

SB0703 -02.17.21.Procurement Minority Business En

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POSITION STATEMENT

TESTIMONY PRESENTED TO THE SENATE EDUCATION, HEALTH & ENVIRONMENTAL AFFAIRS COMMITTEE

SENATE BILL 703 – Procurement – Minority Business Enterprises – Qualification and Certification

Sponsor: Senator West

February 17, 2021

DONALD C. FRY
PRESIDENT & CEO

GREATER BALTIMORE COMMITTEE

Position: Support

The Greater Baltimore Committee (GBC) supports Senate Bill 703, which would require the Board of Public Works to adopt regulations to require the certification of a business as a minority business enterprise without requiring the business to file any additional paperwork other than evidence of certification under the federal Disadvantaged Business Enterprise Program and that the business remains qualified under the federal program.

In the Greater Baltimore Committee report *Gaining the Competitive Edge: Keys to Economic Growth and Job Creation in Maryland*, eight core pillars were identified for a competitive business environment. One of these essential pillars is **regulatory policies that are streamlined, stable and predictable**.

Maryland must project to businesses within and outside the state that its government regulatory policies are reasonable, relevant, free of surprises or redundancy, and considerate of businesses' sense of urgency. The GBC contends that eliminating unnecessary certification requirements for small and minority-owned businesses is a common sense proposal.

The federal Disadvantaged Business Enterprise Program is both targeted and thorough; a certification from this entity should be enough to endorse qualifying Maryland businesses as minority business enterprises.

One of the key tenets of the GBC's 2021 General Assembly legislative priorities is **advocacy for policy, funding, and regulatory solutions to accelerate economic recovery with an emphasis on support for small and minority-owned businesses**. During this pandemic, disadvantaged, minority, and women owned businesses should be afforded the most streamlined possible process to receive the aid they desperately need. Eliminating redundancy in certification regulations is a simple but significantly beneficial way to help disadvantaged businesses recover.

For these reasons, the Greater Baltimore Committee urges a favorable report on Senate Bill 703.

The Greater Baltimore Committee (GBC) is a non-partisan, independent, regional business advocacy organization comprised of hundreds of businesses -- large, medium and small -- educational institutions, nonprofit organizations and foundations located in Anne Arundel, Baltimore, Carroll, Harford, and Howard counties as well as Baltimore City. The GBC is a 66-year-old, private-sector membership organization with a rich legacy of working with government to find solutions to problems that negatively affect our competitiveness and viability.

GREATER BALTIMORE COMMITTEE

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Senator West-SB703-FAV.pdf

Uploaded by: West, Christopher

Position: FAV

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February 17, 2021

Senate Education, Health and Environmental Affairs Committee
The Honorable Paul G. Pinsky
2 West Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 703 – Procurement – Minority Business Enterprises – Qualification and Certification

Dear Chairman Pinsky and Members of the Committee:

I am pleased to introduce Senate Bill 703. This bill is the second bill this Session that I have had the privilege of introducing which embodies one of the recommendations of the Senate President's Advisory Workgroup on Equity and Inclusion. Senator Griffith chaired this Workgroup, and, along with Senators Ellis and Patterson, I was one of its seven members. The Workgroup issued its Report just last month.

Ever since 1978, Maryland has had a Minority Business Enterprise (MBE) Program to encourage women and minority-owned firms to participate in the State procurement process. Maryland's current MBE statute requires agencies to make every effort to achieve an overall minimum goal of 29% of the total dollar amount of their procurement contracts directly or indirectly from certified MBE firms. The oversight of this program is vested in the Governor's Office of Small, Minority and Women Business Affairs; however, the Office of Minority Business Enterprise within the Maryland State Department of Transportation serves as the State's official MBE certification unit. In fiscal 2019, Maryland's MBE achievement was only 17.9% of contract awards, not the 29% goal set forth in the MBE statute.

The federal government has its own MBE program, overseen by the U. S. Small Business Administration. Currently, businesses must separately qualify as MBE's under federal and State law. So a business which has successfully navigated federal statutes and regulations and qualified as a federal MBE must apply and qualify separately under Maryland's MBE program. This is burdensome to minority and women-owned businesses and deters them from participating in the State procurement process.

With that as an introduction, Senate Bill 703 merely requires the State Board of Public Works, which oversees all State procurement, to adopt new procurement regulations that will enable a federal MBE that has been certified under the federal disadvantaged business enterprise program to become certified as a Maryland MBE without requiring the business to file any additional paperwork other than evidence of its federal certification.

Current Maryland law requires a federally certified MBE to not only establish that it has received federal certification but also to separately and independently establish that it meets the eligibility requirements of the Maryland MBE program. In order to obtain a Maryland MBE certification, an applicant has to fill out lengthy application documents, undergo an investigation, be the subject of a deliberative administrative proceeding and then await an ultimate determination letter. So Senate Bill 73 changes existing law to provide that a federal certification alone will suffice, and an MBE will no longer have to separately establish its eligibility under Maryland law.

For these reasons, I hope that you will give SB 468 a favorable report.

SB0703 - SMBP - Procurement - MBEs - Qualification

Uploaded by: Westervelt, Patricia

Position: INFO

February 17, 2021

The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

Re: Letter of Information – Senate Bill 703 – Procurement – Minority Business Enterprises – Qualification Certification

Dear Chairman Pinsky and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 703 but offers the following information for the Committee’s consideration.

Senate Bill 703 removes the provision requiring that a certified Disadvantaged Business Enterprise (DBE) from another jurisdiction must meet the eligibility requirements for the State Minority Business Enterprise (MBE) Program.

MDOT’s Office of Minority Business Enterprise (OMBE) is responsible for implementing the State’s Certification Program. As such, MDOT OMBE is the only office that certifies firms for participation in the State’s MBE Program and the Federal Disadvantaged Business Enterprise (DBE) Program.

Senate Bill 703 provides a benefit to out-of-state firms and penalizes Maryland firms. The bill requires the State to certify non-resident firms as MBEs, regardless of their ability to satisfy the Program’s requirements. Meanwhile, resident Maryland firms still must satisfy the eligibility requirements of the program. Specifically, the requirement that Maryland-registered firms must be in good standing with the Department of Assessment and Taxation (DAT) before conducting business in the State. With Senate Bill 703, an out-of-state DBE firm is not required to be registered at the time of certification, whereas a Maryland-based firm must be registered at the time of certification.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 703.

Respectfully submitted,

Melissa Einhorn
State Legislative Officer
Maryland Department of Transportation
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