

SB 1099

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1099

(Senator Madaleno)

Rules

State and Local Government Procurement - Banking and Financial Services - Preference for State Financial Institutions

This bill requires the State Treasurer and local governments to give preference to a State financial institution when considering any bid or proposal for banking or financial services. When evaluating bids or proposals for such services the State Treasurer and a local government must multiply the price submitted by a State financial institution by 0.9 for purposes of comparing prices. A “State financial institution” includes a financial institution incorporated under the laws of Maryland.

Fiscal Summary

State Effect: General fund expenditures and special fund expenditures from the annuity bond fund may increase significantly for financial services procured by the State Treasurer. Expenditures for banking services may increase minimally if current procurement policies change and such contracts are awarded solely on the basis of price. Revenues are not affected.

Local Effect: County and municipal expenditures for banking and financial services may increase to the extent procurement practices are altered and contracts for banking and financial services are awarded to State financial institutions at a higher cost than would otherwise be awarded. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Current Law: The State Treasurer may make an agreement with a financial institution as to terms, conditions, and compensation for banking services offered to the State or any State agency. Local governments may adopt procurement policies that may include a wide range of factors in determining how to award a contract. A number of counties have codified provisions authorizing them to grant preferences to locally based firms.

Maryland's current procurement laws were drafted to ensure that State contract awards are based on technical merit and lowest price, that State contracts are awarded on the basis of effective competition between vendors, and that the award of contracts is immune from inappropriate influences. The State Finance and Procurement Article does, however, authorize and in some circumstances require bidding preferences for certain types of contracts. Some examples of individuals that may receive bidding preferences under certain circumstances include: companies whose principal office is located in the State; disadvantaged individuals; small businesses; and minority-owned businesses.

State Fiscal Effect:

Financial Services

Financial services that are currently procured by the State Treasurer include financial advising and bond underwriting services. The fiscal 2011 allowance for bond sale expenditures is \$2.6 million, which is paid from annuity bond fund. Additionally, the State Treasurer spends approximately \$2.5 million annually on contractual services, many of which may be considered financial services under the bill. Requiring that an awards preference be granted to a State financial institution may result in some of these services being procured at a price up to 10% higher than would otherwise be competitively awarded. To the extent this occurs, general and special fund expenditures for these services will increase.

Banking Services

The State Treasurer currently procures banking services by issuance of a request for proposals (RFP). When awarding a contract through the RFP process, contracts are awarded on multiple factors, including price and technical requirements specified in the RFP. The State Treasurer currently targets certain RFPs for banking services to local banks, since they offer operational advantages in many situations. The State Treasurer currently has approximately 20 local in-state banks providing banking services. Under current practice, the bill will not substantively affect expenses or operations for the State Treasurer for procurement of banking services contracts; however, should the current

procedures for procuring these services change, the bill will require preference be given to State financial institutions, which may increase expenditures for the State Treasurer if these services are bid solely on price.

Local Fiscal Effect: Many counties currently have procurement procedures that give preferences to local businesses for certain services. It is unclear how many municipalities currently award contracts for services based on local preference. Either way, requiring local governments to award a price preference to State financial institutions may increase overall expenditures for such services. The amount of the increase may be significant for some jurisdictions as banking and financial services encompass a wide variety of services used by local governments.

Small Business Effect: Requiring the State Treasurer and local governments to give preference to financial institutions incorporated in the State may result in additional contracts for banking and financial services being awarded to local banks, many of which may be considered small businesses.

Additional Information

Prior Introductions: None.

Cross File: HB 1325 (Delegate Frick, *et al.*) - Health and Government Operations.

Information Source(s): Baltimore, Carroll, Harford, and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; Department of Labor, Licensing, and Regulation; Maryland State Treasurer's Office; Department of Legislative Services

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Analysis by: Erik P. Timme

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