

HOUSE BILL 809

P2

(3lr1967)

ENROLLED BILL

— *Health and Government Operations/Budget and Taxation* —

Introduced by **Delegates Harris, Charles, Amprey, Bagnall, Boaf, Boyce, Bridges, Davis, Harrison, Henson, Holmes, Jackson, Lehman, J. Long, Lopez, McCaskill, Mireku-North, Patterson, Ruth, Simmons, Smith, Taveras, Taylor, Toles, Wells, ~~and Wilkins~~ Wilkins, Alston, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, White, and Woods**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Minority Business Enterprise Program – Extension and**
3 **Reports**

4 FOR the purpose of altering the termination date for certain provisions of law governing
5 the Minority Business Enterprise Program and its application to offshore wind
6 projects and video lottery terminals; altering the date by which certain reports,
7 studies, and guidelines must be submitted; and generally relating to the Minority
8 Business Enterprise Program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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

Italics indicate opposite chamber/conference committee amendments.



- 1 BY repealing and reenacting, with amendments,
2 Article – Public Utilities
3 Section 7–704.1(i)(4)
4 Annotated Code of Maryland
5 (2020 Replacement Volume and 2022 Supplement)
- 6 BY repealing and reenacting, ~~without~~ with amendments,
7 Article – State Finance and Procurement
8 Section 14–309
9 Annotated Code of Maryland
10 (2021 Replacement Volume and 2022 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – State Government
13 Section 9–1A–10(c)
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2022 Supplement)
- 16 ~~BY repealing and reenacting, with amendments,
17 Chapter 438 of the Acts of the General Assembly of 2017
18 Section 3~~
- 19 BY repealing and reenacting, with amendments,
20 Chapter 553 of the Acts of the General Assembly of 2020
21 Section 4 and 5
- 22 BY repealing and reenacting, with amendments,
23 Chapter 728 of the Acts of the General Assembly of 2021
24 Section 2 and 3
- 25 BY repealing and reenacting, with amendments,
26 Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters
27 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the
28 Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the
29 General Assembly of 2022
30 Section 2
- 31 BY repealing and reenacting, with amendments,
32 Chapter 641 of the Acts of the General Assembly of 2022
33 Section 2(b) and (d)
- 34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
35 That the Laws of Maryland read as follows:

36 **Article – Public Utilities**

37 7–704.1.

1 (i) (4) On and after July 1, [2023] ~~2024~~ 2025, the provisions of this subsection
2 and any regulations adopted in accordance with this subsection shall be of no effect and
3 may not be enforced.

4 Article – State Finance and Procurement

5 14–309.

6 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations
7 adopted under those sections, shall be of no effect and may not be enforced after July 1,
8 ~~2024~~ 2025.

9 Article – State Government

10 9–1A–10.

11 (c) On or after July 1, [2023] ~~2024~~ 2025, the provisions of subsections (a)(1) and
12 (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and
13 (b) of this section shall be of no effect and may not be enforced.

14 ~~Chapter 438 of the Acts of 2017~~

15 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Certification Agency~~
16 ~~designated by the Board of Public Works under § 14–303(b) of the State Finance and~~
17 ~~Procurement Article to certify and decertify minority business enterprises, in consultation~~
18 ~~with the Office of the Attorney General and the Maryland Public Service Commission, shall~~
19 ~~initiate an analysis of the disparity study [entitled “Business Disparities in the Maryland~~
20 ~~Market Area” published on February 8, 2017,] SUBMITTED IN ACCORDANCE WITH THIS~~
21 ~~ACT to determine if it applies to the type of work that will likely be performed by an~~
22 ~~approved applicant with respect to an offshore wind project under § 7–704.1 of the Public~~
23 ~~Utilities Article and submit a report on the analysis to the Legislative Policy Committee of~~
24 ~~the General Assembly, in accordance with § 2–1246 of the State Government Article, ON~~
25 ~~OR before December [1, 2017] 30, 2023.~~

26 Chapter 553 of the Acts of 2020

27 SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency
28 designated by the Board of Public Works under § 14–303(b) of the State Finance and
29 Procurement Article to certify and decertify minority business enterprises, in consultation
30 with the Office of the Attorney General and the Governor’s Office of Small, Minority, and
31 Women Business Affairs, shall initiate an analysis of the Minority Business Enterprise
32 Program requirements of § 10A–404 of the State Finance and Procurement Article[, as
33 enacted by Section 1 of this Act,] and the disparity study submitted in accordance with
34 [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to evaluate
35 compliance with the requirements of any federal and constitutional requirements and

1 submit a report on the analysis to the Legislative Policy Committee of the General
 2 Assembly, in accordance with § 2–1257 of the State Government Article, on or before
 3 ~~December~~ SEPTEMBER [1, 2022] 30, ~~2023~~ 2024.

