

SENATE BILL 909

B5, P2

1lr2666

By: ~~Senator Smith~~ Senators Smith, Corderman, Eckardt, Edwards, Elfreth, Griffith, Guzzone, King, McCray, Peters, Rosapepe, Salling, Young, and Zucker

Introduced and read first time: February 9, 2021
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 2, 2021

CHAPTER _____

1 AN ACT concerning

2 **Capital Projects – Minority Business Enterprise Goals**

3 FOR the purpose of requiring the Governor's Office of Small, Minority, and Women
4 Business Affairs, prior to the release of State funds for a certain capital project, to
5 review the project for subcontracting opportunities under the State Minority
6 Business Enterprise Program and, if practicable, establish minority business
7 enterprise subgoals for the project; requiring the Governor's Office of Small,
8 Minority, and Women Business Affairs to consider minority business enterprises
9 when setting certain subgoals; requiring the recipient of the State funds, if subgoals
10 are established for the project, to make a certain certification to the Department of
11 General Services or to request a certain waiver from the Governor's Office of Small,
12 Minority, and Women Business Affairs; requiring the Governor's Office of Small,
13 Minority, and Women Business Affairs to review a request for a waiver and report
14 the revised subgoals to the Department; requiring the Department to submit a
15 certain report to the Governor and the General Assembly on or before a certain date
16 each year; requiring the Special Secretary for the Office of Small, Minority, and
17 Women Business Affairs, in consultation with the Secretary of Transportation and
18 the Attorney General, to establish policies and guidelines for the implementation of
19 this Act on or before a certain date; requiring the Governor's Office of Small,
20 Minority, and Women Business Affairs to report to the General Assembly on the
21 establishment of certain minority business enterprise subgoals on or before a certain
22 date; providing for the construction of this Act; providing for a delayed effective date

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 for certain provisions of this Act; defining a certain term; and generally relating to
2 the application of minority business subcontracting goals to capital projects.

3 BY adding to

4 Article – State Finance and Procurement

5 Section 3–610

6 Annotated Code of Maryland

7 (2015 Replacement Volume and 2020 Supplement)

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

10 **Article – State Finance and Procurement**

11 **3–610.**

12 (A) IN THIS SECTION, “DEPARTMENT” MEANS THE DEPARTMENT OF
13 GENERAL SERVICES.

14 (B) THIS SECTION APPLIES TO A CAPITAL PROJECT THAT RECEIVES AT
15 LEAST ~~\$500,000~~ **\$3,000,000** IN STATE FUNDS IN A SINGLE FISCAL YEAR AND IS
16 FUNDED IN THE ANNUAL STATE CAPITAL BUDGET AS:

17 (1) A MISCELLANEOUS GRANT PROGRAM;

18 (2) A LOCAL HOUSE OF DELEGATES INITIATIVE; OR

19 (3) A LOCAL SENATE INITIATIVE.

20 (C) (1) PRIOR TO THE RELEASE OF STATE FUNDS FOR A CAPITAL
21 PROJECT THAT MEETS THE CONDITIONS OF SUBSECTION (B) OF THIS SECTION, THE
22 GOVERNOR’S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS
23 SHALL:

24 ~~(1)~~ (I) REVIEW THE CAPITAL PROJECT FOR SUBCONTRACTING
25 OPPORTUNITIES UNDER THE PROVISIONS OF TITLE 14, SUBTITLE 3 OF THIS
26 ARTICLE; AND

27 ~~(2)~~ (II) IF PRACTICABLE, ESTABLISH MINORITY BUSINESS
28 ENTERPRISE SUBGOALS FOR THE CAPITAL PROJECT.

29 (2) IN SETTING SUBGOALS UNDER THIS SUBSECTION, THE
30 GOVERNOR’S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS
31 SHALL CONSIDER THE AVAILABILITY AND CAPACITY OF MINORITY BUSINESS

1 ENTERPRISES IN MARYLAND AND IN THE COUNTY WHERE THE PROJECT IS LOCATED
2 TO FULFILL THE SUBGOAL.

3 (D) (1) IF THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN
4 BUSINESS AFFAIRS ESTABLISHES MINORITY BUSINESS ENTERPRISE SUBGOALS FOR
5 THE CAPITAL PROJECT, THE RECIPIENT OF THE STATE FUNDS SHALL:

6 (I) CERTIFY TO THE DEPARTMENT THAT THE RECIPIENT
7 EXPECTS TO ACHIEVE THE SUBGOALS; OR

8 (II) REQUEST A WAIVER OF ALL OR PART OF THE SUBGOALS
9 FROM THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS
10 AFFAIRS.

11 (2) THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN
12 BUSINESS AFFAIRS SHALL REVIEW A REQUEST FOR A WAIVER UNDER PARAGRAPH
13 (1)(II) OF THIS SUBSECTION AND REPORT THE REVISED SUBGOALS FOR THE
14 CAPITAL PROJECT TO THE DEPARTMENT.

15 (E) (1) ON OR BEFORE JULY 31 EACH YEAR, THE DEPARTMENT SHALL
16 SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §
17 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE
18 NUMBER OF WAIVERS GRANTED FOR CAPITAL PROJECTS THAT MEET THE
19 CONDITIONS OF SUBSECTION (B) OF THIS SECTION IN THE PRIOR FISCAL YEAR.

20 (2) THE REPORT SHALL INCLUDE:

21 (I) A DESCRIPTION OF THE CAPITAL PROJECT;

22 (II) WHETHER THE WAIVER WAS A PARTIAL OR FULL WAIVER;
23 AND

24 (III) THE JUSTIFICATION FOR THE WAIVER.

25 SECTION 2. AND BE IT FURTHER ENACTED, That on or before June 30, 2022,
26 the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in
27 consultation with the Secretary of Transportation and the Attorney General, shall establish
28 policies and guidelines for the implementation of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
30 2022, the Governor's Office of Small, Minority, and Women Business Affairs shall report to
31 the General Assembly, in accordance with § 2-1257 of the State Government Article, on the
32 establishment of minority business enterprise subgoals in accordance with this Act,
33 including:

SENATE BILL 909

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

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

5 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act may not be
6 construed to prevent a capital project that is subject to the provisions of this Act, and for
7 which a waiver of the minority business enterprise subcontracting goal established for the
8 capital project is requested, from receiving funds appropriated for the project under the
9 annual capital budget bill for the State.

10 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
11 take effect July 1, 2022.

12 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in
13 Section ~~4~~ 5 of this Act, this Act shall take effect July 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.