

# SENATE BILL 243

P4

(5lr1633)

## ENROLLED BILL

— Finance/Appropriations —

Introduced by **Senators Feldman, Benson, Currie, Guzzone, King, Madaleno, Manno, McFadden, Ramirez, and Rosapepe**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Personnel and Procurement – Service Contracts – Reporting and Audit**  
3 **Requirements**

4 FOR the purpose of ~~altering the definition of “service contract”, for purposes of provisions~~  
5 ~~of law governing procurement contracts for certain services, to include services~~  
6 ~~provided within a State owned facility; requiring that certain units submit a certain~~  
7 ~~demonstration to a certain exclusive representative under certain circumstances;~~  
8 requiring that certain units meet with a certain exclusive representative to discuss  
9 certain alternatives under certain circumstances; requiring that certain service  
10 contracts be subject to ~~an~~ a legislative audit to determine compliance with certain  
11 requirements; ~~requiring that certain audits be completed before the expiration of an~~  
12 ~~initial term of certain service contracts;~~ requiring that a certain audit finding be  
13 made available to the public; requiring a unit in the Executive Branch of State  
14 government that has an independent personnel system to adopt certain rules and

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**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.

*Italics indicate opposite chamber/conference committee amendments.*



1 regulations; and generally relating to service contracts, reporting requirements, and  
2 audits of service contracts.

3 BY repealing and reenacting, with amendments,  
4 Article – State Finance and Procurement  
5 Section 13–218.1(b)(1)  
6 Annotated Code of Maryland  
7 (2009 Replacement Volume and 2014 Supplement)

8 BY repealing and reenacting, ~~with~~ without amendments,  
9 Article – State Personnel and Pensions  
10 Section 13–401 ~~and 13–405~~  
11 Annotated Code of Maryland  
12 (2009 Replacement Volume and 2014 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – State Personnel and Pensions  
15 Section 13–405  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2014 Supplement)

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

20 **Article – State Finance and Procurement**

21 13–218.1.

22 (b) (1) At least 60 days before the issuance of a solicitation for a service  
23 contract that is not exempt under § 13–403(c) or § 13–404(b) of the State Personnel and  
24 Pensions Article, the unit shall provide the exclusive representative of the employees who  
25 may be affected by the service contract with:

26 **(I) written notice of:**

27 **[(i)] 1. work that is being proposed for contracting; and**

28 **[(ii)] 2. contracting procedures, requirements, timetables, and**  
29 **employee rights as provided in Title 13, Subtitle 4 of the State Personnel and Pensions**  
30 **Article; AND**

31 **(II) A REASONABLE OPPORTUNITY TO MEET AND DISCUSS**  
32 **ALTERNATIVES TO THE PROPOSED SERVICE CONTRACT.**

33 **Article – State Personnel and Pensions**

1 13-401.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Service contract" means a procurement contract for services that:

4 (1) will be provided to a unit in the Executive Branch of State government;

5 (2) will be performed within a ~~STATE-OWNED OR~~ State-operated facility;

6 and

7 (3) in the estimation of the procurement officer, will exceed an annual cost  
8 of \$100,000.

9 (c) "Services" has the meaning stated in § 11-101 of the State Finance and  
10 Procurement Article.

11 (d) "Unit" has the meaning stated in § 11-101 of the State Finance and  
12 Procurement Article.

13 13-405.

14 (a) A unit that seeks to enter into a service contract that is not exempt under §  
15 13-403(c) or § 13-404(b) of this subtitle shall submit to the Department the information  
16 required by this section.

17 (b) ~~{The} AT LEAST 60 DAYS BEFORE MAKING THE SUBMISSION UNDER~~  
18 ~~SUBSECTION (A) OF THIS SECTION, THE~~ unit shall:

19 ~~(1) submit a demonstration TO THE EXCLUSIVE REPRESENTATIVE OF~~  
20 ~~THE EMPLOYEES AFFECTED BY THE SERVICE CONTRACT~~ that the unit has taken formal  
21 and positive steps to consider alternatives to the service contract, including reorganization,  
22 reevaluation of service, and reevaluation of performance; ~~AND~~

23 ~~(2) PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH A REASONABLE~~  
24 ~~OPPORTUNITY TO MEET AND DISCUSS ALTERNATIVES TO THE PROPOSED SERVICE~~  
25 ~~CONTRACT.~~

26 (c) (1) The unit shall submit calculations that:

27 (i) compare the cost of the service contract with the cost of using  
28 State employees; and

29 (ii) show savings to this State, over the duration of the service  
30 contract, of 20% of the contract or \$200,000, whichever is less.

1                   (2)    In calculating the cost comparison required by this subsection, a unit  
2 shall include:

3                   (i)     direct costs, including fringe benefits;

4                   (ii)    indirect overhead costs, including the proportional share of  
5 existing administrative salaries and benefits, rent, equipment costs, utilities, and  
6 materials, but only to the extent that those costs are attributed solely to the service in  
7 question and would not exist if the service were not performed by State employees;

8                   (iii)   any continuing or transitional costs that would be directly  
9 associated with contracting for the services, including unemployment compensation and  
10 the cost of transitional services; and

11                  (iv)    additional costs of performance of the services by State  
12 employees, including salaries and benefits of additional staff and the cost of additional  
13 space, equipment, and materials needed to perform the services.

14           (d)    (1)    The unit shall submit a formal plan of assistance for all State employees  
15 who will be adversely affected by the service contract.

16                  (2)    The plan of assistance shall include:

17                  (i)     efforts to place affected employees in vacant positions in the unit  
18 or in another unit;

19                  (ii)    provisions in the service contract, if feasible, for the hiring by the  
20 contractor of displaced employees; and

21                  (iii)   prior notification to affected employees in accordance with  
22 § 13-218.1 of the State Finance and Procurement Article.

23           **(E)   (1)   ~~(H)~~   A SERVICE CONTRACT THAT IS NOT EXEMPT UNDER §**  
24 **13-403(C) OR § 13-404(B) OF THIS SUBTITLE SHALL BE SUBJECT TO AN A**  
25 **LEGISLATIVE AUDIT OF BOOKS, ACCOUNTS, OR RECORDS TO DETERMINE**  
26 **COMPLIANCE WITH PROJECTED COST SAVINGS UNDER SUBSECTION (C) OF THIS**  
27 **SECTION.**

28                               **~~(H)   THE LEGISLATIVE AUDIT REQUIRED UNDER~~**  
29 **~~SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE COMPLETED PRIOR TO THE~~**  
30 **~~EXPIRATION OF THE INITIAL TERM OF THE SERVICE CONTRACT.~~**

31                               **(2)   AUDIT FINDINGS FROM AN AUDIT CONDUCTED UNDER**  
32 **PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE PUBLIC.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That any unit in the Executive  
2 Branch of State government with an independent personnel system shall adopt rules or  
3 regulations similar to the provisions of Section 1 of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2015.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.