

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1304 (Delegate Benson)
Commerce and Government Matters

**Procurement - Bid Protest and Contract Claim Appeals - Award of Attorney and
Expert Witness Fees**

This bill requires the Board of Contract Appeals to award reasonable attorney and expert witness fees to a contractor under a construction contract, a prospective bidder or offeror, a bidder, or an offeror if the entity: (1) appeals the final action of an agency on a claim under a procurement contract or a protest; and (2) the board sustains the appeal.

Fiscal Summary

State Effect: Increase in general and special fund (Transportation Trust Fund) expenditures of approximately \$550,000 in FY 2002. Later years reflect inflation.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	550,000	566,500	583,500	601,000	619,000
Net Effect	(\$550,000)	(\$566,500)	(\$583,500)	(\$601,000)	(\$619,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None

Small Business Effect: Potential minimal.

Analysis

Current Law: The Board of Contract Appeals may award reasonable attorney fees to a contractor on a claim resulting from a construction contract if the board finds that the

conduct of the procurement unit personnel in processing the claim is in bad faith or without substantial justification.

The board may not award attorney's fees to a prospective bidder or offeror, a bidder, or an offeror.

Background: The Board of Contract Appeals sustains two to four contract disputes and one or two bid protests annually. The board has not awarded any attorney fees.

State Fiscal Effect: The Board of Contract Appeals advises that based on the current number of disputes sustained, there would be an increase in general and special fund (Transportation Trust Fund) expenditures of \$550,000 to \$600,000 in fiscal 2002. This amount is expected to increase in future years by the rate of inflation. The board also advises that there is no basis for determining if the new State liability for attorney and expert witness fees would increase the number of bid protests and contract disputes.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Contract Appeals, Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader – March 8, 2001
ef/jr

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