

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2021 Legislative Session

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**Reference No.:** CB-102-2022

**Draft No.:** 2

**Committee:** Committee of the Whole

**Date:** 09/27/2022

**Action:** Favorable (A)

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**REPORT:** Favorable as amended, 10-0: Council Members Hawkins, Burroughs, Dernoga, Franklin, Glaros, Harrison, Ivey, Medlock, Taveras, and Turner. Absent: Streeter

The Prince George's County Council convened as the Committee of the Whole on September 27, 2022, to consider CB-101-2022. CB-101-2022 seeks to add policies to expand opportunities in county government contracting for local, small, and minority-owned businesses by (1) strengthening race-neutral policies in county procurement and (2) updating and strengthening the race-conscious goals of the County's MBE program. After some negotiation with the Administration, Council Member Franklin, one of the two proposers of the bill, along with Council Chair Hawkins, has provided a Draft 2 of CB-101-2022.

Some of the new policies within CB-101-2022 Draft 2 include requiring at least 50% of contracting dollars in county procurement above \$500,000 in value to be spent with County-based small businesses, locally owned and operated businesses, and/or County-based minority business enterprises, a proposal unchanged from Draft 1, and relaxing bonding requirements for small and locally owned county-based businesses. The bonding provisions and thresholds were increased between Draft 1 and Draft 2 to address Administration concerns about procurement risk to the County. However, the Draft 2 provisions would still provide local firms a more favorable bonding environment than they face today. CB-101-2022 also adds more transparency around the waiver process.

Draft 2 provides quarterly notification to the Council of waivers from any supplier diversity requirements in the previous quarter. Responding to Administration concerns, the Council approval process for large projects in Draft 1 was removed in favor of the quarterly notification provision for all waivers in Draft 2. CB-101-2022 Draft 2 also authorizes the Purchasing Agent to require a mentor-protégé program requirement in any procurement, another provision unchanged from the findings of the 2019 Disparity Study. CB-101-2022 establishes recommended MBE goals, and MBE establishes a process of contract-by-contract review by the Purchasing Agent to determine if such goals are appropriate or achievable. This case-by-case process is designed to satisfy the legal requirement that any race-conscious program is narrowly tailored to address the identified disparities. Draft 2 also clarifies that proprietary information technology products and services, like proprietary software licenses, would not be subject to the provisions of CB-101-2022. And finally, Draft 2 has a modified effective date of February 1, 2023, to give more administrative adjustment and training time. The Bill sponsor has indicated that a Draft 3 may be forthcoming.

The Office of Law reports CB-101-2022, Draft2, to be in proper legislative form with no legal impediments to its enactment.

The Policy and Budget office reports that CB-101-2022 will have an adverse direct fiscal impact on the County in the form of additional risk management costs and may result in higher costs for certain contracts.

After discussion, the Prince George's County Council reported CB-101-2022 favorably with amendments 10-0.