

# HOUSE BILL 1107

P2

(7lr2866)

## ENROLLED BILL

— *Health and Government Operations/ Education, Health, and Environmental Affairs* —

Introduced by **Delegate Rosenberg**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement – Intergovernmental Cooperative Purchasing Agreements**

3 FOR the purpose of requiring a certain procurement officer to make a certain determination  
4 before a primary procurement unit is authorized to take certain action regarding an  
5 intergovernmental cooperative purchasing agreement; requiring a certain  
6 determination to include certain evidence and a certain statement; requiring a  
7 primary procurement unit to post certain determinations on the primary  
8 procurement unit's Web site; clarifying that a certain contract be awarded in a  
9 certain manner, including compliance with certain notice requirements; *requiring*  
10 *an intergovernmental cooperative purchasing agreement to be approved by a certain*  
11 *unit head and subject to certain other approval under certain circumstances;* and  
12 generally relating to intergovernmental cooperative purchasing agreements.

13 BY repealing and reenacting, without amendments,  
14 Article – State Finance and Procurement

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 Section 13–110(a)(1) and (4)  
2 Annotated Code of Maryland  
3 (2015 Replacement Volume and 2016 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – State Finance and Procurement  
6 Section 13–110(b)  
7 Annotated Code of Maryland  
8 (2015 Replacement Volume and 2016 Supplement)

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

11 **Article – State Finance and Procurement**

12 13–110.

13 (a) (1) In this section the following words have the meanings indicated.

14 (4) “Intergovernmental cooperative purchasing agreement” means a  
15 contract:

16 (i) 1. entered into by at least one governmental entity and a  
17 person selected in a manner that is consistent with the purposes set forth under § 11–201  
18 of this article;

19 2. that is available for use by the governmental entity  
20 entering the contract and at least one additional governmental entity which may, but need  
21 not be, an original party to the contract; and

22 3. that is intended to promote efficiency and savings that can  
23 result from intergovernmental cooperative purchasing; or

24 (ii) between a primary procurement unit and a person who, at the  
25 time the intergovernmental cooperative purchasing agreement is awarded, has a contract  
26 with the federal government or an agency or other instrumentality of the federal  
27 government, and who agrees to provide the unit with identical prices, terms, and conditions  
28 as stipulated in the federal contract.

29 (b) (1) Subject to § 12–107 of this article, [whenever] a primary procurement  
30 unit procurement officer [determines that it is in the best interest of the State to sponsor  
31 or participate in an intergovernmental cooperative purchasing agreement, with the  
32 approval of the unit head and subject to any other approval required by law,] **SHALL MAKE**  
33 **A DETERMINATION, IN ACCORDANCE WITH PARAGRAPH (2) OR (3) OF THIS**  
34 **SUBSECTION, BEFORE** the primary procurement unit may [become a party to or  
35 participate under the agreement]:

1 (I) INITIALLY SPONSOR OR PARTICIPATE IN AN  
2 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT;

3 (II) RENEW AN INTERGOVERNMENTAL COOPERATIVE  
4 PURCHASING AGREEMENT; OR

5 (III) MODIFY AN INTERGOVERNMENTAL COOPERATIVE  
6 PURCHASING AGREEMENT.

7 (2) A DETERMINATION UNDER PARAGRAPH (1)(I) OF THIS  
8 SUBSECTION SHALL BE IN WRITING AND INCLUDE:

9 (I) SUFFICIENT EVIDENCE THAT THE INTERGOVERNMENTAL  
10 COOPERATIVE PURCHASING AGREEMENT:

11 1. WILL PROVIDE COST BENEFITS TO THE STATE; OR

12 2. WILL PROMOTE ADMINISTRATIVE EFFICIENCIES OR  
13 PROMOTE INTERGOVERNMENTAL COOPERATION; AND

14 (II) A STATEMENT THAT THE INTERGOVERNMENTAL  
15 COOPERATIVE PURCHASING AGREEMENT:

16 1. IS IN THE BEST INTEREST OF THE STATE; AND

17 2. IS NOT INTENDED TO EVADE THE PURPOSES OF THIS

18 DIVISION II.

19 ~~(2)~~ (3) A determination under PARAGRAPH (1)(II) OR (III) OF this subsection  
20 shall be in writing and include [a statement]:

21 (I) SUFFICIENT EVIDENCE that the intergovernmental cooperative  
22 purchasing agreement:

23 [(i)] 1. will provide cost benefits to the State[,]; AND

24 2. WILL promote administrative efficiencies, or promote  
25 intergovernmental cooperation; and

26 (ii) A STATEMENT THAT THE INTERGOVERNMENTAL  
27 COOPERATIVE PURCHASING AGREEMENT:

28 1. IS IN THE BEST INTEREST OF THE STATE; AND

2. is not intended to evade the purposes of this Division II.

~~(3)~~ (4) A PRIMARY PROCUREMENT UNIT SHALL POST EACH DETERMINATION REQUIRED UNDER THIS SUBSECTION ON THE PRIMARY PROCUREMENT UNIT'S WEB SITE.

[(3)] ~~(4)~~ (5) If a primary procurement unit sponsors ~~OR PARTICIPATES IN~~ an intergovernmental cooperative purchasing agreement:

~~(I) THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SHALL BE APPROVED BY THE UNIT HEAD AND IS SUBJECT TO ANY OTHER APPROVAL REQUIRED BY LAW;~~

~~(i)]~~ (II) the contract shall be awarded in the same manner as the contract would be awarded under this Division II if the unit was the sole participant under the contract, INCLUDING COMPLIANCE WITH ALL NOTICE REQUIREMENTS; and

~~(ii)]~~ (III) all procedures under this Division II, including procedures governing contract claims and protests, shall apply.

[(4)] ~~(5)~~ (6) If a primary procurement unit participates in an intergovernmental cooperative purchasing agreement, any protest or contract claim involving the agreement shall be handled in accordance with the terms of the agreement.

(7) IF A PRIMARY PROCUREMENT UNIT SPONSORS OR PARTICIPATES IN AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SHALL BE:

(I) APPROVED BY THE UNIT HEAD; AND

(II) SUBJECT TO ANY OTHER APPROVAL REQUIRED BY LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.