

SENATE BILL 587

P2

4lr2174

By: **Senator McCray**

Introduced and read first time: January 25, 2024

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 10, 2024

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Minority Business Participation – Real Property Title Insurance**
3 **Services Reporting**

4 FOR the purpose of requiring certain reporting relating to minority business participation
5 in State procurement by industry type to include real property title insurance
6 services; prohibiting the Special Secretary for the Governor’s Office of Small,
7 Minority, and Women Business Affairs from waiving a certain reporting requirement
8 related to real property title insurance services; and generally relating to reporting
9 minority business participation in State procurement.

10 BY repealing and reenacting, without amendments,
11 Article – State Finance and Procurement
12 Section 14–301(a)
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 14–301(e–1) and 14–305
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2023 Supplement)

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

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.



Article – State Finance and Procurement

14–301.

(a) In this subtitle the following words have the meanings indicated.

(e–1) “Industry type” means the following procurement categories:

(1) construction;

(2) architectural and engineering services and other construction–related professional services;

(3) maintenance;

(4) information technology;

(5) services; [and]

(6) goods, supplies, and equipment; AND

(7) REAL PROPERTY ~~TITLE SERVICES~~ TITLE INSURANCE SERVICES, INCLUDING COMMERCIAL REAL PROPERTY TITLE INSURANCE SERVICES.

14–305.

(a) (1) Within 90 days after the end of the fiscal year, each unit shall report to the Governor’s Office of Small, Minority, and Women Business Affairs and the certification agency.

(2) A report under this subsection shall for the preceding fiscal year:

(i) state the total number and value of procurement contracts between the unit and certified minority business enterprises, by specific category of minority business enterprise and by industry type, including whether the minority business enterprise participated as a prime contractor or as a subcontractor;

(ii) indicate the percentage that those procurement contracts represent, by specific category of minority business enterprise and by industry type, of the total number and value of procurement contracts;

(iii) state the total number and the names of certified minority business enterprises that participated as prime contractors or as subcontractors on procurement contracts awarded by a unit;

1 (iv) for each minority business included in the report under item (iii)
2 of this paragraph, list all procurement contracts awarded by a unit to the minority business
3 enterprise, including a description of the contract and industry type;

4 (v) provide the results of each compliance assessment conducted by
5 the unit under § 14–303(b)(15) of this subtitle, including for each contract completed during
6 the fiscal year:

7 1. the names of each prime contractor and each
8 subcontractor that participated in the contract;

9 2. the type of good or service provided by the contract;

10 3. the minority business enterprise participation goal for the
11 contract;

12 4. whether a waiver was granted for the minority business
13 enterprise participation goal;

14 5. the total dollar value of payments made to each prime
15 contractor and by each prime contractor to each subcontractor during the contract term;

16 6. whether each subcontractor is a certified minority
17 business enterprise; and

18 7. if applicable, a description of factors that may have
19 contributed to failure to achieve the minority business enterprise participation goal for the
20 contract, including documented nonperformance or unavailability of a minority business
21 enterprise; and

22 (vi) contain other such information as required by the Governor's
23 Office of Small, Minority, and Women Business Affairs and the certification agency and
24 approved by the Board.

25 (3) As to procurement contracts for architectural services and engineering
26 services reported under paragraph (2) of this subsection, the report shall identify by
27 separate category of minority business enterprise procurements for:

28 (i) architectural services; and

29 (ii) engineering services.

30 (4) A report under this subsection shall be in a form prescribed by the
31 Governor's Office of Small, Minority, and Women Business Affairs and the certification
32 agency and approved by the Board.

1 (5) [The] **EXCEPT FOR REAL PROPERTY TITLE INSURANCE SERVICES,**
2 **THE** Special Secretary for the Office of Small, Minority, and Women Business Affairs may
3 waive the requirement for a unit to report minority business participation by industry type
4 under paragraph (2) of this subsection if the spending threshold for the industry type is too
5 low for the unit to provide sufficient data.

6 (b) (1) On or before December 31 of each year, the Governor’s Office of Small,
7 Minority, and Women Business Affairs shall submit to the Board of Public Works and,
8 subject to § 2–1257 of the State Government Article, to the Legislative Policy Committee
9 and the Joint Committee on Fair Practices and State Personnel Oversight a report
10 summarizing the information the Office receives under subsection (a) of this section.

11 (2) If applicable, the report submitted under paragraph (1) of this
12 subsection shall include minority business enterprise participation data for each unit by
13 industry type.

14 (3) This report may be prepared in conjunction with the annual report
15 required under § 9–306 of the State Government Article.

16 (4) (i) Beginning with the report submitted under paragraph (1) of this
17 subsection on December 31, 2023, and each year thereafter, the Governor’s Office of Small,
18 Minority, and Women Business Affairs shall include in the report an attestation that all
19 units required to report under subsection (a) of this section are represented in the report.

20 (ii) To ensure accuracy of the attestation made under subparagraph
21 (i) of this paragraph, on or before December 31, 2023, and every 3 years thereafter, the
22 Governor’s Office of Small, Minority, and Women Business Affairs shall conduct an audit
23 of the Executive Branch of State government to determine what entities are included in the
24 definition of “unit” under § 11–101 of this article.

25 (c) (1) In this subsection, “mitigating factors” includes documented
26 nonperformance or unavailability of a minority business enterprise designated for a
27 contract.

28 (2) The Governor’s Office of Small, Minority, and Women Business Affairs
29 and the Office of State Procurement in the Department of General Services, in consultation
30 with the Office of the Attorney General and the Board of Public Works, shall adopt by
31 regulation criteria used to determine that a prime contractor has persistently failed to meet
32 contract goals in the absence of mitigating factors.

33 (3) The criteria adopted under paragraph (2) of this subsection shall
34 include the results of the compliance assessments made under subsection (a)(2)(v) of this
35 section.

36 (4) The Governor’s Office of Small, Minority, and Women Business Affairs
37 shall refer prime contractors identified under the criteria adopted under paragraph (2) of

1 this subsection to the Office of the Attorney General for debarment under § 16–203(d)(4) of
2 this article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.