Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 171 (Senator Jones, *et al.*) (Co-Chair, Task Force on Lending Equity Within Financial Institutions Providing State Depository Services)

Finance | Appropriations

State Treasurer - Designation of Financial Institution for Banking Services

---

This bill requires the Treasurer to give 15% of the weight of the decision to designate a depositary for State money or to make an agreement for a banking service to specified standards.

Fiscal Summary

State Effect: Adding these additional criteria to the Treasurer's decision-making process would not materially affect State finances and could be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Treasurer must consider: (1) whether the financial institution received a rating of "needs improvement" or "substantial noncompliance" in its most recent examination under the federal Community Reinvestment Act (CRA); (2) Maryland-specific information in the CRA report if the institution operates outside the State; (3) whether a court has found in a final adjudication that the institution has violated an antidiscrimination statute or regulation; and (4) whether the institution has demonstrated that during the previous five years it has participated in specified activities with small and minority businesses.

Current Law: Subject to State procurement laws, the Treasurer may designate any financial institution as a depositary for State money. For foreign banks, the Treasurer may only deposit the amount appropriated for conducting State activities outside the United States. State money on deposit must be secured by deposit insurance or collateral. The Governor must approve the designation of a depositary institution. The Treasurer may make an agreement with a bank or trust company as to compensation for a banking service that may allow charges for the service or, instead of charges, allow the bank or trust company to earn compensation for its services under specified circumstances.

In practice, when the Treasurer selects a financial institution to be a State depositary or provide other State services, the Treasurer issues a request for proposals (RFP) for a particular service or services based on the State's current and future needs. An eligible institution must meet specified legal and regulatory requirements (*e.g.*, contract affidavits and minority business enterprise requirements). The RFP details the list of service requirements, including the disclosure of the institution's customer service structure. The contract lasts three fiscal years and may be extended for two additional two-year renewal options, to be entered into at the Treasurer's discretion.

An evaluation panel of 8 to 12 members is selected to review proposals. These members include representatives of the Treasurer's Office, the Comptroller's Office, and several user agencies. Proposals are evaluated based upon a rating matrix developed from service requirements. Points are awarded, depending on the institution's ability to meet the specified requirements. Pricing (cost to the State from using a particular institution) is a significant factor in this process.

Beginning with the fiscal 2005 contract, the Treasurer's Office requested the bidders to voluntarily provide: (1) their most recent CRA evaluation reports; (2) whether they have been found, through either a judicial or administrative process, to have discriminated in Maryland in their commercial lending practices; (3) descriptions of their training programs for State minority business enterprise (MBE) contractors regarding ways to gain access to commercial loans and credit; and (4) descriptions of their community outreach programs to address the needs of MBE contractors and vendors.

Background: Chapter 114 of 2004 established the Task Force on Lending Equity within Financial Institutions Providing State Depository Services. The purpose of the task force was to: (1) develop meaningful criteria for evaluating minority business enterprises' access to credit and capital from financial institutions providing or desiring to provide depository services to the State; and (2) advise the State Treasurer on developing additional or supplemental criteria to be considered in the selection of depositories for State funds. This bill reflects the statutory recommendations of the task force.

In carrying out its purpose, the task force was required to perform three tasks: (1) identify data to demonstrate whether financial institutions provide adequate access to credit and capital for minority business enterprises; (2) advise the Treasurer in developing additional criteria for selecting financial institutions as depositories; and (3) develop a strategy to implement a lending equity policy.

The task force began meeting in May 2005 and met 10 times to complete its work. In addition to the meetings of the full task force, two work groups made up of task force members worked to develop criteria for evaluating the efforts of financial institutions at reaching out to the minority business community and to collect information to form the basis of the evaluation.

CRA requires a fair lending examination process in reviewing compliance with the Act's provisions. An examination of loan activity will answer whether the institution is lending inside or outside of its geographic area; whether it is lending to a broad base of customers; whether it is excluding low- or moderate-income areas; and whether it is responding to complaints. Large and small institutions have a slightly different evaluation process. A small institution is assigned one of the four statutory ratings.

- A "satisfactory" rating means that the institution meets the standard for each criterion (*i.e.*, reasonable loan to deposit ratio; majority of loans in assessment areas; reasonable borrower distribution; and good proportion of lending in low-, moderate-, middle-, and upper-income areas).

- A "needs to improve" or "substantial noncompliance" rating is assigned depending on the degree performance does not meet "satisfactory" standards.

- An "outstanding" rating is assigned if the institution's performance exceeds satisfactory standards.

Large financial institutions have a more extensive examination since they are evaluated based on a lending test, an investment test, and a community development and retail services test. A large financial institution is assigned one of five statutory ratings. They are the same ratings as with the small financial institutions, but with two satisfactory categories (high satisfactory and low satisfactory).

Additional Information

Prior Introductions: None.

Cross File: HB 300 (Delegate Vaughn, *et al.*) (Co-Chair, Task Force on Lending Equity Within Financial Institutions Providing State Depository Services) – Appropriations.

Information Source(s): Maryland State Treasurer's Office; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 1, 2006
ncs/ljm

Analysis by: T. Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510