

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 1400 (Delegate Benson. *et al.*)

Commerce and Government Matters

State Procurement - Payment of Subcontractors

This bill requires a general contractor for a State construction project to pay any subcontractor used in performance of the contract, within 10 days after payment by the State to the general contractor, provided that the work by the subcontractor has been done in accordance with the generally accepted standards of the appropriate industry. If payment is not made as specified above, the State must assess a penalty against the general contractor not to exceed \$1,000 for each day that required payment is not made to the subcontractor. The total amount of penalties may not exceed the total amount to which the general contractor would be entitled under the State contract. The bill specifies that the Maryland State Board of Contract Appeals will have jurisdiction to hear and decide all cases arising out of disputes regarding timely payment between a general contractor and a subcontractor for work done on a State construction contract.

Fiscal Summary

State Effect: Minimal effect on expenditures and revenues.

Local Effect: None.

Small Business Effect: Minimal. Small subcontractors could benefit from more timely payments for work done as part of a State construction contract.

Fiscal Analysis

State Expenditures: Any effect on the administrative costs of procurement units is expected to be minimal. The Department of Transportation, the University System of Maryland, and the Department of Health and Mental Hygiene advise the bill would have no fiscal impact. Assuming few cases would arise as a result of the bill, the Board of Contract Appeals could

handle the cases with existing resources.

As a point of reference only, it is noted that the State spent about \$907 million on construction and construction-related services in fiscal 1996, the latest year for which such information is available.

State Revenues: General fund revenues could increase by a minimal amount under the bill's monetary penalty provision, depending on the number and amount of fines imposed.

Additional Comments: The Department of General Services (DGS) advises that it already has the authority to split an invoice payment to a prime contractor and issue a two-party check that could only be cashed by a subcontractor in a situation where DGS was informed that the subcontractor had not received payment from the prime contractor. In addition, the State Highway Administration (SHA) advises that SHA has a "prompt payment" clause in all of its specifications requiring the contractor to pay its subcontractors within five days of receiving payment from SHA.

Information Source(s): State Board of Contract Appeals, Department of General Services, Department of Health and Mental Hygiene, University System of Maryland, Department of Public Safety and Correctional Services (Division of Capital Construction and Facilities Maintenance), Department of Transportation, Department of Legislative Services

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