

HOUSE BILL 451

P1, P2

1lr1427

By: **Delegates Hough, Elliott, Glass, Hogan, McComas, McDermott, McDonough, Minnick, and B. Robinson**

Introduced and read first time: February 4, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Council on Efficient Government**

3 FOR the purpose of establishing the Council on Efficient Government; stating the
4 purpose of the Council; providing for the membership and terms of the Council;
5 prohibiting certain members of the Council from receiving compensation for
6 serving on the Council; authorizing certain members of the Council to receive
7 reimbursement for certain expenses; requiring the Council to appoint a chair;
8 authorizing the Council to act with an affirmative vote of a certain number of
9 members; requiring the Board of Public Works to provide certain staff support
10 to the Council; requiring certain other agencies and units of State government
11 to furnish assistance to the Council under certain circumstances; requiring the
12 Council to review certain goods or services that are the subject of procurements
13 between certain State and governmental entities to determine if a private sector
14 enterprise can provide the State entity with certain cost savings or
15 advantageous offers; requiring the Council to review certain exemptions and
16 restrictions to determine if a private sector enterprise can provide the State
17 with a cost savings or more advantageous offer; requiring the Council to develop
18 certain guidelines and recommendations; authorizing the Council to hold
19 certain hearings or solicit certain petitions of interest; requiring the Council to
20 develop and update a certain inventory; authorizing the Council to appoint
21 certain advisory groups; requiring the Council to make certain reports; defining
22 certain terms; and generally relating to the Council on Efficient Government.

23 BY adding to

24 Article – State Finance and Procurement

25 Section 12–501 through 12–509 to be under the new subtitle “Subtitle 5.
26 Council on Efficient Government”

27 Annotated Code of Maryland

28 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Finance and Procurement**

4 **SUBTITLE 5. COUNCIL ON EFFICIENT GOVERNMENT.**

5 **12–501.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “COUNCIL” MEANS THE COUNCIL ON EFFICIENT GOVERNMENT.

9 (C) “GOVERNMENTAL ENTITY” MEANS:

10 (1) THE FEDERAL GOVERNMENT OR AN AGENCY OR OTHER
11 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT;

12 (2) ANOTHER STATE OR AN AGENCY OR OTHER
13 INSTRUMENTALITY OF ANOTHER STATE;

14 (3) A BISTATE OR MULTISTATE AGENCY;

15 (4) A COUNTY, A MUNICIPAL CORPORATION, OR ANOTHER
16 POLITICAL SUBDIVISION OF THE STATE OR OF ANOTHER STATE, OR AN AGENCY
17 OR OTHER INSTRUMENTALITY OF THE POLITICAL SUBDIVISION;

18 (5) A BICOUNTY OR MULTICOUNTY AGENCY;

19 (6) A PRIMARY PROCUREMENT UNIT; OR

20 (7) AN AFFILIATION, AN ALLIANCE, A CONSORTIUM, OR A GROUP
21 COMPOSED SOLELY OF GOVERNMENTAL ENTITIES THAT IS ESTABLISHED FOR
22 PURPOSES OF PROMOTING INTERGOVERNMENTAL COOPERATIVE PURCHASING.

23 (D) “PRIVATE SECTOR ENTERPRISE” MEANS ANY COMMERCIAL,
24 INDUSTRIAL, EDUCATIONAL, OR RESEARCH ORGANIZATION THAT IS NOT A PART
25 OF OR CONTROLLED BY A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY.

26 (E) “PROCUREMENT BETWEEN A STATE ENTITY AND A GOVERNMENTAL
27 ENTITY” MEANS A PROCUREMENT FOR GOODS OR SERVICES BY A STATE ENTITY
28 FROM A GOVERNMENTAL ENTITY TO WHICH THE PROVISIONS OF DIVISION II OF
29 THIS ARTICLE DO NOT APPLY AS PROVIDED BY § 11–203(A)(2) OF THIS ARTICLE.

1 (F) “STATE ENTITY” MEANS A DEPARTMENT, A BOARD, A COMMISSION,
2 AN AGENCY, OR A SUBUNIT IN THE EXECUTIVE BRANCH OF STATE
3 GOVERNMENT.

