

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 **Maryland–National Capital Park and Planning Commission – Procurement –**  
3 **Source Selection**

4 **MC/PG 112–19**

5 FOR the purpose of requiring the Maryland–National Capital Park and Planning  
6 Commission to adopt certain procurement regulations relating to source selection;  
7 authorizing the Commission to adopt certain regulations establishing a minority  
8 business enterprise program under certain circumstances; authorizing the  
9 Commission to adopt certain regulations establishing a local small business  
10 enterprise program; requiring the Commission to report each year to certain persons  
11 on the effectiveness of certain programs; repealing certain provisions relating to a  
12 minority business enterprise program in the Commission on a certain date; requiring  
13 the Special Secretary for the Office of Small, Minority, and Women Business Affairs  
14 and the Secretary of Transportation to ensure that the Commission is provided with  
15 certain technical assistance to implement this Act; authorizing the governing bodies  
16 of Montgomery County and Prince George’s County to provide certain funding for  
17 the implementation of this Act in a certain manner; defining certain terms; providing  
18 for a delayed effective date for certain provisions of this Act; and generally relating  
19 to procurement activities of the Maryland–National Capital Park and Planning  
20 Commission.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
2 Article – Land Use  
3 Section 15–201 through 15–205 to be under the new subtitle “Subtitle 2.  
4 Procurement”  
5 Annotated Code of Maryland  
6 (2012 Volume and 2018 Supplement)

7 BY repealing and reenacting, with amendments,  
8 Article – Land Use  
9 Section 15–201 and 15–205  
10 Annotated Code of Maryland  
11 (2012 Volume and 2018 Supplement)  
12 (As enacted by Section 1 of this Act)

13 BY repealing and reenacting, without amendments,  
14 Article – Land Use  
15 Section 15–202 and 15–204  
16 Annotated Code of Maryland  
17 (2012 Volume and 2018 Supplement)  
18 (As enacted by Section 1 of this Act)

19 BY repealing  
20 Article – Land Use  
21 Section 15–203  
22 Annotated Code of Maryland  
23 (2012 Volume and 2018 Supplement)  
24 (As enacted by Section 1 of this Act)

25 Preamble

26 WHEREAS, As provided by Chapter 340 of the Acts of the General Assembly of 2017,  
27 the General Assembly has received and reviewed the disparity study entitled “Business  
28 Disparities in the Maryland Market Area”, published February 8, 2017; and

29 WHEREAS, Based on a review of the disparity study, the General Assembly found  
30 that there are substantial adverse disparities that are consistent with discrimination  
31 against businesses owned by minorities and women; and



1 15-201.

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (B) "CERTIFICATION" MEANS THE DETERMINATION THAT A LEGAL ENTITY  
5 IS A MINORITY BUSINESS ENTERPRISE UNDER TITLE 14, SUBTITLE 3 OF THE STATE  
6 FINANCE AND PROCUREMENT ARTICLE.

7 (C) "CERTIFICATION AGENCY" MEANS THE AGENCY DESIGNATED BY THE  
8 BOARD OF PUBLIC WORKS UNDER § 14-303(B) OF THE STATE FINANCE AND  
9 PROCUREMENT ARTICLE TO CERTIFY AND DECERTIFY MINORITY BUSINESS  
10 ENTERPRISES.

11 (D) "CERTIFIED MINORITY BUSINESS ENTERPRISE" MEANS A MINORITY  
12 BUSINESS ENTERPRISE THAT HOLDS A VALID CERTIFICATION ISSUED BY THE  
13 CERTIFICATION AGENCY.

14 (E) "LOCAL SMALL BUSINESS ENTERPRISE" MEANS A BUSINESS  
15 ENTERPRISE THAT:

16 (1) HAS ITS PRINCIPAL PLACE OF OPERATION IN MONTGOMERY  
17 COUNTY OR PRINCE GEORGE'S COUNTY; AND

18 (2) HAS BEEN CERTIFIED AS A SMALL BUSINESS ENTERPRISE BY A  
19 UNIT OF COUNTY GOVERNMENT THAT HAS JURISDICTION OVER PROCUREMENT IN  
20 MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY.

