

# HOUSE BILL 819

P2, F2

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CF SB 653

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By: Delegates Guzzone, Edelson, Embry, Hill, Kerr, R. Lewis, Shetty, White Holland, ~~and Woods~~ Woods, Alston, Bagnall, Bhandari, Chisholm, Cullison, Hutchinson, S. Johnson, Kaiser, Kipke, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Ross, Szeliga, Taveras, and Woorman

Introduced and read first time: January 29, 2025

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2025

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

1 AN ACT concerning

2 **Procurement – Employee Stock Ownership Plan Preference – Pilot**

3 FOR the purpose of ~~establishing a preference program for certain procurements by~~  
4 authorizing the Maryland Stadium Authority, ~~the University System of Maryland,~~  
5 Morgan State University, St. Mary's College of Maryland, and Baltimore City  
6 Community College to establish a certain preference program for certain  
7 procurements; ~~establishing~~ authorizing a certain price preference for bids and  
8 proposals by an entity that utilizes certain employee stock ownership plans;  
9 requiring contractors to provide certain information to a unit regarding the use of an  
10 employee stock ownership plan; and generally relating to procurement preferences  
11 for entities that utilize an employee stock ownership plan.

12 BY repealing and reenacting, with amendments,  
13 Article – State Finance and Procurement  
14 Section 11–203(c)  
15 Annotated Code of Maryland  
16 (2021 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article – State Finance and Procurement  
19 Section 11–203(e)(1), (2), and (7)

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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.



1 Annotated Code of Maryland  
2 (2021 Replacement Volume and 2024 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – State Finance and Procurement  
5 Section 11–203(e)(5)  
6 Annotated Code of Maryland  
7 (2021 Replacement Volume and 2024 Supplement)  
8 (As enacted by Chapters 575 and 576 of the Acts of the General Assembly of 2023)

9 BY adding to  
10 Article – State Finance and Procurement  
11 Section 14–801 through 14–806 to be under the new subtitle “Subtitle 8. Employee  
12 Stock Ownership Plan Preference Program”  
13 Annotated Code of Maryland  
14 (2021 Replacement Volume and 2024 Supplement)

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

17 **Article – State Finance and Procurement**

18 11–203.

19 (c) Except as provided in Title 12, Subtitle 4 and Title 14, [Subtitle 3]  
20 **SUBTITLES 3 AND 8** of this article and except for §§ 15–112 and 15–113 of this article, this  
21 Division II does not apply to the Maryland Stadium Authority.

22 (e) (1) In this subsection, “University” means the University System of  
23 Maryland, Morgan State University, or St. Mary’s College of Maryland.

24 (2) Except as otherwise provided in this subsection, this Division II does  
25 not apply to the University System of Maryland, Morgan State University, St. Mary’s  
26 College of Maryland, or Baltimore City Community College.

27 (5) (i) Except as provided in paragraph (7) of this subsection, the  
28 following provisions of Division II of this article apply to a University and to Baltimore City  
29 Community College:

- 30 1. § 11–205 of this subtitle (“Collusion”);
- 31 2. § 11–205.1 of this subtitle (“Falsification, concealment,  
32 etc., of material facts”);
- 33 3. § 13–219 of this article (“Required clauses –  
34 Nondiscrimination clause”);

1 4. § 13–225 of this article (“Retainage”);

2 5. Title 14, Subtitle 3 of this article (“Minority Business  
3 Participation”);

4 6. Title 14, Subtitle 7 of this article (“Certified Local Farm  
5 and Fish Program”);

6 ~~7. TITLE 14, SUBTITLE 8 OF THIS ARTICLE (“EMPLOYEE  
7 STOCK OWNERSHIP PLAN PREFERENCE PROGRAM”);~~

8 ~~7.1 8.~~ Title 15, Subtitle 1 of this article (“Procurement Contract  
9 Administration”);

10 ~~8.1 9.~~ § 15–226 of this article (“Policy established; timing of  
11 payments; notice upon nonpayment; disputes; appeals”); and

12 ~~9.1 10.~~ Title 16 of this article (“Suspension and Debarment  
13 of Contractors”).

14 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**  
15 **SUBSECTION, TITLE 14, SUBTITLE 8 OF THIS ARTICLE (“EMPLOYEE STOCK**  
16 **OWNERSHIP PLAN PREFERENCE PROGRAM”) APPLIES TO MORGAN STATE**  
17 **UNIVERSITY, ST. MARY’S COLLEGE OF MARYLAND, AND BALTIMORE CITY**  
18 **COMMUNITY COLLEGE.**

19 ~~(ii)~~ **(III)** If a procurement violates the provisions of this subsection  
20 or policies adopted in accordance with this subsection, the procurement contract is void or  
21 voidable in accordance with the provisions of § 11–204 of this subtitle.

