUDING:

1. COMMUNITY DEVELOPMENT BLOCK GRANTS;

2. THE HOME INVESTMENT PARTNERSHIP GRANTS PROGRAM; AND

3. LEAD HAZARD CONTROL AND HEALTHY HOMES GRANTS;

(VI) U.S. DEPARTMENT OF AGRICULTURE PROGRAMS, INCLUDING THE HOME REPAIR PROGRAM;

(VII) THE HEALTHY HOMES FOR HEALTHY KIDS PROGRAM;

(VIII) THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM;

(IX) STATE APPROPRIATIONS; AND

(X) ANY OTHER SOURCE OF FUNDING THAT THE DEPARTMENT OR THE TASK FORCE IDENTIFIES.

(3) THE DEPARTMENT SHALL COLLABORATE WITH THE MEMBERS OF THE TASK FORCE AND IDENTIFY OTHER INTERESTED STAKEHOLDERS TO DEVELOP THE PLAN.

(4) ON OR BEFORE DECEMBER 31, 2023, THE DEPARTMENT SHALL SUBMIT THE PLAN TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(H) (1) THE DEPARTMENT SHALL REPORT TO THE COMMISSION EACH YEAR ON:

(I) FOR THE PROGRAMS THAT CONTRIBUTE TO ENERGY EFFICIENCY AND WEATHERIZATION, DISAGGREGATED BY FUEL SOURCE AND FUNDING SOURCE OR DEVELOPMENT FINANCE EFFORTS:

1. THE NUMBER OF PARTICIPANTS SERVED; AND

2. THE AMOUNT OF ENERGY SAVINGS; AND

(II) THE AMOUNT OF FUNDING THAT THE DEPARTMENT RECEIVES, AND IS PROJECTED TO RECEIVE, FOR ENERGY EFFICIENCY AND WEATHERIZATION FROM THE FUNDING SOURCES UNDER THIS SECTION.

(2) THE DEPARTMENT MAY SATISFY THE REPORTING REQUIREMENT UNDER THIS SUBSECTION BY INCLUDING THE REQUIRED INFORMATION IN THE 6–MONTH STATUS REPORTS TO THE COMMISSION.

(I) THE DEPARTMENT, THE MARYLAND ENERGY ADMINISTRATION, AND OTHER STATE AGENCIES SHALL APPLY FOR ALL FEDERAL FUNDING THAT MAY BECOME AVAILABLE TO CARRY OUT THIS SECTION.

(J) (1) THE DEPARTMENT SHALL COLLABORATE WITH THE MEMBERS OF THE TASK FORCE TO DEVELOP A PLAN, INCLUDING A BUDGET, A TIMELINE, AND POTENTIAL FUNDING SOURCES, TO PROVIDE ENERGY EFFICIENCY RETROFITS TO ALL LOW–INCOME HOUSEHOLDS BY 2031.

(2) THE DEPARTMENT, IN COLLABORATION WITH THE TASK FORCE, SHALL SUBMIT THE PLAN TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1, 2023.

7–211.2.

(A) IN THIS SECTION, "LOW–EMISSIONS HOUSING" MEANS HOUSING THAT IS ENGINEERED TO OR USES MEASURES THAT REDUCE GREENHOUSE GAS EMISSIONS.

(B) THERE IS A GREEN AND HEALTHY TASK FORCE.

~~(B)~~ (C) THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

(1) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE SPEAKER OF THE HOUSE;

(3) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;

(4) THE SECRETARY OF HUMAN SERVICES, OR THE SECRETARY'S DESIGNEE;

(5) THE DIRECTOR OF THE MARYLAND ENERGY ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE;

(6) ONE REPRESENTATIVE OF THE OFFICE OF PEOPLE'S COUNSEL; AND

(7) AS APPOINTED BY THE CHAIR OF THE TASK FORCE:

(I) ONE REPRESENTATIVE OF THE MARYLAND AFFORDABLE HOUSING TRUST;

(II) ONE REPRESENTATIVE OF THE GREEN AND HEALTHY HOMES INITIATIVE;

(III) ONE REPRESENTATIVE OF MARYLAND ENERGY EFFICIENCY ADVOCATES;

(IV) ONE MEMBER WHO IS AN EXPERT IN PUBLIC HEALTH;

(V) ONE MEMBER FROM A COMMUNITY CONCERNED WITH ENVIRONMENTAL JUSTICE;

(VI) ONE MEMBER WHO OWNS OR DEVELOPS AFFORDABLE HOUSING;

(VII) ONE MEMBER WHO HAS RECEIVED ASSISTANCE FROM A LOW–INCOME PROGRAM THAT DELIVERS ENERGY EFFICIENCY MEASURES; AND

(VIII) OTHER MEMBERS AS DETERMINED BY THE CHAIR OF THE TASK FORCE.

