

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 179

(Chair, Budget and Taxation Committee)(By Request -
Departmental - General Services)

Budget and Taxation

Appropriations

Energy Performance Contracts – Duration

This departmental bill extends the statutory limit on the duration of energy performance contracts (EPCs) from 15 years to 30 years. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Potential minimal reduction in State energy costs but not likely until FY 2038. No effect on revenues.

Local Effect: None.

Small Business Effect: The Department of General Services (DGS) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services disagrees with this assessment, as discussed below.

Analysis

Current Law: State law defines an EPC as an agreement for the provision of energy services, including electricity, heating, ventilation, cooling, steam, or hot water in which a person agrees to design, install, finance, maintain, or manage energy systems or equipment to improve the energy efficiency of a building or facility in exchange for a portion of the energy savings.

Procurement units in the State are authorized to enter into EPCs with a duration of no more than 15 years, subject to the approval and control of the Board of Public Works (BPW) and the Chief Procurement Officer. Prior to issuing a request for proposals (RFP) for an EPC,

a unit must consult with DGS and the Chief Procurement Officer; DGS must review the RFP to ensure that it meets State energy standards and satisfies other specified conditions. The Treasurer is authorized to enter into a capital lease consistent with current law to finance an EPC. Before approving an EPC, BPW must ensure that projected annual energy savings under the contract will exceed the projected annual payments under the contract. It must also determine, based on a review by DGS, whether the proposed energy technology is appropriate for the time period covered by the contract.

Chapter 289 of 2020 codified and implemented the requirements of the Governor's Executive Order 01.01.2019.08, which requires that the State reduce energy consumption in State-owned buildings by 10% by 2029 compared with a fiscal 2018 baseline. It also required State agencies to (1) consult with DGS during the development phase of a project that will require an EPC; (2) receive final approval from DGS before submitting a proposed EPC to BPW for approval; and (3) submit to DGS for review any required annual measurement and verification reports required under the EPC.

Background: According to the Governor's 2019 executive order, the State spends \$210 million each year on energy-related utilities and has seen a reduction in energy costs for State facilities since 2014. DGS advises that existing EPCs reduce carbon dioxide emissions by more than 103,000 tons annually.

State Expenditures: Extending the timeframe for EPCs allows the State to extend the financial benefits of EPCs for longer periods of time. It also allows the inclusion of large, capital-intensive pieces of equipment and other energy conservation measures that may reduce State capital lease expenditures over time.

Small Business Effect: DGS advises that energy service companies may hire small businesses as subcontractors, so larger EPC projects may generate more activity for small businesses. Any such use of small businesses by large energy service companies is not required by the bill and, therefore, is speculative. Thus, any potential benefits to small businesses are secondary to the bill's provisions.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of General Services; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2022
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Energy Performance Contracts – Duration

BILL NUMBER: SB 179

PREPARED BY: Ellen Robertson

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

X WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES The energy service companies under contract may hire local small businesses as subcontractors, so the more (and larger) projects we do, the better for small businesses.

PART B. ECONOMIC IMPACT ANALYSIS

A positive fiscal impact will be achieved with passage of this proposal. By increasing the lease term for an Energy Performance Contract from 15 to 30 years, capital-intensive items currently on the deferred maintenance list will be replaced through an EPC using guaranteed energy savings rather than capital funds.