

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 638 (Montgomery County Delegation and Prince George's  
County Delegation)

Health and Government Operations Education, Health, and Environmental Affairs

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**Washington Suburban Sanitary Commission - Minority Business Enterprise  
Programs and Task Force Extension**  
**MC/PG 107-13**

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This bill extends the reporting deadline, from September 15 to October 31, for the Washington Suburban Sanitary Commission (WSSC) to submit an annual report on minority business enterprise (MBE) programs to the Montgomery County and Prince George's County legislative delegations. The bill also extends the due date of the report of the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District from December 31, 2012, to December 31, 2013, and extends the termination date of Chapter 685 of 2012 to May 31, 2014.

The bill takes effect June 1, 2013.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** The bill does not materially affect WSSC's operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** By September 15 of each year, WSSC is required to submit annual reports to the Montgomery County and Prince George's County legislative delegations regarding the implementation and administration of its MBE programs.

Chapter 685 of 2012 (HB 896) established the Task Force to Study Rates and Charges in the Washington Suburban Sanitary District. The Washington Suburban Sanitary Commission (WSSC) must provide staff support for the task force. The task force was required to report its findings and recommendations to the Governor and the Montgomery County and Prince George's County legislative delegations by December 31, 2012.

## **Background:**

### *Minority Business Enterprise Utilization Program*

Chapter 404 of 2012 (HB 902) extended, from July 1, 2012, to July 1, 2017, the authorization of the WSSC minority business enterprise utilization program.

The minority business enterprise utilization program within WSSC helps facilitate the participation of responsible certified MBEs for design/build construction contracts. Solicitations for design/build contracts must include the expected degree of participation by MBEs in the contract. Regulations establishing the minority business enterprise utilization program for design/build contracts must:

- recognize MBEs certified by the State and any other certification program that duplicates the requirements of State certification as an MBE;
- provide for an increase in MBE participation as prime contractors and subcontractors;
- allow some contracts to waive the program's requirements if they conflict with WSSC's overall objectives and responsibilities;
- allow for the graduation from the program of MBEs that no longer require special assistance;
- for solicitations that have an expected degree of MBE participation, require bids and proposals to include proof of involvement by an MBE;
- require contractors to adhere to certain reporting requirements.

WSSC is also authorized to operate a minority business enterprise utilization program for goods and services procurements if it determines that MBEs are underrepresented in those contracts and that such a program is necessary to remedy past discrimination against MBEs. In addition to including most of the requirements for the design/build MBE program, regulations for this program must:

- authorize MBE participation only through subcontracting;
- grant bidding preferences for MBEs of up to the lesser of 5% of the contract value or \$50,000;

- create a sheltered market program that restricts bidding on certain contracts only to MBEs; and
- establish targets that 40% of contracts be awarded to both Montgomery County-based and Prince George's County-based businesses.

The Office of Small, Local, and Minority Business Enterprise (OSLMBE) is charged with:

- promoting and coordinating WSSC's plans, programs, and operations that promote or otherwise affect the establishment, preservation, and strengthening of MBEs;
- promoting activities and use of resources by WSSC, local governments, and private entities for the growth of MBEs;
- providing technical and managerial assistance to MBEs;
- scheduling seminars and workshops to educate MBEs about how WSSC conducts business; and
- ensuring compliance with MBE subcontract participation goals.

OSLMBE is charged with confirming that prime contractors honor their commitments to their MBEs and maintain the promised level of participation by MBE contractors, subject to corrective actions, contract termination, or other remedy identified in the contract. OSLMBE also administers WSSC's optional Local Small Business Enterprise Program.

#### *Task Force to Study Rates and Charges in the Washington Suburban Sanitary District*

The task force must (1) determine whether other states have a cap on the percentage that a public utility may increase water and sewer usage rates in a single year; (2) complete a comparison of the water and sewer usage rates and rate increases charged by WSSC with rates charged in other states; (3) determine the effect of a General Assembly imposed rate cap or prepayment discount on WSSC; (4) study the process developers follow in charging for the construction of and connection to water and sewer facilities; and (5) make recommendations on standards for construction of and connection to water and sewer facilities and improving transparency in these practices. The task force is scheduled to terminate on May 31, 2013.

#### *Washington Suburban Sanitary Commission*

WSSC is among the largest water and wastewater utilities in the country, providing water and sewer services to 1.8 million residents in Montgomery and Prince George's counties. It has over 460,000 customer accounts, serves an area of around 1,000 square miles, and currently employs more than 1,500 people. The commission operates three reservoirs, two water filtration plants, and six wastewater treatment plants. The six wastewater

treatment facilities, as well as the Blue Plains Advanced Wastewater Treatment Plant, handle as much as 180 million gallons of wastewater per day. The commission maintains nearly 5,600 miles of water main lines and over 5,400 miles of sewer main lines.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Washington Suburban Sanitary Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2013  
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