

# HOUSE BILL 629

P2

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Transportation)**

Introduced and read first time: February 1, 2008

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Ethics Law – Architectural and Engineering Services – Procurement**

3 FOR the purpose of providing that certain persons who do not have certain design  
4 responsibilities and are not involved in the construction phase of certain  
5 procurements on behalf of the State are eligible to be part of certain teams  
6 bidding on certain construction projects under the State procurement law,  
7 subject to certain conditions; repealing certain termination provisions in law;  
8 requiring the Maryland Department of Transportation to provide certain  
9 reports; and generally relating to permissible participation in certain  
10 procurements by certain persons.

11 BY repealing and reenacting, with amendments,  
12 Chapter 84 of the Acts of the General Assembly of 2004  
13 Section 3, 7, and 8

14 BY repealing  
15 Chapter 84 of the Acts of the General Assembly of 2004  
16 Section 5

17 BY repealing and reenacting, with amendments,  
18 Chapter 549 of the Acts of the General Assembly of 2006  
19 Section 2

20 BY repealing and reenacting, without amendments,  
21 Article – State Government  
22 Section 15–508  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Chapter 84 of the Acts of 2004**

4 SECTION 3. AND BE IT FURTHER ENACTED, That on or before September  
5 30, 2005, and annually thereafter [through September 30, 2008, inclusive], the  
6 Maryland Department of Transportation shall report to the Governor and, in  
7 accordance with § 2-1246 of the State Government Article, to the General Assembly  
8 regarding the implementation of this Act by the Department during the immediately  
9 preceding fiscal year, including the impact of this Act on small business and minority  
10 business enterprises.

11 [SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding the  
12 abrogation of this Act, this Act shall be applicable to any procurement contract in  
13 connection with a project or program for which:

14 (1) final review under the National Environmental Policy Act or the  
15 Maryland Environmental Policy Act is completed on or before June 30, 2008; or

16 (2) an appropriation has been included on or before June 30, 2008, in  
17 the development and evaluation portion of the Consolidated Transportation Program.]

18 SECTION 7. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall  
19 take effect July 1, 2004. [It shall remain effective for a period of 4 years and 3 months  
20 and, at the end of September 30, 2008, with no further action required by the General  
21 Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.]

22 SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in  
23 Sections 6 and 7 of this Act, this Act shall take effect July 1, 2004. [It shall remain  
24 effective for a period of 4 years and, at the end of June 30, 2008, with no further action  
25 required by the General Assembly, this Act shall be abrogated and of no further force  
26 and effect.]

27 **Chapter 549 of the Acts of 2006**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 July 1, 2006. [It shall remain effective for a period of 2 years and, at the end of June  
30 30, 2008, with no further action required by the General Assembly, this Act shall be  
31 abrogated and of no further force and effect.]

32 **Article – State Government**

33 15-508.

34 (a) An individual or a person that employs an individual who assists an  
35 executive unit in the drafting of specifications, an invitation for bids, a request for

1 proposals for a procurement, or the selection or award made in response to an  
2 invitation for bids or request for proposals may not:

3 (1) submit a bid or proposal for that procurement; or

4 (2) assist or represent another person, directly or indirectly, who is  
5 submitting a bid or proposal for that procurement.

6 (b) For purposes of subsection (a) of this section, assisting in the drafting of  
7 specifications, an invitation for bids, or a request for proposals for a procurement does  
8 not include:

9 (1) providing descriptive literature such as catalogue sheets,  
10 brochures, technical data sheets, or standard specification “samples”, whether  
11 requested by an executive agency or provided on an unsolicited basis;

12 (2) submitting written comments on a specification prepared by an  
13 agency or on a solicitation for a bid or proposal when comments are solicited from two  
14 or more persons as part of a request for information or a prebid or preproposal process;

15 (3) providing specifications for a sole source procurement made in  
16 accordance with § 13–107 of the State Finance and Procurement Article;

17 (4) providing architectural and engineering services for:

18 (i) programming, master planning, or other project planning  
19 services; or

20 (ii) the design of a construction project if:

21 1. the design services do not involve lead or prime design  
22 responsibilities or construction phase responsibilities on behalf of the State; and

23 2. A. the anticipated value of the procurement  
24 contract at the time of advertisement is at least \$2,500,000 and not more than  
25 \$100,000,000; or

26 B. regardless of the amount of the procurement contract,  
27 the payment to the individual or person for the design services does not exceed  
28 \$500,000; or

29 (5) providing specifications for an unsolicited proposal procurement  
30 made in accordance with § 13–107.1 of the State Finance and Procurement Article.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 July 1, 2008.