4 **12-502.**

5 (A) THERE IS A COUNCIL ON EFFICIENT GOVERNMENT.

6 (B) THE PURPOSE OF THE COUNCIL IS TO ASSIST STATE ENTITIES IN
7 DELIVERING GOODS AND SERVICES EFFECTIVELY AND EFFICIENTLY BY
8 LEVERAGING RESOURCES AND CONTRACTING WITH PRIVATE SECTOR
9 ENTERPRISES THAT CAN MORE EFFECTIVELY AND EFFICIENTLY PROVIDE
10 GOODS AND SERVICES AND REDUCE THE COST OF GOVERNMENT.

11 **12-503.**

12 (A) THE COUNCIL CONSISTS OF:

13 (1) ONE SECRETARY OF A STATE AGENCY OR THE SECRETARY’S
14 DESIGNEE, APPOINTED BY THE GOVERNOR; AND

15 (2) SIX INDIVIDUALS APPOINTED BY THE GOVERNOR TO
16 REPRESENT PRIVATE SECTOR ENTERPRISE.

17 (B) (1) THE TERM OF A MEMBER IS 2 YEARS.

18 (2) THE TERM OF APPOINTED MEMBERS ARE STAGGERED, AS
19 DETERMINED BY THE INITIAL APPOINTMENTS OF THE GOVERNOR.

20 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
21 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

22 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
23 SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS
24 APPOINTED AND QUALIFIES.

25 (5) A MEMBER MAY NOT RECEIVE COMPENSATION, BUT IS
26 ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
27 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

28 (C) (1) THE COUNCIL SHALL ELECT A CHAIR FROM AMONG ITS
29 MEMBERS.

1 **(2) THE COUNCIL MAY ACT WITH AN AFFIRMATIVE VOTE OF AT**
2 **LEAST THREE MEMBERS.**

3 **(D) A MEMBER ON THE COUNCIL MAY NOT PARTICIPATE IN THE REVIEW**
4 **OF A PROCUREMENT IF THE MEMBER:**

5 **(1) IS THE SECRETARY OF AN AGENCY THAT IS A PARTY TO THE**
6 **PROCUREMENT; OR**

7 **(2) HAS A BUSINESS RELATIONSHIP WITH A PARTY TO THE**
8 **PROCUREMENT.**

9 **12-504.**

10 **THE BOARD OF PUBLIC WORKS SHALL PROVIDE STAFF SUPPORT TO THE**
11 **COUNCIL, WITH OTHER INVOLVED AGENCIES AND UNITS OF STATE**
12 **GOVERNMENT FURNISHING ASSISTANCE AS NECESSARY.**

13 **12-505.**

14 **(A) (1) THE COUNCIL SHALL REVIEW A GOOD OR SERVICE THAT IS**
15 **THE SUBJECT OF A PROCUREMENT BETWEEN A STATE ENTITY AND A**
16 **GOVERNMENTAL ENTITY TO DETERMINE IF A PRIVATE SECTOR ENTERPRISE**
17 **CAN PROVIDE A COST SAVINGS OR MORE ADVANTAGEOUS OFFER TO THE STATE**
18 **ENTITY FOR THE SAME TYPE AND QUALITY OF GOOD OR SERVICE.**

19 **(2) THE COUNCIL SHALL REVIEW A GOOD OR SERVICE THAT IS**
20 **THE SUBJECT OF A PROCUREMENT BETWEEN A STATE ENTITY AND A**
21 **GOVERNMENTAL ENTITY:**

22 **(I) AT THE REQUEST OF A STATE ENTITY OR A PRIVATE**
23 **SECTOR ENTERPRISE, ON THE FORM REQUIRED BY THE COUNCIL; OR**

24 **(II) AT THE INITIATIVE OF THE COUNCIL.**

25 **(B) THE COUNCIL SHALL REVIEW EXEMPTIONS FOR STATE ENTITIES**
26 **AND OTHER PROVISIONS IN DIVISION II OF THIS ARTICLE THAT RESTRICT**
27 **COMPETITION FOR PRIVATE SECTOR ENTERPRISES TO DETERMINE IF THE**
28 **EXEMPTIONS AND RESTRICTIONS ARE PROHIBITING THE STATE FROM**
29 **RECEIVING COST SAVINGS OR MORE ADVANTAGEOUS OFFERS.**

