

# HOUSE BILL 1107

P2

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By: **Delegate Rosenberg**

Introduced and read first time: February 9, 2017

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Intergovernmental Cooperative Purchasing Agreements**

3 FOR the purpose of requiring a certain procurement officer to make a certain determination  
4 before a primary procurement unit is authorized to take certain action regarding an  
5 intergovernmental cooperative purchasing agreement; requiring a certain  
6 determination to include certain evidence and a certain statement; requiring a  
7 primary procurement unit to post certain determinations on the primary  
8 procurement unit's Web site; clarifying that a certain contract be awarded in a  
9 certain manner, including compliance with certain notice requirements; and  
10 generally relating to intergovernmental cooperative purchasing agreements.

11 BY repealing and reenacting, without amendments,  
12 Article – State Finance and Procurement  
13 Section 13–110(a)(1) and (4)  
14 Annotated Code of Maryland  
15 (2015 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – State Finance and Procurement  
18 Section 13–110(b)  
19 Annotated Code of Maryland  
20 (2015 Replacement Volume and 2016 Supplement)

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

23 **Article – State Finance and Procurement**

24 13–110.

25 (a) (1) In this section the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) "Intergovernmental cooperative purchasing agreement" means a  
2 contract:

3 (i) 1. entered into by at least one governmental entity and a  
4 person selected in a manner that is consistent with the purposes set forth under § 11–201  
5 of this article;

6 2. that is available for use by the governmental entity  
7 entering the contract and at least one additional governmental entity which may, but need  
8 not be, an original party to the contract; and

9 3. that is intended to promote efficiency and savings that can  
10 result from intergovernmental cooperative purchasing; or

11 (ii) between a primary procurement unit and a person who, at the  
12 time the intergovernmental cooperative purchasing agreement is awarded, has a contract  
13 with the federal government or an agency or other instrumentality of the federal  
14 government, and who agrees to provide the unit with identical prices, terms, and conditions  
15 as stipulated in the federal contract.

16 (b) (1) Subject to § 12–107 of this article, [whenever] a primary procurement  
17 unit procurement officer [determines that it is in the best interest of the State to sponsor  
18 or participate in an intergovernmental cooperative purchasing agreement, with the  
19 approval of the unit head and subject to any other approval required by law,] **SHALL MAKE**  
20 **A DETERMINATION, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION,**  
21 **BEFORE** the primary procurement unit may [become a party to or participate under the  
22 agreement]:

23 (I) **INITIALLY SPONSOR OR PARTICIPATE IN AN**  
24 **INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT;**

25 (II) **RENEW AN INTERGOVERNMENTAL COOPERATIVE**  
26 **PURCHASING AGREEMENT; OR**

27 (III) **MODIFY AN INTERGOVERNMENTAL COOPERATIVE**  
28 **PURCHASING AGREEMENT.**

29 (2) A determination under this subsection shall be in writing and include  
30 [a statement]:

31 (I) **EVIDENCE** that the intergovernmental cooperative purchasing  
32 agreement:

33 [(i)] 1. will provide cost benefits to the State[.]; **AND**

1                   **2.** WILL promote administrative efficiencies, or promote  
2 intergovernmental cooperation; and

3                   (ii) A STATEMENT THAT THE INTERGOVERNMENTAL  
4 COOPERATIVE PURCHASING AGREEMENT:

5                   1. IS IN THE BEST INTEREST OF THE STATE; AND

6                   2. is not intended to evade the purposes of this Division II.

7                   **(3) A PRIMARY PROCUREMENT UNIT SHALL POST EACH**  
8 **DETERMINATION REQUIRED UNDER THIS SUBSECTION ON THE PRIMARY**  
9 **PROCUREMENT UNIT'S WEB SITE.**

10                  **[(3)] (4)** If a primary procurement unit sponsors an intergovernmental  
11 cooperative purchasing agreement:

12                  **(I) THE INTERGOVERNMENTAL COOPERATIVE PURCHASING**  
13 **AGREEMENT SHALL BE APPROVED BY THE UNIT HEAD AND IS SUBJECT TO ANY**  
14 **OTHER APPROVAL REQUIRED BY LAW;**

15                  **[(i)] (II)** the contract shall be awarded in the same manner as the  
16 contract would be awarded under this Division II if the unit was the sole participant under  
17 the contract, **INCLUDING COMPLIANCE WITH ALL NOTICE REQUIREMENTS;** and

18                  **[(ii)] (III)** all procedures under this Division II, including procedures  
19 governing contract claims and protests, shall apply.

20                  **[(4)] (5)** If a primary procurement unit participates in an  
21 intergovernmental cooperative purchasing agreement, any protest or contract claim  
22 involving the agreement shall be handled in accordance with the terms of the agreement.

23                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2017.