

SENATE BILL 909

B5, P2

1lr2666

By: **Senator Smith**

Introduced and read first time: February 9, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Capital Projects – Minority Business Enterprise Goals**

3 FOR the purpose of requiring the Governor’s Office of Small, Minority, and Women
4 Business Affairs, prior to the release of State funds for a certain capital project, to
5 review the project for subcontracting opportunities under the State Minority
6 Business Enterprise Program and, if practicable, establish minority business
7 enterprise subgoals for the project; requiring the recipient of the State funds, if
8 subgoals are established for the project, to make a certain certification to the
9 Department of General Services or to request a certain waiver from the Governor’s
10 Office of Small, Minority, and Women Business Affairs; requiring the Governor’s
11 Office of Small, Minority, and Women Business Affairs to review a request for a
12 waiver and report the revised subgoals to the Department; requiring the Department
13 to submit a certain report to the Governor and the General Assembly on or before a
14 certain date each year; requiring the Special Secretary for the Office of Small,
15 Minority, and Women Business Affairs, in consultation with the Secretary of
16 Transportation and the Attorney General, to establish policies and guidelines for the
17 implementation of this Act on or before a certain date; providing for the construction
18 of this Act; providing for a delayed effective date for certain provisions of this Act;
19 defining a certain term; and generally relating to the application of minority business
20 subcontracting goals to capital projects.

21 BY adding to

22 Article – State Finance and Procurement

23 Section 3–610

24 Annotated Code of Maryland

25 (2015 Replacement Volume and 2020 Supplement)

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

28 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **3-610.**

2 (A) IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF
3 GENERAL SERVICES.

4 (B) THIS SECTION APPLIES TO A CAPITAL PROJECT THAT RECEIVES AT
5 LEAST \$500,000 IN STATE FUNDS IN A SINGLE FISCAL YEAR AND IS FUNDED IN THE
6 ANNUAL STATE CAPITAL BUDGET AS:

7 (1) A MISCELLANEOUS GRANT PROGRAM;

8 (2) A LOCAL HOUSE OF DELEGATES INITIATIVE; OR

9 (3) A LOCAL SENATE INITIATIVE.

10 (C) PRIOR TO THE RELEASE OF STATE FUNDS FOR A CAPITAL PROJECT
11 THAT MEETS THE CONDITIONS OF SUBSECTION (B) OF THIS SECTION, THE
12 GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS
13 SHALL:

14 (1) REVIEW THE CAPITAL PROJECT FOR SUBCONTRACTING
15 OPPORTUNITIES UNDER THE PROVISIONS OF TITLE 14, SUBTITLE 3 OF THIS
16 ARTICLE; AND

17 (2) IF PRACTICABLE, ESTABLISH MINORITY BUSINESS ENTERPRISE
18 SUBGOALS FOR THE CAPITAL PROJECT.

19 (D) (1) IF THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN
20 BUSINESS AFFAIRS ESTABLISHES MINORITY BUSINESS ENTERPRISE SUBGOALS FOR
21 THE CAPITAL PROJECT, THE RECIPIENT OF THE STATE FUNDS SHALL:

22 (I) CERTIFY TO THE DEPARTMENT THAT THE RECIPIENT
23 EXPECTS TO ACHIEVE THE SUBGOALS; OR

24 (II) REQUEST A WAIVER OF ALL OR PART OF THE SUBGOALS
25 FROM THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS
26 AFFAIRS.

27 (2) THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN
28 BUSINESS AFFAIRS SHALL REVIEW A REQUEST FOR A WAIVER UNDER PARAGRAPH
29 (1)(II) OF THIS SUBSECTION AND REPORT THE REVISED SUBGOALS FOR THE
30 CAPITAL PROJECT TO THE DEPARTMENT.

1 **(E) (1) ON OR BEFORE JULY 31 EACH YEAR, THE DEPARTMENT SHALL**
2 **SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
3 **2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE**
4 **NUMBER OF WAIVERS GRANTED FOR CAPITAL PROJECTS THAT MEET THE**
5 **CONDITIONS OF SUBSECTION (B) OF THIS SECTION IN THE PRIOR FISCAL YEAR.**

6 **(2) THE REPORT SHALL INCLUDE:**

7 **(I) A DESCRIPTION OF THE CAPITAL PROJECT;**

8 **(II) WHETHER THE WAIVER WAS A PARTIAL OR FULL WAIVER;**

9 **AND**

10 **(III) THE JUSTIFICATION FOR THE WAIVER.**

11 **SECTION 2. AND BE IT FURTHER ENACTED,** That on or before June 30, 2022,
12 the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in
13 consultation with the Secretary of Transportation and the Attorney General, shall establish
14 policies and guidelines for the implementation of this Act.

15 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act may not be construed
16 to prevent a capital project that is subject to the provisions of this Act, and for which a
17 waiver of the minority business enterprise subcontracting goal established for the capital
18 project is requested, from receiving funds appropriated for the project under the annual
19 capital budget bill for the State.

20 **SECTION 4. AND BE IT FURTHER ENACTED,** That Section 1 of this Act shall take
21 effect July 1, 2022.

22 **SECTION 5. AND BE IT FURTHER ENACTED,** That, except as provided in Section
23 4 of this Act, this Act shall take effect July 1, 2021.