

HB0119/326987/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 119

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Contract Clauses” and substitute “Contracts”; strike beginning with “requiring” in line 4 down through “circumstances,” in line 9 and substitute “prohibiting a unit from requiring a prime contractor and a prime contractor from requiring a subcontractor to begin work under a contract until the procurement officer for the unit issues a certain change order; requiring, under certain circumstances, a unit to pay an invoice for work performed and accepted under a change order within a certain time period and in accordance with a certain provision of law; requiring a prime contractor to provide, within a certain time period, a subcontractor with a copy of a certain change order and a certain amount to be paid to the subcontractor; requiring the Board of Public Works to adopt certain regulations before a certain date; requiring each unit to issue certain guidelines; requiring that certain guidelines be updated and reissued under certain circumstances; providing that certain provisions of this Act have effect only to the extent that the provisions do not conflict with federal law;”; strike beginning with “the” in line 9 down through “requirement” in line 10 and substitute “certain provisions of this Act”; strike beginning with “requiring” in line 11 down through “work;” in line 14 and substitute “providing for the application of certain provisions of this Act; requiring the Secretary of Transportation, in consultation with certain organizations, to convene a certain workgroup to develop recommendations that address certain issues; requiring the workgroup to report its recommendations to certain committees of the General Assembly on or before a certain date; requiring each unit to issue a certain document on or before a certain date;”; in line 15, after “Act;” insert “providing for the effective dates of this Act;”; in lines 15 and 16, strike “required contract clauses” and substitute “change orders”; in line 19, strike the second “and” and substitute a comma; in the same line, strike “and 15-226(a)” and substitute “, and (5)”; in line 24, strike the first comma and substitute “and”; and in the same line, strike “(e)(5), and (h) and 15-226(c)”.

(Over)

On page 2, in line 2, strike “13-219.1” and substitute “15-112”.

AMENDMENT NO. 2

On page 5, strike in their entirety lines 5 and 6; in lines 7 and 9, in each instance, strike the brackets; in the same lines, strike “(VI)” and “(VII)”, respectively; after line 10, insert:

“(VII) § 15-112 OF THIS ARTICLE (“CHANGE ORDERS”);”;

in line 16, strike “§ 13-219.1” and substitute “§ 15-112”; and strike in their entirety lines 30 and 31.

On page 6, in lines 1, 2, 4, 6, and 8, in each instance, strike the brackets; in the same lines, strike “5.”, “6.”, “7.”, “8.”, and “9.”, respectively; strike in their entirety lines 13 through 30, inclusive, and substitute:

“15-112. CHANGE ORDERS.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO STATE PROCUREMENT CONTRACTS FOR CONSTRUCTION.

(2) THIS SECTION DOES NOT APPLY TO STATE PROCUREMENT CONTRACTS FOR PUBLIC SCHOOL CONSTRUCTION OR PUBLIC SCHOOL CAPITAL IMPROVEMENTS.

(B) A UNIT MAY NOT REQUIRE A PRIME CONTRACTOR AND A PRIME CONTRACTOR MAY NOT REQUIRE A SUBCONTRACTOR TO BEGIN CHANGE ORDER WORK UNDER A CONTRACT UNTIL THE PROCUREMENT OFFICER FOR THE UNIT ISSUES A WRITTEN CHANGE ORDER THAT SPECIFIES WHETHER THE WORK IS TO

PROCEED ON AN AGREED-TO PRICE, FORCE ACCOUNT, CONSTRUCTION CHANGE DIRECTIVE, OR TIME AND MATERIALS BASIS IN COMPLIANCE WITH THE TERMS OF THE CONTRACT.

(C) IF THE AMOUNT TO BE PAID UNDER AN APPROVED CHANGE ORDER DOES NOT EXCEED \$50,000, A UNIT SHALL PAY AN INVOICE FOR WORK PERFORMED AND ACCEPTED UNDER THE CHANGE ORDER AS PROVIDED FOR IN THE CONTRACT WITHIN 30 DAYS AFTER THE UNIT RECEIVES THE INVOICE AND IN ACCORDANCE WITH § 15-103 OF THIS SUBTITLE.

(D) WITHIN 5 DAYS AFTER RECEIPT OF A WRITTEN CHANGE ORDER, A PRIME CONTRACTOR SHALL PROVIDE A SUBCONTRACTOR WITH A COPY OF THE APPROVED CHANGE ORDER AND THE AMOUNT TO BE PAID TO THE SUBCONTRACTOR BASED ON THE PORTION OF THE CHANGE ORDER WORK TO BE COMPLETED BY THE SUBCONTRACTOR.

(E) BEFORE JANUARY 1, 2017, THE BOARD SHALL ADOPT REGULATIONS THAT PROVIDE FOR AN EXPEDITED CHANGE ORDER PROCESS FOR CHANGE ORDERS VALUED AT MORE THAN \$50,000.

(F) (1) EACH UNIT SHALL ISSUE GUIDELINES FOR THE UNIT'S CHANGE ORDER PROCESS.

(2) THE GUIDELINES ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE UPDATED AND REISSUED WHEN ANY CHANGES ARE MADE TO THE UNIT'S CHANGE ORDER PROCESS.

(G) A PROVISION OF THIS SECTION HAS EFFECT ONLY TO THE EXTENT THAT THE PROVISION DOES NOT CONFLICT WITH FEDERAL LAW.”.

On pages 7 through 9, strike in their entirety the lines beginning with line 1 on page 7 through line 12 on page 9, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Secretary of Transportation, in consultation with the Maryland Associated General Contractors, the Maryland Minority Contractors Association, the Coalition of Contracting Fairness, and the Associated Builders and Contractors of Metro Washington, shall convene a workgroup of stakeholders to develop recommendations that address the following issues related to State procurement for construction contracts:

- (1) scope review process;
- (2) termination for convenience;
- (3) uniformity of change order practices and authority;
- (4) prompt payment and interest;
- (5) force accounts;
- (6) funding;
- (7) contractor capacity; and
- (8) any other issues that the workgroup determines need to be addressed.

(b) On or before December 31, 2015, the workgroup shall report its policy, regulatory, and legislative recommendations to the Senate Education, Health, and

Environmental Affairs Committee and the House Health and Government Operations Committee in accordance with § 2-1246 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2015, each unit, as defined in § 11-101 of the State Finance and Procurement Article, shall issue guidelines for the unit's change order process.”;

in line 13, strike “2.” and substitute “4.”; after line 14, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2016.”;

in line 15, strike “3.” and substitute “6.”; in the same line, after “That” insert “, except as provided in Section 5 of this Act.”; and in the same line, strike “July” and substitute “June”.