HB 182

Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 182 (Chairman, Health and Government Operations Committee, *et al.*)
(By Request – Departmental – Energy Administration, Maryland)

Health and Government Operations Education, Health, and Environmental Affairs

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Maryland Energy Administration - Procurement - Federal Energy Grants and Cooperative Agreements

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This departmental bill exempts the Maryland Energy Administration (MEA) from several provisions of State procurement law when applying for and entering into grants or cooperative agreements with private entities to meet federal requirements for projects related to renewable energy, energy conservation, or improving energy efficiency. The bill also requires MEA to provide a report to the General Assembly by September 30, 2005 that describes the number and amount of grants and cooperative agreements entered into with private entities and the projects to which the grants or agreements apply. The report must cover activities from July 1, 2003 through June 30, 2005.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: Federal fund revenues could increase by as much as $250,000 annually. Expenditures would not be affected.

Local Effect: Potentially significant revenues for any local jurisdiction to the extent that one or more qualifies for additional federal grant funds.

Small Business Effect: MEA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: This bill exempts procurements by MEA from the provisions of State procurement law governing source selection for procurements, preferences (including minority, disadvantaged individuals, and small business preferences), contract administration, and dispute resolution. The procurements for these goods and services would still be required to comply with certain provisions, such as the supervision of capital expenditures and real property leases, collusion and fraud enforcement, suspension and disbarment of contractors, and special provisions for State and local subdivisions.

Current Law: State law requires every expenditure and procurement by units of the Executive Branch of State government to comply with certain requirements (unless otherwise specified). If the resulting procurement involves no State expenditure and will produce revenue for the State, the requirements still apply if the services benefit State officials or employees or the public at a State recreational, higher education, or transportation facilities or patients at State hospitals and institutions.

Several divisions of State government, including the Maryland Historical Trust, the Maryland State Arts Council, the Department of Business and Economic Development (DBED), and public higher education institutions, are exempt from these requirements for specific types of contracts. For example, DBED is only exempt when negotiating and entering into private sector cooperative marketing projects if the private sector contribution is not less than 50%. If a provision of these requirements is inconsistent with a federal law, regulation, or grant agreement or other federal requirement that governs a procurement contract, the federal requirement applies.

Background: The U.S. Department of Energy (USDOE) provides over $18 million to states through its State Energy Program (SEP) Special Project Grants, which was created in 1996. The grants, which typically require a cost share from the state, have supported 520 projects totaling $33 million. The program also distributes funds through formula grants. SEP projects including alternative fuel vehicles, energy building codes, solar-powered security systems, and installation of a geothermal heat pump and a related interactive learning center in an elementary school in Cambridge.

State Revenues: To the extent that federal grant funds increase as a result of the bill, State revenues would increase. The agency currently receives about $400,000 from USDOE and expects that it would be eligible for an additional $250,000 of annual grant funds under the bill.

MEA advises that the current procurement process prevents it from pursuing competitive grants offered by USDOE because it cannot partner with private entities that participate in the grant development process. MEA further indicates that federal grant applications must be submitted in two to three months, which conflicts with the time required to solicit bids under State requirements (four to nine months).

Local Revenues: MEA anticipates that some of the additional funds would be distributed to local governments for projects. Montgomery County has received money under this program for a feasibility study concerning station cars that can be leased to commuters for transportation to transit sites.

Small Business Effect: To the extent that small businesses, particularly building contractors, participate in projects that are funded as a result of this bill or receive grant funds, they would benefit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Maryland Energy Administration, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2003
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