

Wes Moore
Governor

Aruna Miller
Lt Governor



Atif Chaudhry
Secretary

Nelson E. Reichart
Deputy Secretary

BILL: Senate Bill 56
Courts - Prohibited Indemnity & Defense Liability Agreements

COMMITTEE: Senate Judicial Proceedings

DATE: February 7, 2023

POSITION: Letter of Information

The Department of General Services provides the following comments to the Judicial Proceedings Committee in reference to Senate Bill 56 Courts – Prohibited Indemnity and Defense Liability Agreements.

DGS is a control agency responsible for Design Professional procurements. Senate Bill 56 shifts the risk within an Architectural or Engineering (A/E) contract from the hired design team to the State. The bill results in limiting the State’s ability to seek indemnification in only certain cases. Indemnification is already required in purchase orders over \$25,000 and is a negotiated provision that the State has available to it. Indemnification is a legal and equitable remedy that, when negotiated, will alleviate the State from having to pay out claims or damages that were not the State’s fault but the fault of the consultant/contractor/other party. The Department’s current A/E contracts do not have an indemnification clause except for instances involving patents, copyrights and records.

For additional information, contact Ellen Robertson at 410-260-2908.