

SENATE BILL 600

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P2

2004 Regular Session
(4r1751)

ENROLLED BILL

-- Judicial Proceedings/Health and Government Operations --

Introduced by **Senator Grosfeld**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~State Board of Contract Appeals – Expedited Procedures – Legal~~
3 ~~Representation~~
4 ~~State Board of Contract Appeals - State Procurement Law~~

5 FOR the purpose of authorizing certain persons, without being admitted to practice
6 law in the State, to represent certain contractors in an expedited procedure
7 before the State Board of Contract Appeals; providing that certain requirements
8 related to the practice of law in the State do not limit the right of certain persons
9 to represent certain contractors in these proceedings; clarifying that a person
10 may be represented by counsel in an appeal before the Appeals Board; requiring
11 the Board of Public Works and the Department of Legislative Services to conduct
12 certain studies and submit certain reports on or before a certain date; providing
13 for the termination of certain provisions of this Act; and generally relating to
14 legal representation for a contractor in an expedited procedure before the State
15 Board of Contract Appeals the State Board of Contract Appeals and the State's
16 procurement law.

17 BY repealing and reenacting, with amendments,

1 Article - Business Occupations and Professions
2 Section 10-102
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2003 Supplement)

5 BY adding to
6 Article - State Finance and Procurement
7 Section 15-213
8 Annotated Code of Maryland
9 (2001 Replacement Volume and 2003 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Business Occupations and Professions**

13 10-102.

14 This title does not limit the right of:

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

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

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

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

23 (5) AN INDIVIDUAL TO REPRESENT A CONTRACTOR IN AN EXPEDITED
24 PROCEDURE BEFORE THE STATE BOARD OF CONTRACT APPEALS UNDER § 15-213 OF
25 THE STATE FINANCE AND PROCUREMENT ARTICLE.

26 **Article - State Finance and Procurement**

27 15-213.

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

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

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
2 ~~October 1, 2004. It shall remain effective for a period of 2 years and, at the end of~~
3 ~~September 30, 2006, with no further action required by the General Assembly, this~~
4 ~~Act shall be abrogated and of no further force and effect.~~

5 *SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly*
6 *finds that the current level of decentralization of the procurement process in Maryland*
7 *and the growing number of units of State government seeking and obtaining*
8 *exemptions from the procurement law may thwart the purposes and protections*
9 *originally envisioned in the enactment of the State procurement law. Accordingly, the*
10 *General Assembly requests that:*

11 (a) *The Board of Public Works:*

12 (1) *examine the level and extent of the delegation of its procurement*
13 *responsibilities to units of State government and whether there are appropriate*
14 *safeguards and accountability measures in place to promote the purposes set forth in §*
15 *11-201 of the State Finance and Procurement Article, including providing increased*
16 *economy in the State procurement system, providing safeguards for maintaining a*
17 *State procurement system of quality and integrity, and promoting the development of*
18 *uniform procurement procedures to the extent possible; and*

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

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

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

27 (i) *the extent of the exemption;*

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

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

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

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

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

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2004. Section 1 of this Act shall remain effective for a period of 2 years and, at
5 the end of June 30, 2006, with no further action required by the General Assembly,
6 Section 1 of this Act shall be abrogated and of no further force and effect. Section 2 of
7 this Act shall remain effective for a period of 6 months and, at the end of December 31,
8 2004, with no further action required by the General Assembly, Section 2 of this Act
9 shall be abrogated and of no further force and effect.