

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 489

(Senator Pugh, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

Minority Business Enterprise Certification - Cap on Personal Net Worth

This bill requires that the personal net worth cap for eligibility in the State's Minority Business Enterprise (MBE) program be adjusted annually according to the Consumer Price Index (CPI). Personal net worth does not include up to \$500,000 of the cash value of any qualified retirement savings plan or individual retirement account. The Maryland Department of Transportation (MDOT), in consultation with the Attorney General's Office and specified legislative committees, must evaluate whether the personal net worth cap should be further adjusted, and report its findings to the General Assembly by December 1, 2010.

Fiscal Summary

State Effect: None. MDOT's Office of Minority Business Enterprises can carry out the bill's requirements with existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Meaningful. Any small business owner who is a member of a racial or ethnic minority or a woman and has a personal net worth between \$1.5 million and the new inflation-adjusted cap becomes eligible for MBE certification.

Analysis

Current Law: The State's MBE program establishes a goal that at least 25% of the total dollar value of each agency's procurement contract be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies are

required to use race-neutral strategies to encourage greater MBE participation in State procurement. MDOT serves as the State's MBE certification agency.

An MBE must be at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged. It must also be managed by one or more of the socially and economically disadvantaged individuals who own it. MBEs include not-for-profit entities organized to promote the interests of physically or mentally disabled individuals.

A socially and economically disadvantaged individual is defined as a citizen or legal U.S. resident who is African American, Native American, Asian, Hispanic, physically or mentally disabled, a woman, or otherwise found by the State's MBE certification agency to be socially and economically disadvantaged.

A socially disadvantaged individual is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of their membership in a group and without regard to individual qualities. An economically disadvantaged individual is someone who is socially disadvantaged whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with those who are not socially disadvantaged.

An individual with a personal net worth in excess of \$1.5 million is not considered economically disadvantaged for the purpose of being eligible for MBE certification. Personal net worth includes the individual's share of assets held jointly or as community property with a spouse but does not include the individual's ownership interest in an MBE or equity in a primary place of residence.

Background: The personal net worth cap was raised by Chapter 179 of 2004, from \$750,000 to its current level of \$1.5 million. The federal personal net worth cap for disadvantaged business enterprises is \$750,000.

Currently, 4,380 firms are listed on the State's directory of certified MBEs. There is no way to estimate how many additional firms may qualify for MBE status if the personal net worth cap is raised.

Since fiscal 2000, annual CPI increases have ranged from 1.8% to 3.8%. A 3.0% annual increase in CPI raises the cap to approximately \$1.7 million in fiscal 2014.

Additional Information

Prior Introductions: None.

Cross File: HB 471 (Delegate Pena-Melnyk, *et al.*) – Health and Government Operations.

Information Source(s): Board of Public Works, Department of General Services, Maryland Department of Transportation, University System of Maryland, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2009
ncs/rhh Revised - Senate Third Reader - March 31, 2009
Revised - Updated Information - May 21, 2009

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510