

SENATE BILL 659

P2

2lr1372
CF HB 865

By: **Senators Pinsky, Klausmeier, Manno, and Rosapepe**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Preference and Disclosure ~~of the Relocation of Jobs to a~~**
3 **~~Foreign Country~~ – Location of the Performance of Services**

4 FOR the purpose of ~~requiring a prospective bidder or offeror to disclose certain~~
5 ~~information to the Department of General Services concerning plans to relocate~~
6 ~~jobs to a foreign country when submitting a bid or an offer to a unit of State~~
7 ~~government; requiring a contractor to notify the Department of certain job~~
8 ~~relocations within a certain time period; prohibiting a certain contractor from~~
9 ~~receiving certain benefits or incentives from the State under certain~~
10 ~~circumstances; requiring a certain contractor to repay certain incentives and~~
11 ~~benefits within a certain time period; requiring, under certain circumstances, a~~
12 bidder to disclose certain information regarding whether services required
13 under a procurement contract will be performed outside the State or the United
14 States; prohibiting a public employer from knowingly contracting for certain
15 services unless the services are to be provided in the United States, except
16 under certain circumstances; requiring the Board of Public Works to adopt
17 certain regulations; providing for the application of this Act; providing that this
18 Act may not impair any existing obligation or contract right; defining a certain
19 term; and generally relating to State procurement and ~~the disclosure of certain~~
20 information concerning the relocation of jobs to foreign countries preferences
21 and disclosures regarding the location of the performance of services required
22 under procurement contracts.

23 BY adding to

24 Article – State Finance and Procurement

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.



1 Section ~~11-401 through 11-403~~ to be under the new subtitle “Subtitle 4,
2 ~~Disclosure of the Relocation of Jobs to a Foreign Country~~” 14-413
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2011 Supplement)

5 Preamble

6 WHEREAS, The State of Maryland spends significant taxpayer dollars to
7 provide goods and services to maintain and operate the State; and

8 WHEREAS, Over 14,000,000 workers in the United States remain unemployed,
9 including over 200,000 Maryland residents; and

10 WHEREAS, When the State of Maryland spends taxpayer dollars, it should
11 collect relevant employment information from its contractors and vendors so as to aid
12 industries with the potential to employ more Maryland residents; and

13 WHEREAS, The State of Maryland must determine if its taxpayer dollars for
14 goods and services result in contractors and vendors exporting jobs outside the United
15 States; and

16 WHEREAS, Location disclosure legislation is necessary to ensure that taxpayer
17 dollars are invested in a way that helps struggling Maryland families and, in turn,
18 spurs economic recovery in the State of Maryland and the United States; now,
19 therefore,

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

22 **Article – State Finance and Procurement**

23 **14-413.**

24 **(A) IN THIS SECTION, “PUBLIC EMPLOYER” MEANS:**

25 **(1) A UNIT;**

26 **(2) A COUNTY;**

27 **(3) A MUNICIPALITY;**

28 **(4) A COUNTY BOARD OF EDUCATION; OR**

29 **(5) A SPECIAL TAXING DISTRICT.**

1 **(B) THIS SECTION APPLIES TO A PROCUREMENT CONTRACT WITH AN**
2 **ESTIMATED VALUE OF \$2,000,000 OR MORE.**

3 **(C) IN RESPONSE TO A SOLICITATION FOR A PROCUREMENT CONTRACT**
4 **ISSUED BY A PUBLIC EMPLOYER, A BIDDER SHALL DISCLOSE TO THE PUBLIC**
5 **EMPLOYER THE FOLLOWING:**

6 **(1) WHETHER THE BIDDER ANTICIPATES THAT THE BIDDER OR**
7 **ANY CONTRACTOR THE BIDDER WILL SUBCONTRACT WITH TO PERFORM THE**
8 **CONTRACT WILL PERFORM ANY SERVICES REQUIRED UNDER THE CONTRACT**
9 **OUTSIDE THE STATE OR THE UNITED STATES; AND**

10 **(2) IF SERVICES REQUIRED UNDER THE CONTRACT ARE**
11 **ANTICIPATED TO BE PERFORMED OUTSIDE THE STATE OR THE UNITED STATES:**

12 **(I) WHERE THE SERVICES WILL BE PERFORMED; AND**

13 **(II) THE REASONS WHY IT IS NECESSARY OR**
14 **ADVANTAGEOUS TO PERFORM THE SERVICES OUTSIDE THE STATE OR THE**
15 **UNITED STATES.**

16 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
17 **SUBSECTION, A PUBLIC EMPLOYER MAY NOT KNOWINGLY CONTRACT FOR THE**
18 **FOLLOWING SERVICES UNLESS THE SERVICES ARE TO BE PROVIDED IN THE**
19 **UNITED STATES:**

