

SENATE BILL 833

P2

3lr1160
CF 3lr1161

By: **Senator Brinkley**

Introduced and read first time: February 6, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Exemption from State Procurement Laws Concerning**
3 **Minority Business Enterprises and Prevailing Wage Rates**

4 FOR the purpose of exempting Frederick County, as to a certain contract, from the
5 provisions of the State procurement law concerning minority business
6 enterprises; exempting Frederick County, under certain circumstances, from the
7 provisions of the State procurement law concerning prevailing wage rates;
8 providing for the termination of this Act; and generally relating to the
9 application of the State procurement laws concerning minority business
10 enterprises and prevailing wage rates to Frederick County.

11 BY renumbering

12 Article – State Finance and Procurement
13 Section 14–301.1
14 to be Section 14–301.2
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 BY adding to

18 Article – State Finance and Procurement
19 Section 14–301.1
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article – State Finance and Procurement
24 Section 14–302(a)(1)(i) and 17–202
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2012 Supplement)

27 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement
 2 Section 17–201(i)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2012 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 6 MARYLAND, That Section(s) 14–301.1 of Article – State Finance and Procurement of
 7 the Annotated Code of Maryland be renumbered to be Section(s) 14–301.2.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 9 read as follows:

10 **Article – State Finance and Procurement**

11 **14–301.1.**

12 **THIS SUBTITLE DOES NOT APPLY TO A PROCUREMENT IN FREDERICK**
 13 **COUNTY THAT INCLUDES THE EXPENDITURE OF ANY COUNTY FUNDS.**

14 14–302.

15 (a) (1) (i) Except for leases of real property, each unit shall structure
 16 procurement procedures, consistent with the purposes of this subtitle, to try to achieve
 17 an overall percentage goal of the unit’s total dollar value of procurement contracts
 18 being made directly or indirectly to certified minority business enterprises.

19 17–201.

20 (i) (1) “Public body” means:

21 (i) the State;

22 (ii) except as provided in paragraph (2)(i) of this subsection, a
 23 unit of the State government or instrumentality of the State;

24 (iii) any political subdivision, agency, person, or entity with
 25 respect to the construction of any public work for which 50% or more of the money
 26 used for construction is State money; and

27 (iv) notwithstanding paragraph (2)(ii) of this subsection, a
 28 political subdivision if its governing body:

29 1. provides by ordinance or resolution that the political
 30 subdivision is covered by this subtitle; and

31 2. gives written notice of that ordinance or resolution to
 32 the Commissioner.

1 (2) “Public body” does not include:

2 (i) a unit of the State government or instrumentality of the
3 State funded wholly from a source other than the State; [or]

4 (ii) **SUBJECT TO ITEM (III) OF THIS PARAGRAPH**, any political
5 subdivision, agency, person, or entity with respect to the construction of any public
6 work for which less than 50% of the money used for construction is State money; **OR**

7 **(III) FREDERICK COUNTY WITH RESPECT TO THE**
8 **CONSTRUCTION OF ANY PUBLIC WORK IN THE COUNTY FOR WHICH ANY**
9 **PORTION OF THE MONEY USED FOR CONSTRUCTION IS COUNTY MONEY.**

10 17–202.

11 (a) This subtitle does not limit:

12 (1) the hours of work an employee may work in a particular period of
13 time; or

14 (2) the right of a contractor to pay an employee under a public work
15 contract more than the prevailing wage rate.

16 (b) This subtitle does not apply to:

17 (1) a public work contract of less than \$500,000; or

18 (2) the part of a public work contract for which the federal government
19 provides money if, as to that part, the contractor is required to pay the prevailing
20 wage rate as determined by the United States Secretary of Labor.

21 (c) If this subtitle and the federal Davis–Bacon Act apply and the federal act
22 is suspended, the Governor may declare this subtitle suspended for the same period
23 for:

24 (1) the part of that public work contract for which the United States
25 Secretary of Labor would have been required to make a determination of a prevailing
26 wage rate; or

27 (2) that entire public work contract.

28 **SECTION 3. AND BE IT FURTHER ENACTED**, That the exemptions from the
29 provisions of the State procurement laws concerning the minority business enterprise
30 program, Title 14, Subtitle 3 of the State Finance and Procurement Article, and the
31 prevailing wage rates law for public contracts, Title 17, Subtitle 2 of the State Finance

1 and Procurement Article, that are provided to Frederick County under this Act shall
2 apply only for a procurement for the construction of one elementary school in
3 Frederick County, the procurement for which begins on or after the effective date of
4 this Act.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 July 1, 2013. It shall remain effective for a period of 2 years and, at the end of June 30,
7 2015, with no further action required by the General Assembly, this Act shall be
8 abrogated and of no further force and effect.