

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

House Bill 399

(Prince George's County Delegation and Montgomery  
County Delegation)

Health and Government Operations

Budget and Taxation

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**Washington Suburban Sanitary Commission - Minority Business Enterprise  
Utilization Program - Termination Extension**  
**PG/MC 105-22**

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This bill extends, from July 1, 2022, to July 1, 2023, the authorization of the Washington Suburban Sanitary Commission's (WSSC) minority business enterprise (MBE) utilization program.

**The bill takes effect June 1, 2022.**

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** The bill does not materially affect WSSC's operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Chapter 562 of 2017 reauthorized WSSC's MBE utilization program until July 1, 2022, and renamed WSSC's Office of Small, Local and Minority Business Enterprise to the Office of Supplier Diversity and Inclusion (OSDI). Chapter 404 of 2012 reauthorized WSSC's MBE utilization program until July 1, 2017. Chapter 621 of 2007 reauthorized WSSC's MBE utilization program until July 1, 2012, and codified the existence of the Office of Small, Local and Minority Business Enterprise.

The MBE utilization program within WSSC helps facilitate the participation of responsible certified MBEs for design/build construction contracts. Solicitations for design/build contracts must include the expected degree of participation by MBEs in the contract. Regulations establishing the MBE utilization program for design/build contracts must:

- recognize MBEs certified by the State and any other certification program that duplicates the requirements of State certification as an MBE;
- provide for an increase in MBE participation as prime contractors and subcontractors;
- allow some contracts to waive the program's requirements if they conflict with WSSC's overall objectives and responsibilities;
- allow for the graduation from the program of MBEs that no longer require special assistance;
- for solicitations that have an expected degree of MBE participation, require bids and proposals to include proof of involvement by an MBE; and
- require contractors to adhere to certain reporting requirements.

WSSC is also authorized to operate an MBE utilization program for goods and services procurements if it determines that MBEs are underrepresented in those contracts and that such a program is necessary to remedy past discrimination against MBEs. In addition to including most of the requirements for the design/build MBE program, regulations for this program must:

- authorize MBE participation only through subcontracting;
- grant bidding preferences for MBEs of up to the lesser of 5% of the contract value or \$50,000;
- create a sheltered market program that restricts bidding on certain contracts only to MBEs; and
- establish targets that 40% of contracts be awarded to both Montgomery County- and Prince George's County-based businesses.

OSDI is charged with:

- promoting and coordinating WSSC's plans, programs, and operations that promote or otherwise affect the establishment, preservation, and strengthening of MBEs;
- promoting activities and use of resources by WSSC, local governments, and private entities for the growth of MBEs;
- providing technical and managerial assistance to MBEs;

- scheduling seminars and workshops to educate MBEs about how WSSC conducts business; and
- ensuring compliance with MBE subcontract participation goals.

OSDI is charged with confirming that prime contractors honor their commitments to their MBEs and maintain the promised level of participation by MBE contractors, subject to corrective actions, contract termination, or other remedy identified in the contract. By October 31 of each year, WSSC is required to submit annual reports to the legislative delegations of Montgomery and Prince George's counties regarding the implementation and administration of its MBE programs. OSDI also administers WSSC's optional Local Small Business Enterprise Program.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery and Prince George's counties; Washington Suburban Sanitary Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 3, 2022  
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