4 SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency
 5 designated by the Board of Public Works under § 14–303(b) of the State Finance and
 6 Procurement Article to certify and decertify minority business enterprises, in consultation
 7 with the Office of the Attorney General and the Governor’s Office of Small, Minority, and
 8 Women Business Affairs, shall initiate an analysis of the disparity study submitted in
 9 accordance with [Chapter 340 of the Acts of the General Assembly of 2017] THIS ACT to
 10 determine if it applies to the type of work that will be likely to be performed by an approved
 11 applicant with respect to an offshore wind project under § 7–704.1(i) of the Public Utilities
 12 Article as enacted by Section 2 of this Act and submit a report on the analysis to the
 13 Legislative Policy Committee of the General Assembly, in accordance with § 2–1257 of the
 14 State Government Article, on or before [December 1, 2022] SEPTEMBER 30, 2024.

15 Chapter 728 of the Acts of 2021

16 SECTION 2. AND BE IT FURTHER ENACTED, That on or before [June 30, 2022]
 17 ~~SEPTEMBER 1, 2024~~ JULY 1, 2025, the Special Secretary for the Office of Small,
 18 Minority, and Women Business Affairs, in consultation with the Secretary of
 19 Transportation and the Attorney General, shall establish policies and guidelines for the
 20 implementation of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1,
 22 2022] ~~30 31, 2023~~ 2025, the Governor’s Office of Small, Minority, and Women Business
 23 Affairs shall report to the General Assembly, in accordance with § 2–1257 of the State
 24 Government Article, on the establishment of minority business enterprise subgoals in
 25 accordance with this Act, including:

26 (1) whether the establishment of minority business enterprise subgoals
 27 was practicable based on the type of capital project; and

28 (2) whether any changes should be made to the capital minority business
 29 enterprise subgoal framework established by this Act.

30 Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts 31 of 2013, Chapter 340 of the Acts of 2017, and Chapter 117 of the Acts of 2022

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in
 33 consultation with the General Assembly and the Office of the Attorney General, shall
 34 initiate a study of the Minority Business Enterprise Program to evaluate the Program’s
 35 continued compliance with the requirements of the Croson decision and any subsequent
 36 federal or constitutional requirements. In preparation for the study, the Board of Public
 37 Works may adopt regulations authorizing a unit of State government to require bidders
 38 and offerors to submit information necessary for the conduct of the study. The Board of

1 Public Works may designate that certain information received in accordance with
 2 regulations adopted under this section shall be confidential. Notwithstanding that certain
 3 information may be designated by the Board of Public Works as confidential, the
 4 Certification Agency may provide the information to any person that is under contract with
 5 the Certification Agency to assist in conducting the study. The study shall also evaluate
 6 race-neutral programs and other methods that can be used to address the needs of minority
 7 businesses. The final report on the study shall be submitted to the Legislative Policy
 8 Committee of the General Assembly, in accordance with § 2-1257 of the State Government
 9 Article, **ON OR** before ~~September~~ **DECEMBER 30, ~~2023~~ 2024**, so that the General
 10 Assembly may review the report before the ~~2024~~ **2025** Session.

11 **Chapter 641 of the Acts of 2022**

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

13 (b) The certification agency and the Governor's Office of Small, Minority, and
 14 Women Business Affairs shall submit the findings of the study required under subsection
 15 (a) of this section to the Legislative Policy Committee, in accordance with § 2-1257 of the
 16 State Government Article, on or before **[July 1, 2023] DECEMBER ~~30~~ 31, ~~2023~~ 2025**, so
 17 that the General Assembly may review the findings before the ~~2024~~ **2026** Session.

18 (d) The Governor's Office of Small, Minority, and Women Business Affairs, in
 19 consultation with the certification agency and the Office of the Attorney General, shall
 20 develop race- and gender-neutral approaches to address the needs of minority and
 21 women-owned businesses in the brokerage and investment management services industry
 22 and market and submit its report to the Legislative Policy Committee, in accordance with
 23 § 2-1257 of the State Government Article, on or before December **[1, 2022] ~~30~~ 31, ~~2023~~**
 24 **2025**, so that the General Assembly may review, consider, and adopt race- and
 25 gender-neutral alternatives to remedial measures that are not race and gender neutral.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 27 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.