

# ACEC

American Council of Engineering Companies  
Maryland

2019

# LEGISLATIVE BUSINESS AGENDA

## WHO ARE WE?

An organization of 90 engineering and professional service firms in the State of Maryland.

## WHO DO WE REPRESENT?

Over 7,000 employees including:

Engineers	Scientists
Architects	Technical Specialists
Land Surveyors	Planners

## CONTACT INFORMATION

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## UNINSURABLE CONTRACT PROVISIONS - INCORPORATE NEGLIGENCE STANDARD

### WHAT IS THE ISSUE?

In 2018, the State of Maryland made a decision to delete the “negligent performance” clause from procurement contracts for A/E services. By excluding this indemnity language, A/E contract services become uninsurable, impacting A/E firms and State agencies that use these services.

### Legislative Action Required

Amend Maryland State Finance and Procurement law to include a provision that requires “negligent performance” as a standard for determining liability for A/E services.

### WHY IS IT IMPORTANT?

- Insurance companies can deny coverage without the word “negligence” in the procurement contract, thereby leaving the A/E firm without insurance coverage.
- If the State files a claim for negligence, the State would have to pursue the A/E firm to settle the claim, not the insurance company, because without indemnity language to determine liability for A/E services, the insurance is invalid.
- A/E firms are exposed to a risk and expense that is not covered by insurance, which could be a hardship for most businesses.
- This issue especially impacts small and minority A/E businesses where such a risk may lead to bankruptcy.
- The State runs the risk of carrying the cost of claims if the contract requires the A/E firm to have insurance, but the firm is not insured.
- This practice is contrary to the intent of procurement reform, and is not “business friendly”.