

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 708

(Delegate Vaughn, *et al.*)

Health and Government Operations

Budget and Taxation and Education, Health,  
and Environmental Affairs

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**General Obligation Bonds for Capital Projects - Required Reports**

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This bill requires that any hospital or institution of higher education not already subject to the State's minority business enterprise (MBE) program's reporting requirement which receives at least \$500,000 for a capital project from the sale of State general obligation (GO) bonds to submit a report to the Governor's Office of Minority Affairs (GOMA) by December 31 of each year such GO bond funds are received and the following year. The report must detail the extent to which the recipient has used, or will use, any part of the State funds it receives for a capital project for contracts with MBE firms or for MBE outreach efforts. By December 1 of each year, GOMA must report to specified committees of the General Assembly on the information contained in those reports.

The bill terminates on September 30, 2012.

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**Fiscal Summary**

**State Effect:** GOMA can handle the bill's reporting requirements with existing resources.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful to the extent that the bill results in more contracts for MBEs.

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**Analysis**

**Current Law:** The State’s MBE program establishes a goal that at least 25% of the total dollar value of each agency’s procurement contract be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies must use race-neutral strategies to encourage greater MBE participation in State procurement.

A minority business enterprise (MBE) is a legal entity, other than a joint venture, that is:

- organized to engage in commercial transactions;
- at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and
- managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

MBEs include not-for-profit entities organized to promote the interests of physically or mentally disabled individuals.

A socially and economically disadvantaged individual is defined as a citizen or legal U.S. resident who is African American, Native American, Asian, Hispanic, physically or mentally disabled, a woman, or otherwise found by the State’s MBE certification agency to be socially and economically disadvantaged.

A socially disadvantaged individual is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of their membership in a group and without regard to individual qualities. An economically disadvantaged individual is someone who is socially disadvantaged whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with those who are not socially disadvantaged. An individual with a personal net worth in excess of \$1.5 million is not considered economically disadvantaged.

The Maryland Department of Transportation certifies MBEs on behalf of the State. Currently, there are 4,380 certified MBEs.

The University of Maryland Medical System (UMMS) is exempt from all aspects of State procurement law, including the MBE program. However, the University System of Maryland, Morgan State University, and St. Mary’s College of Maryland are subject to the MBE program, including the reporting requirements. Accordingly, they are not affected by this bill. Other than Baltimore City Community College, community colleges are not subject to the State’s MBE reporting requirements; similarly private hospitals and institutions of higher education are not subject to the MBE program.

**State Fiscal Effect:** Given the bill's October 1, 2009 effective date, it does not affect capital projects funded by the fiscal 2010 capital budget, which takes effect June 1, 2009. However, several State grant programs included in the State's *Capital Improvement Plan* (CIP) in fiscal 2011-2014 will be affected. These include the Community College Construction Grant Program, the Private Hospital Grant Program, and the Private Higher Education Facilities Grant Program. In addition, the CIP includes fiscal 2011 capital funding that exceeds the bills \$500,000 threshold for the renovation and expansion of the UMMS Shock Trauma Center and for several facilities at the Johns Hopkins University Medical Center

**Small Business Effect:** The Department of Legislative Services (DLS) notes that the bill does not specify that MBEs included in reports submitted by eligible recipients of State capital funds have to be certified by the State. DLS further advises that, while reports from grant recipients are not due to GOMA until December 31 of each year, GOMA must report by December 1 to the General Assembly.

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### **Additional Information**

**Prior Introductions:** HB 1304 of 2008 received an unfavorable report from the House Health and Government Operations Committee.

**Cross File:** None.

**Information Source(s):** Board of Public Works, Department of Budget and Management, Governor's Office, Department of General Services, Maryland Department of Transportation, University System of Maryland, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2009  
mlm/rhh Revised - House Third Reader - April 13, 2009

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