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**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

Legislative Session

1992

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Bill No. \_\_\_\_\_ CB-2-

1992

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Chapter No.

42

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Proposed and Presented by     The Chairman (by request -

\_\_\_\_\_

\_\_\_\_\_ County

Executive) \_\_\_\_\_

Introduced by \_\_\_\_\_ Council Members Bell,

Pemberton, \_\_\_\_\_

\_\_\_\_\_ Del Giudice and

Fletcher \_\_\_\_\_

Co-Sponsors

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Date of Introduction \_\_\_\_\_ June 23,

1992

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**BILL**

AN ACT concerning

Minority Business Enterprise Commission

FOR the purpose of amending the name of the Commission, making changes in certain statutory references, amending the duties and powers of the Commission, and amending the provisions relating to appeals to the Commission.

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Sections 2-450,

2-452, and

2-454,

The Prince George's County Code

(1987 Edition, 1990 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 2-450, 2-452, and 2-454 of the Prince George's County Code be and the same are repealed and reenacted with the following amendments:

**SUBTITLE 2. ADMINISTRATION.**

**DIVISION 34. MINORITY BUSINESS [ENTERPRISE]**

**OPPORTUNITIES OMISSION.**

**Sec. 2-450. Minority Business [Enterprise] Opportunities Commission; established; membership and terms.**

(a) There is hereby established the Minority Business [Enterprise] Opportunities Commission, which shall monitor the efforts of County government in procuring goods and services from minority business enterprises through the implementation of and compliance with the County's Minority Business

[Enterprises] Opportunities [p]Program as set forth in Division [3] 6, Subdivision 1, of Subtitle [10] 10A of this Code. The Commission shall also recommend changes in County procurement policies, programs, and practices and recommend legislation designed to better enable the County to achieve the goals stated in Division 3 of Subtitle 10 of this Code.

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

(a) [The Commission is authorized to make such surveys and studies concerning County procurement practices, the utilization of minority vendors, conditions, and problems as it may determine or as directed by the County Council or County Executive. On the basis of such studies or surveys, the Commission shall recommend to the County Council and County Executive changes in existing laws and practices. The Commission shall recommend changes in existing law and practices designed to insure that tasks subcontracted to minority business enterprises under County procurements are commercially meaningful in the trade and significant elements of the prime contractor's scope of work. The Commission shall also recommend changes in existing laws and practices that are designed to:

- (1) encourage the utilization of minority/non-minority joint ventures to achieve minority business enterprise participation goals;

(2) provide additional incentives to Prince George's County based minority business enterprises; and

(3) reduce bonding requirements where legally appropriate.]

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) (25) of this Code.

(b) On the basis of such evidence, studies and surveys made pursuant to this Section, the Commission shall recommend to the County Executive, County Council and the Purchasing Agent changes in existing laws, policies, programs and practices,

including, but not limited to, changes designed to ensure the following:

(1) that tasks subcontracted to minority business enterprises under County procurement are commercially meaningful in the trade and significant elements of the prime contractor's scope of work;

(2) that the County encourages the utilization of minority/non- minority business joint ventures to achieve minority business enterprise participation goals;

(3) that the County provides additional incentives to County based minority business enterprises; and,

(4) that the inclusion of those minority individuals as set forth in Section 10A-101 (a) (25) of this Code, comports with the applicable requirements of federal law, both by past and present circumstances and with regard to evidence of underutilization and discrimination.

[(b)] (c) The Commission shall monitor:

(1) the total number and dollar amount of contracts awarded by the County;

(2) the total dollar amount of contracts awarded by developers under the Priority Project program established pursuant to Division 9 of Subtitle 2 of this Code; and

(3) the total dollar amount of contracts awarded by developers with respect to facilities constructed with County contributions under Division 6, Subdivision 2, of Subtitle 10A

of this Code.

[and] The Commission shall report to the County Council and the County Executive on a regular basis the status of efforts to achieve the goals stated in Division [3] 6, Subdivision 2 of Subtitle [10] 10A of this Code.