21 (F) "MINORITY BUSINESS ENTERPRISE" HAS THE SAME MEANING AS  
22 PROVIDED IN § 14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

23 (G) "STUDY" MEANS THE DISPARITY STUDY COMMISSIONED BY THE  
24 GENERAL ASSEMBLY OF MARYLAND ENTITLED "BUSINESS DISPARITIES IN THE  
25 MARYLAND MARKET AREA" PUBLISHED ON FEBRUARY 8, 2017.

26 15-202.

1           **THE COMMISSION SHALL ADOPT PROCUREMENT REGULATIONS CONSISTENT**  
2 **WITH THE STANDARDS AND METHODS FOR SOURCE SELECTION PROVIDED IN TITLE**  
3 **13, SUBTITLE 1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

4 **15-203.**

5           **(A) THE PROCUREMENT REGULATIONS ADOPTED IN ACCORDANCE WITH §**  
6 **15-202 OF THIS SUBTITLE MAY INCLUDE A MINORITY BUSINESS ENTERPRISE**  
7 **PROGRAM IF THE COMMISSION DETERMINES, BASED ON THE STUDY AND OTHER**  
8 **LEGALLY RELEVANT DATA, THAT THE COMMISSION HAS UNDERUTILIZED MINORITY**  
9 **BUSINESS ENTERPRISES RELATIVE TO THEIR AVAILABILITY TO PERFORM WORK IN**  
10 **THE PROCUREMENT CATEGORIES IN WHICH THE STATE DOES BUSINESS, INCLUDING**  
11 **GOODS, SERVICES, AND CONSTRUCTION.**

12           **(B) THE REGULATIONS TO ESTABLISH A MINORITY BUSINESS ENTERPRISE**  
13 **PROGRAM MAY INCLUDE:**

14                   **(1) PROCEDURES TO BE FOLLOWED BY STAFF, PROSPECTIVE**  
15 **CONTRACTORS, AND SUCCESSFUL BIDDERS OR OFFERORS TO MAXIMIZE NOTICE TO,**  
16 **AND THE OPPORTUNITY TO PARTICIPATE IN THE PROCUREMENT PROCESS BY, A**  
17 **BROAD RANGE OF MINORITY BUSINESS ENTERPRISES;**

18                   **(2) PROVISIONS TO EXTEND REASONABLE COMPETITIVE**  
19 **PREFERENCES FOR CERTIFIED MINORITY BUSINESS ENTERPRISES OR GOALS FOR**  
20 **UTILIZATION OF CERTIFIED MINORITY BUSINESS ENTERPRISES IN PARTICULAR**  
21 **PROCUREMENT ACTIVITIES UNDER APPROPRIATE CIRCUMSTANCES; AND**

22                   **(3) TO THE EXTENT APPLICABLE TO COMMISSION PROCUREMENT**  
23 **ACTIVITIES, PROVISIONS COMPARABLE IN PURPOSE AND EFFECT TO ANY**  
24 **REGULATIONS ADOPTED BY THE STATE IN ACCORDANCE WITH § 14-303 OF THE**  
25 **STATE FINANCE AND PROCUREMENT ARTICLE.**

26 **15-204.**

27           **(A) THE COMMISSION'S PROCUREMENT REGULATIONS MAY ESTABLISH A**  
28 **LOCAL SMALL BUSINESS ENTERPRISE PROGRAM TO ENCOURAGE LOCAL SMALL**  
29 **BUSINESS ENTERPRISE PARTICIPATION IN APPROPRIATE PROCUREMENT**  
30 **ACTIVITIES.**



1 15–201.

2 [(a)] In this [subtitle the following words have the meanings indicated.

3 (b) “Certification” means the determination that a legal entity is a minority  
4 business enterprise under Title 14, Subtitle 3 of the State Finance and Procurement Article.

5 (c) “Certification agency” means the agency designated by the Board of Public  
6 Works under § 14–303(b) of the State Finance and Procurement Article to certify and  
7 decertify minority business enterprises.

8 (d) “Certified minority business enterprise” means a minority business enterprise  
9 that holds a valid certification issued by the certification agency.

