

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 956 (Delegate Flanagan)
Commerce and Government Matters

Minority Business Enterprise Certification - Appeal Process

This bill provides that procurement regulations promulgated by the Board of Public Works regarding the certification and decertification of minority business enterprises (MBE) must include an opportunity to appeal a decertification or denial of certification to the Office of Administrative Hearings (OAH).

Fiscal Summary

State Effect: Special fund expenditures would increase by approximately \$105,600 in FY 1997; out-year expenditures reflect annualization and inflation. Revenues would not be affected.

(in dollars)	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001
SF Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditures	105,600	129,400	133,900	138,500	143,339
Net Effect	(\$105,600)	(\$129,400)	(\$133,900)	(\$138,500)	(\$143,339)

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

Local Effect: None.

Fiscal Analysis

State Expenditures: The Office of Administrative Hearings currently does not hear appeals on denials of certification. Out of the 200 denials issued in calendar 1995, the Maryland Department of Transportation (MDOT) estimates that 100 firms would appeal to OAH. Each case would take OAH about four hours to hear and eight hours to write, generating an additional 1,200 hours for an Administrative Law Judge (ALJ). On average, each Administrative Law Judge (ALJ) at OAH handles 1,584 case hours annually. Expenditures for an Administrative Law Judge III would total \$46,800 in fiscal 1997 due to salaries and

associated operating expenditures, which reflects the bill's October 1, 1996 effective date. This estimate includes salaries of \$32,300, fringe benefits, one-time start-up costs, and ongoing operating expenses

Salaries and Fringe Benefits	\$41,700
Operating Expenses	<u>5,100</u>
Total FY 1997 OAH Expenditures	\$46,800

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

OAH receives reimbursable funds from the various agencies depending upon the portion of time spent on cases for that agency. Therefore, an increase in OAH hearings for these issues will be realized as additional expenditures for MDOT.

In addition to costs incurred by OAH, other MDOT expenditures would increase due to the need to prepare cases for hearings. MDOT reports that expenditures would increase by \$185,900 in fiscal 1997 due to the need to hire four additional personnel and contract with a court reporting service for certain transcripts. The Department of Fiscal Services (DFS) advises that MDOT would only need one additional Assistant Attorney to prepare and present cases; other clerical and administrative duties could be handled by existing staff. General fund expenditures could increase by an estimated \$58,800 in fiscal 1997, which reflects the bill's October 1, 1996 effective date. This estimate reflects the cost of hiring one Assistant Attorney to handle appeals cases. It includes salaries of \$32,300, fringe benefits, one-time start-up costs, and contractual services for court reporter services.

Salaries and Fringe Benefits	\$41,700
Equipment	5,000
Court Reporter Services	11,300
Other Operating Expenditures	<u>800</u>
FY 1997 Direct MDOT Expenditures	\$58,800

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

Information Source(s): Office of Administrative Hearings, Maryland Department of Transportation, Board of Public Works, Department of Fiscal Services

Fiscal Note History: First Reader - March 4, 1996

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