(d) The Commission is authorized to establish programs, services and events as it may determine or as directed by the County Council or County Executive designed to enhance both the quality and quantity of business opportunities in the public and private sectors for minority business enterprises, including, but not necessarily limited to a program of technical assistance for entrepreneurs and business owners.

[(c)] (e) The Commission shall be given the cooperation of all departments and agencies of the County government in carrying out its duties under this Division.

[(d)] (f) The Commission may recommend to the Purchasing Agent which portions of an agency's contracts should be reserved for the programs established under Division [3] 6 of Subtitle [10] 10A of this Code where an agency has failed to meet the goals established.

[(e)] (g) The Commission shall submit recommendations on a regular basis regarding changes of agency minority procurement goals, if appropriate, accompanied by necessary supporting data.

[(f)] (h) The Commission shall review the determinations

made by the Executive Director as to what portion of the dollar amount of a minority/non-minority joint venture may be attributed toward an agency's percentage goal.

[(g)] (i) The Commission shall review minority business enterprise contracting procedures and make recommendations on methods to increase the participation of [minority] such contractors with the County. Such recommendations may include, but shall 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.

[(h) The Commission shall hear appeals of determinations by the Executive Director of minority business enterprise status certification.]

(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) (26) of this Code, and shall hear appeals of any determination made by the Executive Director to deny such minority business enterprise status certification. Subject to the approval of the Commission and as may be set forth in the regulations of the Commission, certification of any business firm as a minority business enterprise may take into account the certification of such firm by any jurisdiction:

(1) that has entered into a reciprocal acceptance of minority business enterprise certification agreement with the County, or

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

[(i)] (k) The Commission shall hear the appeal[s] of any decision[s] by the Executive Director to [revoke or suspend the certificate of] decertify any minority business enterprise [which is found guilty of] upon findings by the Executive Director of any of the following conditions:

[(1) Fraud or deceit in obtaining the certification;

(2) Furnishing of substantially inaccurate or incomplete ownership or financial information;

(3) Failure to report changes which affect the requirement for certification;

(4) Gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of his profession; or

(5) Willful violation of any provision of this Division or Division 3 of Subtitle 10 of this Code.]

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

(2) The minority business enterprise has practiced

fraud or deceit for the purpose of obtaining certification;

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

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

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

[(j)] (1) The Commission shall submit [quarterly] annual reports to the County Executive and the County Council on its activities during the reporting period. The reports shall include a copy of the roster of certified minority business enterprises.

(m) In the administration and enforcement of the provisions of this Division and Division 6 of Subtitle 10A of this Code, the Commission has power to administer oaths, and, upon majority vote of the full Commission, to issue subpoenas, to compel for a formal hearing the attendance for testimony of witnesses and the production of records and documents relevant or necessary for proceedings. Any such subpoena shall be served by the sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or

corporation against whom or which the subpoena is issued. In case of disobedience to a subpoena, the County, on behalf of the Commission, may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and/or the production of records and documents. After notice to the person subpoenaed as a witness or directed to produce records and documents, and upon a finding that the attendance and testimony of the witness or the production of the records and documents is relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the records and documents. Any failure to obey such an order of the court may be punished as contempt of court.

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

(a) Any person may assert charges of a violation of this Division or Division [3] 6 of Subtitle [10] 10A of this Code against any applicant for certification, or certified minority business enterprise. Such charges shall be in writing and sworn to by the complainant and submitted to the Executive Director. If, after an investigation of the allegations, the Executive Director believes that no violation has occurred, he may dismiss the charge. Such charge, unless dismissed by the Executive Director without a hearing, shall be heard and determined by the Executive Director within ninety (90) days

after the date on which it was filed.

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

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SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 21st day of July, 1992.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY:

\_\_\_\_\_

Richard J. Castaldi  
Chairman

ATTEST:

\_\_\_\_\_  
Joyce T. Sweeney  
Acting Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_  
\_\_\_\_\_

BY:  
  
Parris N. Glendening  
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.