

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 398

(Delegate Rogers, *et al.*)

Environment and Transportation

Education, Health, and Environmental Affairs

Energy Efficiency - Net-Zero Homes - Contract Preferences

This bill requires the Department of Housing and Community Development (DHCD) to give preference to applications for funding for a net-zero home from the Energy-Efficient Homes Construction Fund that will use the services of small, minority, women-owned, and veteran-owned businesses in the State in the clean energy industry, particularly businesses that provide employment for individuals trained through specified workforce development programs. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: A “net-zero home,” as defined in the Housing and Community Development Article, means a home that is designed to produce an amount of energy in one year that is equal to the amount of energy that the same home uses in one year.

Energy-Efficient Homes Construction Loan Program and Fund

Chapter 410 of 2014 established the Energy-Efficient Homes Construction Loan Program and Fund within DHCD to provide loans to construct low-energy homes and net-zero homes. The fund consists of (1) money appropriated in the State budget; (2) repayments or prepayments of principal and payments of interest on loans made under the program; (3) investment earnings of the fund; and (4) any other money from any other source. All investment earnings of the fund must be paid into the fund. DHCD must use the fund to (1) pay expenses of the program; (2) provide credit enhancement under the program; and (3) make or purchase loans under the program.

Among other things, DHCD must attach to a program loan the terms needed to carry out the program, establish eligibility standards for program loans, and establish interest rates that may be as low as 0% or as high as is reasonable to make the project viable. In setting the terms and interest rates for program loans, DHCD may offer preferred interest rates and terms for loans used to finance net-zero homes and establish different interest rates based on the projected energy efficiency of the home to be constructed.

Proceeds of a program loan may only be used for property acquisition and development costs for (1) the construction of a net-zero home or low-energy home and (2) settlement and closing costs. A program loan must be secured by a mortgage lien. The mortgage lien may be subordinate to other mortgage liens and may include terms that DHCD considers necessary to make the project viable.

To qualify for a loan under the program, a person must submit (1) an application; (2) information on projected energy usage, project design, and marketing data; and (3) any other information or documentation DHCD considers necessary to make a determination on the loan. DHCD may give preference to an application for a net-zero home or a project that includes financing from other sources in addition to the program loan.

DHCD advises that there is \$1.0 million in the Governor's proposed fiscal 2021 capital budget for the Energy-Efficient Homes Construction Loan Program.

Strategic Energy Investment Fund

Chapters 127 and 128 of 2008 established the Strategic Energy Investment Fund (SEIF) within the Maryland Energy Administration (MEA) to receive revenue from Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions. The Acts also established an allocation of the revenue from the quarterly RGGI carbon dioxide emission allowance auctions to be distributed among various categories of spending. Other revenue in SEIF available from different fund sources is not subject to mandatory allocation.

Chapter 757 of 2019 requires MEA to use SEIF to provide \$7.0 million in funding for access to capital for small, minority, women, and veteran-owned businesses in the clean energy industry under the Small, Minority, and Women-Owned Businesses Account in the Department of Commerce, subject to specified conditions, including an annual reporting requirement. The funding must be allocated in annual increments from fiscal 2021 through 2028, as specified.

MEA must also use SEIF to invest in pre-apprenticeship, youth apprenticeship, and registered apprenticeship programs to establish career paths in the clean energy industry under the Maryland Employment Advancement Right Now (EARN) program. Subject to specified requirements, starting in fiscal 2021, \$1.5 million must be transferred for grants to pre-apprenticeship jobs training programs and \$6.5 million must be transferred for grants to youth and registered apprenticeship jobs training programs until all amounts are spent.

At the close of fiscal 2019, the balance from RGGI-sourced subaccounts in SEIF totaled \$66 million.

EARN Program and Clean Energy Workforce Account

Chapters 1 and 2 of 2013 established the EARN Program to create industry-led partnerships to advance the skills of the State's workforce, grow the State's economy, and increase sustainable employment for working families. Specifically, the program provides general fund grants on a competitive basis for industry partnerships, workforce training programs, and job-readiness and skills training.

Chapter 757 of 2019 established the Clean Energy Workforce Account under the EARN program to receive and disburse the transfers as grants, subject to specified requirements.

The Governor's proposed fiscal 2021 operating budget includes \$7.0 million for the EARN Program and \$450,000 for the Clean Energy Workforce Account.

Minority Business Enterprise Program

The State's Minority Business Enterprise (MBE) program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The biennial statewide MBE goal is established by the Special Secretary for the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General. In a year in which there is a delay in establishing the overall goal, the previous year's goal applies. The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals

for different minority groups recognized in statute. In a year in which there is a delay in issuing the guidelines, the previous year's guidelines apply.

Current MBE regulations direct State agencies to make every effort to award an overall minimum goal of 29% of the total dollar value of their procurement contracts directly (prime contractors) or indirectly (subcontractors) to certified MBE firms. The Maryland Department of Transportation certifies MBE firms for participation in State procurement.

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. 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.

Small Business Effect: Eligible small, minority-owned, women-owned, and veteran-owned businesses may realize additional funding opportunities when applying to DHCD for financial assistance from the Energy-Efficient Homes Construction Fund.

Additional Comment: The bill does not require that small, minority-owned, women-owned, and veteran-owned businesses be certified by the State in order to be eligible for application preference from DHCD.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Housing and Community Development; Maryland Department of Labor; Maryland Energy Administration; Department of Legislative Services

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