

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 638

(Senator Benson, *et al.*)

Budget and Taxation

Ways and Means

Video Lottery Terminal Applicants and Licensees - Minority Business
Participation - Modifications and Sunset Extension

This bill extends the termination date for minority business participation requirements a video lottery operation license applicant or licensee must meet from July 1, 2011, to July 1, 2018. The bill also sets a July 1, 2018 termination date for specified Governor's Office of Minority Affairs (GOMA) and State Lottery Commission monitoring and reporting obligations.

The bill takes effect June 1, 2011.

Fiscal Summary

State Effect: State finances are not materially affected.

Local Effect: None.

Small Business Effect: Minimal. Qualified MBEs may benefit from increased business.

Analysis

Current Law: For the construction and procurement related to the operation of video lottery terminals, an applicant for a video lottery operation license or a licensee must, at a minimum, meet the same requirements of a designated unit of State government for minority business participation under State law. If the county in which a video lottery facility will be located has higher minority business participation requirements than the State, an applicant for a video lottery operation license or a licensee must meet the county's requirements "to the extent possible."

The State Lottery Commission must ensure that a video lottery operation licensee complies with minority business participation requirements as a condition of holding the license. GOMA must monitor a licensee's compliance and report to the commission at least every six months on the compliance of licensees.

Minority Business Enterprise Program

The State's Minority Business Enterprise (MBE) Program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts 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 are required to use race-neutral strategies to encourage greater MBE participation in State procurements.

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.

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. An MBE owned by a woman who is also a member of an ethnic or racial minority group is certified as either owned by a woman or owned by a racial or ethnic minority, but not both. The Maryland Department of Transportation is the State's MBE certification agency.

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 and 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, adjusted annually for inflation, is not considered economically disadvantaged. The inflation-adjusted limit for calendar 2011 is \$1,530,652.

The MBE program is scheduled to terminate July 1, 2011. However, SB 120/HB 456 of the current session would extend the program's termination date by five years to July 1, 2016.

Video Lottery Terminal Program

During the 2007 special session, the General Assembly adopted two pieces of legislation pertaining to VLT gambling – Chapter 4 (Senate Bill 3) and Chapter 5 (House Bill 4). Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that authorized the expansion of gambling subject to specified restrictions. The constitutional amendment provided that (1) a maximum of five VLT facility licenses may be awarded within specified areas of the State; (2) no more than one facility license may be awarded in any county or Baltimore City; (3) a maximum of 15,000 VLTs may be authorized; and (4) VLT facilities must comply with any applicable planning and zoning laws of a local jurisdiction. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. Chapter 624 of 2010 made several changes to the VLT program implemented by Chapter 4.

Background: The Video Lottery Facility Location Commission has awarded video lottery operation licenses for VLT facility locations in Anne Arundel, Cecil, and Worcester counties. The Cecil County VLT facility opened on September 27, 2010, with 1,500 VLTs and the Worcester County VLT facility opened on January 4, 2011, with 750 VLTs. Power Plant Entertainment Casino Resorts, LLC plans to open a temporary facility with 2,000 VLTs adjacent to Arundel Mills Mall in Anne Arundel County in the fourth quarter of 2011, with a permanent facility with 4,750 VLTs scheduled to open in the fourth quarter of 2012. The licenses for Baltimore City and Allegany County have yet to be awarded.

State Fiscal Effect: Under current law, the minority business participation requirements related to video lottery operations terminate July 1, 2011. Extending the termination date for video lottery operations' compliance will extend the monitoring and reporting responsibilities for the State Lottery Commission and GOMA.

The State Lottery Agency advises that existing resources are sufficient to carry out its responsibilities under the bill. Existing resources of GOMA should also be sufficient to carry out its responsibilities.

Additional Information

Prior Introductions: None.

Cross File: HB 1209 (Delegate Wilson) - Ways and Means.

Information Source(s): Governor's Office of Minority Affairs, Comptroller's Office, Maryland State Lottery Agency, Maryland Department of Transportation, Department of Legislative Services

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