

COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 13- XX

BILL NO. 2013-XX

Title of Bill: Adoption of new Section 92-11 to Part I, Administrative Legislation, Chapter 92 - Purchasing, of the Cecil County Code, entitled "Local Business Opportunity Initiative".

Synopsis: An act amending Section 92 of the Cecil County Code, and adding a new Section 92-11 to Part I, Administrative Legislation, Chapter 92 - Purchasing, of the Cecil County Code, entitled "Local Business Opportunity Initiative".

Introduced and ordered posted on: _____

Public hearing scheduled on: _____ **at:** _____ 7:00 p.m. _____

Consideration scheduled on: _____

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by _____
_____ at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been
published according to the Charter on _____, a public hearing was held on
_____, and concluded on _____.

By: _____
Council Manager

Explanation: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates language added to a Bill by amendment.
~~Strike through~~ indicates language stricken out of a Bill by amendment.

1 **WHEREAS**, the economy of Cecil County has been adversely affected by the nation’s economic recession; and
2 **WHEREAS**, the unemployment rate in Cecil County is higher than the State of Maryland and the national rate;
3 and

4 **WHEREAS**, Cecil County Government has approved a capital improvement plan for fiscal year 2014 of
5 \$50,937,000, and

6 **WHEREAS**, there has been a national trend to propose legislation to encourage local and state government
7 to hire local employees and local business; and

8 **WHEREAS**, enlightened jurisdictions have found that encouraging their bidders and offerers to make a good
9 faith effort in hiring local business and employees have resulted in positive results for the local community and
10 contractor; and

11 **WHEREAS**, the cost of making a good faith effort to give local business and employees an opportunity to
12 participate in a County capital project will be offset by anticipated lower costs and better product for the Contractor
13 and County; and

14 **WHEREAS**, the County Council of Cecil County wishes to support local business and employees while
15 maintaining good public procurement practices that will result in the best outcome for its citizens; and

16 **WHEREAS**, Pursuant to §95-10 of the Code of Cecil County, Cecil County Government gives preference to
17 local bidders in the purchase of supplies, equipment and services, not exceeding 6% or \$60,000, whichever is less;
18 and

19 **WHEREAS**, in furtherance of this policy, Cecil County, Maryland now desires to establish a local
20 hiring program to encourage the hiring and retention of Cecil County residents for the work to be performed
21 under public works contracts.

22 **NOW, THEREFORE, BE IT HEREBY ENACTED** by the County Council of Cecil County, State of Maryland as
23 follows:

24 SECTION 92-11. LOCAL BUSINESS OPPORTUNITY INITIATIVE
25 (A) UNLESS SUCH A PROVISION WOULD CONFLICT WITH A STATE OR FEDERAL LAW OR REGULATION
26 APPLICABLE TO A PARTICULAR CONTRACT FOR PUBLIC WORKS OR IMPROVEMENTS. ALL COUNTY
27 CONTRACTS FOR PUBLIC WORKS OR IMPROVEMENTS OF ESTIMATED VALUE OR CITY SUBSIDY OF
28 TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) OR MORE SHALL CONTAIN
29 PROVISIONS PURSUANT TO WHICH THE CONTRACTOR SHALL MAKE A GOOD-FAITH EFFORT TO
30 HIRE LOCAL BUSINESSES AND EMPLOYEES **IN SUFFICIENT NUMBERS** SO THAT NO
31 LESS THAN FORTY PER CENT(40%) OF THE **TOTAL PROJECT COST INCLUDING SUPPLIERS,**
32 **VENDORS, SUBCONTRACTS ARE LOCAL BUSINESSES AND/OR EMPLOYEES.**

1 (B) THIS LOCAL BUSINESS OPPORTUNITY INITIATIVE SHALL APPLY TO ALL COUNTY CONSTRUCTION
2 PROJECTS WITH PRIME CONTRACTORS, CONSTRUCTION MANAGERS WITH MULTIPLE PRIME
3 CONTRACTORS, INDEFINITE DELIVERY OR INDEFINITE QUANTITIES CONTRACTS; AND DESIGN/BUILD
4 PROJECTS IF THE ESTIMATED TOTAL COST OF THE PROJECT EXCEEDS \$250,000.

