

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 394 (Delegate Hubbard)
Health and Government Operations Education, Health, and Environmental
Affairs

Procurement - Security for Construction Contracts - Retainage

This bill exempts State units that are currently subject to retainage requirements under Section 13-225 of the State Finance and Procurement Article from also being subject to retainage requirements for State and local subdivisions contained in Title 17 of the Article.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Section 13-225 of the Article permits units of State government to withhold up to 5% of the value of a contract as retainage if the contractor has furnished 100% payment security and 100% performance security. That section also states that the unit may withhold an additional amount the unit reasonably believes necessary to protect the interests of the State.

Section 17-110 of the Article, covering special provisions for State and local subdivisions, permits a public body to withhold 10% of the total amount for the first 50% of the contract if the contractor has furnished 100% payment security and 100%

performance security. A public body may retain only 5% of the total amount of a contract after completion of 50% of the contract unless it can demonstrate the need to retain more than 5% to protect the public interest. A public body is permitted to withhold any amount in addition to retainage that the public body feels is reasonably necessary to protect the public body's interest.

Under Title 17 of the Article, "public body" means the State; a county, municipal corporation, or other political subdivision; a public instrumentality; or any governmental unit authorized to award a contract.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett County, Department of General Services, Board of Public Works, University System of Maryland, Department of Legislative Services

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dt/hlb

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