

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

House Bill 1112 (Delegate Benson. *et al.*)

Commerce and Government Matters

State Construction Contracts - Prompt 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 ten days after payment by the State to the general contractor, provided the work by the subcontractor has been done in accordance with the generally accepted standards of the appropriate industry. If payment has not been made as specified above, the contractor may be required to pay a penalty to the subcontractor of up to \$100 per day from the date that payment was required as defined by the provisions of the bill. The bill specifies that a representative of the unit designated by the procurement officer shall ascertain whether the amount of payment withheld is an undisputed amount and shall instruct the contractor to pay the subcontractor the undisputed amount within three business days. The contractor or subcontractor may appeal the decision of the unit representative to the procurement officer. The procurement officer shall have the authority to resolve and decide the appeal and impose any penalties regarding disputes over timely payment between a general contractor and a subcontractor for work done on a State construction contract. The bill specifies that these specific prompt payment disputes are not subject to judicial review and may not be appealed to the State Board of Contract Appeals.

Fiscal Summary

State Effect: Minimal effect on expenditures and revenues.

Local Effect: None.

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

Fiscal Analysis

State Effect: Any effect on the administrative costs of procurement units is expected to be minimal. Due to the infrequent occurrence of this type of dispute, the Department of General Services advises that any increased administrative costs could be handled within existing resources. The State Highway Administration (SHA) advises that it already includes a “prompt payment” clause in all their specifications requiring the contractor to pay its subcontractors within ten days of payment receipt from SHA.

Information Source(s): Department of Transportation, Judiciary (Administrative Office of the Courts), Department of Budget and Management, Department of General Services, ~~Department of Health and Mental Hygiene, Office of the Attorney General, University System of Maryland, Department of Legislative Services~~

Fiscal Note History: First Reader - March 16, 1999
dmm/jr

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