HB 795

Department of Fiscal Services

Maryland General Assembly

FISCAL NOTE
Revised

House Bill 795 (Delegate Busch)
(Co-Chairman, Joint Committee on State Economic Development Initiatives)

Economic Matters — Referred to Budget and Taxation

Economic Development Opportunities Program Fund

This enrolled bill requires the Department of Business and Economic Development (DBED) to include information on the status of disbursements and the status of job creation, capital investment, and other economic development measures for Sunny Day Fund projects approved in the previous three years in its annual report. If the job creation, capital investment, or other economic development measures are lower than negotiated, the report must contain an explanation. With certain exceptions, all Sunny Day Fund project requests must contain performance requirements and clawback provisions. In addition, DBED must provide to the Legislative Policy Committee (LPC) for each project information on the number of jobs created for Maryland residents, wages and benefits, and prior public funding received by the company. The LPC may approve a project that does not meet the definition of "extraordinary economic development opportunity" if sufficient justification is provided. DBED must annually submit a set of guidelines for performance requirements that may be used to the LPC.

The Governor must include in any Sunny Day Fund request to the LPC the date on which disbursement of funds to the proposed recipient is expected. If the funds are not disbursed to the recipient within one year after the expected date, the funds will revert back to the Sunny Day Fund and the Governor must resubmit the request to the LPC.

Fiscal Summary

State Effect: Potential indeterminate increase in special fund revenues and decrease in general fund expenditures.

Local Effect: None.

Fiscal Analysis

Background: Concerns regarding accountability for Sunny Day Fund projects were discussed during the 1995 interim by the Joint Committee on State Economic Development Initiatives. Specific issues raised included:

- whether Sunny Day Fund recipients were actually meeting the job creation goals and other economic development measures originally forecasted in the request for funds to the LPC;

- how the State could recoup funds granted or loaned to companies that later decide to relocate out of Maryland or cut back on operations; and

- significant delays in the disbursement of approved funds to recipient companies.

State Effect: State revenues would increase by an indeterminate amount if the penalty provisions included in Sunny Day Fund projects result in companies repaying funds due to contract violations. According to an analysis by the Department of Fiscal Services (Economic Development in Maryland: The Sunny Day Fund) one company that received $2 million as a Sunny Day Fund loan in addition to other State financial incentives closed down the facility in question due to a business slowdown. DBED has given this company, Mountaire, a grace period until later this year before reaching any firm decision on how the situation will be handled. It is expected that increased collateral and other such provisions will be asked for. However, if a penalty were written into the contract, the situation would be more straightforward. For instance, the Art Litho project which was concluded more recently included a higher interest rate if certain conditions are not met.

Of the six companies that received Sunny Day Fund assistance and had reached full operational status as of October 1995, three reported employment figures lower than were originally projected. Because DBED currently does not have annual reporting requirements on project outcomes, in many cases the department is unaware if original projections are not being met. However, DBED will have to begin collecting such information on more recent deals such as Art Litho which contain variable interest rates, or those that have loans that turn to grants contingent on certain outcomes. Under this bill, DBED is required to collect this information for all projects approved in the last three years, not just those that involve contingencies.

Complying with the reporting requirements could be handled by DBED's existing resources. For instance, information on the company's environmental and labor record would be provided by the company to DBED. It is assumed that penalty provisions could be included in the contract if the company provides false information.

State expenditures would decrease if encumbered funds are not disbursed within the allotted time frame and are returned to the Sunny Day Fund. Generally, after LPC approval it takes another four to nine months to have an agreement signed; however, delays have stretched on for more than a year in some projects. For example, the Advanced Lithography Group agreement was signed 15 months after approval. Since this legislation allows DBED one year past the expected date for disbursement, it is anticipated that most projects will meet the time frame. However, in any future cases where serious disagreements arise between DBED and the company, or other significant time delays are encountered, those funds involved would revert back to the Sunny Day Fund. It also allows the LPC to reexamine projects for which serious problems may have been encountered.

Information Source(s): Department of Business and Economic Development, Department of Fiscal Services

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