Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 28 (Delegate Benson)
Health and Government Operations

Procurement - Purchase of Apparel Produced in the United States

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This bill requires that all apparel purchased or licensed by the State be produced in the United States. However, it allows a State agency to waive the provisions of the bill if the agency determines that no vendor is available or able to meet that requirement. The bill also imposes new reporting requirements for vendors who sell or license apparel to the State.

Fiscal Summary

State Effect: Potential increase in State expenditures, all funds, for procurement of apparel due to expected decrease in competition among vendors for State apparel contracts. The extent of the increase in expenditures cannot be reliably estimated.

Local Effect: None.

Small Business Effect: Small businesses that sell imported apparel could be excluded from bidding on State contracts for apparel.

Analysis

Bill Summary: The bill applies to any unit of State government, including any governmental or quasi-governmental authority created by the General Assembly. Apparel affected by the bill must be cut and manufactured in the United States, although supplies and sundries used to manufacture the apparel need not be produced domestically.

Within 30 days of contract award, bidders for apparel contracts must certify that all apparel production is conducted in the United States, and must provide the name and address of every location where the apparel is to be produced. Compliance with the provisions of the bill is a binding condition of all apparel purchasing contracts with the State.

Provisions of the bill are severable if they are held invalid in court.

Current Law: State procurement law does not require that State purchases of any single commodity be restricted to items produced in the United States. However, it does establish several exclusive purchasing requirements and procurement preferences. For purchases of supplies and services, State agencies must exhaust a series of priority preferences before engaging in a competitive procurement. First preference is given to Maryland Correctional Enterprises (MCE, the independent manufacturing arm of the Division of Correction) if MCE provides the supplies or services. If MCE does not provide the supply or service, second preference goes to Blind Industries and Services of Maryland, followed by sheltered workshops staffed by individuals with mental or physical disabilities. Only if none of those entities provides a desired supply or service is an agency free to conduct a competitive procurement.

There are also several miscellaneous procurement requirements and preferences. At least 40% of paper purchased on behalf of State agencies must be recycled paper, and a separate price preference of 5% is given for the purchase of products made from recycled materials. Further, to the extent practicable, State agencies must buy supplies that are the quietest available. Also, the State's Small Business Reserve Program requires designated State agencies to set aside at least 10% of their procurements for small businesses.

The University System of Maryland, Morgan State University, and St. Mary's College of Maryland are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;

- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Background: The availability of American-made apparel has been in gradual decline for decades. According to both the U.S. Census Bureau and the American Apparel and Footwear Association, only about 10% of apparel sold in the United States is produced domestically. In 2006, U.S. apparel production declined 6.5% from 2005 levels.

State Fiscal Effect: In fiscal 2007, State agencies spent approximately $9.5 million on uniforms for employees, clients, and prisoners. Athletic uniform purchases and licenses by public universities would not be affected by the bill's requirements. The Division of Correction and the State Highway Administration purchase all of their uniforms from MCE. Since MCE already operates in a noncompetitive environment with respect to those agencies, its prices are not likely to change substantially. The Department of State Police will spend $5,400 on uniforms for every new officer in fiscal 2009. The Maryland Transportation Authority spends approximately $1.1 million annually on uniforms, of which approximately 60% is for police officers. The Maryland Transit Administration (MTA) notes that almost all of the uniforms supplied to vehicle operators are manufactured outside the United States. MTA spends about $680,000 on uniforms annually. Additional expenditures on apparel cannot be reliably estimated because they are subsumed within other budgetary categories such as supplies and equipment.

For agencies that currently purchase imported uniforms and other apparel, the combination of limited availability of U.S.-produced apparel and the increased reporting requirements imposed on State vendors could result in either frequent invocation of the bill's waiver provision or less competition for State contracts for apparel. If agencies obtain waivers on a frequent basis, their costs will remain largely unchanged. However, diminished competition would likely lead to increased procurement costs for State agencies. Moreover, under the terms of its collective bargaining agreement, MTA employees pay 30% of the cost of their uniforms. Therefore, MTA employees could be subject to higher out-of-pocket expenses if the bill resulted in higher procurement costs for their uniforms. Actual increases would depend on the dollar value of the procurements and the degree of competition for those contracts. Because of these uncertainties, neither the Department of General Services, which controls purchasing of all supplies for most State agencies, nor Legislative Services can reliably estimate the bill's fiscal effect.

Additional Information

Prior Introductions: HB 1435 of 2007, a similar bill, did not receive a hearing.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, Department of State Police, University System of Maryland, Maryland Department of Transportation, Department of Public Safety and Correctional Services, U.S. Bureau of the Census, American Apparel and Footwear Association, Department of Legislative Services

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