5 (C) GOOD FAITH EFFORT.

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6 (1) A BIDDER OR CONTRACTOR WHO FAILS TO MEET THE GOAL OF HAVING FORTY
7 PERCENT (40%) OF THE TOTAL PROJECT COST FOR LOCAL BUSINESSES AND
8 EMPLOYEES SHALL, NEVERTHELESS, BE DEEMED TO HAVE MADE A "GOOD FAITH EFFORT"
9 TO HIRE SUFFICIENT NUMBERS OF RESIDENTS OF CECIL
10 COUNTY IF, PRIOR TO EXECUTION OF THE CONTRACT WITH THE COUNTY, SIX (6) OR MORE
11 OF THE FOLLOWING ACTIVITIES HAVE BEEN UNDERTAKEN AND DOCUMENTED:

- 12 (I) ATTENDANCE AT ANY LOCAL BUSINESS RELATED ORGANIZATIONS TO FIND LOCAL
13 BUSINESS AND EMPLOYEE RESOURCES;
- 14 (II) PLACING A VALID JOB ORDER FOR EXISTING AND PROJECTED POSITION VACANCIES OR FOR
15 LOCAL SUBCONTRACTORS WITH THE LOCAL OFFICE OF ECONOMIC DEVELOPMENT.
- 16 (III) POSTING NOTICES WHICH IDENTIFY TRADES NEEDED, POSITIONS TO BE FILLED, THE
17 QUALIFICATIONS REQUIRED, AND WHERE TO OBTAIN ADDITIONAL INFORMATION
18 ABOUT THE APPLICATION PROCESS, IN CONSPICUOUS LOCAL AUTHORIZED PUBLIC
19 PLACES, INCLUDING BUT NOT LIMITED TO THE COUNTY ADMINISTRATION BUILDING,
20 LOCAL MUNICIPAL ADMINISTRATION BUILDINGS, CECIL COLLEGE, POST OFFICES,
21 LIBRARIES, AND SENIOR CITIZENS CENTERS.
- 22 (IV) CONDUCTING INFORMATIONAL MEETINGS OR WORKSHOPS THAT MAY BE
23 COMBINED WITH OTHER CONTRACTORS OR ORGANIZATIONS TO INFORM
24 THE COMMUNITY OF OPPORTUNITIES FOR THE CONTRACTOR OR EMPLOYEE.
- 25 (V) PROVIDING ONGOING ASSISTANCE TO LOCAL BUSINESS OR RESIDENTS OF
26 CECIL COUNTY IN SUBMITTING QUOTATIONS OR PROPOSALS, AND
27 COMPLETING JOB APPLICATIONS.
- 28 (VI) CONDUCTNG WORKSHOPS TO ASSIST THE LOCAL BUSINESSES AND/OR
29 EMPLOYEES IN SUBMITTING QUOTATIONS OR PROPOSALS AND
30 COMPLETING JOB APPLICATIONS.
- 31 (VII) ESTABLISHING A LOCAL OFFICE IN CECIL COUNTY, WHERE SUBCONTRACTORS AND
32 JOB APPLICANTS MAY GET INFORMATION OR ASSISTANCE.

(VIII) CONDUCTING JOB INTERVIEWS WITHIN TEN (10) MILES OF THE LOCATION DESIGNATED FOR CONTRACT PERFORMANCE.

(IX) ADVERTISING FOR LOCAL TRADES OR EMPLOYEES THROUGH THE LOCAL MEDIA, SUCH AS LOCAL NEWSPAPERS OF GENERAL CIRCULATION, TRADE PAPERS, OR LOCAL PUBLIC ACCESS TELEVISION.

(X) TELEPHONE SOLICITATION OF KNOWN POTENTIAL LOCAL SUBCONTRACTORS OR EMPLOYEES.

(XI) ANY OTHER MEANS OF OBTAINING LOCAL BUSINESS OR EMPLOYEES WHO ARE RESIDENTS OF CECIL COUNTY THAT ARE REASONABLY CALCULATED TO COMPLY WITH THE GOALS OF THIS CODE SECTION

(D) REQUIRED DOCUMENTATION.

