

# HOUSE BILL 819

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CF 5lr2348

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By: **Delegates Guzzone, Edelson, Embry, Hill, Kerr, R. Lewis, Shetty,  
White Holland, and Woods**

Introduced and read first time: January 29, 2025

Assigned to: Health and Government Operations

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## A BILL ENTITLED

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

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

16 BY repealing and reenacting, without amendments,  
17 Article – State Finance and Procurement  
18 Section 11–203(e)(1), (2), and (7)  
19 Annotated Code of Maryland  
20 (2021 Replacement Volume and 2024 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – State Finance and Procurement  
23 Section 11–203(e)(5)  
24 Annotated Code of Maryland  
25 (2021 Replacement Volume and 2024 Supplement)  
26 (As enacted by Chapters 575 and 576 of the Acts of the General Assembly of 2023)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
 2 Article – State Finance and Procurement  
 3 Section 14–801 through 14–806 to be under the new subtitle “Subtitle 8. Employee  
 4 Stock Ownership Plan Preference Program”  
 5 Annotated Code of Maryland  
 6 (2021 Replacement Volume and 2024 Supplement)

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

9 **Article – State Finance and Procurement**

10 11–203.

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

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

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

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

- 22 1. § 11–205 of this subtitle (“Collusion”);
- 23 2. § 11–205.1 of this subtitle (“Falsification, concealment,  
 24 etc., of material facts”);
- 25 3. § 13–219 of this article (“Required clauses –  
 26 Nondiscrimination clause”);
- 27 4. § 13–225 of this article (“Retainage”);
- 28 5. Title 14, Subtitle 3 of this article (“Minority Business  
 29 Participation”);
- 30 6. Title 14, Subtitle 7 of this article (“Certified Local Farm  
 31 and Fish Program”);
- 32 7. **TITLE 14, SUBTITLE 8 OF THIS ARTICLE (“EMPLOYEE  
 33 STOCK OWNERSHIP PLAN PREFERENCE PROGRAM”);**

1 [7.] 8. Title 15, Subtitle 1 of this article (“Procurement Contract  
2 Administration”);

3 [8.] 9. § 15–226 of this article (“Policy established; timing of  
4 payments; notice upon nonpayment; disputes; appeals”); and

5 [9.] 10. Title 16 of this article (“Suspension and Debarment  
6 of Contractors”).

7 (ii) If a procurement violates the provisions of this subsection or  
8 policies adopted in accordance with this subsection, the procurement contract is void or  
9 voidable in accordance with the provisions of § 11–204 of this subtitle.

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

12 (i) procurement by a University or Baltimore City Community  
13 College from:

- 14 1. another unit;
- 15 2. a political subdivision of the State;
- 16 3. an agency of a political subdivision of the State;
- 17 4. a government, including the government of another state,  
18 of the United States, or of another country;
- 19 5. an agency or political subdivision of a government; or
- 20 6. a bistate, multistate, bicounty, or multicounty  
21 governmental agency;

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

- 24 1. direct resale;
- 25 2. remanufacture and subsequent resale; or
- 26 3. procurement by the University for overseas programs; or

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

- 28 1. services of managers to invest, in accordance with the  
29 management and investment policies adopted by the Board of Regents of the University

1 System of Maryland, gift and endowment assets received by the University System of  
2 Maryland in accordance with § 12–104(e) of the Education Article; or

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

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

8 **14–801.**

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

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

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

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

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

22 (F) “NON–ESOP OFFEROR” MEANS A RESPONSIBLE OFFEROR WHO DOES  
23 NOT UTILIZE AN EMPLOYEE STOCK OWNERSHIP PLAN APPROVED UNDER § 401(A) OF  
24 THE INTERNAL REVENUE CODE.

