

# HOUSE BILL 809

P2

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CF SB 334

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By: Delegates Harris, Charles, Amprey, Bagnall, Boafo, Boyce, Bridges, Davis, Harrison, Henson, Holmes, Jackson, Lehman, J. Long, Lopez, McCaskill, Mireku-North, Patterson, Ruth, Simmons, Smith, Taveras, Taylor, Toles, Wells, and Wilkins Wilkins, Alston, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, White, and Woods

Introduced and read first time: February 8, 2023

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2023

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

1 AN ACT concerning

2 **State Procurement – Minority Business Enterprise Program – Extension and**  
3 **Reports**

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

9 BY repealing and reenacting, with amendments,  
10 Article – Public Utilities  
11 Section 7–704.1(i)(4)  
12 Annotated Code of Maryland  
13 (2020 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, ~~without~~ with amendments,  
15 Article – State Finance and Procurement  
16 Section 14–309  
17 Annotated Code of Maryland  
18 (2021 Replacement Volume and 2022 Supplement)

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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 BY repealing and reenacting, with amendments,  
 2 Article – State Government  
 3 Section 9–1A–10(c)  
 4 Annotated Code of Maryland  
 5 (2021 Replacement Volume and 2022 Supplement)

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

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

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

15 BY repealing and reenacting, with amendments,  
 16 Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters  
 17 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the  
 18 Acts of the General Assembly of 2017, and Chapter 117 of the Acts of the  
 19 General Assembly of 2022  
 20 Section 2

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

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

26 **Article – Public Utilities**

27 7–704.1.

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

31 **Article – State Finance and Procurement**

32 14–309.

1 The provisions of §§ 14–301 through 14–305 of this subtitle, and any regulations  
2 adopted under those sections, shall be of no effect and may not be enforced after July 1,  
3 ~~2024~~ **2025**.

#### 4 Article – State Government

5 9–1A–10.

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

#### 9 ~~Chapter 438 of the Acts of 2017~~

10 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Certification Agency~~  
11 ~~designated by the Board of Public Works under § 14–303(b) of the State Finance and~~  
12 ~~Procurement Article to certify and decertify minority business enterprises, in consultation~~  
13 ~~with the Office of the Attorney General and the Maryland Public Service Commission, shall~~  
14 ~~initiate an analysis of the disparity study [entitled “Business Disparities in the Maryland~~  
15 ~~Market Area” published on February 8, 2017,] ~~SUBMITTED IN ACCORDANCE WITH THIS~~~~  
16 ~~ACT to determine if it applies to the type of work that will likely be performed by an~~  
17 ~~approved applicant with respect to an offshore wind project under § 7–704.1 of the Public~~  
18 ~~Utilities Article and submit a report on the analysis to the Legislative Policy Committee of~~  
19 ~~the General Assembly, in accordance with § 2–1246 of the State Government Article, ~~ON~~~~  
20 ~~OR before December [1, 2017] ~~30, 2023~~.~~

#### 21 Chapter 553 of the Acts of 2020

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

34 SECTION 5. AND BE IT FURTHER ENACTED, That the certification agency  
35 designated by the Board of Public Works under § 14–303(b) of the State Finance and  
36 Procurement Article to certify and decertify minority business enterprises, in consultation  
37 with the Office of the Attorney General and the Governor’s Office of Small, Minority, and  
38 Women Business Affairs, shall initiate an analysis of the disparity study submitted in

1 accordance with [Chapter 340 of the Acts of the General Assembly of 2017] THIS ACT to  
 2 determine if it applies to the type of work that will be likely to be performed by an approved  
 3 applicant with respect to an offshore wind project under § 7-704.1(i) of the Public Utilities  
 4 Article as enacted by Section 2 of this Act and submit a report on the analysis to the  
 5 Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the  
 6 State Government Article, on or before [December 1, 2022] SEPTEMBER 30, 2024.

7 **Chapter 728 of the Acts of 2021**

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

13 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December [1,  
 14 2022] **30, 2023** **2025**, the Governor's Office of Small, Minority, and Women Business  
 15 Affairs shall report to the General Assembly, in accordance with § 2-1257 of the State  
 16 Government Article, on the establishment of minority business enterprise subgoals in  
 17 accordance with this Act, including:

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

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

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in  
 25 consultation with the General Assembly and the Office of the Attorney General, shall  
 26 initiate a study of the Minority Business Enterprise Program to evaluate the Program's  
 27 continued compliance with the requirements of the Croson decision and any subsequent  
 28 federal or constitutional requirements. In preparation for the study, the Board of Public  
 29 Works may adopt regulations authorizing a unit of State government to require bidders  
 30 and offerors to submit information necessary for the conduct of the study. The Board of  
 31 Public Works may designate that certain information received in accordance with  
 32 regulations adopted under this section shall be confidential. Notwithstanding that certain  
 33 information may be designated by the Board of Public Works as confidential, the  
 34 Certification Agency may provide the information to any person that is under contract with  
 35 the Certification Agency to assist in conducting the study. The study shall also evaluate  
 36 race-neutral programs and other methods that can be used to address the needs of minority  
 37 businesses. The final report on the study shall be submitted to the Legislative Policy  
 38 Committee of the General Assembly, in accordance with § 2-1257 of the State Government

1 Article, **ON OR** before ~~{September}~~ ~~DECEMBER~~ 30, ~~2023~~ **2024**, so that the General  
2 Assembly may review the report before the ~~2024~~ **2025** Session.

3 **Chapter 641 of the Acts of 2022**

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

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

10 (d) The Governor’s Office of Small, Minority, and Women Business Affairs, in  
11 consultation with the certification agency and the Office of the Attorney General, shall  
12 develop race– and gender–neutral approaches to address the needs of minority and  
13 women–owned businesses in the brokerage and investment management services industry  
14 and market and submit its report to the Legislative Policy Committee, in accordance with  
15 § 2–1257 of the State Government Article, on or before December **[1, 2022] 30, ~~2023~~ 2025**,  
16 so that the General Assembly may review, consider, and adopt race– and gender–neutral  
17 alternatives to remedial measures that are not race and gender neutral.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
19 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.