

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 325

(Delegate D. Barnes, *et al.*)

Health and Government Operations

Budget and Taxation

State Procurement - Payment Practices

This bill makes interest on unpaid invoices under State procurement contracts due and payable after 37 days (instead of 45 days) from when the agency receives an invoice. It requires the Department of Legislative Services (DLS) to conduct a study and report on the processing and timing of payments to contractors under State procurement contracts. It also requires the Department of Information Technology (DoIT) to consult with specified agencies and report, by December 1, 2022, on the status of the Comptroller's online payment portal, the planned upgrade to the State's Financial Management Information System (FMIS), and related issues. The bill expresses legislative intent that any upgrade to FMIS include goals to significantly reduce the amount of time in which payments are processed. **The bill generally takes effect July 1, 2022, but the provision related to the accrual and payment of interest on unpaid invoices takes effect June 1, 2023.**

Fiscal Summary

State Effect: State expenditures (general and special funds) likely increase, potentially significantly, for interest on unpaid invoices beginning in June 2023, but a reliable estimate is not feasible, as discussed below. DLS can conduct the required study with existing resources, but it may detract from and/or delay completion of other interim activities. DoIT can provide the required report with existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: By December 1, 2022, DLS must report to the General Assembly on:

- for each unit of State government, the number of staff positions involved in processing procurement contract payments and the number of vacancies in those positions;
- for at least the prior three fiscal years, the average time for the unit to process contract payments and the percentage of payments made in specified time intervals as well as the amount of interest paid by the unit for late payments;
- the fiscal effect to the State of reducing the number of days for contract payments to be made and for interest to accrue on unpaid invoices; and
- the status of the upgrade of the Comptroller's online payment processing portal.

Current Law: It is the policy of the State to make a payment under a procurement contract within 30 days (1) of the day on which a payment becomes due under a contract or (2) if later, after the day on which the agency receives an invoice. For payments that are payable under the terms of a written contract, interest on unpaid balances accrues at the annual rate of 9% beginning after 45 days. For payments that are due for an invoice, interest accrues at the same rate beginning after 30 days but is not payable until after 45 days. An agency is not liable for interest on unpaid invoices unless, among other conditions, a contractor submits an invoice for the interest.

State Expenditures: Currently, agencies must forward their approved payments to the Comptroller's Office within 25 days, giving the Comptroller's Office 5 days to produce the check and mail it to the payee. State agencies are generally able to meet the 30-day deadline for payments. However, some payments are made after 30 days but before interest is payable after 45 days, so they rarely incur interest charges on unpaid balances. The Department of Public Safety and Correctional Services advises that about 4% of its payments are consistently processed late but are paid before interest begins accruing.

Current law provides a 15-day grace period following the 30-day payment period during which interest on unpaid invoices accrues but is not payable until the end of the 15 days. As long as agencies make late payments within the 15-day grace period, they are not liable for any accrued interest. As noted above, agencies meet the 30-day payment deadline for most of their payments, and virtually all payments are made before the end of the grace period. Under the bill, however, interest not only accrues but is also payable after 37 days. Accordingly, to the extent that some payments are made after 37 days, agencies may be liable for accrued interest, beginning in June 2023. However, a reliable estimate is not feasible because there is no existing data available on when contract payments are made. Moreover, it is not known how many vendors will submit the required invoices for interest

due. The Comptroller's Office advises that it rarely processes invoices for interest on unpaid invoices. However, with interest being payable after 37 days, more vendors may submit invoices for interest on late payments.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 250 (Senator Hayes) - Budget and Taxation.

Information Source(s): State Board of Contract Appeals; Maryland Association of Counties; Maryland Municipal League; Department of General Services; Department of Information Technology; Department of Public Safety and Correctional Services; Board of Public Works; Comptroller's Office; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - January 31, 2022
km/ljm Third Reader - March 28, 2022
Revised - Amendment(s) - March 28, 2022
Enrolled - May 2, 2022
Revised - Amendment(s) - May 2, 2022

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510