

Chapter 137

(House Bill 809)

AN ACT concerning

State Procurement – Minority Business Enterprise Program – Extension and Reports

FOR the purpose of altering the termination date for certain provisions of law governing the Minority Business Enterprise Program and its application to offshore wind projects and video lottery terminals; altering the date by which certain reports, studies, and guidelines must be submitted; and generally relating to the Minority Business Enterprise Program.

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 7–704.1(i)(4)
 Annotated Code of Maryland
 (2020 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, ~~without~~ with amendments,
 Article – State Finance and Procurement
 Section 14–309
 Annotated Code of Maryland
 (2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Government
 Section 9–1A–10(c)
 Annotated Code of Maryland
 (2021 Replacement Volume and 2022 Supplement)

~~BY repealing and reenacting, with amendments,
 Chapter 438 of the Acts of the General Assembly of 2017
 Section 3~~

BY repealing and reenacting, with amendments,
 Chapter 553 of the Acts of the General Assembly of 2020
 Section 4 and 5

BY repealing and reenacting, with amendments,
 Chapter 728 of the Acts of the General Assembly of 2021
 Section 2 and 3

BY repealing and reenacting, with amendments,

Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the General Assembly of 2022

Section 2

BY repealing and reenacting, with amendments,
Chapter 641 of the Acts of the General Assembly of 2022
Section 2(b) and (d)

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

Article – Public Utilities

7–704.1.

(i) (4) On and after July 1, [2023] ~~2024~~ 2025, the provisions of this subsection and any regulations adopted in accordance with this subsection shall be of no effect and may not be enforced.

Article – State Finance and Procurement

14–309.

The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations adopted under those sections, shall be of no effect and may not be enforced after July 1, ~~2024~~ 2025.

Article – State Government

9–1A–10.

(c) On or after July 1, [2023] ~~2024~~ 2025, the provisions of subsections (a)(1) and (2) and (b) of this section and any regulations adopted under subsections (a)(1) and (2) and (b) of this section shall be of no effect and may not be enforced.

~~Chapter 438 of the Acts of 2017~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the Certification Agency designated by the Board of Public Works under § 14-303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation with the Office of the Attorney General and the Maryland Public Service Commission, shall initiate an analysis of the disparity study [entitled “Business Disparities in the Maryland Market Area” published on February 8, 2017,] SUBMITTED IN ACCORDANCE WITH THIS ACT to determine if it applies to the type of work that will likely be performed by an~~

~~approved applicant with respect to an offshore wind project under § 7-704.1 of the Public Utilities Article and submit a report on the analysis to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1246 of the State Government Article, ON OR before December [1, 2017] **30, 2023.**~~

Chapter 553 of the Acts of 2020

SECTION 4. AND BE IT FURTHER ENACTED, That the certification agency designated by the Board of Public Works under § 14-303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation with the Office of the Attorney General and the Governor's Office of Small, Minority, and Women Business Affairs, shall initiate an analysis of the Minority Business Enterprise Program requirements of § 10A-404 of the State Finance and Procurement Article[, as enacted by Section 1 of this Act,] and the disparity study submitted in accordance with [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to evaluate compliance with the requirements of any federal and constitutional requirements and submit a report on the analysis to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, on or before ~~December~~ **SEPTEMBER [1, 2022] 30, 2023 2024.**

SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency designated by the Board of Public Works under § 14-303(b) of the State Finance and Procurement Article to certify and decertify minority business enterprises, in consultation with the Office of the Attorney General and the Governor's Office of Small, Minority, and Women Business Affairs, shall initiate an analysis of the disparity study submitted in accordance with [Chapter 340 of the Acts of the General Assembly of 2017] **THIS ACT** to determine if it applies to the type of work that will be likely to be performed by an approved applicant with respect to an offshore wind project under § 7-704.1(i) of the Public Utilities Article as enacted by Section 2 of this Act and submit a report on the analysis to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, on or before [December 1, 2022] **SEPTEMBER 30, 2024.**

Chapter 728 of the Acts of 2021

SECTION 2. AND BE IT FURTHER ENACTED, That on or before [June 30, 2022] ~~SEPTEMBER 1, 2024~~ **JULY 1, 2025**, the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish policies and guidelines for the implementation of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1, 2022] ~~30 31, 2023~~ **2025**, the Governor's Office of Small, Minority, and Women Business Affairs shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the establishment of minority business enterprise subgoals in accordance with this Act, including:

(1) whether the establishment of minority business enterprise subgoals was practicable based on the type of capital project; and

(2) whether any changes should be made to the capital minority business enterprise subgoal framework established by this Act.

Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts of 2013, Chapter 340 of the Acts of 2017, and Chapter 117 of the Acts of 2022

SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program to evaluate the Program's continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the Certification Agency may provide the information to any person that is under contract with the Certification Agency to assist in conducting the study. The study shall also evaluate race-neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, **ON OR** before ~~September~~ **DECEMBER 30, 2023 2024**, so that the General Assembly may review the report before the ~~2024~~ **2025** Session.

Chapter 641 of the Acts of 2022

SECTION 2. AND BE IT FURTHER ENACTED, That:

(b) The certification agency and the Governor's Office of Small, Minority, and Women Business Affairs shall submit the findings of the study required under subsection (a) of this section to the Legislative Policy Committee, in accordance with § 2-1257 of the State Government Article, on or before **[July 1, 2023] DECEMBER 30 31, 2023 2025**, so that the General Assembly may review the findings before the ~~2024~~ **2026** Session.

(d) The Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the certification agency and the Office of the Attorney General, shall develop race- and gender-neutral approaches to address the needs of minority and women-owned businesses in the brokerage and investment management services industry and market and submit its report to the Legislative Policy Committee, in accordance with § 2-1257 of the State Government Article, on or before December **[1, 2022] 30 31, 2023 2025**, so that the General Assembly may review, consider, and adopt race- and gender-neutral alternatives to remedial measures that are not race and gender neutral.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved by the Governor, April 24, 2023.