

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 512 (Senator Exum)
Economic and Environmental Affairs

Procurement - Service Contracts - Standards for Privatization

This bill establishes standards and procedures for the procurement of services that are currently provided by a unit of State government.

Fiscal Summary

State Effect: Potential increase in procurement costs.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A procurement of a service currently provided by a unit of State government 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 Labor, Licensing, and Regulation; or (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, without an increase in personnel or budget, 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.

Current Law: Under the Competitive Re-Engineering Pilot Program, State employees, through service redesign, develop a plan to improve service delivery and reduce costs or cost increases of a targeted service. If the employees do not meet the service redesign options or plan, their targeted service units or functions are opened to a request for proposals. The State employees may compete with private contractors for the targeted service through competitive re-engineering. The employees submit a proposal in response to a request for proposals. A targeted service is a service for which the agency determines that: (1) objective performance measures can be established; (2) the service is or could be provided by the private sector; (3) costs or cost increases for the service could be reduced; and (4) competition for the service is in the best interest of the State. The pilot will sunset on September 30, 2002. To date, no services have been contracted out under the pilot program.

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. 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. The likely effect of the bill is that few if any services would be privatized.

The Department of Labor, Licensing, and Regulation

The Department of Labor, Licensing, and Regulation currently provides information on average private sector salaries.

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.

Additional Information

Prior Introductions: Substantially similar bills have been introduced in the 1999, 1998, 1996, and 1995 sessions. In 1999, SB 191 received an unfavorable report from the Senate Economic and Environmental Affairs Committee. In 1998, HB 1276 was withdrawn. In 1996, HB 184 received an unfavorable report from the House Commerce and Government Matters Committee and, in 1995, HB 1048 received an unfavorable report from the House Appropriations Committee.

Cross File: None.

Information Source(s): Department of General Services; Department of Labor, Licensing, and Regulation; Department of Transportation; Board of Public Works; Department of Budget and Management; University System of Maryland; Department of Legislative Services

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