

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 203 (The President)
(Administration)

Economic and Environmental Affairs

Procurement - Minority Business Participation - Sunset Extension

This Administration bill extends the sunset for the State minority business enterprise (MBE) participation program from July 1, 2000 to July 1, 2001. The bill also extends the date by which the MBE Office in the Maryland Department of Transportation (MDOT), as the certification agency, must report to the Legislative Policy Committee standards from September 30, 1999 to September 30, 2000, on: (1) the program's compliance with federal constitutional and statutory standards; and (2) methods that can be used to address the needs of minority businesses.

The bill is effective July 1, 2000.

Fiscal Summary

State Effect: MBE participation in State procurement and funding for MDOT's MBE Office would continue at current levels. The proposed FY 2001 budget contains approximately \$1.17 million, including approximately \$200,000 in reimbursable funds and approximately \$970,000 in Transportation Trust Funds, for the MBE Office. The MBE Office performs certifications for both the State's MBE program and the federal Disadvantaged Business Enterprise (DBE) program. Federal Department of Transportation matching funds for many MDOT projects are contingent on meeting DBE participation goals.

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Current Law: Except for real property leases, each unit of State government is required to structure its procurement procedures to try to achieve at least 14% direct or indirect MBE participation under Maryland's MBE participation program. For construction contracts, the goal is 14% of the unit's total dollar value. The goal applies only to contracts exceeding \$100,000 for MDOT. To qualify for participation in the procurement program, an MBE must be at least 51% owned by a socially or economically disadvantaged group and be certified by MDOT's MBE Office.

Background: An MBE that has reached or exceeded either a certain gross revenue average or an employee population may not participate in the State's MBE program, although the business will remain certified. These participation levels are specified in federal regulations and vary by industry sector. An MBE that continues to exceed the revenue and employee standards for more than three years has graduated from the program and will no longer be certified. An MBE that falls below the threshold level during this three-year period may resume participation as a certified MBE if the business goes through the recertification process.

In fiscal 1998, the latest year for which data are available, the MBE participation level for State procurement was approximately 20.4%.

Under *City of Richmond v. Croson*, 488 U.S. 469 (1989), a state's MBE program must be narrowly tailored to remedy that state's past discrimination.

Additional Information

Prior Introductions: None.

Cross File: HB 287 (The Speaker) - Commerce and Government Matters.

Information Source(s): Maryland Department of Transportation, Department of General Services, Office of the Governor, Department of Legislative Services

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