

HOUSE BILL 1113

P2

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By: **Delegates Charles, Acevero, B. Barnes, Crosby, D.E. Davis, Hornberger, Ivey, Johnson, Kelly, Lehman, Morgan, Mosby, Smith, Valentino-Smith, Walker, Washington, and Wilson**

Introduced and read first time: February 6, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Finance and Procurement – Procurement Improvement Council –**
3 **Required Use of eMaryland Marketplace**

4 FOR the purpose of requiring the Procurement Improvement Council to provide a forum to
5 discuss the use of eMaryland Marketplace and compliance with certain provisions of
6 law; requiring hospitals that receive certain funds to publish certain notices on
7 eMaryland Marketplace; requiring the Council to report to certain committees of the
8 General Assembly on or before a certain date; and generally relating to the
9 Procurement Improvement Council and eMaryland Marketplace.

10 BY repealing and reenacting, without amendments,
11 Article – State Finance and Procurement
12 Section 12–105(b)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2019 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 12–105(g) and 17–502
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2019 Supplement)

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

22 **Article – State Finance and Procurement**

23 12–105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) There is a Procurement Improvement Council.

(g) The Council shall:

(1) ensure that the State's procurement system is utilizing the most advanced procurement methods and management techniques, including policies, procedures, and forms for all procurement activity and contract management;

(2) effect and enhance communication between State units on procurement matters, with an emphasis on disseminating information on current developments and advances in procurement methods and management;

(3) provide a forum for the discussion of specific procurement issues and problems that arise, including:

(i) procurement officer training;

(ii) risk analysis and insurance requirements;

(iii) management of eMaryland Marketplace and other Internet procurement resources;

(IV) USE OF EMARYLAND MARKETPLACE AND COMPLIANCE WITH § 17-502(A) OF THIS ARTICLE;

~~[(iv)]~~ (v) use of intergovernmental cooperative purchasing agreements; and

~~[(v)]~~ (vi) any other issues or problems identified by the Council;

(4) advise the Board on problems in the procurement process and make recommendations for improvement of the process;

(5) review existing procurement regulations to:

(i) determine whether they fulfill the intent and purpose of the law, especially as it relates to fostering broad-based competition; and

(ii) make recommendations on the regulations, if revising and restructuring them will result in easier understanding and use; and

(6) advise the General Assembly on proposed legislation in order to enhance the efficiency and transparency of State procurement.

17-502.

(a) In addition to any other provision of law, the following persons shall use eMaryland Marketplace to publish notice of a procurement or publish a notice of award of a procurement that is at the same amount or exceeds the amount required by the Board for a State contract to be published in eMaryland Marketplace:

(1) a unit of State government;

(2) a county;

(3) a municipality;

(4) a bicounty or multicounty governmental agency;

(5) a special tax district, sanitary district, drainage district, soil conservation district, and water supply district;

(6) a public institution of higher education;

(7) a public school; [and]

(8) except for the Maryland Health and Higher Educational Facilities Authority, an entity exempt from the provisions of this Division II in accordance with § 11–203 of this article; AND

(9) A HOSPITAL THAT RECEIVES STATE FUNDS AND SEEKS TO ENTER INTO A CONTRACT FOR SERVICES, SUPPLIES, OR CONSTRUCTION-RELATED SERVICES.

(b) This section may not be construed to prohibit a person listed in subsection (a) of this section from publishing notice of a procurement or publishing a notice of award in accordance with any other law or policy.

(c) An unintentional violation of this section may not constitute grounds to challenge or appeal:

(1) the award of a procurement; or

(2) the process through which a procurement was conducted.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 31, 2021, the Procurement Improvement Council shall submit a report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee, in accordance with § 2–1257 of the State Government Article, that provides:

(1) guidelines on how to identify entities that are required to publish notices of procurement and awards of procurement on eMaryland Marketplace;

(2) guidelines on how to identify entities that do not comply with the requirement to publish notices of procurement and awards of procurement on eMaryland Marketplace and the reasons why the entities do not publish the required notices and awards; and

(3) recommendations on strategies and enforcement mechanisms to improve compliance by entities required to publish notices of procurement and awards of procurement on eMaryland Marketplace, including any necessary legislation to authorize or implement the strategies and enforcement mechanisms.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.