

**Department of Legislative Services**  
Maryland General Assembly

**FISCAL NOTE**

House Bill 980 (Delegate C. Mitchell)

Commerce and Government Matters

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**Procurement - Service Contracts - Standards for Privatization**

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This bill establishes standards and procedures for the procurement of services that are currently provided by a unit of State government. Any such procurement must be based on competitive sealed bids. An invitation for bids must state the wages to be paid under the contract and require the contractor to: (1) provide health insurance for employees who work more than 20 hours per week; (2) state the contractor's neutrality concerning an employee's right to collective bargaining; (3) offer jobs to qualified employees of the unit who will be terminated as a result of the contract; and (4) comply with State and federal law regarding employee rights, equal employment opportunity, and nondiscrimination.

Wages paid will be the lesser of: (1) the average private sector wage for comparable work as determined by the Department of Legislative Services; and (2) the base wage within the grade at which the position would be classified under the standard pay plan if the job was performed by a public employee.

If a contract for the privatization of services is proposed, the affected unit of State government must prepare a statement of its internal costs to provide the service utilizing public employees. Before awarding any such contract, the Board of Public Works must certify that: (1) the quality of service to be provided by the contractor will be at least equal to the quality of services provided by the unit; (2) the contractor does not have a record of noncompliance with any federal or state law or regulation; and (3) award of the contract is in the public interest.

An individual who has management responsibilities within a unit of State government may not, for a period of one year from the termination of State employment, accept employment from a person who is awarded a contract for services formerly performed by the unit that employed the individual.

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**Fiscal Summary**

**State Effect:** Increase in administrative costs of \$77,100 for FY 1999, with an indeterminate increase in other expenditures. Revenues would not be affected.

**Local Effect:** None.

**Small Business Effect:** Meaningful.

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## Fiscal Analysis

### State Expenditures:

#### Contract Costs

The bill's specifications regarding the private contractor's employee salary levels and benefits could eliminate most savings from replacing employees with contractors, unless the contractor could provide the same services with fewer employees.

In addition, since the Board of Public Works must certify that the quality of the service will be at least equal to the service provided by the unit of State government, in certain circumstances contracts are unlikely to be awarded. Due to the bill's provision that a manager for State government cannot work for a contractor that takes over the work of the unit that employed the manager for a period of one year, a contractor could not immediately hire employees who could oversee the process without training. (It is assumed that the intention is for the provision to apply to the new section under the bill, rather than Section 12-109 as drafted.) For certain emergency rescue units, this provision could potentially jeopardize public safety, further precluding any such contract awards.

#### The Department of Legislative Services

The Department of Legislative Services (DLS) advises that it is provided with information on average private sector salaries by the Department of Business and Economic Development and the Department of Labor, Licensing, and Regulation. Therefore, DLS can provide this information for wage determination purposes with existing resources.

The Board of Public Works

The bill requires the Board of Public Works to certify that the contractor chosen is reliable, and that the contract is in the public interest. General fund expenditures could increase by an estimated \$77,132 in fiscal 1999, which accounts for the bill's October 1, 1998 effective date. This estimate reflects the cost of hiring one Administrator V and one Office Secretary III to approve the affected contracts. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$66,412
Equipment Purchase	\$9,220
Other Operating Expenses	<u>\$1,500</u>
<b>BPW FY 1999 Expenditures</b>	<b>\$77,132</b>

Future year expenditures below reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

FY 2000	\$90,994
FY 2001	\$94,207
FY 2002	\$97,535
FY 2003	\$100,983

**Small Business Effect:** Small businesses would benefit to the extent that they are awarded additional State service contracts as a result of the bill. Due to the requirements on contractors under the bill, some small businesses may be unable to bid on State contracts for privatized services.

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**Information Source(s):** Department of General Services, Department of Transportation, Board of Public Works, Department of Budget and Management, University System of Maryland, Department of Housing and Community Development, Department of Public Safety and Correctional Services (Division of Correction), Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - March 17, 1998

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