

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2002 Legislative Session**

Bill No. CB-86-2002

Chapter No. \_\_\_\_\_

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Member Shapiro

Co-Sponsors \_\_\_\_\_

Date of Introduction October 7, 2002

**BILL**

1 AN ACT concerning

2 Minority Business Opportunities Commission

3 For the purpose of amending the provisions of the Code regarding staffing of the Minority  
 4 Business Opportunities Commission, eliminating the position of Executive Director of the  
 5 Minority Business Opportunities Commission and transferring the duties of the Executive  
 6 Director to the Director of Central Services.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 2. ADMINISTRATION.

9 Sections 2-451, 2-452, and 2-454,  
 10 The Prince George's County Code  
 11 (1999 Edition, 2001 Supplement).

13 SUBTITLE 10A. PROCUREMENT.

14 Section 10A-136,  
 15 The Prince George's County Code  
 16 (1999 Edition, 2001 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
 18 Maryland, that Sections 2-451, 2-452, 2-454, and 10A-136 of the Prince George's County Code  
 19 be and the same are hereby repealed and reenacted with the following amendments:  
 20  
 21

**SUBTITLE 2. ADMINISTRATION.**

**DIVISION 34. MINORITY BUSINESS OPPORTUNITIES COMMISSION.**

**Sec. 2-451. [Executive Director; administrative] Administrative support.**

There shall be [an Executive Director of the Commission and] such staff support and facilities for the Commission as may be authorized and provided in the Office of Central Services.

**Sec. 2-452. Powers and duties of the Commission.**

(a) The Commission is authorized to monitor and make such studies and surveys as it may determine or as directed by the County Council or County Executive with respect to:

(1) County policies and practices in procurement and contracting;

(2) The utilization of minority business enterprises by agencies of government and the private sector;

(3) The general conditions and problems encountered by minority business enterprises, including, but not necessarily limited to, the ability of minority business enterprises to obtain commercial credit and bonding facilities;

(4) Opportunities for minority business enterprises to contribute to the economic and employment development of the County; and

(5) Evidence of discrimination with respect to those businesses owned and controlled by minority individuals as set forth in Section 10A-101(a) of this Code.

\* \* \* \* \*

(h) The Commission shall review the determinations made by the [Executive] Director of Central Services as to what portion of the dollar amount of a minority/nonminority joint venture may be attributed toward an agency's percentage goal.

(i) The Commission shall review minority business enterprise contracting procedures and make recommendations on methods to increase the participation of such contractors with the County. Such recommendations may include, but need not be limited to, improved schedules that ensure prompt payment to contractors, special geographic requirements on certain contracts, innovative contract advertising procedures, and the encouragement of joint ventures.

(j) In accordance with regulations promulgated pursuant to Section 2-453 of this Code, the Commission shall provide certification of minority business enterprise status, as such term is set forth in Section 10A-101(a) of this Code, and shall hear appeals of any determination made by the [Executive] Director of Central Services to deny such minority business enterprise status

1 certification. Subject to the approval of the Commission and as may be set forth in the  
 2 regulations of the Commission, certification of any business firm as a minority business  
 3 enterprise may take into account the certification of such firm by any jurisdiction:

4 (1) That has entered into a reciprocal acceptance of minority business enterprise  
 5 certification agreement with the County; or

6 (2) That administers a minority business enterprise certification program that is  
 7 substantially equivalent to the program operated by the Commission.

8 (k) The Commission shall hear the appeal of any decision by the [Executive] Director of  
 9 Central Services to decertify any minority business enterprise upon findings by the [Executive]  
 10 Director of any of the following conditions:

11 (1) The minority business enterprise is subject to debarment or suspension in  
 12 accordance with Section 10A-148 of this Code;

13 (2) The minority business enterprise has practiced fraud or deceit for the purpose of  
 14 obtaining certification;

15 (3) The minority business enterprise has furnished to the Commission incomplete or  
 16 substantially inaccurate ownership or financial information;

17 (4) The minority business enterprise has failed to report any change which affects its  
 18 qualification for certification; or,

19 (5) The minority business enterprise has willfully violated any provision of this  
 20 Division or Division 6 of Subtitle 10A of this Code.

