HB 406

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 406 (Chair, Economic Matters Committee)(By Request – Departmental – Business and Economic Development)

Economic Matters Finance

Business and Economic Development - Financing Transactions

This departmental bill specifies the Department of Business and Economic Development's treatment of a particular form of financing repayment from local jurisdictions. The bill also specifies the rights and strengthens the enforcement capability of DBED in its collections efforts through its economic assistance lending capacity.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: None. However, the bill would strengthen DBED's ability to protect the State's interest in financial transactions.

Local Effect: Counties designated as distressed would clearly not have to provide a 10% match when a particular type of repayment is made under the bill.

Small Business Effect: DBED has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below.

Analysis

Bill Summary: The bill specifies that when a local jurisdiction, designated as a distressed county, transfers its interest in a property that was financed through the Maryland Economic Development Assistance Fund, and subsequently assigns the financing documents obtained in the transaction to DBED, that assignment qualifies as a repayment and is not deemed new financing.

In addition, the bill authorizes DBED to take all reasonable actions to protect its interests in all financing transactions and property holdings. In particular, DBED is authorized to expend its general funds for the purpose of acquiring, protecting, and otherwise enforcing its collateral or liens.

Current Law: DBED oversees the Maryland Economic Development Assistance Authority and Fund (MEDAAF). The purpose of MEDAAF is to expand employment opportunities in the State by providing financial assistance to businesses that are engaged in eligible industry sectors. Today, there are five specific financing capabilities offered through MEDAAF, with assistance being provided to both businesses and local communities that qualify as within a priority funding area and an eligible industry sector.

Within DBED are several government owned and operated economic development trusts, corporations, and other entities. The Maryland Economic Development Corporation (MEDCO) is one such public instrumentality. MEDCO was established with the particular goals of attracting and retaining business activity in Maryland by providing nonrecourse financing assistance for the expansion and modernization of business capital. In 2007, MEDCO had assets of nearly $2,000,000 and is authorized to receive money from MEDAAF.

One of the primary recipients of assistance from MEDCO and funding from MEDAAF is the One Maryland Program. This program provides tax credits and financing assistance for distressed counties that meet one of two criteria in current law: an unemployment rate more than 1.5 times the State average or per capita income below 67% of the State average. Distressed counties currently include Allegany, Caroline, Dorchester, Garrett Somerset, and Worcester counties and Baltimore City.

MEDAAF distinguishes between distressed counties and other political or business entities in its financing terms. For example, no MEDAAF loan may exceed 70% of a project's total cost, unless the recipient is MEDCO or a distressed county, in which case the loan value may be equal to 100% of the project cost. All loans made must be either guaranteed in full, or be matched up to 10% of the loan. These terms, as well as a number of other resolutions, constitute the regular financing assistance procedure for obtaining a MEDAAF loan.

Background: In order to carry out the mission of MEDAAF and MEDCO, DBED advises that it must be able to recognize a broad array of repayment and refinancing transactions. Therefore, when a distressed county assigns a document or instrument of repayment to DBED, in order to circumvent the various procedures required for new financing assistance, such a transaction must be deemed a repayment under the original terms of the economic assistance loan and not new financing. Without this ability, DBED advises that the distressed counties could be dissuaded from undertaking economic development projects, and DBED could be hindered from stimulating economic development or facilitating business expansion within the State.

Local Fiscal Effect: Without the addition of language allowing for an assignment of commercial paper to be recognized as a repayment to DBED, economic development projects in distressed counties made possible through the assistance of MEDAAF could be hindered or discouraged since the counties could be required to provide a 10% match. DBED assistance could also be limited to 70% of the project cost.

Small Business Effect: As noted above, there is significant confusion about whether a particular transaction structure that has developed to finance new business expansion projects through MEDAAF is acceptable under current law. Without clear statutory authority, this favored type of transaction may not be permitted, and the ability of small businesses to avail themselves of MEDAAF or MEDCO assistance could be limited.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Department of Legislative Services.

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