SB 336

Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 336 (Senator Hayes)
Education, Health, and Environmental Affairs

State and Local Procurement - Payment Practices

This bill shortens the timeframe within which State agencies must make payments under procurement contracts from 30 days to 15 days after (1) the day on which the payment becomes due or (2) the day on which the agency receives an invoice. It makes conforming changes to other provisions, including those regarding the accrual of interest on unpaid balances. The bill requires counties and municipalities to adopt payment policies consistent with the State's requirements.

Fiscal Summary

State Effect: State expenditures increase significantly, likely by several million dollars, to hire additional accounting and payment processing staff to meet the compressed payment timeframes in the bill. It is assumed that, as a result, the State does not incur any additional interest payment penalties on unpaid balances. No effect on revenues.

Local Effect: Local government expenditures likely increase significantly to hire additional accounting and payment processing staff to meet the compressed payment timeframes required by the bill. No effect on revenues. **The bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Current Law: It is the policy of the State to make a payment under a procurement contract within 30 days of the day on which a payment becomes due under a contract or, if later, after the day on which the agency receives an invoice. For payments that are payable under the terms of a written contract, interest on unpaid balances accrues at the annual rate of 9% beginning after 45 days. For payments that are due for an invoice, interest accrues at the same rate beginning after 30 days.

State Expenditures: Currently, agencies must forward their approved payments to the Comptroller's Office within 25 days, giving the Comptroller's Office 5 days to produce the check and mail it to the payee. State agencies are generally able to meet the 30-day deadline for payments, so they rarely incur interest charges on unpaid balances. The Department of Public Safety and Correctional Services (DPSCS) advises that about 3% of its payments are consistently processed late but are paid before interest begins accruing.

For this bill and for an identical version of the bill in the previous year, multiple State agencies, including the Department of General Services, Maryland Department of Transportation, DPSCS, the University System of Maryland, and the Department of State Police all indicate that they cannot meet the bill's payment deadlines with existing staff. In general, these agencies indicate that they need at least 2 additional accounting staff, and as many as 11 in some cases, to process invoices and payments within the bill's timeframe. As the Department of Legislative Services did not request information from all State agencies for this analysis, it is assumed that all 20 principal Executive Branch agencies require between 2 and 5 additional staff, and many other large State agencies also require at least 1 additional staff to comply with the bill's deadlines. Failure to meet the deadlines results in the accrual of interest on unpaid balances.

Therefore, expenditures (all funds) increase significantly to hire new accounting and payment processing positions for State agencies. *Under one scenario and for illustrative purposes only*, if each principal Executive Branch agency, including each university campus, employs an average of 3 additional staff and other major Executive Branch agencies each employ 1 additional staff, 118 additional staff are needed at an estimated cost of $6.9 million in the first year (which reflects the bill's October 1 effective date).

This analysis assumes that, with the additional staff, the State does not incur any additional interest penalties than it currently does.

Local Expenditures: Local governments likely incur significant costs to hire additional staff to meet the compressed timelines for payment of contractors, but a reliable estimate is not feasible.

Small Business Effect: Small businesses that contract with the State likely receive payments for their services much quicker than they currently do.

Additional Information

Prior Introductions: SB 933 of 2020 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. Its cross file, HB 747, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Designated Cross File: HB 454 (Delegate D. Barnes) - Health and Government Operations.

Information Source(s): State Board of Contract Appeals; Maryland Association of Counties; Maryland Municipal League; University System of Maryland; Department of General Services; Department of Public Safety and Correctional Services; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2021
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