

Department of Legislative Services  
2017 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 144

(Chair, Health and Government Operations  
Committee)(By Request - Departmental - General  
Services)

Health and Government Operations

Education, Health, and Environmental Affairs

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Procurement - Department of General Services - Exemption for Historic  
Structures

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This departmental bill exempts from most State procurement law any procurement by the Department of General Services (DGS) for the rehabilitation of a structure that is listed in or eligible to be listed in the National Register of Historic Places, to the extent that the procurement is necessary to preserve the historic fabric of the structure impacted by the rehabilitation, as determined by DGS in consultation with the Maryland Historical Trust (MHT). It also repeals an existing procurement exemption for DGS for the *renovation* of a structure that was built during the eighteenth or nineteenth century and that is listed in or eligible to be listed in the National Register of Historic Places.

The bill takes effect July 1, 2017.

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Fiscal Summary

**State Effect:** Potential minimal increase in initial contract costs stemming from limited competition for the designated procurements may be offset by reduced risk for contract modifications and extensions that can increase total contract costs. The net effect is expected to be negligible. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** DGS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Current Law:** State procurement law requires open and competitive procurements, with contract awards going to the responsible bidder with the lowest responsive bid. A responsible bidder is one who has the capability in all respects to perform fully the requirements for a procurement contract and possesses the integrity and reliability that will ensure good faith performance. A responsive bid must conform in all material respects to the invitation for bids issued by the procurement unit.

As noted above, procurements for the renovation of structures built during the eighteenth or nineteenth centuries that are listed or are eligible for listing in the National Register of Historic Places are exempt from most provisions of State procurement law.

The University System of Maryland, Morgan State University, St. Mary's College of Maryland, and public-private partnerships authorized by State law are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Commerce;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- MHT;
- Rural Maryland Council;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority;
- Maryland State Lottery and Gaming Control Agency;
- State Retirement and Pension System;
- DGS, for renovation of historical structures;
- Department of Natural Resources, for negotiating with nonprofit entities for projects related to conservation service opportunities;
- College Savings Plans of Maryland; and
- Chesapeake Bay Trust.

However, each exempt entity is subject to specified provisions of State procurement law, generally those related to maintaining the integrity of the procurement process.

**Background:** DGS seeks to modify the current exemption in order to apply the exemption to the rehabilitation of a property listed in or eligible for listing in the National Register of Historic Places (buildings older than 50 years are eligible for listing). Under DGS's proposed change, the procurement exemption is narrowly applied only to the portion of the rehabilitation that is of historic significance and would be affected during the rehabilitation. Under the bill, DGS must consult with MHT to determine the areas of historic significance to which the exemption applies.

**State Expenditures:** The bill allows DGS to engage in targeted procurements for the rehabilitation of historically significant buildings built during the twentieth century. Exempting such projects from State procurement law, subject to the bill's limitations, permits DGS to restrict its procurements for restoration projects to the limited number of architectural, engineering, and construction firms with expertise in the rehabilitation of historical buildings. While targeted procurements may increase initial contract costs by limiting competition for the contract, they may reduce the likelihood of contract modifications or extensions by limiting participation to firms and individuals with knowledge and expertise in historical rehabilitation. The net effect is expected to be negligible.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of General Services; Department of Legislative Services

**Fiscal Note History:** First Reader - January 24, 2017  
mm/ljm Third Reader - March 31, 2017  
Revised - Amendment(s) - March 31, 2017  
Enrolled - May 5, 2017  
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Analysis by: Michael C. Rubenstein

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Finance and Procurement – Historic Exemption

BILL NUMBER: HB 144

PREPARED BY: Ellen Robertson

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON  
MARYLAND SMALL BUSINESS

OR

\_\_\_ WILL HAVED MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL SUBINESSES

PART B. ECONOMIC IMPACT ANALYSIS