

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 404
Ways and Means

(Delegate Luedtke, *et al.*)

Finance

**Economic Development Programs - Data Collection and Tracking - Minority
Business Enterprises**

This bill requires the Department of Commerce to include specified information related to minority business enterprises (MBEs) in its annual consolidated report on economic development programs for the Governor and the General Assembly. Specifically, Commerce must report (1) the number of MBEs that received assistance from each economic development program and (2) the percentage of assistance distributed to each MBE from each program compared to the total assistance distributed from each program.

Fiscal Summary

State Effect: Commerce can handle the bill's requirements with existing budgeted resources, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Commerce must annually provide a report to the Governor and the General Assembly on specified outcomes related to the department's economic development programs, including each tax credit program. The report must include the following data, if applicable, on the programs:

- the number of jobs created;
- the number of jobs retained;

- the estimated amount of State revenue generated;
- the status of any special fund; and
- any additional information required by Commerce through regulations.

The data must be provided in the aggregate, but also disaggregated by each program and each recipient of assistance from a program. The report must also include any additional information required under the law authorizing a particular program. Finally, if a recipient of assistance from a program is not meeting the program's requirements, Commerce must implement a process to assist the recipient in doing so.

The most recently available report, containing data from fiscal 2018, can be found [here](#).

Minority Business Enterprises

The State's MBE program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The current goal is 29.0%, with specified subgoals. There are no penalties for agencies that fail to reach the statewide 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.

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, subject to specified requirements. The Maryland Department of Transportation is the State's MBE certification agency.

State Expenditures: Commerce currently incorporates questions regarding individual minority status and whether the respondent is a certified MBE into its finance program applications; however, that information is not incorporated into all of the department's program applications. Commerce can update the necessary forms and include the data in its annual economic development program report with existing budgeted resources.

Additional Comments: Commerce advises that MBE information is provided on a voluntary basis on its program applications; the department cannot compel an individual or business to provide information regarding its minority status nor can it make decisions regarding awarding incentives based on such status.

Notwithstanding the apparent comprehensive nature of the affected report in statute, Commerce advises that the bill covers most, but not all, of its programs.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 499 (Senator Griffith, *et al.*) - Finance.

Information Source(s): Department of Commerce; Maryland Department of Transportation; Department of Legislative Services

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