

HOUSE BILL 292

P2

4r1651
CF 4r2509

By: **Delegate Kerr**

Introduced and read first time: January 12, 2024

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Maryland State Board of Contract Appeals – Attorney’s**
3 **Fees**

4 FOR the purpose of requiring the Maryland State Board of Contract Appeals to award a
5 prospective bidder or offeror, a bidder, or an offeror reasonable costs of filing and
6 pursuing a protest, including attorney’s fees, if an appeal is sustained and there is a
7 violation of law or regulation; requiring the Maryland State Board of Contract
8 Appeals to award a contractor under any State contract the reasonable costs of filing
9 and pursuing a claim, including attorney’s fees, if procurement unit personnel act in
10 bad faith, without justification, or in violation of law or regulation; and generally
11 relating to State procurement contract claims and appeals.

12 BY repealing and reenacting, without amendments,
13 Article – State Finance and Procurement
14 Section 15–201
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2023 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Finance and Procurement
19 Section 15–221.1 and 15–221.2
20 Annotated Code of Maryland
21 (2021 Replacement Volume and 2023 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
23 That the Laws of Maryland read as follows:

24 **Article – State Finance and Procurement**

25 15–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 In this subtitle, “Appeals Board” means the Maryland State Board of Contract
2 Appeals.

3 15–221.1.

4 (a) The [Board of Contract Appeals may] **APPEALS BOARD SHALL** award a
5 prospective bidder or offeror, a bidder, or an offeror the reasonable costs of filing and
6 pursuing a protest, [not] including **REASONABLE** attorney’s fees, if:

7 (1) the prospective bidder or offeror, bidder, or offeror appeals the final
8 action of an agency on a protest;

9 (2) the [Board of Contract Appeals] **APPEALS BOARD** sustains the appeal;
10 and

11 (3) the [Board of Contract Appeals] **APPEALS BOARD** finds that there has
12 been a violation of law or regulation.

13 (b) The [Board of Contract Appeals] **APPEALS BOARD** shall adopt regulations to
14 implement this section and to determine what constitutes reasonable costs of filing and
15 pursuing a protest.

16 15–221.2.

17 (a) This section [only] applies to a claim resulting under a contract [for
18 construction].

19 (b) The Appeals Board [may] **SHALL** award to a contractor the reasonable costs
20 of filing and pursuing a claim, including reasonable attorney’s fees, if the Appeals Board
21 finds that the conduct of unit personnel, **WITH OR WITHOUT A PROCUREMENT OFFICER,**
22 in processing a contract claim is in bad faith [or], without substantial justification, **OR**
23 **CONTRARY TO ANY PROVISION OF THIS DIVISION II.**

24 (c) The Appeals Board shall adopt regulations to implement this section.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2024.