

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1234 (Delegate Serafini)
 Economic Matters

Regulations Affecting Small Businesses - Extensions for Compliance

This bill authorizes the Department of Business and Economic Development (DBED) to grant a small business, as defined in the bill, an extension for compliance with regulations adopted by specified Executive Branch agencies.

Fiscal Summary

State Effect: General fund expenditures for DBED increase by \$58,200 in FY 2013 to implement the bill’s requirements. Future year expenditures reflect annualization, inflation, employee turnover, and the termination of one-time costs. Potential significant reduction in State revenues (all funds) to the extent that small businesses apply for, and are granted, extensions for compliance with various State agency regulations that increase State revenues.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF/SF/FF Rev.	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$58,200	\$72,500	\$77,400	\$81,000	\$84,900
Net Effect	(\$58,200)	(\$72,500)	(\$77,400)	(\$81,000)	(\$84,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal or none.

Small Business Effect: Meaningful to the extent that small businesses, as defined in current law, apply for, and are granted, extensions for compliance with specified regulations.

Analysis

Bill Summary: “Small business” for purposes of the bill’s provisions means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that (1) is independently owned and operated; (2) is not dominant in its field; and (3) employs 100 or fewer full-time employees.

Small businesses seeking an extension for compliance with regulations must submit an economic impact analysis and a plan for compliance with the regulations. The economic impact analysis must estimate the cost of the regulations to the small business, and show that the cost of compliance will exceed the gross revenue of the small business for the preceding fiscal year.

DBED must coordinate with the Executive Branch agency that adopted the regulations to determine whether DBED agrees or disagrees with the economic impact analysis and the plan for compliance submitted by the small business. If DBED agrees with the economic impact analysis, it must approve the economic impact analysis and approve or modify the plan for compliance. Conversely, if DBED disagrees with the economic impact analysis, it must disapprove the economic impact analysis and the plan for compliance. A small business granted an extension by DBED need not comply with the regulations during the period the extension for compliance is in effect. DBED must publish specified information relating to extensions granted in the Maryland Register, and maintain a publicly accessible database of the same information. A small business must continue to comply with all regulations during the period of time DBED is considering a request for an extension.

Current Law: The General Assembly’s Joint Committee on Administrative, Executive, and Legislative Review, as part of its review process of proposed regulations, must review an economic impact analysis prepared by the executive agency proposing the regulations. For purposes of proposed regulation review, “small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that (1) is independently owned and operated; (2) is not dominant in its field; and (3) employs 50 or fewer full-time employees. If the executive agency initially determines that the regulation will have a meaningful economic impact on small businesses, the agency must develop a complete economic impact analysis, or a written explanation of why the agency determined a meaningful economic impact. The written analysis must include estimates directly related to the cost of providing goods and services, effect on the workforce, capital investment, taxation, competition, and consumer choice, among others.

Some executive agency regulations extend the compliance period for specified provisions. For example, the Comptroller’s Office allows for an extension of time to file

specified forms, and a social worker may file a request with the Department of Health and Mental Hygiene for an extension of time to comply with continuing education requirements. Numerous exemptions for compliance also exist in statute.

Background: DBED was established to attract and encourage business development in the State, through methods which include (1) promoting and encouraging the location and creation of new industries and business in the State; (2) assisting the growth and revitalization of small businesses; and (3) promoting regulatory reform and coordinating efforts with other State and local units.

As of 2009, Maryland had 93,191 businesses with fewer than 20 employees, and an additional 10,546 businesses with between 20 and 99 employees. This equates to approximately 100,000 small businesses that would be affected by the bill.

State Fiscal Effect: It is uncertain how many small businesses – as defined in the bill – will apply for, and receive, an extension for compliance with regulations that have a fiscal impact on the State. Legislative Services advises that small businesses may be exempted from regulations regarding workplace fraud and occupational safety, which generate significant revenues for the State. Further, the Department of Natural Resources advises that the bill could allow a commercial fisherman to continue harvesting a species after the season was closed by the department.

Nevertheless, DBED advises that it will require two additional full-time staff and \$50,000 annually for contractual expenses related to research and data collection. Legislative Services disagrees but believes that DBED does need one full-time staff to implement the bill. Legislative Services further advises that because the bill requires DBED to consult with relevant State agencies when reviewing economic impact analyses, DBED may not incur contractual research or data collection expenses. However, if more small businesses apply for exemptions than anticipated, the additional workload for DBED may necessitate contractual support.

General fund expenditures increase by \$58,190 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring one industrial development representative to review small business economic impact analyses in consultation with other State agencies. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$53,292
Other Operating Expenses	<u>4,898</u>
Total FY 2013 State Expenditures	\$58,190

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Maryland Department of Agriculture, Department of Natural Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, U.S. Census, Department of Legislative Services

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