

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 211 (Senator Grosfeld)  
Education, Health, and Environmental Affairs

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**Procurement - Board of Contract Appeals - Appointments, Qualifications, and Term of Office**

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This bill increases the term of membership on the Maryland State Board of Contract Appeals from five to 10 years; requires that members of the board be authorized by the Court of Appeals to practice law in Maryland; creates the Appeals Board Nominating Committee; and specifies composition, duties, and procedures of the nominating committee.

The provisions of this bill concerning qualifications and terms of office do not apply to members of the board in office on October 1, 2004.

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**Fiscal Summary**

**State Effect:** The bill would not materially affect State government operations.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** The Appeals Board Nominating Committee will be composed of: (1) a resident of the State from the contractor community chosen by the Governor; (2) a member of the Maryland State Bar Association chosen by the Governor; (3) a member appointed by the President of the Senate; (4) a member appointed by the Speaker of the House; and (5) a member appointed by the Attorney General. The committee is required to solicit qualified candidates for openings on the board, interview applicants, and submit

a list of the three most qualified candidates to the Governor. On receipt of the list of candidates, the Governor shall nominate one of the candidates or request that the committee compile and submit a new list of three candidates.

**Current Law:** The board consists of three members who serve five-year terms. Members are required to be qualified to serve in a quasi-judicial capacity and have a thorough knowledge of procurement practices and processes. There are no provisions for a nominating committee to assist the Governor in the solicitation of candidates or selection of nominees.

**Background:** This bill mirrors the recommendations of the Task Force to Study Efficiency in Procurement (Chapter 386 of 2003). The task force was charged, in part, with studying the effectiveness of the dispute resolution process regarding State procurement. The task force addressed the need to depoliticize the appointments process by providing for a nominating committee and a longer term of office. The task force also addressed the board's considerable backlog and felt that all members of the board should be able to prepare findings of fact and offer decisions. The task force noted that the backlog of cases is directly related to vacancies on the board and the inability of non-attorney members to write opinions for the board.

The Commission on the Structure and Efficiency of State Government (the Mandel Commission) recommended the abolition of the board. The Mandel Commission based its decision in part on the high cost-per-case (\$11,000) for the board projected caseload in fiscal 2004. The commission further stated that the cases now heard by the appeals board could easily be handled in the circuit courts.

**Small Business Effect:** To the extent that a more efficient and effective dispute resolution process assists small businesses in addressing bid protests and contract claims against the State, this bill would benefit small businesses that contract with the State.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Board of Contract Appeals, Department of General Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2004  
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