

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 209

(Delegate Vaughn, *et al.*)

Health and Government Operations

Budget and Taxation

General Obligation Bonds for Capital Projects - Required Reports

This bill requires any hospital or institution of higher education (1) not already subject to the State's Minority Business Enterprise (MBE) program's reporting requirement and (2) that 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 that 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 July 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, 2013.

Fiscal Summary

State Effect: None. GOMA can handle the bill's reporting requirements with existing budgeted resources.

Local Effect: None. It is assumed that local community colleges can handle the bill's reporting requirements with existing resources.

Small Business Effect: Potential meaningful to the extent that the bill results in more contracts for MBEs from hospitals and institutions of higher education that receive State aid for capital projects.

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.

An 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. The Maryland Department of Transportation certifies MBEs on behalf of the State. Currently, there are approximately 4,500 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, local 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 or its reporting requirements.

State Fiscal Effect: Given the bill's October 1, 2010 effective date, it does not affect capital projects funded by the fiscal 2011 capital budget, which takes effect June 1, 2010. However, several State grant programs included in the State's *Capital Improvement Plan* (CIP) in fiscal 2012-2014 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 2012 capital funding that exceeds the bill's \$500,000 threshold for three affected projects: the renovation and expansion of the UMMS Shock Trauma Center, construction of a cardiovascular and critical care center at The Johns Hopkins Hospital, and the construction of a new athletic and community recreation center at Garrett College.

Based on recent experience, GOMA should expect to receive 20 to 30 reports each year from affected recipients of State aid for capital construction projects. The Department of Legislative Services (DLS) believes that GOMA can report annually on the content of those reports to the General Assembly with existing budgeted resources. Under the bill, GOMA's responsibility for collecting reports and reporting their contents by July 1 ends after fiscal 2015.

Additional Comments: 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 or by a unit of local government.

Additional Information

Prior Introductions: HB 708 of 2009, as amended, passed the House but did not receive a hearing in the Senate.

Cross File: None.

Information Source(s): Baltimore City Community College, Department of Budget and Management, Governor's Office, Morgan State University, Maryland Independent College and University Association, University System of Maryland, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2010
ncs/rhh Revised - House Third Reader - March 27, 2010

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510