

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 951

(Delegate McHale, *et al.*)

Economic Matters

Finance

Department of Labor, Licensing, and Regulation - Workgroup on Public Works
Contractor Occupational Safety and Health Prequalification Requirements

This bill requires the Department of Labor, Licensing, and Regulation (DLLR) to convene a workgroup to (1) analyze the potential effects of specified public works contractor occupational safety and health prequalification requirements; (2) study the effectiveness of similar requirements in other jurisdictions; (3) study the requirements and practices currently used by State agencies to ensure contractor adherence to safety standards; and (4) make recommendations regarding the establishment of such requirements in the State. The workgroup must report its findings and recommendations to the General Assembly by December 31, 2014.

The bill takes effect July 1, 2014, and terminates June 30, 2015.

Fiscal Summary

State Effect: None. DLLR can convene the workgroup and submit the required report with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each primary procurement unit may establish procedures by regulation to prequalify responsible bidders or offerors for procurements other than leases of real property. Each primary procurement unit must keep a register of all prequalified persons.

Subject to limited exceptions, for competitive sealed bid procurements, the contract is awarded to the responsible bidder who submits the responsive bid that is the lowest bid price. For competitive sealed proposal procurements, the contract is awarded to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the State considering the evaluation factors set forth in the request for proposals. There is no provision in State law to prequalify prospective bidders or offerors on the basis of safety practices.

The federal Williams-Steiger Occupational Safety and Health Act (OSHA) of 1970 requires the U.S. Department of Labor to establish a program “to assure so far as possible every working man and woman in the nation with safe and healthful working conditions.” The Act specifies that states may elect to assume responsibility for development and management of a state occupational safety and health program as long as the standards under the state programs are “at least as effective as” OSHA standards. In 1971, the Division of Labor and Industry within DLLR was designated as the agency responsible for Maryland’s Occupational Safety and Health Plan. In 1973, the division assumed authority and enforcement responsibility. The Maryland Occupational Safety and Health Act governs Maryland’s program.

Background: DLLR advises that many public agencies, including the federal government, require safety and health prequalification because of the risk involved with allowing a contractor with a history of workplace incidents to work on a public works project.

Additional Information

Prior Introductions: HB 1486 of 2013, which would have required prequalification, was referred to the House Economic Matters Committee but did not receive a hearing.

Cross File: SB 774 (Senator Montgomery, *et al.*) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Health and Mental Hygiene, Maryland Department of Transportation; University System of Maryland; Department of General Services; Maryland Association of Counties; Kent, Montgomery, and Washington counties; Town of Berlin; Department of Legislative Services

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