

SENATE BILL 442

P2

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CF HB 313

By: **Senators Hayes, Augustine, Benson, Carter, Ellis, Griffith, Hester, Lam, Patterson, Smith, Sydnor, and Washington**

Introduced and read first time: January 27, 2020

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnership Agreements – Minority Business Enterprise**
3 **Program**

4 FOR the purpose of providing, under certain circumstances, that the provisions of the
5 Minority Business Enterprise Program apply to public-private partnerships;
6 prohibiting the Board of Public Works from approving a public-private partnership
7 agreement until the reporting agency, in consultation with certain entities,
8 establishes certain minority business enterprise goals and procedures; requiring
9 that certain goals and procedures be based on the requirements of certain provisions
10 of law; and generally relating to public-private partnerships and minority business
11 enterprises.

12 BY adding to

13 Article – State Finance and Procurement
14 Section 10A-404
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – State Finance and Procurement
19 Section 11-203(h)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2019 Supplement)

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

24 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10A-404.**

2 **(A) THE FINDINGS AND EVIDENCE RELIED ON BY THE GENERAL ASSEMBLY**
3 **FOR THE CONTINUATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAM**
4 **UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE ARE HEREBY INCORPORATED.**

5 **(B) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE UNITED STATES**
6 **CONSTITUTION, THE PROVISIONS OF THE MINORITY BUSINESS ENTERPRISE**
7 **PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THIS ARTICLE SHALL APPLY TO**
8 **PUBLIC-PRIVATE PARTNERSHIPS ESTABLISHED UNDER THIS TITLE.**

9 **(C) (1) THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A**
10 **PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER § 10A-203 OF THIS TITLE**
11 **UNTIL THE REPORTING AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE**
12 **OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, THE OFFICE OF THE**
13 **ATTORNEY GENERAL, AND THE PRIVATE ENTITY, IF PERMISSIBLE, ESTABLISHES**
14 **REASONABLE AND APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION**
15 **GOALS AND PROCEDURES FOR THE PROJECT.**

16 **(2) TO THE EXTENT PRACTICABLE, GOALS AND PROCEDURES**
17 **ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE BASED ON**
18 **THE REQUIREMENTS OF:**

19 **(I) TITLE 14, SUBTITLE 3 OF THIS ARTICLE, INCLUDING THE**
20 **IMPLEMENTATION OF REGULATIONS ADOPTED UNDER §§ 14-302 AND**
21 **14-303 OF THIS ARTICLE; AND**

22 **(II) REGULATIONS ADOPTED SPECIFICALLY TO IMPLEMENT**
23 **THIS SECTION.**

24 **11-203.**

25 **(h) (1) Except as provided in paragraph (2) of this subsection, this division does**
26 **not apply to a public-private partnership under Title 10A of this article.**

27 **(2) To the extent otherwise required by law, the following provisions of this**
28 **division apply to a public-private partnership under Title 10A of this article:**

29 **(i) § 11-205 of this subtitle ("Collusion");**

30 **(ii) § 11-205.1 of this subtitle ("Falsification, concealment, etc. of**
31 **material facts");**

32 **(iii) Title 12, Subtitle 4 of this article ("Policies and Procedures for**

1 Exempt Units”);

2 (iv) § 13–219 of this article (“Required clauses – Nondiscrimination
3 clause”);

4 (v) TITLE 14, SUBTITLE 3 OF THIS ARTICLE (“MINORITY
5 BUSINESS PARTICIPATION”);

6 [(v)] (vi) Title 17, Subtitle 1 of this article (“Security for
7 Construction Contracts”);

8 [(vi)] (vii) Title 17, Subtitle 2 of this article (“Prevailing Wage Rates
9 – Public Work Contracts”); and

10 [(vii)] (viii) Title 18 of this article (“Living Wage”).

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2020.