

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1307
Appropriations

(Delegate Rosenberg)

State Government - Office of Community Initiatives

This bill codifies the existing Office of Community Initiatives (OCI) within the Executive Department. The bill takes effect June 1, 2005 and terminates May 31, 2007.

Fiscal Summary

State Effect: OCI is part of the Governor's Office of Service and Volunteerism (OSV). OSV's FY 2006 budget allowance is \$5,019,432. Any OSV expenditures on behalf of OCI would be maintained.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The office must:

- coordinate community and volunteer service activities throughout Maryland;
- develop and coordinate the Governor's policy agenda affecting community programs and initiatives;
- advise the Governor on policies and measures to enhance and improve the delivery of community and volunteer services;
- serve as the principle liaison to the White House Office of Faith-based and Community Initiatives;

- serve as a liaison to the Governor's Commission on Service and Volunteerism and the Corporation for National and Community Service;
- conduct public outreach on behalf of the Governor to encourage greater involvement and participation by community organizations and constituent groups;
- review State and federal legislation to ensure that community organizations are afforded the fullest opportunity permitted by law to equally participate in the competitive process for federal, State, and private funds;
- coordinate State programs providing health, social, educational, or other community services within the restrictions created by the General Assembly through language in the fiscal 2005 budget;
- conduct a review of State programs in cooperation with State departments and agencies to identify legislative and regulatory barriers that impede the effectiveness of community organizations to deliver results-based social services;
- ensure compliance with the provisions of Title VII of the Civil Rights Act of 1964, as amended, as it appears in Volume 42 of the U.S. Code, Section 2000E-1;
- coordinate efforts, in cooperation with the Governor's grants office, to more effectively provide technical assistance to community organizations as it relates to contracting and grant opportunities to relevant State departments and agencies;
- monitor community organizations receiving grants or other funds administered by the State to ensure accountability and measurable outcomes consistent with existing federal and State policies;
- direct and coordinate policy and actions relating to community and volunteer service initiatives across State government and providing executive and legislative recommendations to enhance community and volunteerism efforts;
- coordinate public activities designed to mobilize public support for community organizations, volunteer service, and civic participation by individuals, schools, and organizations, with the goal of promoting participation; and
- organize events to recognize outstanding volunteer service and showcase innovative grassroots community organizations.

All State departments, agencies, commissions, and boards must cooperate with the office to complete the office's duties, subject to the limitations of any law that governs their activities.

Current Law: Title I of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 sets forth provisions that enable faith-based organizations to compete for government funds to provide welfare benefits and services under the

Temporary Assistance for Needy Families Act (TANF). Thus, states and localities must allow religious organizations to compete for and receive federal funding for the provision of social services on the same basis as other service providers. This federal statute and proposed “charitable choice” regulations generally require equal treatment for faith-based organizations regardless of their religious character or affiliation. These organizations cannot be excluded from the competition for TANF funds simply because they are religious.

Title VII of the Civil Rights Act of 1964, as amended prohibits employment discrimination based on race, color, religion, sex, and national origin.

Background: Maryland has a long history of involvement with faith-based organizations. Over the years Maryland has provided State funds to religiously affiliated hospitals, nursing homes, private schools, and private institutions of higher education. These funds primarily are for service-related activities such as patient care. Recently, although not without some controversy, the State has also earmarked specific funds for textbooks in private schools, some of which may also have religious affiliations. In addition, the State’s capital program may directly fund religious organizations. These funds, however, are given with strict requirements for the use of the funds, and the legislation that authorizes the disbursement of State funds prohibits their use in order to proselytize.

Maryland also complies with the 1996 landmark federal welfare reform law’s charitable choice provision. Charitable choice precludes states from excluding faith-based organizations from participating in government contracts because they are sectarian. Therefore, Maryland has contracted with faith-based organizations to serve Marylanders on welfare.