30 **(C) (1) THE COUNCIL SHALL DEVELOP GUIDELINES FOR**
31 **CONDUCTING THE REVIEWS REQUIRED UNDER SUBSECTIONS (A) AND (B) OF**
32 **THIS SECTION.**

1 **(2) THE COUNCIL MAY HOLD PUBLIC HEARINGS TO CONDUCT**
2 **THE REVIEWS REQUIRED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.**

3 **(3) (I) THE COUNCIL MAY SOLICIT PETITIONS OF INTEREST**
4 **FROM PRIVATE SECTOR ENTERPRISES TO ASSIST IN CONDUCTING THE REVIEWS**
5 **REQUIRED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.**

6 **(II) A PERSON DOES NOT HAVE A CAUSE OF ACTION BASED**
7 **ON THE FAILURE OF THE COUNCIL TO CONSIDER A PETITION OF INTEREST OR**
8 **MAKE A RECOMMENDATION.**

9 **(D) THE COUNCIL SHALL USE THE FINDINGS FROM THE REVIEWS**
10 **CONDUCTED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION TO:**

11 **(1) MAKE RECOMMENDATIONS ON STANDARDS, PROCESSES, AND**
12 **GUIDELINES FOR STATE ENTITIES TO FOLLOW WHEN DETERMINING WHETHER**
13 **TO CONTRACT WITH A GOVERNMENTAL ENTITY OR A PRIVATE SECTOR**
14 **ENTERPRISE; AND**

15 **(2) DEVELOP GUIDELINES FOR EMPLOYEES OF GOVERNMENTAL**
16 **ENTITIES WHOSE JOBS WILL BE ELIMINATED AS A RESULT OF THE STANDARDS,**
17 **PROCESSES, AND GUIDELINES ESTABLISHED UNDER ITEM (1) OF THIS**
18 **SUBSECTION.**

19 **12-506.**

20 **(A) ON OR BEFORE DECEMBER 1, 2012, THE COUNCIL SHALL CREATE**
21 **AN INVENTORY OF GOODS AND SERVICES THAT ARE THE SUBJECT OF**
22 **PROCUREMENTS BETWEEN STATE ENTITIES AND GOVERNMENTAL ENTITIES**
23 **AND CLASSIFY WHETHER THE STATE ENTITIES MAY RECEIVE A COST SAVING OR**
24 **MORE ADVANTAGEOUS OFFER FROM A GOVERNMENTAL ENTITY OR A PRIVATE**
25 **SECTOR ENTERPRISE.**

26 **(B) THE COUNCIL SHALL UPDATE THE INVENTORY AT LEAST EVERY 2**
27 **YEARS.**

28 **(C) THE INVENTORY SHALL BE POSTED ON THE BOARD OF PUBLIC**
29 **WORKS WEB SITE.**

30 **12-507.**

31 **(A) THE COUNCIL MAY APPOINT ADVISORY GROUPS TO CONDUCT**
32 **STUDIES, RESEARCH, OR ANALYSES AND MAKE REPORTS AND**

1 RECOMMENDATIONS WITH RESPECT TO A SUBJECT MATTER WITHIN THE
2 JURISDICTION OF THE COUNCIL AS ESTABLISHED BY THIS SUBTITLE.

3 (B) AT LEAST ONE MEMBER OF THE COUNCIL SHALL SERVE ON EACH
4 ADVISORY GROUP.

5 12-508.

6 AT THE REQUEST OF THE COUNCIL, A STATE ENTITY SHALL PROVIDE THE
7 COUNCIL WITH INFORMATION NECESSARY FOR THE COUNCIL TO CARRY OUT
8 THIS SUBTITLE.

9 12-509.

10 ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COUNCIL SHALL
11 REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE
12 STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS
13 RECOMMENDATIONS, INVENTORY, AND OTHER ACTIONS TAKEN IN ACCORDANCE
14 WITH THIS SUBTITLE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2011.