

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1231 (Delegate McMillan)
Health and Government Operations

State Aid - Business Transparency and Financial Disclosure Act

This bill requires any business that receives a State subsidy of at least \$50,000 to file a financial disclosure report with information specified in the bill.

Fiscal Summary

State Effect: The Department of Business and Economic Development (DBED) and other affected agencies can implement the bill with existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “State subsidy” includes loans, loan guarantees, fee waivers, matching funds, tax abatements, tax exemptions, and tax credits.

If the granting body is DBED, a business that receives a State subsidy under any of the following programs must submit a disclosure report:

- job creation tax credit;
- One Maryland tax credit;
- Maryland Economic Development Assistance Authority and Fund (MEDAAF); and
- Economic Development Opportunities Program Fund (also known as the Sunny Day Fund).

For the job creation and One Maryland tax credits, the report must include (1) the names of the taxpayers that received final tax certificates in the reporting year; (2) the number of jobs certified; and (3) the aggregate and average wages for those jobs. For the One Maryland tax credit only, the report must include the total start-up and project costs certified for each applicant in the reporting year. For MEDAAF and the Sunny Day Fund, the report must include the number of jobs retained and new jobs created for each transaction settled during the reporting year. A recipient corporation that is required to file an annual proxy statement with the federal Securities and Exchange Commission must also provide information on compensation paid to its top corporate executives, as specified in the bill.

If the granting body is an entity other than DBED, the disclosure report must include the following information:

- the name, mailing address, phone number, and chief officer of the recipient corporation;
- the recipient corporation's North American Industry Classification System industry code;
- a summary of the public purpose that the recipient corporation provides;
- a description of the activity and of the location where the activity takes place;
- a summary of the number of full- and part-time jobs and temporary jobs required to be created or retained by the State subsidy, if applicable, and the number of jobs created and lost as of December 31 of the previous year, if the purpose of the subsidy is related to job creation or retention;
- a summary of compensation plans for top executives of the recipient corporation under specified circumstances; and
- any other information specified by the granting body.

Regardless of the granting body, each disclosure report must also include a summary of any instance in which the recipient corporation was determined to have violated State, federal, or local laws or regulations. The financial disclosure reports must be submitted by December 31 of each year in which the recipient corporation received public funds. Granting bodies must publish the disclosure reports by April 1 of each year, and they must be available in a searchable database and spreadsheet format that can be downloaded.

Each granting body must determine if the recipient corporation has met the requirements of the State subsidy it received, and that determination must be included in the disclosure report.

Current Law/Background: Chapters 558 and 559 of 2009 (SB 556/HB 1192) required the Department of Information Technology (DoIT) to develop and operate a searchable website, accessible to the public at no cost, that provides information on recipients of State grants and loans in a specified format. This requirement was implemented with DoIT's existing staff resources. This web-based database is available at: <http://dbm.maryland.gov/agencies/operbudget/Pages/grantspayments.aspx>.

The Comptroller's 2012 Guide to Maryland Business Tax Credits lists 25 different tax credits available to individuals and businesses, although the number of individuals or businesses who claim each credit is not available. The Finance Tracker (available at <http://choosemaryland.org/businessresources/Pages/FinanceTracker.aspx>) on the Department of Business and Economic Development's (DBED) website lists 309 recipients of loans, grants, and other financial assistance administered by DBED for fiscal 2009 through 2011.

Chapter 659 of 2008 (HB 358), the Maryland Funding Accountability and Transparency Act of 2008, required the Department of Budget and Management to develop a free, public, searchable web-based database that includes detailed information on State payments of at least \$25,000. Payments to State employees and retirees as compensation or retirement allowance are not included in the website. The website is available at <http://spending.dbm.maryland.gov>. It provides detailed information on the hundreds of individuals and companies that contract each year with the State to provide goods and services; such payments are excluded from the definition of "subsidy" in this bill.

The purpose of the Sunny Day Fund is to maximize extraordinary economic development opportunities for the State, as defined in statute. DBED must report annually to the Governor and General Assembly on the status of job creation, capital investment, and other measures of economic development for the previous three fiscal years for each project that receives Sunny Day funding. If those measures are lower than the performance targets negotiated with recipients of Sunny Day funds, the report must explain why.

State Fiscal Effect: State agencies are responsible for compiling disclosure reports, determining whether each recipient corporation has met the requirements of the subsidy received, and posting the reports on a web-based searchable database. Given its experience with developing the searchable databases described above, which were done with existing resources, DoIT can develop a single database, accessible from each agency's website, with existing resources. Each granting body can manage updates to the database and make the necessary determinations with existing resources.

Small Business Effect: Small businesses that receive State subsidies of at least \$50,000 must complete financial disclosure reports for each year that they receive the assistance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Board of Public Works, Department of Budget and Management, Department of Natural Resources, Maryland Department of Planning, Maryland State Department of Education, Maryland Department of the Environment, Department of Housing and Community Development, Comptroller's Office, Maryland Energy Administration, Department of Public Safety and Correctional Services, Public Service Commission, Public School Construction Program, State Retirement Agency, Maryland Department of Transportation, Department of Legislative Services

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