

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1178 (Delegate Costa)

Health and Government Operations

Local Government - Procurement - Resident Preferences

This bill prohibits a local government from giving preferences to local firms over other Maryland firms when awarding a procurement contract through a competitive sealed bid or proposal process. The bill repeals the local firm preferences provisions from the public local laws of Frederick and Garrett counties.

The bill takes effect July 1, 2007 and applies only to procurement contracts entered into by local governments on or after this date.

Fiscal Summary

State Effect: None.

Local Effect: Potential savings in local contract expenditures. Revenues would not be directly impacted.

Small Business Effect: Meaningful.

Analysis

Current Law: When a local government awards a contract through a competitive bidding process, if the state in which a nonresident firm is based gives an advantage to that business, a local government may give an identical advantage to the lowest responsive and responsible Maryland firm. Such an advantage may include a percentage preference, an employee residency requirement, or any other provision that would favor a nonresident firm over a Maryland one.

A number of counties have codified provisions authorizing them to grant preferences to locally based firms. Frederick County public local law authorizes the county to give an advantage to a firm based in the county over one that is based outside of the county, including other Maryland firms. The public local laws of Garrett County authorize the county commissioners to adopt a local preference program by ordinance or resolution. This bill repeals both of those provisions.

Background: Allegany, Caroline, Cecil, Frederick, and Garrett counties have county resident preferences in their codes while Somerset County has an informal local preference policy for bids under \$5,000. Prince George's County gives county-based minority businesses a preference within its minority business preference program.

Several counties will award a bid to a local bidder in case of a tie bid in which price, quality, service, etc. are deemed equal. Anne Arundel, Baltimore, Caroline, Charles, and Harford counties state this policy in their county codes while St. Mary's County has an informal policy to this effect.

In Anne Arundel and Harford counties, the county purchasing agent may provide local bidders a reciprocal preference. In these counties, if some of the noncounty bidders are from jurisdictions which grant a local preference, then the purchasing agent can give a local bidder the same preferences which the noncounty bidders would have received in their home jurisdictions. Montgomery County has a "Local Small Business Reserve Program" in which procurement procedures for certain county departments must award at least 10% of the total combined dollar value of contracts to local small businesses. In Worcester County, local presence is one factor the county may consider in awarding a contract.

The Baltimore City Charter authorizes the board of estimates to provide for a limited bid preference to a responsible bidder on a neighborhood project, if the bidder is a resident of that neighborhood or has its principal place of business located there.

The Department of Legislative Services does not know how many municipalities in Maryland consider local preference when awarding contracts.

Local Fiscal Effect: The effect of the bill depends on whether a local government awards contracts based on local preference, the value of such contracts, and the value of the contract of the next lowest responsible bidder. The bill would not affect contracts awarded to a local business if that business is the lowest responsible bidder. In those instances where a contract would be awarded to a local bidder over the lowest responsible bidder, however, the bill could result in savings for the local government – since the local

government would have to award the contract to the lowest responsible bidder. In any event, the impact is likely to vary by jurisdiction.

Small Business Impact: Meaningful. Local small business or minority businesses programs would be greatly affected by the bill. Small businesses that are awarded contracts through these programs might not receive the contract if local preference is not an option. Montgomery County estimates that it will award over \$8.0 million in contracts to local small businesses in fiscal 2007.

On the other hand, Maryland small businesses that do not receive awards due to local business preferences could be positively impacted by prohibiting such preferences.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett County, Kent County, Montgomery County, Prince George's County, Washington County, Worcester County, City of Frederick, Maryland Municipal League, Department of Legislative Services

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