

HOUSE BILL 324

L5

9lr0550

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

Introduced and read first time: January 28, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: March 1, 2019

CHAPTER _____

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
22 the reasonable value of certain work and materials provided by a subcontractor if a
23 contractor voids a subcontract under certain circumstances; repealing a certain
24 provision requiring a nondiscrimination clause in certain contracts; and generally

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.



1 relating to the Washington Suburban Sanitary Commission and nondiscrimination
2 provisions in contracts entered into by the Commission.

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

8 BY repealing
9 Article – Public Utilities
10 Section 20–106
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2018 Supplement)

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15 repealed.

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

18 **Article – Public Utilities**

19 **17–402.1.**

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

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

26 **(II) TO INCLUDE A SIMILAR NONDISCRIMINATION PROVISION IN**
27 **ALL SUBCONTRACTS.**

28 **(2) (I) IF THE NONDISCRIMINATION PROVISION IS OMITTED FROM**
29 **A CONTRACT OR SUBCONTRACT, THE COMMISSION SHALL PROVIDE THE**
30 **CONTRACTOR A REASONABLE OPPORTUNITY TO CURE THE DEFECT, SUBJECT TO**
31 **THIS SECTION.**

32 **(II) IF THE CONTRACTOR FAILS TO CURE THE DEFECT:**

33 **1. THE COMMISSION MAY DECLARE THE CONTRACT TO**

1 BE VOID; AND

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

4 **(III) IF THE CONTRACTOR CURES THE DEFECT, THE CONTRACT**
5 **REMAINS IN FORCE ACCORDING TO ITS REVISED TERMS.**

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

8 **(I) THE CONTRACTOR WILLFULLY FAILS TO COMPLY WITH THE**
9 **REQUIREMENTS OF A NONDISCRIMINATION PROVISION; AND**

10 **(II) THE CONTRACT IS PARTIALLY EXECUTORY.**

11 **(2) IF THE COMMISSION COMPELS PERFORMANCE UNDER THIS**
12 **SUBSECTION, THE COMMISSION:**

13 **(I) IS LIABLE FOR NO MORE THAN THE REASONABLE VALUE OF**
14 **WORK PERFORMED AND MATERIALS PROVIDED BY THE CONTRACTOR AFTER THE**
15 **DATE ON WHICH THE BREACH OF CONTRACT WAS OR SHOULD HAVE BEEN**
16 **DISCOVERED; AND**

17 **(II) SHALL DEDUCT ANY MONEY THAT HAS BEEN PAID UNDER**
18 **THE CONTRACT FROM THE MONEY THAT COMES DUE UNDER ITEM (I) OF THIS**
19 **PARAGRAPH.**

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

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

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