

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 440

(Delegate Rosenberg, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

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**Procurement - Service Contracts - Notice to Exclusive Representatives**

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This bill requires units of State government to notify the labor representatives of State employees who might be affected by specified service contracts of the employees' rights under State law.

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**Fiscal Summary**

**State Effect:** None. State procurement units could carry out the bill's notification provisions with existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill applies to service contracts that are not exempt from an explicit preference in State law to use State employees to provide services in State-operated facilities. Procurement units pursuing nonexempt service contracts with the private sector must notify affected employees' labor representatives of the nature of the work to be performed, contracting procedures and timetables, and their rights as State employees at least 60 days before they issue a solicitation for a service contract. Violation of this requirement is not grounds to challenge or appeal a contract award or a procurement process.

**Current Law:** Service contracts are exempt from an explicit preference to use State employees to perform all State functions in State-operated facilities rather than contracting with private vendors to provide services when:

- State employees are not available to perform the necessary services;
- a conflict of interest would result if a State employee performed the services;
- the services require emergency appointments;
- the services are incidental to the purchase or lease of personal or real property;
- a clear need exists to obtain an unbiased finding or opinion; or
- the General Assembly authorizes or requires that certain services be performed by an independent contractor.

The Department of Budget and Management (DBM) is the procurement control unit for State service contracts. If a contract is not exempt under any of the specific exemptions in the law, DBM may certify the contract as exempt only if the unit has provided DBM with an analysis of the cost of the contract that shows that it will save the State at least \$200,000 or 20% of the value of the contract, whichever is less, over the life of the contract. DBM must also deem that the contract includes adequate control mechanisms, complies with all State procurement laws, and does not adversely affect affirmative action efforts.

Procurement units seeking DBM certification of nonexempt service contracts must develop assistance plans for State employees adversely affected by the contract. They must also provide prior notification of the adverse impact to the employees either on the day the contract is signed or six months before the adverse impact occurs, whichever is earlier.

**Background:** Neither DBM nor the American Federation of State, County, and Municipal Employees are aware of any nonexempt State service contracts awarded in the last 10 years.

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### **Additional Information**

**Prior Introductions:** None, but HB 450 of 2007, a larger bill, contained most of this bill's provisions. It was heard by the House Economic Matters Committee but no further action was taken.

**Cross File:** None.

**Information Source(s):** Department of General Services, Board of Public Works,  
Department of Budget and Management, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2008  
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