22 (7) Except with regard to the provisions of § 15–113 of this article,  
23 paragraphs (3), (4), and (5) of this subsection do not apply to:

24 (i) procurement by a University or Baltimore City Community  
25 College from:

26 1. another unit;

27 2. a political subdivision of the State;

28 3. an agency of a political subdivision of the State;

29 4. a government, including the government of another state,  
30 of the United States, or of another country;

31 5. an agency or political subdivision of a government; or

1 6. a bistate, multistate, bicounty, or multicounty  
2 governmental agency;

3 (ii) procurement by a University in support of enterprise activities  
4 for the purpose of:

5 1. direct resale;

6 2. remanufacture and subsequent resale; or

7 3. procurement by the University for overseas programs; or

8 (iii) procurement by the University System of Maryland for:

9 1. services of managers to invest, in accordance with the  
10 management and investment policies adopted by the Board of Regents of the University  
11 System of Maryland, gift and endowment assets received by the University System of  
12 Maryland in accordance with § 12–104(e) of the Education Article; or

13 2. expenditures to manage, maintain, and enhance, in  
14 accordance with the management and investment policies adopted by the Board of Regents  
15 of the University System of Maryland, the value of gift and endowment assets received by  
16 the University System of Maryland in accordance with § 12–104(e) of the Education Article.

17 **SUBTITLE 8. EMPLOYEE STOCK OWNERSHIP PLAN PREFERENCE PROGRAM.**

18 **14–801.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) “COVERED PROCUREMENT” MEANS A PROCUREMENT THAT IS VALUED  
22 AT LESS THAN \$80,000,000.

23 (C) “ESOP BIDDER” MEANS A RESPONSIBLE BIDDER WHO UTILIZES AN  
24 EMPLOYEE STOCK OWNERSHIP PLAN APPROVED UNDER § 401(A) OF THE INTERNAL  
25 REVENUE CODE.

26 (D) “ESOP OFFEROR” MEANS A RESPONSIBLE OFFEROR WHO UTILIZES AN  
27 EMPLOYEE STOCK OWNERSHIP PLAN APPROVED UNDER § 401(A) OF THE INTERNAL  
28 REVENUE CODE.

29 (E) “NON–ESOP BIDDER” MEANS A RESPONSIBLE BIDDER WHO DOES NOT  
30 UTILIZE AN EMPLOYEE STOCK OWNERSHIP PLAN APPROVED UNDER § 401(A) OF THE  
31 INTERNAL REVENUE CODE.

1 (F) "NON-ESOP OFFEROR" MEANS A RESPONSIBLE OFFEROR WHO DOES  
2 NOT UTILIZE AN EMPLOYEE STOCK OWNERSHIP PLAN APPROVED UNDER § 401(A) OF  
3 THE INTERNAL REVENUE CODE.

4 (G) "PERCENTAGE PREFERENCE" MEANS:

5 (1) THE PERCENT OF THE LOWEST RESPONSIVE BID SUBMITTED BY A  
6 NON-ESOP BIDDER BY WHICH A RESPONSIVE BID SUBMITTED BY AN ESOP BIDDER  
7 MAY:

8 (I) EXCEED THE LOWEST BID; AND

9 (II) BE AWARDED A COVERED PROCUREMENT CONTRACT IN  
10 ACCORDANCE WITH THIS SUBTITLE; OR

11 (2) THE PERCENT OF THE LOWEST RESPONSIVE COST PROPOSAL  
12 SUBMITTED BY A NON-ESOP OFFEROR BY WHICH A RESPONSIVE PROPOSAL  
13 SUBMITTED BY AN ESOP OFFEROR MAY:

14 (I) EXCEED THE LOWEST COST; AND

15 (II) BE AWARDED A COVERED PROCUREMENT CONTRACT IN  
16 ACCORDANCE WITH THIS SUBTITLE.

17 (H) "UNIT" MEANS THE MARYLAND STADIUM AUTHORITY, A UNIVERSITY,  
18 OR THE BALTIMORE CITY COMMUNITY COLLEGE.

19 (I) "UNIVERSITY" MEANS ~~THE UNIVERSITY SYSTEM OF MARYLAND,~~  
20 MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF MARYLAND.

21 14-802.

22 THIS SUBTITLE APPLIES TO A COVERED PROCUREMENT OF:

23 (1) THE MARYLAND STADIUM AUTHORITY;

24 (2) A UNIVERSITY; OR

25 (3) BALTIMORE CITY COMMUNITY COLLEGE.

