

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 941

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

Health and Government Operations

Education, Health, and Environmental  
Affairs

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**Maryland-National Capital Park and Planning Commission - Minority Business  
Enterprise Utilization Program  
PG/MC 110-08**

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This bill extends the authority of the Maryland-National Capital Park and Planning Commission (M-NCPPC) to administer a Minority Business Enterprise Utilization Program for five years, from September 30, 2008 to September 30, 2013.

The bill takes effect June 1, 2008.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** The bill would not materially affect M-NCPPC finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** Chapter 256 of 1995 authorized M-NCPPC to establish a Minority Business Enterprise Utilization Program if it determines that such a program is necessary to remedy discrimination against minority business enterprises in contracting or procurement with the commission. The purpose of the program is to facilitate participation of responsible certified minority business enterprises in commission

contracts for goods, services, and construction. The program's statutory authority has been extended three times, most recently in 2003.

“Minority” is defined as any group that M-NCPPC finds, after appropriate study, to be socially or economically disadvantaged as a result of discrimination in the public or private sector that has affected the group's utilization and participation in contracting or procurement with the commission. M-NCPPC is authorized to develop regulations to implement, and terminate, any established program.

On or before October 31 of each year, the commission must issue an annual evaluation report that makes appropriate recommendations to the Montgomery and Prince George's county delegations.

**Background:** Based on M-NCPPC's fiscal 2007 evaluation report, the percentage of contracting dollars paid to minority- and women-owned businesses has increased from 28.6% in fiscal 2000 to 33.2% in fiscal 2007. For the first half of fiscal 2008, 29.4% of contracting dollars were paid to minority- and women-owned firms.

Following the 2003 sunset extension, the Attorney General strongly recommended that M-NCPPC conduct a disparity study to support the continuing need for the program. Such a study has not been conducted since 1996, and evidence of ongoing disparity is required for race conscious minority business preference programs to pass constitutional challenges. The State conducts disparity studies every five years, most recently in 2006.

**Local Fiscal Effect:** M-NCPPC has an established Minority, Female, and Disadvantaged Business Enterprise Program and reports that the program can be maintained with existing budgeted resources.

**Small Business Effect:** To the extent that small businesses are eligible for and participate in M-NCPPC's current program, they could benefit from increased awards for goods, services, and construction for an additional five-year period.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland-National Capital Park and Planning Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2008  
mll/hlb

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