

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 1240

(Prince George's County Delegation and  
Montgomery County Delegation)

Health and Government Operations

Education, Health, and Environmental  
Affairs

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**Washington Suburban Sanitary Commission - Minority Business Enterprise  
Programs - Sunset Extension  
PG/MC 104-06**

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This bill extends the termination date for minority business enterprise (MBE) programs operated by the Washington Suburban Sanitary Commission (WSSC) from July 1, 2006 to July 1, 2010.

The bill takes effect July 1, 2006.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None. Extending the existing WSSC preference programs for MBEs would not affect WSSC finances.

**Small Business Effect:** MBEs that are small businesses will benefit from the extension of preference programs designed to increase their participation in WSSC procurements.

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**Analysis**

**Current Law:** WSSC is required to operate an MBE program to facilitate the participation of certified MBEs in its construction projects. WSSC is also required to operate a similar program for goods and services contracts if it determines that:

- MBEs are underrepresented in those contract awards due to the effects of past discrimination; and
- a preference program could remedy the effects of past discrimination.

WSSC uses the same definition of MBE that is used in State procurement law, namely that an MBE is a legal entity, other than a joint venture, that is:

- organized to engage in commercial transactions;
- at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and
- managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

MBEs include not-for-profit entities organized to promote the interests of physically or mentally disabled individuals.

A socially and economically disadvantaged individual is defined as a citizen or legal U.S. resident who is African-American, Native American, Asian, Hispanic, physically or mentally disabled, a woman, or otherwise found by the State's MBE certification agency to be socially and economically disadvantaged.

A socially disadvantaged individual is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of their membership in a group and without regard to individual qualities. An economically disadvantaged individual is someone who is socially disadvantaged whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with those who are not socially disadvantaged. An individual with a personal net worth in excess of \$1.5 million is not considered economically disadvantaged.

WSSC is required to establish rules that, at a minimum, recognize MBEs certified by the State. WSSC is also allowed to recognize other certifications that meet specific criteria, and to establish its own rules for certification. WSSC is required to submit annual reports regarding the implementation and administration of its MBE programs by September 15.

The MBE program for goods and services contracts is structured differently from the construction MBE program. First, it includes a specific price preference for MBEs of the lesser of 5% or \$50,000 for each contract. Second, it requires WSSC to establish a sheltered market program for MBEs if other efforts to increase their participation in goods and services contracting are not successful. Under a sheltered market program,

when three or more MBEs bid on a contract, the contract is awarded to the lowest bid among the bidders. Another key difference is that the goods and services program establishes a goal of awarding 40% of contracts to businesses in Montgomery County and 40% to businesses in Prince George's County.

Both MBE programs operated by WSSC are scheduled to terminate on July 1, 2006.

**Background:** WSSC was established as a bicounty commission in 1918 to manage water and sewage services for Montgomery and Prince George's counties. It has an annual operating budget of \$466 million and spent \$159 million on construction projects in fiscal 2005.

Chapter 387 of 2002 extended the WSSC MBE programs from July 1, 2002 until July 1, 2005. Chapter 562 of 2005 extended the programs again until July 1, 2006.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Washington Suburban Sanitary Commission, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2006  
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