

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 132

(Senator Conway, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

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**Department of General Services - Renovation of Historic Structures -  
Procurement Exemptions**

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This bill exempts from most State procurement law any procurement by the Department of General Services for the renovation of a structure that was built during the eighteenth or nineteenth century and that is listed in or eligible to be listed in the National Register of Historic Places.

The bill takes effect July 1, 2009.

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**Fiscal Summary**

**State Effect:** Minimal. Potential increases in initial contract costs stemming from limited competition for the designated procurements can be offset by reduced risk for contract modifications and extensions that can increase total contract costs. The net effect is expected to be negligible.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** State procurement law requires open and competitive procurements, with contract awards going to the responsible bidder with the lowest responsive bid. A responsible bidder is one who has the capability in all respects to perform fully the requirements for a procurement contract and possesses the integrity and reliability that

will ensure good faith performance. A responsive bid must conform in all material respects to the invitation for bids issued by the procurement unit.

The University System of Maryland, Morgan State University, and St. Mary's College of Maryland are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority;
- State Lottery Agency; and
- State Retirement and Pension System.

**Background:** The Maryland Historical Trust estimates that approximately 20 State-owned buildings under DGS' authority could be subject to the procurement exemption in the bill. Among those, the building of greatest significance is the State House.

The State House Trust was created in 1969 to oversee the area inside State Circle in Annapolis, including the State House. The trust supervises all improvements, alterations, additions, landscaping, and repairs within the area.

The Maryland State House is the oldest state house in the country still in legislative use. It was designated a National Historic Landmark in 1960. The State House has been undergoing substantial renovation in recent years, including the just-completed \$8 million project to replace all piping and duct work in the building. At the same time, restoration of the old Senate chamber is proceeding, and funding is currently being

sought to restore the old House chamber. Restoration of the old Treasury building on State Circle is also planned.

**State Fiscal Effect:** The bill allows DGS to engage in targeted procurements for the renovation of historically significant buildings such as the State House. Exempting such buildings from State procurement law permits DGS to restrict its procurements for restoration projects to the limited number of architectural, engineering, and construction firms with expertise in the restoration and renovation of historical buildings. While targeted procurements may increase initial contract costs by limiting competition for the contract, they may reduce the likelihood of contract modifications or extensions by limiting participation to firms and individuals with knowledge and expertise in historical restoration. The net effect is expected to be negligible.

**Small Business Effect:** The exemption from procurement law granted by this bill allows DGS to conduct restricted or targeted procurements for renovation of historically significant buildings owned by the State. Such procurements may effectively preclude participation by small businesses that do not have the expertise in historical restoration sought by DGS. Some projects, such as the recent replacement of piping and ducts in the State House, are of significant size and scope, so the exclusion of certain small businesses from future procurements may be meaningful.

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### **Additional Information**

**Prior Introductions:** HB1549 LR0017 2008 HGO

**Cross File:** HB 91 (Delegates Morhaim and Hammen) - Health and Government Operations.

**Information Source(s):** Board of Public Works, Department of Budget and Management, Maryland Department of Planning, Governor's Office, Department of General Services, Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2009  
ncs/rhh

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