

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1109 (Delegate Patterson, *et al.*)
 Health and Government Operations Education, Health, and Environmental Affairs

Procurement - Minority Business Enterprises - Effect of Personal Net Worth on Eligibility

This bill establishes that a certified minority business enterprise (MBE) that becomes ineligible to participate in the MBE program because the owner of the MBE exceeds \$750,000 in personal net worth, while that business is engaged in a contract with the State, shall continue to be counted toward the MBE participation goals of the contract and the procurement unit. Becoming ineligible during the course of a contract cannot be grounds for termination of that contract.

The bill also requires the Maryland Department of Transportation (MDOT), as the State's MBE certifying agency, to conduct a study regarding specified aspects of the decertification process and report to the House Health and Government Operations Committee and the Senate Education, Health, and Environmental Affairs Committee by January 1, 2004.

Fiscal Summary

State Effect: Special fund expenditures would increase by \$35,000 in FY 2004 for the study required by the bill.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	35,000	0	0	0	0
Net Effect	(\$35,000)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill requires MDOT to conduct a study to determine whether: (1) it continues to be appropriate, under current economic conditions, to prohibit a finding that an individual whose personal net worth exceeds \$750,000 is economically disadvantaged; and (2) it is appropriate to establish a transition period of a specific duration between the date on which an individual's personal net worth exceeds \$750,000 and the date on which decertification occurs under the State Finance and Procurement Article.

Current Law: Once an MBE exceeds the federal definition of a small business, it is no longer eligible to be counted toward an agency's MBE participation goals. If the MBE regains small business status within three years of decertification, it is reinstated as an MBE. Only after three consecutive years in which an MBE does not meet the federal definition of a small business, is it formally decertified.

Chapter 339 of 2001 established the current overall goal of 25% for the total value of contracts being awarded to certified MBEs and separate goals of 7% for African-American businesses and 10% for women-owned businesses.

Each procurement unit must: (1) implement a program enabling the unit to evaluate each contract to determine the appropriateness of the goal; and (2) meet the maximum feasible portion of the goals by using race neutral measures to facilitate MBE participation in the procurement process.

An individual with a personal net worth of more than \$750,000 is not an economically disadvantaged individual. Personal net worth is defined as the net value of assets after total liabilities are deducted, and includes the individual's share of assets held jointly or as community property with the individual's spouse. Net worth does not include the individual's: (1) ownership interest in an MBE or the applicant for MBE certification; and (2) equity in his/her primary place of residence.

Procurement units must annually report to the certification agency (currently MDOT) and the Office of Minority Affairs. The Board of Public Works (BPW) may adopt regulations requiring a unit of State government to require bidders and offerors to submit information necessary for a study of the program. Data collected in this manner will be the basis for a report due to BPW on September 30, 2005. BPW may designate certain information received under the regulations as confidential. However, the certification agency may provide the information to any person under contract with the certification agency to assist in the study.

State Effect: Based on previous studies of similar scope, special fund expenditures will increase by \$35,000 in fiscal 2004 due to the study and reporting requirements in this bill.

This bill may increase the ability of State agencies to meet MBE goals by allowing specified MBEs to continue to count toward an agency's goal after decertification while a contract is still in effect.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Governor's Office, Department of Transportation, Department of Budget and Management, Department of Legislative Services

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