

HOUSE BILL 158

P4

5lr1225
CF 5lr1633

By: **Delegates Haynes, B. Barnes, Cullison, Gutierrez, Hixson, Korman,
Pena–Melnyk, Proctor, Reznik, Rosenberg, Sophocleus, and Zucker**

Introduced and read first time: January 28, 2015

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Service Contracts – Reporting and Audit Requirements**

3 FOR the purpose of altering the definition of “service contract”, for purposes of provisions
4 of law governing procurement contracts for certain services, to include services
5 provided within a State–owned facility; requiring that certain units submit a certain
6 demonstration to a certain exclusive representative under certain circumstances;
7 requiring that certain units meet with a certain exclusive representative to discuss
8 certain alternatives under certain circumstances; requiring that certain service
9 contracts be subject to an audit to determine compliance with certain requirements;
10 requiring that certain audits be completed before the expiration of an initial term of
11 certain service contracts; requiring that a certain audit finding be made available to
12 the public; requiring a unit in the Executive Branch of State government that has
13 an independent personnel system to adopt certain rules and regulations; and
14 generally relating to service contracts, reporting requirements, and audits of service
15 contracts.

16 BY repealing and reenacting, with amendments,
17 Article – State Personnel and Pensions
18 Section 13–401 and 13–405
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2014 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – State Personnel and Pensions**

24 13–401.

25 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (b) "Service contract" means a procurement contract for services that:
- 2 (1) will be provided to a unit in the Executive Branch of State government;
- 3 (2) will be performed within a **STATE-OWNED OR** State-operated facility;
- 4 and
- 5 (3) in the estimation of the procurement officer, will exceed an annual cost
- 6 of \$100,000.

7 (c) "Services" has the meaning stated in § 11-101 of the State Finance and

8 Procurement Article.

9 (d) "Unit" has the meaning stated in § 11-101 of the State Finance and

10 Procurement Article.

11 13-405.

12 (a) A unit that seeks to enter into a service contract that is not exempt under §

13 13-403(c) or § 13-404(b) of this subtitle shall submit to the Department the information

14 required by this section.

15 (b) **[The] AT LEAST 60 DAYS BEFORE MAKING THE SUBMISSION UNDER**

16 **SUBSECTION (A) OF THIS SECTION, THE** unit shall:

17 **(1) submit a demonstration TO THE EXCLUSIVE REPRESENTATIVE OF**

18 **THE EMPLOYEES AFFECTED BY THE SERVICE CONTRACT** that the unit has taken formal

19 and positive steps to consider alternatives to the service contract, including reorganization,

20 reevaluation of service, and reevaluation of performance; **AND**

21 **(2) PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH A REASONABLE**

22 **OPPORTUNITY TO MEET AND DISCUSS ALTERNATIVES TO THE PROPOSED SERVICE**

23 **CONTRACT.**

24 (c) (1) The unit shall submit calculations that:

25 (i) compare the cost of the service contract with the cost of using

26 State employees; and

27 (ii) show savings to this State, over the duration of the service

28 contract, of 20% of the contract or \$200,000, whichever is less.

29 (2) In calculating the cost comparison required by this subsection, a unit

30 shall include:

1 (i) direct costs, including fringe benefits;

2 (ii) indirect overhead costs, including the proportional share of
3 existing administrative salaries and benefits, rent, equipment costs, utilities, and
4 materials, but only to the extent that those costs are attributed solely to the service in
5 question and would not exist if the service were not performed by State employees;

6 (iii) any continuing or transitional costs that would be directly
7 associated with contracting for the services, including unemployment compensation and
8 the cost of transitional services; and

9 (iv) additional costs of performance of the services by State
10 employees, including salaries and benefits of additional staff and the cost of additional
11 space, equipment, and materials needed to perform the services.

12 (d) (1) The unit shall submit a formal plan of assistance for all State employees
13 who will be adversely affected by the service contract.

14 (2) The plan of assistance shall include:

15 (i) efforts to place affected employees in vacant positions in the unit
16 or in another unit;

17 (ii) provisions in the service contract, if feasible, for the hiring by the
18 contractor of displaced employees; and

19 (iii) prior notification to affected employees in accordance with
20 § 13–218.1 of the State Finance and Procurement Article.

21 **(E) (1) (I) A SERVICE CONTRACT SHALL BE SUBJECT TO AN AUDIT OF**
22 **BOOKS, ACCOUNTS, OR RECORDS TO DETERMINE COMPLIANCE WITH PROJECTED**
23 **COST SAVINGS UNDER SUBSECTION (C) OF THIS SECTION.**

24 **(II) THE AUDIT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS**
25 **PARAGRAPH SHALL BE COMPLETED PRIOR TO THE EXPIRATION OF THE INITIAL**
26 **TERM OF THE SERVICE CONTRACT.**

27 **(2) AUDIT FINDINGS FROM AN AUDIT CONDUCTED UNDER**
28 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE PUBLIC.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That any unit in the Executive
30 Branch of State government with an independent personnel system shall adopt rules or
31 regulations similar to the provisions of Section 1 of this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2015.