20 **(I) ARCHITECTURAL SERVICES;**

21 **(II) CONSTRUCTION SERVICES;**

22 **(III) ENGINEERING SERVICES; OR**

23 **(IV) ENERGY PERFORMANCE CONTRACT SERVICES.**

24 **(2) A PUBLIC EMPLOYER MAY CONTRACT FOR SERVICES LISTED**
25 **IN PARAGRAPH (1) OF THIS SUBSECTION THAT ARE PROVIDED OUTSIDE THE**
26 **UNITED STATES, IF:**

27 **(I) THE SERVICES ARE NOT AVAILABLE IN THE UNITED**
28 **STATES;**

29 **(II) THE PRICE OF THE SERVICES IN THE UNITED STATES**
30 **EXCEEDS BY AN UNREASONABLE AMOUNT THE PRICE OF SERVICES PROVIDED**
31 **OUTSIDE THE UNITED STATES; OR**

1 (III) THE QUALITY OF THE SERVICES IN THE UNITED STATES
2 IS SUBSTANTIALLY LESS THAN THE QUALITY OF COMPARABLY PRICED SERVICES
3 PROVIDED OUTSIDE THE UNITED STATES.

4 (3) THE BOARD SHALL ADOPT REGULATIONS DEFINING THE
5 FOLLOWING TERMS FOR THE PURPOSES OF THIS SUBSECTION:

6 (I) “UNREASONABLE AMOUNT”; AND

7 (II) “SUBSTANTIALLY LESS”.

8 ~~SUBTITLE 4. DISCLOSURE OF THE RELOCATION OF JOBS TO A FOREIGN~~
9 ~~COUNTRY.~~

10 ~~11 401.~~

11 ~~THIS SUBTITLE APPLIES TO A PROCUREMENT CONTRACT WITH AN~~
12 ~~ESTIMATED VALUE OF \$2,000,000 OR MORE.~~

13 ~~11 402.~~

14 ~~WHEN A PROSPECTIVE BIDDER OR OFFEROR SUBMITS A BID OR AN OFFER~~
15 ~~TO A UNIT, THE BIDDER OR OFFEROR SHALL NOTIFY THE DEPARTMENT OF~~
16 ~~GENERAL SERVICES WHETHER THE BIDDER OR OFFEROR:~~

17 ~~(1) HAS PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED,~~
18 ~~TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR~~

19 ~~(2) WILL BE SUBCONTRACTING WITH A CONTRACTOR THAT HAS~~
20 ~~PLANS, AT THE TIME THE BID OR OFFER IS SUBMITTED, TO RELOCATE JOBS~~
21 ~~FROM THE UNITED STATES TO A FOREIGN COUNTRY.~~

22 ~~11 403.~~

23 ~~(A) THIS SECTION APPLIES TO A PROSPECTIVE BIDDER OR OFFEROR~~
24 ~~THAT DISCLOSED UNDER § 11 402 OF THIS SUBTITLE THAT THE BIDDER OR~~
25 ~~OFFEROR:~~

26 ~~(1) HAD PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED,~~
27 ~~TO RELOCATE JOBS FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR~~

1 ~~(2) WOULD BE SUBCONTRACTING WITH A CONTRACTOR THAT HAD~~
2 ~~PLANS, AT THE TIME THE BID OR OFFER WAS SUBMITTED, TO RELOCATE JOBS~~
3 ~~FROM THE UNITED STATES TO A FOREIGN COUNTRY.~~

4 ~~(B) A PROSPECTIVE BIDDER OR OFFEROR THAT IS AWARDED A~~
5 ~~CONTRACT SHALL NOTIFY THE DEPARTMENT OF GENERAL SERVICES WITHIN~~
6 ~~60 DAYS AFTER THE BIDDER OR OFFEROR RELOCATES JOBS:~~

7 ~~(1) FROM THE UNITED STATES TO A FOREIGN COUNTRY; OR~~

8 ~~(2) TO THE UNITED STATES FROM A FOREIGN COUNTRY.~~

9 ~~(C) (1) A PROSPECTIVE BIDDER OR OFFEROR THAT IS AWARDED A~~
10 ~~CONTRACT:~~

11 ~~(I) MAY NOT RECEIVE A STATE GRANT, A~~
12 ~~STATE GUARANTEED LOAN, A TAX BENEFIT, OR ANY OTHER BENEFIT OR~~
13 ~~INCENTIVE FROM THE STATE; AND~~

14 ~~(II) SHALL REPAY ANY BENEFIT OR INCENTIVE RECEIVED~~
15 ~~FROM THE STATE WITHIN 5 YEARS BEFORE THE DISCLOSURE UNDER § 11-402~~
16 ~~OF THIS SUBTITLE WAS MADE.~~

17 ~~(2) THE REPAYMENT OF A BENEFIT OR AN INCENTIVE REQUIRED~~
18 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE WITHIN 3 YEARS~~
19 ~~AFTER THE DISCLOSURE UNDER § 11-402 OF THIS SUBTITLE WAS MADE.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing
21 obligation or contract right may not be impaired in any way by this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.