21 \* \* \* \* \*

22 **Sec. 2-454. Filing of complaints; hearings.**

23 (a) Any person may assert charges of a violation of this Division or Division 6 of Subtitle  
 24 10A of this Code against any applicant for certification, or certified minority business enterprise.  
 25 Such charges shall be in writing and sworn to by the complainant and submitted to the  
 26 [Executive] Director of Central Services. If, after an investigation of the allegations, the  
 27 [Executive] Director believes that no violation has occurred, the Director may dismiss the  
 28 charge. Such charge, unless dismissed by the [Executive] Director without a hearing, shall be  
 29 heard and determined by the [Executive] Director within ninety (90) days after the date on which  
 30 it was filed.

31 (b) After a hearing, the [Executive] Director may decertify the respondent or take such  
 32 other action as [he] the Director deems appropriate.

(c) Any person adversely affected by the dismissal of a complaint by the [Executive] Director or by the decision of the [Executive] Director following a hearing may appeal such dismissal or decision to the Commission within thirty (30) days after the date of the dismissal or the decision.

## **SUBTITLE 10A. PURCHASING.**

### **DIVISION 6. SPECIAL PROVISIONS.**

#### **Subdivision 1. Minority Business Opportunities Program.**

##### **Sec. 10A-136. Assistance to minority business enterprises.**

(a) The Purchasing Agent shall structure the procurement procedures and activities of the County to facilitate and encourage the award of at least thirty percent (30%) of the total dollar value of all County contracts awarded, directly or indirectly, to minority business enterprises. The value of subcontracts with minority business enterprises shall be included in the computation of the above total dollar value.

\* \* \* \* \*

(e) The Purchasing agent shall, for all contracts, consult with the Commission or its authorized representative, in order to determine whether subcontracting is appropriate. If subcontracting is determined to be appropriate, the Purchasing Agent may include a mandatory minority business enterprise subcontract clause that requires the equivalent of at least twenty percent (20%) of the contract's total value be performed by one or more minority business enterprises. The Purchasing Agent may include a mandatory minority business enterprise subcontracting goal that is less than 20% of the contract's total value only:

(1) After consultation with the Commission or its authorized representative;

(2) Upon a determination that a twenty percent (20%) mandatory minority business enterprise subcontracting goal is not able to be obtained at a reasonable price; and

(3) Upon a determination that the public interest is served.

(f) In making the determinations that the public interest is served, under Subsection (e), the Purchasing agent shall obtain the concurrence of the [Executive Director] Commission or its authorized representative and may consider engineering estimates, the general market availability of minority business enterprises to provide the services requested, other bids and offers, the cost of the contract, and any other relevant factor.

\* \* \* \* \*

1 (m) If, upon investigation by the Commission, any Minority Business Enterprise which has  
 2 been certified by the Commission misrepresented its status either as a County-based business or  
 3 as a Minority Business Enterprise and no contract with the County is existing, the following shall  
 4 occur:

5 (1) The Minority Business Enterprise shall be barred from award of any County  
 6 contract or participation in any contract awarded by the County for a period of one year  
 7 commencing upon the date written findings of such misrepresentations are made by the  
 8 [Executive] Director, regardless of subsequent changes in the minority business enterprise's  
 9 status; and

10 (2) The officers, directors, partners, or owners of the firm and any firm controlled or  
 11 managed by them shall be barred from award of any County contract or participation in any  
 12 contract awarded by the County for a period of one year commencing upon the date written  
 13 findings of such misrepresentation are made by the [Executive] Director, regardless of  
 14 subsequent changes in the minority business enterprise's status.

15 \* \* \* \* \*

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five calendar days after it becomes law.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Peter A. Shapiro  
Chair

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Wayne K. Curry  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.