



January 15, 2021

The Honorable Kumar P. Barve, Chair
Environment and Transportation Committee
House Office Building
Annapolis, Maryland 21401

Re:HB 333 - Marine Contractor License - Performance of Services - Licensing Requirements and Fees

Dear Mr. Chairman and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 333, entitled Marine Contractor License - Performance of Services - Licensing Requirements and Fees and would like to share some information and concerns regarding this legislation.

While this bill is similar to HB 1533 of the 2020 Legislative Session, there are some substantive differences. HB 333 removes the existing blanket exemption to the license requirement for State employees in §17-301 of the Environment Article. That means, if this bill were to pass, State employees performing marine contractor services in the State must be licensed. Marine contractor services is defined in §17-101, and includes the following types of activities in State or private tidal wetlands: dredging and filling; the construction, demolition, installation, alteration, or repair of structures including ramps, piers, pilings, and walkways; and the construction, demolition, installation, alteration, or repair of stabilization and erosion control measures including revetments, breakwaters, bulkheads, stone sills, marsh establishments, beach nourishment or similar projects.

The bill does provide a narrow exemption for State and local government employees to perform a limited subset of marine contractor services without a license. This exemption would apply to the construction of tide gates, the maintenance or repair of drainage ditches, or other work the Board determines would present a “de minimis” risk to human health or the environment.

HB 333 potentially impacts other State agencies. MDE is a regulatory agency that issues permits. There are no MDE employees that perform marine contractor work in the performance of their duties. However, there might be employees at MDOT, DNR, and MES that do. State employees who perform marine contractor services, except for the narrow exemption, will be required to obtain a license from the Board and will be required to meet all the qualifications for such license. Furthermore, these employees will now be subject to the regulatory authority of the Board, including the criminal and civil penalty authority of the Board set forth in §17-403 of existing law. It is unclear whether a State employee would be afforded representation from the Office of the Attorney General in such a proceeding. Finally, the determination of whether an exemption was correctly interpreted could result in an enforcement proceeding by the Board against State and local government employees.

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MDE suggested the bill be amended to make it clear that State employees are still exempt from the licensing requirements.

Thank you for considering the Department's concerns regarding this legislation. We will continue to monitor House Bill 333 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: The Honorable Jerry Clark