With the election of Governor Robert L. Ehrlich, Jr. in 2002, it was anticipated that the Governor would submit legislation establishing an office similar to the White House Office of Faith-based and Community Initiatives. A bill establishing an office was not part of the Governor’s legislative package during the 2003 or 2004 legislative sessions. Instead, legislation was introduced and passed by the House of Delegates in 2003 that would have established a Community and Faith-based Partnership Council. The legislation ultimately failed, but for the past two sessions language was included in the budget bill that prohibited the establishment of a faith-based or similar type office, unless the office was authorized by the General Assembly. The budget language has been opposed by the Administration as a potential impediment to the receipt of federal funding. A Department of Legislative Services review of federal grants found no indication that any federal funds are contingent upon a State having a faith-based office or liaison.

Despite the prohibition against establishing an office, the Administration has taken steps to increase outreach to faith-based and community organizations. These steps are somewhat inline with priorities expressed by the White House office. A person in the Lieutenant Governor's office was initially designated as the State liaison with the federal government to coordinate State activities regarding faith-based and community initiatives. As with a State office, there are no indications that designating a liaison is mandatory or contingent upon anything. The Department of Human Resources (DHR) web site provides information regarding federal grants available for faith-based organizations. In addition, a staff person in DHR's Community Services Administration provides technical support for faith-based organizations wishing to access federal discretionary grants.

In October 2004, the Governor established the Office of Community Initiatives through an executive order. In addition to its delineated responsibilities, the office will coordinate the activities of OSV and the Volunteer Maryland Program. As specified in the executive order, some of the office's 14 responsibilities include:

- coordinating community and volunteer service activities within the State;
- advising the Governor on policies and measures to enhance and improve the delivery of community programs and initiatives;
- serving as the principal liaison to the White House Office of Faith-based and Community Initiatives;
- reviewing State and federal legislation to ensure that community organizations are afforded the fullest opportunity permitted by law to "equally" participate in the competitive process for federal, State, and private funding; and
- coordinating State programs providing health, social, educational, or other community services within the restrictions created by the Maryland General Assembly through language in the fiscal 2005 budget, which maintains the eligibility of faith-based organizations to receive monies under any program funded in the 2005 budget.

The executive order specifies that the office will primarily be coordinating, monitoring, and reviewing. Many of the office's responsibilities are similar to the responsibilities of the White House office. The office's establishment does raise questions regarding compliance with the fiscal 2005 budget language. The budget language provides that "no

funds in this budget may be expended pursuant to, or in furtherance of, any policy, program, or office, so named or otherwise, to purposefully promote or facilitate participation of faith-based organizations in State programs... ”

Except for acting as a liaison to the White House office, the executive order does not directly address “faith-based organizations” in Maryland. Nevertheless, President Bush’s initiative directly links faith-based and community organizations so it can be assumed that the State office will also include faith-based organizations in its activities. The executive order’s wording appears benign enough so that it does not contradict the budget language, and it does mention that the office will work within the restrictions of the budget language. By staying focused on all types of community organizations, the office should operate within its bounds. If the office increases its focus on faith-based organizations or develops programs that directly benefit faith-based organizations similar to the federal Capital Compassion Fund, the office may violate the budget language.

State Expenditures: The existing OCI is not separately budgeted but part of the existing Governor’s OSV. OSV’s fiscal 2006 budget allowance is \$5,019,432. How much of OSV’s budget allowance is attributable to OCI is not described in the budget and the Department of Budget and Management (DBM) did not provide any additional information.

When the Governor established OCI through executive order in October 2004, one existing position in the Secretary of State’s Office was transferred to OSV to serve as the executive director position at OCI. The executive order indicates that the executive director must be primarily responsible for directing and coordinating OSV and Volunteer Maryland, a State office OSV grantee.

As a result, Legislative Services assumes that OSV budgeted expenditures and staff currently are being used partially for OCI purposes. Legislative Services further assumes that OSV budgeted resources could continue being partially used for OCI purposes in fiscal 2006 and until the bill terminates May 31, 2007. As such, there should not be an effect on expenditures or revenues.

DBM states that this bill would not have a fiscal impact on the State but did not provide an explanation of why this would be the case. Similarly, the Department of Disabilities, the Department of Health and Mental Hygiene, and the Office for Children, Youth, and Families stated that this bill would not have a fiscal impact.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Governor's Office (Office for Children, Youth, and Families), Department of Disabilities, Department of Health and Mental Hygiene, Department of Budget and Management, Department of Legislative Services

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