~~(C)~~ **(D) THE SECRETARY OF HOUSING AND COMMUNITY DEVELOPMENT, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS CHAIR OF THE TASK FORCE.**

~~(D)~~ **(E) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL PROVIDE STAFF FOR THE TASK FORCE.**

~~(E)~~ **(F) A MEMBER OF THE TASK FORCE:**

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE TASK FORCE; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

~~(F)~~ **(G) THE TASK FORCE SHALL:**

(1) BEGINNING JULY 1, 2023, MEET QUARTERLY FOR A PERIOD OF 3 YEARS;

(2) ADVANCE THE ALIGNMENT, BRANDING, AND COORDINATION OF RESOURCES TO MORE EFFECTIVELY DELIVER GREEN AND HEALTHY HOUSING FOR LOW–INCOME HOUSEHOLDS IN THE STATE;

(3) EXAMINE THE PUBLIC AND PRIVATE RESOURCES NEEDED TO ADDRESS THE HOUSING NEEDS OF LOW–INCOME COMMUNITIES;

(4) DEVELOP POLICY AND STATUTORY RECOMMENDATIONS TO ELIMINATE BARRIERS TO LOW–INCOME HOUSEHOLDS ACHIEVING HEALTHY, ENERGY–EFFICIENT, ~~AND~~ AFFORDABLE, AND LOW–EMISSIONS HOUSING; AND

(5) ENGAGE WITH INTERESTED PARTIES AND COLLABORATE WITH OTHER ENTITIES THAT CAN HELP ADVANCE THE GOALS OF THE TASK FORCE, INCLUDING EXPERTS IN THE FIELD OF HEALTHY ~~AND~~, ENERGY–EFFICIENT, AND LOW–EMISSIONS HOUSING.

~~(G)~~ **(H) ON OR BEFORE JULY 1, 2024, AND EACH JULY 1 THROUGH 2027, THE TASK FORCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE SECRETARY OF HEALTH, THE SECRETARY OF THE ENVIRONMENT, THE COMMISSION, THE GOVERNOR, AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The certification agency designated by the Board of Public Works under § 14–303(b) of the State Finance and Procurement Article and the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Department of Housing and Community Development, the Office of the Attorney General, and the General Assembly, shall initiate a study regarding the energy efficiency and conservation services used by the Department of Housing and Community Development to evaluate whether the enactment of remedial measures to assist minority and women–owned businesses in the energy efficiency and conservation services industry and market would comply with the U.S. Supreme Court decision in City of Richmond v. J. A. Croson Co., 488 U.S. 469, and any subsequent federal or constitutional requirements.

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

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

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

Senate Bill 217

AN ACT concerning

Transit – Commuter Bus Service – Procurement

FOR the purpose of requiring the Maryland Transit Administration, in selecting a commuter bus service provider, to use the competitive sealed proposal method of procurement and to conduct the procurement in accordance with certain provisions of State law; and generally relating to procurement for commuter bus service.

BY adding to
Article – Transportation
Section 7–504.1
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

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

Article – Transportation

7–504.1.

IN SELECTING A COMMUTER BUS SERVICE PROVIDER, THE ADMINISTRATION SHALL:

(1) USE THE COMPETITIVE SEALED PROPOSAL METHOD OF PROCUREMENT; AND

(2) CONDUCT THE PROCUREMENT IN ACCORDANCE WITH THE PROVISIONS OF AND THE REGULATIONS ADOPTED UNDER DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contracts to provide commuter bus service granted before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Vetoed House Bills and Messages

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:

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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

House Bill 472

AN ACT concerning

Transit – Commuter Bus Service – Procurement

FOR the purpose of requiring the Maryland Transit Administration, in selecting a commuter bus service provider, to use the competitive sealed proposal method of procurement and to conduct the procurement in accordance with certain provisions of State law; and generally relating to procurement for commuter bus service.

BY adding to
Article – Transportation
Section 7–504.1
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)

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

Article – Transportation

7–504.1.

IN SELECTING A COMMUTER BUS SERVICE PROVIDER, THE ADMINISTRATION SHALL:

(1) USE THE COMPETITIVE SEALED PROPOSAL METHOD OF PROCUREMENT; AND

(2) CONDUCT THE PROCUREMENT IN ACCORDANCE WITH THE PROVISIONS OF AND THE REGULATIONS ADOPTED UNDER DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any contracts to provide commuter bus service granted before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

May 19, 2023

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

Dear Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed HB 557 – Carroll County – Public Facilities Bond.

This bill authorizes the Carroll County Commissioners to issue up to $65.6 million in general obligation bonds for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects.

Senate Bill 305, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 557.

Sincerely,

Wes Moore
Governor

House Bill 557

AN ACT concerning

Carroll County – Public Facilities Bond

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $65,600,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $65,600,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or State securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The

bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the

projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued

hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2023.