

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 1107

(First Reading File Bill)

AMENDMENT NO. 1

On page 1 in the sponsor line, strike “and Morhaim” and substitute “, Morhaim, Hurson, Hammen, Benson, Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Goldwater, Hubbard, Kach, Mandel, McDonough, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, Rudolph, Smigiel, and V. Turner”; strike beginning with “develop” in line 4 down through “awards” in line 7 and substitute “make certain recommendations regarding the award of financial incentives for certain purposes”; strike beginning with “altering” in line 10 down through the first “Appeals” in line 11 and substitute “altering the qualifications for the members of the State Board of Contract Appeals”; in line 11, strike “a” and substitute “at least one”; strike beginning with “altering” in line 12 down through “Committee” in line 21 and substitute “authorizing certain persons, without being admitted to practice law in the State, to represent certain contractors in certain procedures before the Appeals Board; providing that certain requirements related to the practice of law in the State do not limit the right of certain persons to represent certain contractors in these proceedings; clarifying that a person may be represented by counsel in an appeal before the Appeals Board”.

On pages 1 and 2, strike beginning with “requiring” in line 22 on page 1 down through “Act;” in line 5 on page 2 and substitute “requiring the Board of Public Works and the Department of Legislative Services to conduct certain studies and submit certain reports on or before a certain date; providing for the termination of certain provisions of this Act;”.

On page 2, after line 5, insert:

“BY repealing and reenacting, with amendments,  
Article - Business Occupations and Professions  
Section 10-102  
Annotated Code of Maryland  
(2000 Replacement Volume and 2003 Supplement)”;

(Over)

in line 13, after “13-106(a)” insert “and (e)”; strike in their entirety lines 16 through 20, inclusive; and in line 23, strike “and 15-224”.

AMENDMENT NO. 2

On page 4, strike beginning with “DEVELOP” in line 20 down through “(III)” in line 26 and substitute “MAKE RECOMMENDATIONS TO THE BOARD OF PUBLIC WORKS FOR”.

AMENDMENT NO. 3

On page 2, after line 27, insert:

“Article - Business Occupations and Professions

10-102.

This title does not limit the right of:

(1) an individual to appear on the individual’s own behalf before a court or other unit of the State government;

(2) a title insurance company to examine and to insure titles to real property;

(3) a collection company to engage in the business of collecting or adjusting commercial claims; [or]

(4) a lawyer who is employed on a regular salaried basis by a corporation to represent the corporation before a court or other unit of the State government; OR

(5) AN INDIVIDUAL TO REPRESENT A CONTRACTOR IN AN EXPEDITED PROCEDURE BEFORE THE STATE BOARD OF CONTRACT APPEALS UNDER § 15-221(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.”.

On page 10, in line 4, after “IS” insert “;”

(I)”;

in line 8, strike the period and substitute “; AND”; in line 9, strike “(2)” and substitute “(II)”; in the same line, strike beginning with the first “IN” through “IS”; after line 13, insert:

“(2) A PERSON MAY BE REPRESENTED BY COUNSEL IN AN APPEAL BEFORE THE APPEALS BOARD.

(3) A SOLE PROPRIETOR, CORPORATE OFFICER OR DIRECTOR, GENERAL PARTNER, LIMITED LIABILITY COMPANY MEMBER, PERSON WITH AT LEAST 10% OWNERSHIP, OR OTHER PRINCIPAL OF A CONTRACTOR, WHO HAS NOT BEEN ADMITTED TO PRACTICE LAW IN THE STATE, MAY REPRESENT THAT CONTRACTOR IN AN EXPEDITED PROCEDURE BEFORE THE APPEALS BOARD.”;

and in line 14, strike “(3)” and substitute “(4)”.

AMENDMENT NO. 4

On page 5, in lines 6 and 7, in each instance, strike the bracket.

AMENDMENT NO. 5

On page 8, after line 9, insert:

“13-111.

(a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS section applies to the procurement of SERVICES, EQUIPMENT, AND supplies [, with an estimated contract value of \$1,000,000 or more,] by a primary procurement unit.

(2) THIS SECTION DOES NOT APPLY TO CONSTRUCTION CONTRACTS OR THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES.”.

AMENDMENT NO. 6

On page 8, strike beginning with the colon in line 12 down through “(2)” in line 16; in line 17, strike “Each” and substitute “(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH”; in line 18, strike “(1)” and substitute “(I)”; in line 19, strike “(2)” and substitute “(II) 1.”; in line 20, after “STATE” insert “AND HAVE PROCUREMENT EXPERIENCE”; in the same line, strike “AND” and substitute “OR”; in line 21, strike “(3)” and

(Over)

substitute “2.”; after line 21, insert:

“(2) AT LEAST ONE MEMBER OF THE APPEALS BOARD SHALL BE AUTHORIZED BY THE COURT OF APPEALS TO PRACTICE LAW IN THE STATE.”;

in line 24, strike the brackets; and in the same line, strike “10”.

AMENDMENT NO. 7

On pages 9 and 10, strike in their entirety the lines beginning with line 2 on page 9 through line 2 on page 10, inclusive.

AMENDMENT NO. 8

On pages 10 through 12, strike in their entirety the lines beginning with line 16 on page 10 through line 25 on page 12.

On page 12, in line 26, strike “6.” and substitute “2.”.

On pages 12 and 13, strike in their entirety the lines beginning with line 34 on page 12 through line 13 on page 13, inclusive, and substitute:

“SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly finds that the current level of decentralization of the procurement process in Maryland, and the growing number of units of State government seeking and obtaining exemptions from the procurement law, may thwart the purposes and protections originally envisioned in the enactment of the State procurement law. Accordingly, the General Assembly requests that:

(a) The Board of Public Works:

(1) examine the level and extent of the delegation of its procurement responsibilities to units of State government and whether there are appropriate safeguards and accountability measures in place to promote the purposes set forth in § 11-201 of the State Finance and Procurement Article, including providing increased economy in the State procurement system, providing safeguards for maintaining a State procurement system of quality and integrity, and promoting the development of uniform procurement procedures to the extent possible; and

(2) on or before December 1, 2004, submit a report, including any recommendations for revisions to the State procurement law or regulations, to the Governor and the General Assembly, in accordance with § 2-1246 of the State Government Article; and

(b) The Department of Legislative Services, with the assistance and cooperation of the Board of Public Works and State units:

(1) conduct a study that reviews for each State entity that is exempt from any portion of the State procurement law:

(i) the extent of the exemption;

(ii) the original justification for the exemption and whether the circumstances continue to exist that justified the original exemption;

(iii) any procurement policies or procedures developed by the entity and the extent to which the policies and procedures comply with the purposes of State procurement law;

(iv) the existence of any accountability measures for determining the efficiency, effectiveness, and economy with which the entity is using State resources; and

(v) the date of, and findings from, the most recent legislative audit of the entity; and

(2) on or before December 1, 2004, submit a report to the Governor and General Assembly, in accordance with § 2-1246 of the State Government Article.”.

On page 13, in line 14, strike “11.” and substitute “4.”; strike beginning with “, except” in line 14 down through “Act,” in line 15; in line 16, strike “1 year and”; in lines 15 and 17, in each instance, strike “4” and substitute “3”; and in line 17, strike “2005” and substitute “2004”.