10 (e) “Local] SUBTITLE, “LOCAL small business enterprise” means a business  
11 enterprise that:

12 (1) has its principal place of operation in Montgomery County or Prince  
13 George’s County; and

14 (2) has been certified as a small business enterprise by a unit of county  
15 government that has jurisdiction over procurement in Montgomery County or Prince  
16 George’s County.

17 [(f) “Minority business enterprise” has the same meaning as provided in § 14–301  
18 of the State Finance and Procurement Article.

19 (g) “Study” means the disparity study commissioned by the General Assembly of  
20 Maryland entitled “Business Disparities in the Maryland Market Area” published on  
21 February 8, 2017.]

22 15–202.

23 The Commission shall adopt procurement regulations consistent with the standards  
24 and methods for source selection provided in Title 13, Subtitle 1 of the State Finance and  
25 Procurement Article.

1 [15–203.

2 (a) The procurement regulations adopted in accordance with § 15–202 of this  
3 subtitle may include a minority business enterprise program if the Commission determines,  
4 based on the study and other legally relevant data, that the Commission has underutilized  
5 minority business enterprises relative to their availability to perform work in the  
6 procurement categories in which the State does business, including goods, services, and  
7 construction.

8 (b) The regulations to establish a minority business enterprise program may  
9 include:

10 (1) procedures to be followed by staff, prospective contractors, and  
11 successful bidders or offerors to maximize notice to, and the opportunity to participate in  
12 the procurement process by, a broad range of minority business enterprises;

13 (2) provisions to extend reasonable competitive preferences for certified  
14 minority business enterprises or goals for utilization of certified minority business  
15 enterprises in particular procurement activities under appropriate circumstances; and

16 (3) to the extent applicable to Commission procurement activities,  
17 provisions comparable in purpose and effect to any regulations adopted by the State in  
18 accordance with § 14–303 of the State Finance and Procurement Article.]

19 15–204.

20 (a) The Commission’s procurement regulations may establish a local small  
21 business enterprise program to encourage local small business enterprise participation in  
22 appropriate procurement activities.

23 (b) The regulations adopted in accordance with this section may include:

24 (1) procedures for reliable documentation of a business entity’s official  
25 designation by Montgomery County or Prince George’s County as a local small business  
26 enterprise;

27 (2) procedures to be followed by staff, prospective contractors, and  
28 successful bidders or offerors to maximize notice to, and the opportunity to participate in



1 the procurement process by, a broad range of local small business enterprises; and

2 (3) provisions to:

3 (i) extend reasonable competitive preferences for local small  
4 business enterprises;

5 (ii) establish procurement goals of utilization of local small business  
6 enterprises; and

7 (iii) reserve particular procurement activities for local small business  
8 enterprises under appropriate circumstances.

9 15–205.

10 On or before October 31 each year, the Commission shall report to the Montgomery  
11 County and Prince George’s County Delegations to the General Assembly, in accordance  
12 with § 2–1246 of the State Government Article, on the effectiveness of any [minority  
13 business enterprise program or] local small business enterprise program established under  
14 this subtitle.

15 SECTION 3. AND BE IT FURTHER ENACTED, That the Special Secretary for the  
16 Office of Small, Minority, and Women Business Affairs and the Secretary of Transportation  
17 shall ensure that the Commission is provided with appropriate technical assistance to  
18 implement this Act, including providing any information relating to the disparity study  
19 entitled “Business Disparities in the Maryland Market Area” published on February 8,  
20 2017, that may be necessary or appropriate for the Commission to evaluate whether or the  
21 extent to which minority business enterprises may have been underutilized.

22 SECTION 4. AND BE IT FURTHER ENACTED, That the governing bodies of  
23 Montgomery County and Prince George’s County may provide for the funding necessary to  
24 implement this Act, including funding required for the Commission to conduct any study  
25 or analysis required to determine whether minority business enterprises or local small  
26 business enterprises have been underutilized, through the operating budget of the  
27 Commission.

28 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
29 effect October 1, 2022.

1           SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section  
2 5 of this Act, this Act shall take effect June 1, 2019.

DRAFT