

Department of Legislative Services

Maryland General Assembly

1999 Session

FISCAL NOTE

Senate Bill 191 (Senators Mitchell and Conway)

Economic and Environmental Affairs

Procurement - Service Contracts - Standards of Privatization

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 step 1 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.

Fiscal Summary

State Effect: Indeterminate potential increase in procurement costs. Increase in personnel expenditures (general funds) of \$77,800 for FY 2000 to administer the bill's provisions.

Local Effect: None.

Small Business Effect: Meaningful.

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.

Eliminating the salary and benefit savings from privatization would increase the costs of those contracts. For illustrative purposes, the Department of General Services estimates that its existing contracts for janitorial services would increase in cost by \$1.1 million, or 42%, if they were required to meet the requirements of this bill. (Because the services have already been contracted out, the bill would not apply to the contracts). The likely effect of the bill is that fewer, if any, services would be privatized.

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. 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 \$77,825 in fiscal 2000, which accounts for the bill's October 1, 1999 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	\$67,105
Equipment Purchase	\$9,220
Other Operating Expenses	\$1,500
BPW FY 2000 Expenditures	\$77,825

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 2001	\$91,990
FY 2002	\$95,311
FY 2003	\$98,755
FY 2004	\$102,326

Small Business Effect: The requirements on contractors under the bill would increase the cost of privatization, making it less likely that services would be privatized, thereby providing fewer contracts for private firms, including small businesses.

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 Legislative Services

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