

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1369

(Chair, Health and Government Operations Committee, *et al.*) (By Request - Departmental - Minority Affairs, Office of)

Health and Government Operations

Education, Health, and Environmental Affairs

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Office of Minority Affairs - Duties of Special Secretary - Minority Business Enterprises

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This departmental bill expands the authority of the Special Secretary for the Governor's Office of Minority Affairs (GOMA) to include promoting and coordinating training regarding the requirements of the Minority Business Enterprise (MBE) program. It also requires the Special Secretary to participate in State plans, programs, and operations that affect the establishment, preservation, and strengthening of MBEs.

The bill takes effect July 1, 2012.

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Fiscal Summary

**State Effect:** None. The expanded authority given to the Special Secretary by the bill is consistent with GOMA's mandate and current activities, and it can be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** GOMA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

### Current Law:

#### *Minority Business Enterprise Program*

The State's MBE program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts be awarded to MBEs; long-standing subgoals of 7% for African American-owned businesses and 10% for woman-owned businesses were repealed by Chapters 252 and 253 of 2011. Instead, Chapters 252 and 253 authorize GOMA, in consultation with the Maryland Department of Transportation (MDOT) and the Office of the Attorney General, to establish guidelines for each unit to consider while determining whether to set subgoals for individual procurements based on existing categories for minority groups. There are no penalties for agencies that fail to reach the 25% target. 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. There are no restrictions on the size or management structure of not-for-profit entities that can be considered MBEs.

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. MDOT is the State's MBE certification agency and is responsible for conducting the mandated disparity study.

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, adjusted annually for inflation, is not considered economically disadvantaged. The inflation-adjusted limit for calendar 2012 is \$1,577,377.

The MBE program is scheduled to terminate July 1, 2012.

### *GOMA*

GOMA is in the Executive Department, and the Special Secretary is appointed by and serves at the pleasure of the Governor.

Subject to the limitations of any law that governs the activities of other units of the Executive Branch, the Special Secretary must:

- carry out each State or federal program created to promote the growth of or participation in MBEs;
- promote and coordinate State plans, programs, and operations that promote or affect the establishment, preservation, and strengthening of MBEs;
- promote activities and the use of the resources of the State government, local governments, and private entities for the growth of MBEs;
- coordinate the effort of private entities and public agencies to develop MBEs;
- establish a system to develop, collect, summarize, and provide information to assist MBEs; and
- carry out other tasks related to supporting and assisting MBEs.

GOMA is also responsible for issuing annual reports on the MBE program and the Small Business Reserve program.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Governor's Office, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2012  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Office of Minority Affairs – Duties of Special Secretary – Minority Business Enterprises

BILL NUMBER: HB 1369

PREPARED BY: Governor's Office of Minority Affairs

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.