

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 226

(Senator Simonaire, *et al.*)

Education, Health, and Environmental Affairs

Economic Matters

Professional Engineers - Engineering Documents Prepared at the Request of the
State or Political Subdivision of the State - Signing and Sealing

This bill explicitly requires that an engineering document prepared at the request of the State or a political subdivision in the State in connection with specified projects – where the skills of a professional engineer are required – be signed, sealed, and dated by the professional engineer who prepared or approved the document.

Fiscal Summary

State Effect: No effect on State operating or capital expenditures, under the assumptions discussed below. Revenues are not affected.

Local Effect: No effect on local government operating or capital expenditures, under the assumptions discussed below. Revenues are not affected.

Small Business Effect: Minimal, under the assumptions discussed below.

Analysis

Current Law: All engineering documents *prepared* in connection with the alteration, construction, design, or repair of a building, structure, building engineering system and its components, machine, equipment, process, works, subsystem, project, public or private utility, or facility in the built or economic environment, where the skills of a professional engineer are required, must be signed, sealed, and dated by the professional engineer who prepared or approved the documents.

However, there is no State requirement that any required *review or final approval* by a unit of State or local government of an engineering document prepared in connection with any

project – where the skills of a professional engineer are required – be undertaken by a professional engineer.

Background: The procurement of architectural and engineering services is overseen by the General Professional Services Selection Board in the Department of General Services (DGS) and the Transportation Professional Services Selection Board in the Maryland Department of Transportation. Both selection boards are required to ensure that recommendations to the Board of Public Works for architectural and engineering procurements costing more than \$200,000 are made on a competitive basis and include an evaluation of the technical proposals and qualifications of at least two firms. Each board has separate regulations and procedures.

The General Professional Services Selection Board awards procurements for architectural and engineering services over \$200,000 based on an initial technical ranking and a subsequent negotiation for compensation. State agencies, with the exception of transportation units, intending to procure architectural and engineering services that cannot be provided in-house are required to submit a request to procure those services to the board.

Architectural and engineering procurements for transportation agencies are awarded by the Transportation Professional Services Selection Board based on a multi-tier ranking process. A transportation agency that intends to procure architectural and engineering services that cannot be provided in-house is required to submit a request to procure those services to the Secretary of Transportation. The Secretary must consider whether the project can be performed by in-house resources. If not, the Secretary must certify this fact to the board.

State Expenditures: State agencies generally outsource the design of projects to licensed individuals who prepare the engineering documents. If the bill is interpreted to only affect the *preparation* of engineering documents, and not the *review or final approval* of the documents by State agencies, then there is no effect on State operating or capital expenditures.

However, if the intent is to extend the professional engineer signature requirement over actions and documents that do not currently require a professional engineer to sign off, then the impact could be costly for State agencies, which would be required to either hire additional professional engineers or contract for more services from third-party professional engineering firms.

Some State agencies do not review engineering documents solely with licensed professional engineers. For example, DGS uses a combination of licensed staff and other experienced staff for most project reviews. Conversely, the State Highway Administration

and the Maryland Transportation Authority generally use either licensed staff or licensed consultants to review design documents on behalf of the agencies.

Local Expenditures: The same concern as noted above for the effect on State expenditures is present for the effect on local expenditures. Assuming that the bill only affects the *preparation* of engineering documents, and not the *review or final approval* of the documents by local agencies, then there is no effect on local operating or capital expenditures. If, however, the intent is to extend the requirement over actions and documents that do not currently require a professional engineer to sign off, then the impact could be costly for local governments.

The Maryland Association of Counties advises that counties generally employ both (1) licensed professional engineers and (2) individuals who may not hold the specific professional license but nevertheless are qualified to perform their duties due to their experience and skillset. If complying with the bill requires local governments to either hire additional professional engineers or contract for more services from third-party professional engineering firms, it results in significant expenditure increases for local governments.

Small Business Effect: Assuming the bill does not necessitate additional services from licensed professional engineers, there is no impact on small businesses. However, if the bill does result in a greater need for licensed professional engineers, small engineering firms benefit from a significant increase in demand for their services from State and local governments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services; Board of Public Works; Department of Labor, Licensing, and Regulation; Department of Budget and Management; University System of Maryland; Public School Construction Program; Maryland Department of Transportation; Prince George's County; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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