

Bill No.: _____
Requested: _____
Committee: _____

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By: **Montgomery County Delegation and Prince George’s County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission – Discrimination – Prohibited in**
3 **Contracts**

4 **MC/PG 107–19**

5 FOR the purpose of prohibiting the Washington Suburban Sanitary Commission from
6 entering into a contract unless the contract contains a certain nondiscrimination
7 provision; requiring the Commission to provide a contractor a reasonable
8 opportunity to cure a certain defect in a contract or subcontract; authorizing the
9 Commission to void a contract if a contractor fails to cure a certain defect;
10 establishing that a contractor is entitled to the reasonable value of certain work and
11 materials if the contractor fails to cure a certain defect; stating that a contract
12 remains in force according to revised terms if a contractor cures a certain defect;
13 authorizing the Commission to compel a contractor to continue performance under a
14 contract under certain circumstances; establishing that the Commission is liable for
15 no more than the reasonable value of certain work and materials provided by the
16 contractor after a certain date if the Commission compels performance; requiring the
17 Commission to deduct money paid under a certain contract from money due for the
18 reasonable value of certain work and materials provided by the contractor after a
19 certain date if the Commission compels performance; authorizing a contractor to void
20 a subcontract if the subcontractor fails to comply with the requirements of a
21 nondiscrimination provision; establishing that a contractor is liable for no more than

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the reasonable value of certain work and materials provided by a subcontractor if a
2 contractor voids a subcontract under certain circumstances; repealing a certain
3 provision requiring a nondiscrimination clause in certain contracts; and generally
4 relating to the Washington Suburban Sanitary Commission and nondiscrimination
5 provisions in contracts entered into by the Commission.

6 BY adding to
7 Article – Public Utilities
8 Section 17–402.1
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2018 Supplement)

11 BY repealing
12 Article – Public Utilities
13 Section 20–106
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2018 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That Section(s) 20–106 of Article – Public Utilities of the Annotated Code of Maryland be
18 repealed.

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

21 **Article – Public Utilities**

22 **17–402.1.**

23 **(A) (1) THE COMMISSION MAY NOT ENTER INTO A CONTRACT UNLESS**
24 **THE CONTRACT CONTAINS A PROVISION OBLIGING THE CONTRACTOR:**

25 **(I) NOT TO DISCRIMINATE IN ANY MANNER AGAINST AN**
26 **EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT ON THE BASIS OF SEX, RACE,**
27 **CREED, COLOR, AGE, MENTAL OR PHYSICAL DISABILITY, SEXUAL ORIENTATION,**
28 **RELIGION, MARITAL STATUS, GENDER IDENTITY, OR NATIONAL ORIGIN; AND**

29 **(II) TO INCLUDE A SIMILAR NONDISCRIMINATION PROVISION IN**

1 ALL SUBCONTRACTS.

2 (2) (I) IF THE NONDISCRIMINATION PROVISION IS OMITTED FROM
3 A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE
4 CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO
5 THIS SECTION.

6 (II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:

7 1. THE COMMISSION MAY DECLARE THE CONTRACT TO
8 BE VOID; AND

9 2. THE CONTRACTOR IS ENTITLED TO THE REASONABLE
10 VALUE OF WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR.

11 (III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT
12 REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.

13 (B) (1) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY
14 COMPEL A CONTRACTOR TO CONTINUE TO PERFORM UNDER A CONTRACT IF:

15 (I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE
16 REQUIREMENTS OF A NONDISCRIMINATION PROVISION; AND

17 (II) THE CONTRACT IS PARTIALLY EXECUTORY.

18 (2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS
19 SUBSECTION, THE COMMISSION:

20 (I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF
21 WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE
22 DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN
23 DISCOVERED; AND

24 (II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER
25 THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS
26 PARAGRAPH.

1 **(C) (1) IF A SUBCONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE**
2 **REQUIREMENTS OF A NONDISCRIMINATION PROVISION, THE CONTRACTOR MAY**
3 **DECLARE THE SUBCONTRACT TO BE VOID.**

4 **(2) IF A CONTRACTOR DECLARES A SUBCONTRACT TO BE VOID UNDER**
5 **THIS SUBSECTION, THE CONTRACTOR IS LIABLE FOR NO MORE THAN THE**
6 **REASONABLE VALUE OF WORK PERFORMED OR MATERIALS PROVIDED BY THE**
7 **SUBCONTRACTOR.**

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2019.