

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1383 (Howard County Delegation)
Health and Government Operations

Howard County Board of Education - Liquidated Damages - Policy and
Requirements
Ho. Co. 3-24

This bill requires the Howard County Board of Education (HCBE) to, by January 1, 2025, publish a policy concerning the inclusion and use of liquidated damages in procurement contracts, including contracts for transportation services for students. Each student transportation procurement valued at \$1.0 million or more must include a liquidated damages clause consistent with the policy, unless HCBE votes not to include the clause. If HCBE decides not to pursue liquidated damages when a breach occurs, the board must document the approval of the decision by a vote of the board and maintain documentation on the reason the board decided not to pursue liquidated damages. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: None. The bill pertains only to Howard County.

Local Effect: No direct effect on HCBE finances, but the board may benefit from the receipt of liquidated damages in the event of a contract breach by a contractor.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The policy developed by HCBE must include:

- guidance on when to include liquidated damages provisions in procurement contracts, as specified;

- guidance for drafting liquidated damages provisions, including required or recommended methods for calculating the amount to be assessed;
- a draft plan for responding to deficiencies in a contractor’s performance that may trigger a liquidated damages provision, which must be reviewed by legal counsel; and
- a process to document a decision to pursue or not pursue liquidated damages.

HCBE may propose alternative elements based on contract type.

Current Law: There are no provisions in current law regarding local school systems’ use of liquidated damages provisions in their contracts.

Chapter 206 of 2023 required (1) the Board of Public Works, by January 1, 2024, to publish a [model policy](#) concerning the inclusion and use of liquidated damages provisions in State procurement contracts and (2) each unit of State government, including a unit otherwise exempt from State procurement law, to adopt a written policy that is substantially similar to the model policy by July 1, 2024. Chapter 206 further required each State procurement unit to obtain specified approval related to decisions not to (1) include liquidated damages provisions in contracts or (2) pursue damages in the event of a breach of contract (in which case specified written documentation must also be maintained).

Small Business Effect: Small businesses that provide transportation services to Howard County Public Schools may be liable for liquidated damages if they breach the contract.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 1156 (Howard County Senators) - Rules.

Information Source(s): Howard County; Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2024
km/ljm

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