

HB13_Carr_Fav(Senate).pdf

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Sponsor Testimony in SUPPORT of HB 13
Procurement – Discriminatory Hiring Practices – Debarment

March 23, 2022

House Bill 13 would allow a company found guilty of discriminating against its Maryland employees to be debarred by the Board of Public Works.

In 2019, a federal judge ordered the Baltimore-area subsidiary of Enterprise Holdings to pay more than \$6.6 million in lost earnings and benefits to more than 2,300 African American applicants who were turned down from participating in the federal contractor's management trainee program because of their race.

It was the largest back wage award in the history of the Department of Labor's federal contract compliance program. As a result, Enterprise was barred from federal contracts but not from state contracts in the state where the discrimination occurred

Passage of HB13 will help prevent discrimination by sending a strong message to employers that such practices will not be rewarded.

I respectfully ask for your favorable report.

THE BALTIMORE SUN

Enterprise in Baltimore ordered to pay \$6.6 million to rejected black applicants in hiring discrimination case

By COLIN CAMPBELL

AUGUST 1, 2019

Linthicum-based Enterprise RAC Company of Baltimore LLC is prohibited from participating in any current or future federal government contracts until it agrees to implement specific steps to address the effects of past discrimination and prevent it from occurring in the future.

A federal judge has ordered the Baltimore-area subsidiary of Enterprise Holdings to pay more than \$6.6 million in lost earnings and benefits to more than 2,300 African American applicants who were turned down from participating in the federal contractor's management trainee program because of their race.

It is the largest back wage award in the history of the Department of Labor's federal contract compliance program.

The judge also prohibited the Linthicum-based Enterprise RAC Company of Baltimore LLC, which had a federal contract for rental cars worth more than \$10,000, from participating in any current or future federal government contracts until it agrees to implement specific steps to address the effects of past discrimination and prevent it from occurring in the future.

Administrative Law Judge Morris D. Davis issued the order July 17, following a week-long trial in June.

The company engaged in "a pattern and practice of discriminating against African-American applicants for these entry-level management jobs" for more than a decade, according to the Department of Labor. The department reviewed 560 black applicants, and while it does not allege that all of them should have been hired, whites were almost twice as likely to be selected for a management trainee slot, according to the

department's complaint.

Enterprise "respectfully disagree[s] with the decision" and is exploring ways to challenge or appeal the administrative law judge's order, said Laura Bryant, a spokeswoman for Enterprise Holdings, the parent company of Enterprise, National and Alamo car rentals.

Bryant said in a statement that the company has a strong track record of equal opportunity in hiring and employment and works hard to ensure that its workforce mirrors the diversity of the communities it serves. Enterprise fully cooperating with the investigation, opening its offices and records to the government, she said, but the judge "ignore[d] the evidence" in the case, which originated in a 2008 review by the Office of Federal Contract Compliance Programs.

An "exhaustive review of every employment application in question" showed the company acted properly in every case, Bryant said. Enterprise's percentage of African-Americans in entry-level management positions is 44%, "a selection rate that exceeds the availability of African-Americans for such positions in the reasonable recruitment area," Bryant said.

The company also supports community organizations that share its commitment to diversity, she said, and dedicates recruiters to focus on historically black colleges and universities.

Under the order, the company has two years to pay back wages with benefits and interest, an estimated value of at least \$7.2 million, and extend job offers to 182 of the 2,336 rejected black applicants, "including pay as if they had been hired at the time of their rejection," according to the Department of Labor.

The value of the 182 new hires will be at least \$9.1 million, the department said, and the total earnings, benefits and interest will be at least \$16.3 million.

"The judge's order stands for fairness in employment, and sends a clear message of the serious costs of hiring discrimination," said Oscar L. Hampton III, the Department of Labor's regional solicitor, in a statement.

The prohibition on participating in federal contracts stemmed from findings that the

company's internal audits showed its hiring practices "had an ongoing disparate impact on minority applicants since 2007," and the company's lack of action to address the discrimination, the department said.

"Government contractors must monitor their hiring process to ensure that applicants are not rejected based on discrimination or biases," said Michele Hodge, the regional director for the Office of Federal Contract Compliance Programs, in a statement. "When an employer like Enterprise finds that its hiring process are discriminatory, that employer must make corrections to its process to ensure equal employment opportunity for all applicants."

As part of a federal contract providing rentals to the U.S. Military Traffic Management Command, Enterprise was required to keep personnel and employment records for at least two years, analyze its hires and develop a system to evaluate the success of its affirmative action program.

The business office in Linthicum, near Baltimore/Washington Thurgood Marshall Airport, employed about 160 people when the Department of Labor opened its discrimination investigation in 2008.

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HB 13 – Procurement – Discriminatory Hiring Practices - Debarment Senate Budget and Taxation Committee March 23, 2022

SUPPORT

Donna S. Edwards

President

Maryland State and DC AFL-CIO

Chairman and members of the Committee, thank you for the opportunity to submit testimony in support HB 13 – Procurement – Discriminatory Hiring Practices - Debarment. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 340,000 union members, I offer the following comments.

HB 13 is an idea long past due. Since 1965, the Federal Government has prohibited federal contractors from engaging in discriminatory employment practices. With this bill we can provide real consequences for those who discriminate in the workplace by debarring them from any state contracts for five years. Any discrimination is unacceptable, but discrimination in the workplace is especially insidious, as it is one of the main drivers of pervasive economic inequities in our country. If we truly believe in Dr. Martin Luther King's dictate to judge each other by the quality of our character, and not the color of our skin, then we must draw hard lines against those who would discriminate against our brothers and sisters in the workplace.

No Marylander should face workplace discrimination, and employers who discriminate should be made to suffer harsh consequences for their actions.

For these reasons we ask for a favorable report on HB 13.

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Uploaded by: Mathew Goldstein

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Secular Maryland

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March 23, 2022

HB 13 - SUPPORT

Procurement – Discriminatory Hiring Practices – Debarment

Dear Chair Guzzone, Vice-Chair Rosapepe, and Members of the Budget and Taxation Committee,

Invidious discrimination hurts us as a society, it divides people and impedes people from realizing their potential. The government sector in particular has a responsibility to not participate in, or otherwise facilitate or enable, invidious discrimination. There should be no exception for government contractors. What the government cannot do directly the government also cannot hire someone else to do in its stead. This bill goes the extra mile and says that individuals who have been convicted of such discrimination may be debarred from participating in future contract opportunities. Secular Maryland recommends this bill for approval by the General Assembly.

Respectfully,
Mathew Goldstein
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Bowie, MD