

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 198 (Delegate Bates)
Health and Government Operations

Procurement - Private Attorney Contracts - Requirements

This bill requires the Board of Public Works (BPW) to submit any procurement contract for attorney services to the General Assembly for review if the attorney fees exceed or are expected to exceed \$1 million. It also requires that any contingency fee contract for attorney services that reimburses attorneys for their expenses specify that total fees must be reasonable and in accordance with the Maryland Rules of Professional Conduct.

Fiscal Summary

State Effect: None. The bill affects only the procedure by which BPW approves contracts for attorney services.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires that when the General Assembly is not in session, BPW must submit any procurement contract for attorney services with fees exceeding \$1.0 million to the Legislative Policy Committee. When the General Assembly is in session, BPW must submit the procurement to one or more of the appropriate standing committees of the General Assembly for their review. In either case, the submission must be made at least 75 days before the contract is executed.

The legislative committees have 45 days from the time they receive the contract to recommend changes to the contract. If they recommend changes, BPW must either adopt

the changes or state in writing why it chooses not to incorporate the recommended changes. If the committees do not respond within 45 days of receiving the proposed contract, BPW may award the contract.

Current Law: A State agency may not employ legal counsel other than the Attorney General or his/her designee, unless all of the following conditions are met:

- the agency is affected by an investigation of an investigating committee of the General Assembly;
- the Attorney General represents both the investigating committee and the agency;
- the Attorney General notifies BPW in writing of the potential conflict of interest; and
- BPW approves the employment of outside counsel by the agency.

Private attorney contracts are not subject to legislative review. BPW is not authorized to make changes to procurement contracts that come before it, only to approve or disapprove them.

Additional Information

Prior Introductions: HB 878 was introduced during the 2002 session and received an unfavorable report from the Commerce and Government Matters Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 1, 2006
ncs/rhh

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