

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 64

(Senator Stone, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

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Procurement - Debarment - Violations of Law

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This bill specifies that a person may be debarred from entering into a contract with the State if, within the preceding five years, the person has: (1) been criminally convicted of violating federal or State labor laws, civil rights laws, or environmental protection laws; or (2) committed multiple violations of any federal, Maryland, or other states' labor law if the violations significantly impact the health or safety of workers; civil rights laws; or environmental protection law if the violations significantly impact the health or safety of workers or the general public, and been subject to multiple separate and distinct findings of civil liability in Maryland or any jurisdiction.

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Fiscal Summary

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** A person may be debarred from entering into a contract with the State on several grounds, including conviction for a variety of specified offenses, an admission in writing or under oath of an act that constitutes grounds for conviction of certain offenses, being a successor, assignee, subsidiary, or affiliate of a debarred person, or operating in a manner designed to evade or defeat the purpose of the State Finance and Procurement Article. A person may also be debarred from entering into a contract with the State for

any cause the Board of Public Works (BPW) determines to be so serious as to affect the integrity of the procurement process.

**State Expenditures:** The bill is not expected to result in a significant increase in the number of debarment actions. BPW advises that it typically reviews three to five debarment actions each year.

The Office of the Attorney General advises that a part-time Assistant Attorney General (at a first-year cost of \$34,000) will be required to handle increased workload issues. Legislative Services disagrees with this cost assessment, as the statute does not significantly expand the grounds for debarment, and believes that the bill's requirements could be handled with existing resources. In the event that the bill does result in a significant increase in debarment actions in the future, however, additional resources may be needed in the Office of the Attorney General.

**Small Business Effect:** Grounds for debarment expand slightly under the bill, adding increased risk of debarment for small businesses. However, the new grounds for debarment are only effective upon other violation of the State labor and environmental laws, which carry penalties as well. Conduct by businesses that violates these other statutes will still carry risk, regardless of the procurement consequences.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced in the 2004 session as SB 385. The bill received a favorable with amendments report by the Senate Education, Health, and Environmental Affairs Committee and was passed by the Senate. The House Health and Government Operations Committee did not take action on this bill. In 2003, SB 122, a similar bill, was vetoed by the Governor.

**Cross File:** None.

**Information Source(s):** Department of General Services, Board of Public Works, Maryland Department of Transportation, Department of Budget and Management, Office of the Attorney General, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2005  
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