- (1) ALL BIDDERS OR OFFERERS ARE REQUIRED TO SUBMIT A LIST OF ANTICIPATED LOCAL BUSINESS AND EMPLOYEES AND THE AMOUNT OF VALUE WITH THEIR PROPOSAL
- (2) ALL BIDDERS OR OFFERERS ARE REQUIRED TO EXPLAIN WHAT GOOD FAITH EFFORTS THAT WERE MADE TO HIRE LOCAL BUSINESS AND EMPLOYEES.

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(E) IRRESPONSIBLE BIDDER DECLARATION. SHOULD ANY CONTRACTOR OR SUBCONTRACTOR FAIL TO ABIDE BY THE GOOD-FAITH LOCAL RESIDENT EMPLOYMENT PROVISIONS OF THIS SECTION, THE CONTRACTOR OR SUBCONTRACTOR MAY BE DECLARED BY THE COUNTY TO BE A NONRESPONSIBLE BIDDER ON FUTURE PROJECTS.

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(F) DEFINITIONS. AS USED IN THIS CODE SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING DEFINITIONS:

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- (1) "CONTRACT FOR PUBLIC WORKS OR IMPROVEMENT" MEANS ANY CONTRACT WITH CECIL COUNTY, MARYLAND FOR CONSTRUCTION, ALTERATION, DEMOLITION, OR REPAIR WORK.
- (2) "RESIDENT OF CECIL COUNTY" MEANS AN INDIVIDUAL WHO HAS BEEN DOMICILED, AS DEFINED BY THE STATE OF MARYLAND ELECTIONS CODE, WITHIN THE BOUNDARIES OF CECIL COUNTY, MARYLAND, FOR THE PURPOSES OF THIS SECTION.
- (3) "LOCAL BUSINESS" MEANS ANY INDIVIDUAL OR BUSINESS WHO OR WHICH MAINTAINS A PLACE OF BUSINESS OR MAINTAINS AN INVENTORY OF MERCHANDISE AND/OR EQUIPMENT IN CECIL COUNTY, IS LICENSED BY

1 CECIL COUNTY AND A/OR STATE OF MARYLAND, IF REQUIRED, AND IS
2 SUBJECT TO CECIL COUNTY RELA AND/OR PERSONAL PROPERTY TAXES.

3 (G) CONTRACTS - BID DOCUMENTS - SUBCONTRACTS.

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4 (1) CONTRACTS AND BID DOCUMENTS SHALL INCORPORATE THIS CODE SECTION BY REFERENCE AND
5 SHALL PROVIDE THAT THE FAILURE OF ANY CONTRACTOR OR SUBCONTRACTOR TO COMPLY WITH
6 ANY OF ITS REQUIREMENTS, UNLESS WAIVED, SHALL BE DEEMED A MATERIAL BREACH OF THE
7 CONTRACT OR SUBCONTRACT.

8 (2) ALL SUBCONTRACTS SHALL EXPRESSLY ACKNOWLEDGE THE COUNTY'S STATUS AS A THIRD
9 PARTY BENEFICIARY TO THAT SUBCONTRACT AND FURTHER EXPRESSLY ACKNOWLEDGE THAT
10 THE COUNTY, AS A THIRD PARTY BENEFICIARY, SHALL HAVE THE RIGHT TO ENFORCE THE
11 PROVISIONS OF THIS CODE SECTION WITH REGARD TO THAT SUBCONTRACT OR SEEK
12 REMEDIES AVAILABLE UNDER THIS CODE SECTION SHOULD A PARTY TO THE SUBCONTRACT FAIL
13 TO COMPLY WITH ANY OF THE PROVISIONS OF THE CODE SECTION THAT APPLY TO THE
14 SUBCONTRACT.

15 (3) THE CONTRACTOR SHALL INCLUDE IN ITS SUBCONTRACTS OR OTHER LEGAL INSTRUMENTS
16 THE OBLIGATION FOR SUBCONTRACTORS PERFORMING WORK UNDER THE CONTRACT TO
17 COMPLY WITH THE REQUIREMENTS OF THIS CODE SECTION.

18 (H) THE COUNTY WILL INCLUDE AN ASSESSMENT OF THE BIDDERS' OR OFFERERS' EFFORTS TO HIRE
19 LOCAL BUSINESS AND EMPLOYEES AS PART OF THE FORMAL EVALUATION OF THE PROPOSAL.

