

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1471 (Chair, Health and Government Operations Committee)(By
 Request - Departmental - Public Safety and Correctional Services)
 Health and Government Operations

Maryland Correctional Enterprises - Goods and Services

This departmental bill repeals a prohibition against the sale of services by Maryland Correctional Enterprises (MCE) on the open market. The bill also authorizes MCE to sell goods on the open market to an individual employed by the State. The bill also specifies that MCE services may be sold on the open market, and enumerates the conditions and circumstances under which such sales may be made. MCE goods and services may not be sold for use in any political campaign activity.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: Special fund revenues increase by \$1.0 million in FY 2010. Out-year revenue growth is projected at 2% annually. Special fund expenditures may be affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
SF Revenue	\$1,004,600	\$1,024,700	\$1,045,200	\$1,066,100	\$1,087,400
Expenditure	0	0	0	0	0
Net Effect	\$1,004,600	\$1,024,700	\$1,045,200	\$1,066,100	\$1,087,400

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below.

Analysis

Current Law: MCE (formerly State Use Industries) is an organization in the Division of Correction (DOC) that:

- is financially self-supporting, generates revenues for its operations and capital investments, and reimburses DOC at a reasonable rate for services exchanged between DOC and MCE;
- provides meaningful work experiences for inmates;
- seeks to develop industries that provide full-time work experience or rehabilitation programs for all eligible inmates;
- operates correctional industries in an environment that resembles as closely as possible the environment of private sector business operations; and
- makes DOC responsible for and accountable to the Secretary of Public Safety and Correctional Services and the Governor for the MCE program.

In addition, DOC must annually submit a complete financial and operational report of MCE and its revolving fund to the Governor, the Secretary of Public Safety and Correctional Services, and the Secretary of Budget and Management.

MCE is allowed to market goods and services to units of State government, political subdivisions of the State, units of the federal government, governmental units of other states and their political subdivisions. Goods and services manufactured by MCE are prohibited from being sold on the open market unless they fall under one of the specified exceptions in statute.

Background: Every state has a prison industries program. According to MCE, 32 states do not have an open market restriction and may sell goods or services to the private sector. The federal program, UNICOR, is allowed to sell services to the general public. According to MCE, restrictions against the sale of goods and services to the private sector have historically placed impediments against the State program in terms of generating revenues. MCE believes that this bill will increase revenues and broaden MCE's business market providing for increased training and employment to a greater number of inmates. MCE's revenues in fiscal 2008 totaled \$50.2 million.

MCE provides work and job training for inmates incarcerated in DOC funded by sales revenues from the goods it produces and the services it supplies to local, State, and federal agencies. These goods and services are also available for purchase by charitable, civic, educational, fraternal, or religious organizations. MCE's cost is at or below the prevailing average market price. MCE currently provides a variety of services, including data entry, mailing and distribution, transportation and moving, AutoCAD design, and furniture restoration.

State Fiscal Effect: MCE had total cash sales in fiscal 2008 of \$50.2 million – up from \$47.8 million in fiscal 2007. Less payments to suppliers (\$33.6 million) and payments to employees (\$14.4 million), the net cash provided by operating activities totaled \$2.2 million. MCE had a special fund balance of \$9.8 million at the close of fiscal 2008. The year-end balance for fiscal 2007 was \$9.4 million. According to the National Correctional Industries Association, from 1998 through 2007, MCE experienced a 10-year growth in net sales of about 69%. The national average growth during that period was about 26%.

With the exemptions provided under this bill, MCE estimates that overall sales would increase by about 2% annually, which translates to increased sales of about \$1.0 million in fiscal 2010. This is admittedly a conservative estimate since a survey of other states by MCE revealed that eliminating these restrictions could increase sales by as much as 16%. The states which most closely resemble MCE (Kentucky and South Dakota) yielded more modest revenues of between 2% and 6% annually after removing sales restrictions. MCE's current annual business plan reflects the more modest 2% projected annual increases through fiscal 2014. Any significant increase in sales revenues could provide for an increase in inmate participation.

In the fiscal 2010 proposed State budget, MCE is scheduled to receive an additional \$575,000 in general funds to purchase raw materials and production supplies in relation to an increased sales volume.

Small Business: MCE reports that its current market share in any product category is less than 3% and believes that, under the bill, that same percentage share would hold true for any services sold by MCE as a result of the bill. However, Legislative Services assumes that private sector small businesses engaged in the open market sale of identical or similar services as those which would be provided by MCE as a result of the bill, could be negatively impacted. To a lesser degree, this effect could also apply to permitting the sale of MCE goods to employees of the State. The magnitude of such effects cannot be reliably estimated.

Additional Information

Prior Introductions: SB 145 of 2008 passed the Senate and received an unfavorable report from the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services,
Department of Legislative Services

Fiscal Note History: First Reader - March 23, 2009
mcp/hlb

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Correctional Services – Maryland Correctional Enterprises – Goods and Services

BILL NUMBER: HB 1471

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.