

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader - Revised

House Bill 728 (Delegate Behler, *et al.*)
Government, Labor, and Elections

State Procurement - Exceptions - Historic Preservation Services

This bill exempts the Department of General Services (DGS), the Maryland Department of Planning, the Department of Housing and Community Development, and the Maryland Department of Transportation from most provisions of State procurement law when negotiating or entering into agreements or partnerships with nonprofit entities for projects related to historic preservation, archaeology, or conservation service opportunities. The bill requires that any contract that the specified agencies enter into with a nonprofit entity for an applicable project, as well as specified procurements by the Department of Natural Resources (DNR) related to conservation service opportunities, must contain clauses requiring the nonprofit to (1) competitively procure any subcontracted services in a transparent manner in accordance with State law; (2) provide annual reports to the procuring agency on partnership outcomes and expenditures; and (3) maximize opportunities for community engagement related to the historic preservation, archaeology, or conservation service opportunity.

Fiscal Summary

State Effect: Since it is assumed that the bill applies in a limited number of cases, State finances are not materially affected. No effect on revenues.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law:

Procurement Exemptions

More than 40 State entities are exempt, in whole or in part, from State procurement law. Among the exempt entities are:

- the Maryland Historical Trust (MHT) is exempt from most provisions of State procurement law for (1) surveying and evaluating architecturally, archeologically, historically, or culturally significant properties and (2) preparing historic preservation planning documents and educational material, except with respect to architectural services;
- DGS is exempt from most provisions of State procurement law for the rehabilitation of a structure that is listed in or eligible for listing in the National Register of Historic Places, to the extent that DGS, in consultation with MHT, determines that the procurement is necessary to preserve the historic fabric of the structure impacted by the rehabilitation;
- DNR is exempt from most provisions of State procurement law for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities.

Subject to specified exceptions, an entity that is exempt from State procurement law must have written policies and procedures for its procurements; the written policies must be approved by the Board of Public Works.

Roughly half of exempt entities are subject to some provisions of State procurement law, including those covering:

- collusion;
- falsification or concealment of material facts;
- nondiscrimination;
- liquidated damages;
- security for construction contracts;
- prevailing wages; and
- living wages.

Finally, procurements by a subset of exempt entities, including DGS and MHT, must be made under procedures that promote the codified purposes of State procurement.

Additional Comments: The bill requires affected nonprofits to competitively procure any subcontracted services in a transparent manner and in accordance with State law. This may be difficult for nonprofits, which are likely not familiar with the intricacies of competitive procurements under State law.

Additional Information

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

Designated Cross File: SB 641 (Senator Corderman) - Budget and Taxation.

Information Source(s): Department of General Services; Department of Housing and Community Development; Maryland Department of Planning; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2026
jg/mcr Revised - Clarification - April 27, 2026

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