

SENATE BILL 1002

P2, P1, F2

8lr3492

By: **Senator Conway**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 7, 2008

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Audit of Procurements by the Maryland Stadium**
3 **Authority and Selected Higher Education Institutions**

4 FOR the purpose of requiring the Legislative Auditor to conduct a fiscal/compliance
5 audit of certain procurements during certain fiscal years by the Maryland
6 Stadium Authority and certain institutions of higher education; requiring the
7 Legislative Auditor to submit the results of the audit to the Legislative Policy
8 Committee and to certain committees of the General Assembly in accordance
9 with certain provisions of law; defining certain terms; providing for the
10 termination of this Act; and generally relating to a fiscal/compliance audit of
11 certain entities of State government with regard to certain procurement.

12 BY repealing and reenacting, without amendments,
13 Article – State Finance and Procurement
14 Section 11–101(b), (e), (f), (i), and (m)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – State Government
19 Section 2–1220(a)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2007 Supplement)

22 BY adding to
23 Article – State Government
24 Section 2–1220.1
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Finance and Procurement**

4 11–101.

5 (b) (1) “Architectural services” means professional or creative work that:

6 (i) is performed in connection with the design and supervision
7 of construction or landscaping; and

8 (ii) requires architectural education, training, and experience.

9 (2) “Architectural services” includes consultation, research,
10 investigation, evaluation, planning, architectural design and preparation of related
11 documents, and coordination of services that structural, civil, mechanical, and
12 electrical engineers and other consultants provide.

13 (3) “Architectural services” does not include construction inspection
14 services or services provided in connection with an energy performance contract.

15 (e) (1) “Construction” means the process of building, altering, improving,
16 or demolishing an improvement to real property.

17 (2) “Construction” includes any major work necessary to repair,
18 prevent damage to, or sustain existing components of an improvement to real
19 property.

20 (3) “Construction” does not include the maintenance or routine
21 operation of an existing improvement to real property, or activities related to an
22 energy performance contract.

23 (f) (1) “Construction related services” means feasibility studies, surveys,
24 construction management, construction inspection, and similar efforts associated with
25 construction or the acquisition of public improvements as defined in § 4–401(d) of this
26 article.

27 (2) “Construction related services” does not include services provided
28 in connection with an energy performance contract.

29 (i) (1) “Engineering services” means professional or creative work that:

30 (i) is performed in connection with any utility, structure,
31 building, machine, equipment, or process; and

1 (ii) requires engineering education, training, and experience in
2 the application of special knowledge of the mathematical, physical, and engineering
3 sciences.

4 (2) "Engineering services" includes consultation, investigation,
5 evaluation, planning, design, and inspection of construction to interpret and ensure
6 compliance with specifications and design within the scope of inspection services.

7 (3) "Engineering services" does not include services provided in
8 connection with an energy performance contract.

9 (m) (1) "Procurement" means the process of:

10 (i) leasing real or personal property as lessee; or

11 (ii) buying or otherwise obtaining supplies, services,
12 construction, construction related services, architectural services, engineering
13 services, or services provided under an energy performance contract.

14 (2) "Procurement" includes the solicitation and award of procurement
15 contracts and all phases of procurement contract administration.

16 Article - State Government

17 2-1220.

18 (a) (1) In this subsection, "unit" includes each State department, agency,
19 unit, and program, including each clerk of court and each register of wills.

20 (2) (i) [At] **SUBJECT TO § 2-1220.1 OF THIS SUBTITLE, AT** least
21 once every 3 years, the Office of Legislative Audits shall conduct a fiscal/compliance
22 audit of each unit of the State government, except for units in the Legislative Branch.

23 (ii) In determining the audit schedule for a unit, the Office of
24 Legislative Audits shall take into consideration:

25 1. the materiality and risk of the unit's fiscal activities
26 with respect to the State's fiscal activities;

27 2. the complexity of the unit's fiscal structure; and

28 3. the nature and extent of audit findings in the unit's
29 prior audit reports.

30 (iii) Each agency or program may be audited separately or as
31 part of a larger organizational unit of State government.

1 (3) Performance audits or financial statement audits shall be
2 conducted when authorized by the Legislative Auditor, when directed by the Joint
3 Audit Committee or the Executive Director, or when otherwise required by law.

4 (4) (i) In addition to the audits required under paragraph (2) of
5 this subsection, the Office of Legislative Audits may conduct a review when the
6 objectives of the work to be performed can be satisfactorily fulfilled without conducting
7 an audit as prescribed in § 2-1221 of this subtitle.

8 (ii) 1. The Office of Legislative Audits has the authority to
9 conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the
10 obligation, expenditure, receipt, or use of State resources.

11 2. The Legislative Auditor shall determine whether an
12 investigation shall be conducted in conjunction with an audit undertaken in
13 accordance with this subsection or separately.

14 (5) If, on request of the Comptroller, the Joint Audit Committee so
15 directs, the Office of Legislative Audits shall audit or review a claim that has been
16 presented to the Comptroller for payment of an expenditure or disbursement and that
17 is alleged to have been made by or for an officer or unit of the State government.

18 (6) The Office of Legislative Audits shall conduct an audit or review to
19 determine the accuracy of information about or procedures of a unit of the State
20 government, as directed by the Joint Audit Committee or the Executive Director.

21 **2-1220.1.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
23 MEANINGS INDICATED.

24 (2) "ARCHITECTURAL SERVICES" HAS THE MEANING STATED IN §
25 11-201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

26 (3) "CONSTRUCTION" HAS THE MEANING STATED IN § 11-201 OF
27 THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (4) "CONSTRUCTION RELATED SERVICES" HAS THE MEANING
29 STATED IN § 11-201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

30 (5) "ENGINEERING SERVICES" HAS THE MEANING STATED IN §
31 11-201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (6) "PROCUREMENT" HAS THE MEANING STATED IN § 11-201 OF
33 THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 **(B) NOTWITHSTANDING § 2-1220 OF THIS SUBTITLE, THE LEGISLATIVE**
2 **AUDITOR SHALL CONDUCT A FISCAL/COMPLIANCE AUDIT OF THE**
3 **PROCUREMENT FOR ARCHITECTURAL SERVICES, ENGINEERING SERVICES,**
4 **CONSTRUCTION, AND CONSTRUCTION RELATED SERVICES FOR FISCAL YEAR**
5 **2004 THROUGH FISCAL YEAR 2008 BY:**

- 6 **(1) THE MARYLAND STADIUM AUTHORITY;**
- 7 **(2) MORGAN STATE UNIVERSITY;**
- 8 **(3) ST. MARY'S COLLEGE OF MARYLAND; AND**
- 9 **(4) THE UNIVERSITY SYSTEM OF MARYLAND.**

10 **(C) IN ADDITION TO THE REQUIREMENTS OF § 2-1224 OF THIS**
11 **SUBTITLE, THE LEGISLATIVE AUDITOR SHALL SUBMIT THE RESULTS OF ANY**
12 **AUDIT CONDUCTED UNDER THIS SECTION TO THE LEGISLATIVE POLICY**
13 **COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE**
14 **EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE**
15 **HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE HEALTH AND**
16 **GOVERNMENT OPERATIONS COMMITTEE IN ACCORDANCE WITH § 2-1246 OF**
17 **THIS SUBTITLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2008. It shall remain effective for a period of 2 years and, at the end of June
20 30, 2010, with no further action required by the General Assembly, this Act shall be
21 abrogated and of no further force and effect.