26 14-803.

27 SUBJECT TO THE APPROVAL OF THE BOARD, EACH UNIT ~~SHALL~~ MAY  
28 ESTABLISH A PERCENTAGE PREFERENCE, NOT TO EXCEED 5%.

1 14-804.

2 (A) ~~A UNIT SHALL AWARD~~ IF A UNIT AWARDS A COVERED PROCUREMENT  
3 CONTRACT USING COMPETITIVE SEALED BIDS UNDER § 13-103 OF THIS ARTICLE,  
4 THE UNIT MAY AWARD THE CONTRACT TO AN ESOP BIDDER IF THE ESOP BIDDER:

5 (1) SUBMITS THE LOWEST RESPONSIVE BID; OR

6 (2) DOES NOT SUBMIT THE LOWEST RESPONSIVE BID BUT THE  
7 DIFFERENCE BETWEEN THE BID AND THE LOWEST RESPONSIVE BID SUBMITTED BY  
8 A NON-ESOP BIDDER DOES NOT EXCEED THE PERCENTAGE PREFERENCE  
9 ESTABLISHED UNDER § 14-803 OF THIS SUBTITLE.

10 (B) ~~A UNIT SHALL AWARD~~ IF A UNIT AWARDS A COVERED PROCUREMENT  
11 CONTRACT USING COMPETITIVE SEALED PROPOSALS UNDER § 13-104 OF THIS  
12 ARTICLE, THE UNIT MAY AWARD THE CONTRACT TO AN ESOP OFFEROR IF THE  
13 ESOP OFFEROR:

14 (1) SUBMITS THE RESPONSIVE PROPOSAL THAT IS MOST  
15 ADVANTAGEOUS TO THE UNIT AFTER FACTORING IN THE PRICE PREFERENCE; OR

16 (2) DOES NOT SUBMIT THE RESPONSIVE PROPOSAL THAT IS MOST  
17 ADVANTAGEOUS TO THE UNIT BUT THE DIFFERENCE BETWEEN THAT PROPOSAL AND  
18 THE LOWEST RESPONSIVE PROPOSAL SUBMITTED BY A NON-ESOP OFFEROR DOES  
19 NOT EXCEED THE PERCENTAGE PREFERENCE ESTABLISHED UNDER § 14-803 OF  
20 THIS SUBTITLE.

21 14-805.

22 (A) A CONTRACTOR THAT IS AWARDED A CONTRACT FOR A COVERED  
23 PROCUREMENT SHALL PROVIDE TO A UNIT, AS A CONDITION OF RECEIVING THE  
24 CONTRACT, WRITTEN VERIFICATION OF THE IRS DETERMINATION LETTER FOR THE  
25 CONTRACTOR'S EMPLOYEE STOCK OWNERSHIP PLAN.

26 (B) THE WRITTEN VERIFICATION REQUIRED UNDER SUBSECTION (A) OF  
27 THIS SECTION SHALL BE PROVIDED BY A CONTRACTOR TO THE UNIT RESPONSIBLE  
28 FOR THE PROJECT WITH THE SUBMISSION OF A BID OR PROPOSAL.

29 14-806.

30 ON OR BEFORE DECEMBER 1, 2028, THE MARYLAND STADIUM AUTHORITY,  
31 BALTIMORE CITY COMMUNITY COLLEGE, ~~THE UNIVERSITY SYSTEM OF MARYLAND,~~  
32 MORGAN STATE UNIVERSITY, AND ST. MARY'S COLLEGE OF MARYLAND SHALL

1 SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
2 ARTICLE, TO THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND  
3 TAXATION COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS  
4 COMMITTEE, ON:

5 (1) THE NUMBER AND DOLLAR VALUE OF CONTRACTS AWARDED IN  
6 ACCORDANCE WITH THIS SUBTITLE TO ESOP BIDDERS AND ESOP OFFERORS  
7 DURING FISCAL YEARS 2026, 2027, AND 2028;

8 (2) THE AMOUNT OF PRICE PREFERENCE APPLIED TO ALL  
9 CONTRACTS AWARDED IN ACCORDANCE WITH THIS SUBTITLE; AND

10 (3) AN EVALUATION OF THE EFFECTIVENESS OF THE EMPLOYEE  
11 STOCK OWNERSHIP PLAN PREFERENCE PROGRAM.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
13 procurement contracts solicited on or before June 30, 2030.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
15 1, 2025. It shall remain effective for a period of 5 years and, at the end of June 30, 2030,  
16 this Act, with no further action required by the General Assembly, shall be abrogated and  
17 of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.