SB 616

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 616 (Senators Jones-Rodwell and Pugh)
Budget and Taxation

Equal Opportunities Employment Act

This bill requires that contracts for capital projects that receive at least $5.0 million in State or federal funds be awarded to business concerns that provide economic opportunities for low- and very low-income individuals in at least 5% of the skilled and unskilled positions. It also declares the intent of the General Assembly that, to the extent practicable, recipients of federal or State funds for capital projects must contract with business concerns that provide economic opportunities for low- and very low-income individuals.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund expenditures by the Department of General Services (DGS) and the Department of Labor, Licensing, and Regulation (DLLR) increase by a total of $151,400 in FY 2012 to implement the bill's requirements. Out-year expenditures reflect annualization, inflation, and termination of start-up costs. No effect on revenues.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	$0	$0	$0	$0	$0
GF Expenditure	151,400	120,100	126,200	132,800	139,600
Net Effect	($151,400)	($120,100)	($126,200)	($132,800)	($139,600)

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

Local Effect: None.

Small Business Effect: Potential significant for small businesses in the construction sector that bid on State construction projects.

Analysis

Bill Summary: A low-income individual is defined as an individual who has received temporary cash assistance (TCA) under the State's Family Investment Program (FIP) within the previous 12 months. A very low-income individual is defined as an individual who has received unemployment insurance (UI) benefits during the previous 12 months. A business concern that provides economic opportunities means a business that employs a substantial number of low- or very low-income individuals or meets other criteria established by DGS in regulations to implement the bill's provisions.

Current Law:

Family Investment Program

FIP is the State's program for serving welfare recipients. Its purpose is to support family efforts to achieve and maintain self-sufficiency through services and financial aid geared to individual family needs. It encompasses the provision of TCA and efforts to divert potential applicants through employment, move recipients to work, and provide retention services to enhance skills and prevent recidivism. Applicants for cash assistance are required to cooperate with child support enforcement staff as a condition of eligibility and must undertake job search activities if asked. Recipients are sanctioned if they fail to comply with any work or training requirements. The program is largely administered by local social service departments under the guidance and supervision of the Department of Human Resources (DHR).

Hiring Agreements

The Board of Public Works, in consultation with DHR, must designate some procurement contracts as being eligible for hiring agreements with State contractors under the FIP program. The hiring agreements require the vendor to give hiring preference and first consideration in filling a position, to the extent permitted, to current and former FIP participants, if the participants meet the qualifications of the positions. The hiring agreements must provide any necessary training programs that enable current and former FIP recipients and other eligible individuals to qualify for and secure a position with the State contractor. Individuals eligible for preference under hiring agreements include current and former FIP recipients, children of current or former recipients, foster youth, and obligors required to pay child support. Although not specifically excluded from hiring agreements, construction contracts generally are not deemed eligible for them. DGS advises that it currently has about 100 contracts that are eligible for hiring agreements.

Unemployment Insurance (UI)

UI provides temporary, partial wage replacement benefits to individuals who are unemployed through no fault of their own and who are able to work, available to work, and actively seeking work. Both the federal and state governments have responsibilities for unemployment compensation. The U.S. Department of Labor oversees the UI system, while each state has its own program that is administered pursuant to state law by state employees. Each state has laws that prescribe the tax structure, qualifying requirements, benefit levels, and disqualification provisions. These laws must, however, conform to broad federal guidelines. DLLR administers the State's UI program.

Background: DHR advises that approximately 9,500 TCA recipients were placed in jobs through the FIP program in fiscal 2010. Of those, it estimates that about 95% were placed with private-sector employers, although it does not keep records of how many different employers hired FIP recipients. In fiscal 2010, DHR reports that there were 242 hiring agreements held by 159 contractors, which resulted in 40 TCA recipients being hired. Since the program's inception in 1998, hiring agreements have resulted in 1,225 job placements. The highest concentration of jobs has been in the housekeeping, clerical, and security sectors.

In fiscal 2010, a total of 402,813 new claims for UI were processed by DLLR. At fiscal year end, 63,104 individuals were receiving UI.

State Fiscal Effect: Based on the bill's requirement for construction contracts that receive at least $5.0 million in State or federal funds, the Department of Legislative Services (DLS) believes that DLLR and DGS require additional staff to oversee the program. DLLR will need to provide information on UI recipients who are qualified to work on construction projects to bidders on State construction procurements. DLLR notes that the sharing of UI claimant information with a third party is prohibited in the absence of permission from the claimant because the information is confidential. Therefore, it would need to establish a process to obtain specific authorization from UI claimants to include their names and employment information in any centralized system of eligible individuals. Obtaining authorization for new claimants can be built into the process for new claims, but obtaining authorization for current and former recipients will be a labor-intensive process involving temporary contractual help.

Although the statute does not allow for waivers to the requirement established in the bill, it is assumed that regulations issued by DGS would establish a waiver process that it would administer. DLS anticipates that, at least initially, the number of waiver requests for construction contracts may be significant. Moreover, as the chief procurer of construction services for the State, DGS would need to monitor contractor compliance with the bill's requirements. Because DHR already administers hiring agreements, and the TCA recipients and former recipients who are eligible to work under the bill are a subset of the individuals eligible to work under hiring agreements, DLS believes that DHR can carry out the bill's requirements with existing resources.

Therefore, fiscal 2012 general fund expenditures increase by a total of $151,362 for DLLR and DGS, which reflects a 90-day start-up delay. This estimate reflects the cost of hiring two regular full-time staff, one each for DLLR and DGS, and two contractual staff, also one each for DLLR and DGS, to provide information on eligible low- and very low-income individuals to bidders, obtain permission from current UI recipients to share their names with bidders, administer a waiver process, and monitor contractor compliance with the bill's requirements. The breakdown of the costs by agency is provided below.

	DLLR	**DGS**	**Total**
Regular Positions	1	1	2
Contractual Positions	1	1	2
Salaries and Fringe Benefits	$41,928	$41,928	$83,856
Other Operating Expenses	33,753	33,753	67,506
Total FY 2012 State Expenditures	**$75,681**	**$75,681**	**$151,362**

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover for the permanent positions as well as 1% annual increases in ongoing operating expenses. They also reflect the termination of the two contractual positions after the first year.

Small Business Effect: Small businesses in the construction sector that bid on State construction contracts that receive at least $5.0 million in State or federal funds will have to abide by the bill's requirement to fill at least 5% of the positions in the contract with low- and very low-income individuals. This requirement may impede their access to State construction procurements.

Additional Comments: DLLR notes that UI is not means tested. Rather, recipients must meet the program requirements, with benefits linked to compensation prior to unemployment. As a result, many UI recipients may in fact not have low incomes, even though they qualify as "very low-income individuals" under the bill. Also, since the bill requires only that they have received UI payments within the preceding 12 months to qualify under the bill, many eligible individuals may in fact already be employed.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works; Department of Budget and Management; Department of General Services; Department of Labor, Licensing, and Regulation; Department of Human Resources; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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