

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 148 (Chair, Health and Government Operations
Committee)(By Request - Departmental - Maryland State
Archives)

Health and Government Operations Education, Health, and Environmental Affairs

State Archives - Care of Fine Art or Decorative Art - Procurement Exemption

This departmental bill exempts procurements by the Maryland State Archives for the preservation, conservation, proper care, restoration, and transportation of fine art or decorative art that is in the custody of the Commission on Artistic Property and owned by or loaned to the State from most provisions of State procurement law.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Potential minimal increase in initial contract costs stemming from limited competition for the designated procurements can be offset by reduced risk for contract modifications and extensions that can increase total contract costs. The net effect is expected to be negligible, especially since Maryland State Archives expenditures for art conservation typically total less than \$50,000 annually. No effect on revenues.

Local Effect: None.

Small Business Effect: The Maryland State Archives has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: State procurement law requires open and competitive procurements, with contract awards going to the responsible bidder with the lowest responsive bid. A responsible bidder is one who has the capability in all respects to perform fully the requirements for a procurement contract and possesses the integrity and reliability that will ensure good faith performance. A responsive bid must conform in all material respects to the invitation for bids issued by the procurement unit.

The University System of Maryland, Morgan State University, St. Mary's College of Maryland, and public-private partnerships authorized by State law are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Commerce;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority;
- Maryland State Lottery and Gaming Control Agency;
- State Retirement and Pension System;
- Department of General Services, for renovation of historical structures;
- Department of Natural Resources, for negotiating with nonprofit entities for projects related to conservation service opportunities;
- College Savings Plans of Maryland; and
- Chesapeake Bay Trust.

However, each exempt entity is subject to specified provisions of State procurement law, generally those related to maintaining the integrity of the procurement process.

Background: The Maryland Commission on Artistic Property oversees the administration of the State art collection. It consists of 15 members, including 7 *ex officio* members representing various cultural and artistic institutions in the State, and 8 public members. With the approval of the Governor and State Archivist, the commission may receive and accept gifts and loans of paintings and decorative art works. The commission was incorporated into the Maryland State Archives in 1984.

The Maryland State Archives advises that artistic conservation, preservation, and repair work must be performed by professional conservators who maintain American Institute for Conservation standards for the treatment of works of art. Often the nature and scope of the work to be performed cannot be determined until the conservator removes layers of paint and finish to determine the condition of the painting or work of art. Thus, it is difficult to establish clear specifications in advance as is the norm for traditional procurements. The Maryland State Archives has developed relationships with the limited number of conservators in the region who are qualified to perform this work and, therefore, is confident it can identify the most appropriate vendor for specific conservation projects.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Archives; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Archives - Care of Fine Art or Decorative Art - Procurement Exemption

BILL NUMBER: HB 148

PREPARED BY: Elizabeth Newell, Legislative Liaison

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

None. This bill addresses responsibilities of the of the Commission of Artistic Property in the State Archives to contract for the care and preservation of the fine art and decorative art in its custody.