

HOUSE BILL 292

P2

4lr1651
CF SB 667

By: ~~Delegate Kerr~~ Delegates Kerr, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White Holland, and Woods

Introduced and read first time: January 12, 2024
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 20, 2024

CHAPTER _____

1 AN ACT concerning

2 **State Procurement – Maryland State Board of Contract Appeals – Attorney’s**
3 **Fees**

4 FOR the purpose of ~~requiring~~ authorizing the Maryland State Board of Contract Appeals
5 to award ~~a prospective bidder or offeror, a bidder, or an offeror~~ an interested party
6 reasonable costs of filing and pursuing a protest, including attorney’s fees, if an
7 appeal is sustained and there is a violation of law or regulation; ~~requiring~~
8 authorizing the Maryland State Board of Contract Appeals to award a contractor
9 under any State contract the reasonable costs of filing and pursuing a claim,
10 including attorney’s fees, if ~~procurement unit personnel act~~ the unit acts in bad faith,
11 without justification, or in violation of law ~~or regulation~~; and generally relating to
12 State procurement contract claims and appeals.

13 BY repealing and reenacting, without amendments,
14 Article – State Finance and Procurement
15 Section 15–201
16 Annotated Code of Maryland
17 (2021 Replacement Volume and 2023 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – State Finance and Procurement
20 Section 15–215, 15–221.1, and 15–221.2

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2021 Replacement Volume and 2023 Supplement)

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

5 **Article – State Finance and Procurement**

6 15–201.

7 In this subtitle, “Appeals Board” means the Maryland State Board of Contract
8 Appeals.

9 15–215.

10 (a) In this Part III of this subtitle the following words have the meanings
11 indicated.

12 (b) (1) “Contract claim” means a claim that relates to a procurement contract.

13 (2) “Contract claim” includes a claim about the performance, breach,
14 modification, or termination of the procurement contract.

15 (c) **“INTERESTED PARTY” MEANS AN ACTUAL OR A PROSPECTIVE BIDDER,**
16 **OFFEROR, OR CONTRACTOR THAT MAY BE AGGRIEVED BY THE SOLICITATION OR**
17 **AWARD OF A CONTRACT, OR BY THE PROTEST.**

18 [(c)] (D) (1) “Protest” means a complaint that relates to the formation of a
19 procurement contract.

20 (2) “Protest” includes a complaint about:

21 (i) the qualifications of a bidder or offeror; or

22 (ii) the determination of the successful bidder or offeror.

23 15–221.1.

24 (a) The [Board of Contract Appeals may] **APPEALS BOARD** ~~SHALL~~ **MAY** award
25 ~~a prospective bidder or offeror, a bidder, or an offeror~~ **AN INTERESTED PARTY** the
26 reasonable costs of filing and pursuing a protest, [not] including **REASONABLE** attorney’s
27 fees, if:

28 (1) the ~~prospective bidder or offeror, bidder, or offeror~~ **INTERESTED**
29 **PARTY** appeals the final action of an agency on a protest;

1 (2) the [Board of Contract Appeals] **APPEALS BOARD** sustains the appeal;
2 and

3 (3) the [Board of Contract Appeals] **APPEALS BOARD** finds that there has
4 been a violation of law or regulation.

5 (b) The [Board of Contract Appeals] **APPEALS BOARD** shall adopt regulations to
6 implement this section and to determine what constitutes reasonable costs of filing and
7 pursuing a protest.

8 15-221.2.

9 (a) This section [only] applies to a claim resulting under a contract [for
10 construction].

11 (b) The Appeals Board ~~[may]~~ **SHALL** award to a contractor the reasonable costs
12 of filing and pursuing a claim, including reasonable attorney’s fees, if the Appeals Board
13 ~~finds that the conduct of unit personnel, WITH OR WITHOUT A PROCUREMENT OFFICER,~~
14 **FINDS THAT THE CONDUCT OF THE UNIT** in processing a contract claim is in bad faith
15 [or], without substantial justification, ~~OR CONTRARY TO ANY PROVISION OF THIS~~
16 ~~**DIVISION II. IN VIOLATION OF LAW.**~~

17 (c) The Appeals Board shall adopt regulations to implement this section.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2024.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.