the contract was presented to and approved by the board on 3 August 1977.[53] The board expressed great satisfaction with its achievement; Parsons got the contract; and, running as an anticorruption candidate, Harry Hughes was elected governor of Maryland in November 1978. In a nice and fitting postscript to this unfortunate episode, it is worth noting that Governor Hughes now sits amicably and congenially on the board with Comptroller Louis L. Goldstein and Treasurer William S. James, his erstwhile adversaries in the Parsons matter.

The brouhaha over the Parsons contract involved only one aspect of the procurement function—the acquisition of professional services. Other controversies were brewing at the same time that also created some temporary problems, most of them coming under the general heading of "affirmative action."

Although until 1977 there was no general statutory requirement that procurement contracts subject to board approval be let through competitive bidding to the lowest bidder,[54] that was the process generally used by the board, at least with respect to construction and supply contracts. Such a process served three important goals: (1) fiscal economy—paying the lowest price; (2) avoiding the appearance of favoritism in the handing out of state contracts; and (3) ease of administration (so long as everyone was bidding on the same plans and specifications).

Paradoxically, it was in part the very benefit of that process that created a deficiency in it. Competitive bidding rewarded the firms that were most efficient, which in modern times came to mean large established firms—those that could borrow money more cheaply, get bonds more easily, were familiar with state bidding and monitoring procedures, and could benefit from other economies of scale. That, for all practical purposes, tended to freeze out minority contractors and other new, small entrants. They simply could not compete based on price alone, and thus they received little or none of the lucrative state business. Correction of this deficiency involved tampering to some degree with pure competitive bidding, and that brought a number of new problems to the board, at least for a time.

The first attempt to equalize opportunity in terms of public contracting came in 1961. In that year the legislature decreed that all state construction contracts had to contain certain antidiscrimination clauses—that no such contract could be awarded to any contractor unless he agreed not to discriminate in employment by reason of race, creed, color, or national origin. The same obligation had to be made part of all subcontracts. Enforcement was vested in the Board of Public Works. Upon complaint by any person, the board was obliged to "cause an immediate investigation of the charges," and if it found a violation the state could, in effect, void the contract and pay only for the reasonable value of the services performed under it.[55]

The nondiscrimination clauses required under the act were routinely inserted into all construction contracts, and to that extent at least the law was enforced. How effective the provision was in achieving the law's purpose is far less clear. It does not appear that the board undertook very many, if any, investigations or actually annulled any contracts by reason of employment discrimination, although neither does it appear that the board was asked to do so. For the most part, especially after 1965, the state's Human Relations Commission assumed the role of monitoring unlawful employment discrimination.

The situation began to change in 1976 with the full advent of affirmative action, in terms of both minority groups and small business generally. The major thrust came

53. Ibid., 3 August 1977, pp. 75-76, MdHR 40281-340-3, and transcripts, pp. 1-22, MdHR 40328-81-1.
54. See *Terminal Construction Corporation v. State Board of Public Works,* Circ. Ct. of Balto. City, *Daily Record,* 29 July 1957. The first statutory requirement for competitive bidding came with Acts of 1977, ch. 921, and even that allowed some exceptions. Compare, however, former art. 64B, sec. 45 of *Md. Ann. Code,* enacted by Acts of 1969, ch. 160, requiring competitive bidding on certain contracts let by DOT's Mass Transit Administration.
55. Acts of 1961, ch. 448.