25 (G) “PERCENTAGE PREFERENCE” MEANS:

26 (1) THE PERCENT OF THE LOWEST RESPONSIVE BID SUBMITTED BY A  
27 NON–ESOP BIDDER BY WHICH A RESPONSIVE BID SUBMITTED BY AN ESOP BIDDER  
28 MAY:

29 (I) EXCEED THE LOWEST BID; AND

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

1           **(2) THE PERCENT OF THE LOWEST RESPONSIVE COST PROPOSAL**  
2 **SUBMITTED BY A NON-ESOP OFFEROR BY WHICH A RESPONSIVE PROPOSAL**  
3 **SUBMITTED BY AN ESOP OFFEROR MAY:**

4                   **(I) EXCEED THE LOWEST COST; AND**

5                   **(II) BE AWARDED A COVERED PROCUREMENT CONTRACT IN**  
6 **ACCORDANCE WITH THIS SUBTITLE.**

7           **(H) “UNIT” MEANS THE MARYLAND STADIUM AUTHORITY, A UNIVERSITY,**  
8 **OR THE BALTIMORE CITY COMMUNITY COLLEGE.**

9           **(I) “UNIVERSITY” MEANS THE UNIVERSITY SYSTEM OF MARYLAND,**  
10 **MORGAN STATE UNIVERSITY, OR ST. MARY’S COLLEGE OF MARYLAND.**

11 **14-802.**

12           **THIS SUBTITLE APPLIES TO A COVERED PROCUREMENT OF:**

13                   **(1) THE MARYLAND STADIUM AUTHORITY;**

14                   **(2) A UNIVERSITY; OR**

15                   **(3) BALTIMORE CITY COMMUNITY COLLEGE.**

16 **14-803.**

17           **SUBJECT TO THE APPROVAL OF THE BOARD, EACH UNIT SHALL ESTABLISH A**  
18 **PERCENTAGE PREFERENCE, NOT TO EXCEED 5%.**

19 **14-804.**

20           **(A) A UNIT SHALL AWARD A COVERED PROCUREMENT CONTRACT TO AN**  
21 **ESOP BIDDER IF THE ESOP BIDDER:**

22                   **(1) SUBMITS THE LOWEST RESPONSIVE BID; OR**

23                   **(2) DOES NOT SUBMIT THE LOWEST RESPONSIVE BID BUT THE**  
24 **DIFFERENCE BETWEEN THE BID AND THE LOWEST RESPONSIVE BID SUBMITTED BY**  
25 **A NON-ESOP BIDDER DOES NOT EXCEED THE PERCENTAGE PREFERENCE**  
26 **ESTABLISHED UNDER § 14-803 OF THIS SUBTITLE.**

27           **(B) A UNIT SHALL AWARD A COVERED PROCUREMENT CONTRACT TO AN**

1 **ESOP OFFEROR IF THE ESOP OFFEROR:**

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

4 (2) DOES NOT SUBMIT THE RESPONSIVE PROPOSAL THAT IS MOST  
5 ADVANTAGEOUS TO THE UNIT BUT THE DIFFERENCE BETWEEN THAT PROPOSAL AND  
6 THE LOWEST RESPONSIVE PROPOSAL SUBMITTED BY A NON-ESOP OFFEROR DOES  
7 NOT EXCEED THE PERCENTAGE PREFERENCE ESTABLISHED UNDER § 14-803 OF  
8 THIS SUBTITLE.

9 **14-805.**

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

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

17 **14-806.**

18 ON OR BEFORE DECEMBER 1, 2028, THE MARYLAND STADIUM AUTHORITY,  
19 BALTIMORE CITY COMMUNITY COLLEGE, THE UNIVERSITY SYSTEM OF MARYLAND,  
20 MORGAN STATE UNIVERSITY, AND ST. MARY'S COLLEGE OF MARYLAND SHALL  
21 SUBMIT A REPORT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
22 ARTICLE, TO THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND  
23 TAXATION COMMITTEE, AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS  
24 COMMITTEE, ON:

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

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

30 (3) AN EVALUATION OF THE EFFECTIVENESS OF THE EMPLOYEE  
31 STOCK OWNERSHIP PLAN PREFERENCE PROGRAM.

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

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2025. It shall remain effective for a period of 5 years and, at the end of June 30, 2030,  
3 this Act, with no further action required by the General Assembly, shall be abrogated and  
4 of no further force and effect.