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20 (I) EXCEPTIONS. THE PROVISIONS OF THE SECTION SHALL NOT APPLY:

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21 (1) TO CONTRACTORS AND/OR SUBCONTRACTORS WHO REQUEST AND ARE GRANTED A WAIVER
22 WHEN THEY CANNOT OR CHOOSE NOT TO PROPOSE TO HIRE LOCAL EMPLOYEES. A CONTRACTOR
23 OR SUBCONTRACTOR WHO APPLIES FOR, AND IS GRANTED, A WAIVER FROM THE PROVISIONS OF
24 THIS CODE SECTION BY THE COUNTY SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION AS
25 APPLIED TO THE PROJECT TO WHICH THE CONTRACTOR OR SUBCONTRACTOR PROPOSES TO
26 PROVIDE SERVICES.

27 (2) WHERE THE COUNTY DETERMINES THAT THE CONTRACT IS NECESSARY TO RESPOND TO A DECLARED
28 EMERGENCY WHICH ENDANGERS THE PUBLIC HEALTH, WELFARE, OR SAFETY, AND THERE IS NO TIME
29 TO APPLY THE PROVISIONS OF THIS CODE SECTION.

30 (3) TO COUNTY CONSTRUCTION CONTRACTS OR PORTIONS THEREOF, WHEREIN THE WORK IS OF A
31 HIGHLY SPECIALIZED NATURE REQUIRING A SKILL-SET BEYOND THOSE NORMALLY AND USUALLY

1 AVAILABLE AS DETERMINED BY THE COUNTY EXECUTIVE WHEN THE CONTRACT SPECIFICATIONS ARE
2 APPROVED.

3 (J) NO LOCAL BIDDER OR OFFERER IN DEFAULT ON PAYMENT OF ANY COUNTY OR STATE TAX OR
4 LICENSE SHALL BE ELIGIBLE FOR THE LOCAL BUSINESS OPPORTUNITY INITIATIVE; UNTIL ALL TAXES OR
5 LICENSES DUE ARE PAID; AS DETERMINED BY THE FINANCE DEPARTMENT OF CECIL COUNTY.

6 (K) SEVERABILITY.

7 IF ANY SECTION, SUBSECTION, SUBDIVISION, PARAGRAPH, SENTENCE OR PHRASE OF THIS CODE SECTION IS
8 FOR ANY REASON HELD TO BE INVALID OR UNCONSTITUTIONAL, SUCH DECISION SHALL NOT AFFECT THE VALIDITY
9 OF THE REMAINING PORTIONS OF THIS CODE SECTION. THE COUNTY COUNCIL HEREBY DECLARES THAT IT WOULD
10 HAVE ADOPTED THIS CODE SECTION, AND EACH SUBSECTION, SUBDIVISION, PARAGRAPH, SENTENCE AND PHRASE
11 THEREOF, IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE SUBSECTIONS, SUBDIVISIONS, PARAGRAPHS,
12 SENTENCES OR PHRASES HAD BEEN DECLARED INVALID OR UNCONSTITUTIONAL.

13

14 **EFFECTIVE DATE:** All provisions of Bill 2013-XX shall be in full force and effect sixty days after enactment.
15 (Charter, Section 307)

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

BY: Council Manager

BILL NO:

Title of Bill:

is hereby submitted to the County Council of Cecil County, Maryland for enrollment as being the text as finally passed .

CERTIFIED TRUE AND CORRECT

ENROLLED

Council Manager

Council President

Date: _____

Date: _____

BY THE COUNCIL

Read the third time.

Passed - LSD _____

Passage Failed - LSD _____

BY: _____
Council Manager

SEALED WITH THE COUNTY SEAL AND PRESENTED TO THE COUNTY EXECUTIVE for approval this ____ day of _____, 20____ at _____ a.m. / p.m.
(10 business days from adoption §306)

BY: _____
Council Manager

BY THE EXECUTIVE:

Cecil County Executive

APPROVED Date: _____

VETOED Date: _____
(10 business days from presentation §306)

BY THE COUNCIL

This Bill No. XXXX-XX having been approved by the Executive and returned to the Council becomes law on _____ with an effective date of _____.

BY: _____
Council Manager