

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 359

(Senator Serafini, *et al.*)

Budget and Taxation

**Corporations and Associations - Disadvantaged Business Enterprises and
Veteran-Owned Small Business Enterprises - Filing Fee Exemption and Study**

This bill requires the State Department of Assessments and Taxation (SDAT) to waive the annual corporate filing fee for the first three years that a business entity is (1) certified under the federal Disadvantaged Business Enterprise (DBE) Program or (2) a veteran-owned small business enterprise (VOSBE). By January 1, 2021, SDAT must (1) review the filing fees and associated requirements of neighboring states that are equivalent or substantially similar to filing fees in Maryland; and (2) report recommendations to the General Assembly that would make Maryland more competitive with neighboring states, including whether to establish less frequent filing requirements, decrease fees, or establish a sliding fee scale.

Fiscal Summary

State Effect: Special fund revenues decrease by approximately \$3.5 million in FY 2021 and general fund revenues decrease by approximately \$2.0 million in FY 2022 and 2023. The revenue impact in future years depends on the number of eligible businesses qualifying for the exemption. Special fund expenditures increase by \$149,700 in FY 2021 and by \$190,600 in FY 2025.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	\$0	(\$2.0)	(\$2.0)	(-)	(-)
SF Revenue	(\$3.5)	\$0	\$0	\$0	\$0
SF Expenditure	\$0.1	\$0.2	\$0.2	\$0.2	\$0.2
Net Effect	(\$3.6)	(\$2.2)	(\$2.2)	(\$0.2)	(\$0.2)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background: In Maryland, there is a tax on business-owned personal property that is imposed and collected by local governments. Personal property generally includes business property including furniture, fixtures, office and industrial equipment, machinery, tools, supplies, inventory, and any other property not classified as real property. To provide for uniform assessments, SDAT is responsible for assessing all personal property. Each county or municipal government is responsible for issuing the tax bills and collecting the tax. The tax year begins on July 1 and ends on June 30. The personal property tax has been a local tax exclusively since 1984 when the State tax rate on personal property was set at zero.

At the beginning of each calendar year, SDAT notifies business entities on record that a personal property tax return must be filed by April 15. This tax return must include personal property located in Maryland as of January 1, the date of finality. The “date of finality” is the date used to determine ownership, location, value, and liability for tax purposes. Beginning in 2017, all tax returns will be filed electronically. An annual report fee is required to be paid to SDAT with the personal property tax return. The annual report fee is for the privilege of maintaining the legal entity’s existence in the State. **Exhibit 1** identifies the amount of the report fee that each legal entity is required to pay.

Exhibit 1 Annual Reporting Fee Requirement

<u>Business Entity</u>	<u>Fee</u>	<u>Business Entity</u>	<u>Fee</u>
Stock Corp	\$300	Domestic Statutory Trust	\$300
NonStock Corp	0	Foreign Statutory Trust	300
Foreign Insurance Corp	300	Real Estate Investment Trust	300
Foreign Interstate Corp	0	Certified Family Farm	100
Limited Liability Company	300	Sole Proprietorship	0
Limited Liability Partnership	300	General Partnership	0
Limited Partnership	300	Amended Return	0

Maryland Small Business Retirement Savings Program and Trust

Chapters 323 and 324 of 2016 established the Maryland Small Business Retirement Savings Program and Trust and require specified private-sector employers to make the program available to their employees. Employers who participate in the program or otherwise offer a retirement savings arrangement to their employees as specified in statute are exempt from the State's annual filing fee for corporations and business entities but only after the program becomes operational. The earliest the program was expected to become operational is fiscal 2021. As of February 2020, the program is not operational.

The Board of Revenue Estimates anticipated in its December 2018 forecast that the program would become operational in fiscal 2020, decreasing State revenue from the filing fee by about \$36.0 million, with \$66.25 million collected from nonexempt entities in that year. The Governor's fiscal 2020 budget proposal recognized that the program would not become operational until at least fiscal 2021 and assumed \$35.0 million of general fund revenues in fiscal 2020 as a result of the delay in launching the program.

Chapter 16 of 2019 delayed from fiscal 2021 to 2022 the exemption from the State's annual filing fee for corporations and business entities who participate in the Maryland Small Business Retirement Savings Program and Trust. Chapter 16 also dedicated any revenue from the filing fee in excess of \$66.25 million to the Blueprint for Maryland's Future Fund (Blueprint Fund) in fiscal 2021.

Disadvantaged Business Enterprise Program

The U.S. Department of Transportation's (USDOT) DBE Program is focused on increasing the participation of minority and women owned businesses in state and local transportation projects funded by the department through the Federal Aviation Administration, the Federal Highway Administration, and the Federal Transit Administration.

The DBE program:

- requires state and local transportation agencies, transit authorities, and airports to establish annual, statewide overall DBE participation goals;
- establishes contract-specific DBE subcontracting goals with specified prime contractors;
- ensures that DBEs can compete fairly for USDOT funded projects;
- ensures that only eligible firms participate as DBEs; and

- assists DBE companies in their ability to compete outside the DBE Program.

Veteran-owned Small Business Enterprises

Statute defines a VOSBE as a business that (1) meets specified size standards adopted by the federal Small Business Administration and (2) is at least 51% owned and operated by one or more individuals who are veterans and control the management and daily operations of the business. VOSBEs self-register with eMaryland Marketplace Advantage (eMMA), the State's online procurement portal. The Governor's Office of Small, Minority, and Women Business Affairs (GOSBA) administers the State's procurement preference program for VOSBEs. Due to the recent overhaul of eMMA and a statutory change in the definition of VOSBEs, GOSBA advises that it cannot provide a reliable count of registered VOSBEs in the State.

State Revenues: The bill provides a three-year exemption from the State's corporate filing fee for business entities that are certified under the federal DBE program or are a specified VOSBE. As a result, State revenues decrease by a significant amount beginning in fiscal 2021. Based on one set of assumptions, State revenues could decrease by \$3.5 million in fiscal 2021 and by \$2.0 million in fiscal 2022 and 2023. This estimate is based on the following information and assumptions:

- 6,800 DBE entities in Maryland;
- 51,000 veteran-owned businesses in Maryland;
- 20% of business entities pay the \$300 corporate filing fee; and
- beginning in fiscal 2022, 40% of business entities that pay the \$300 corporate filing fee would be exempt under current law (Chapters 323 and 324 of 2016).

The revenue decrease in fiscal 2021 will affect funding for the Blueprint Fund, a special fund established to implement the recommendations of the Kirwan Commission. As noted, Chapter 16 of 2019 delayed from fiscal 2021 to 2022 the exemption from the State's annual filing fee for corporations and business entities who participate in the Maryland Small Business Retirement Savings Program and Trust. Chapter 16 also dedicated any revenue in fiscal 2021 from the filing fee in excess of \$66.25 million to the Blueprint Fund. It is estimated that the Blueprint Fund would receive \$36.0 million in corporate filing fee revenues in fiscal 2021. Due to the provisions of this bill, corporate filing fee revenues to the Blueprint Fund will decrease by approximately \$3.5 million in fiscal 2021.

Beginning in fiscal 2022, the impact on State revenues will depend on the number of eligible DBE and VSOBE entities located in the State and whether they will qualify for the filing fee exemption under the Maryland Small Business Retirement Savings Program that is expected to begin in fiscal 2022. To the extent that these businesses are eligible for the exemption under the Maryland Small Business Retirement Savings Program, they will not need the exemption under the bill. The fiscal note for Chapters 323 and 324 of 2016 assumed that 40% of business entities would be eligible for the exemption under the Maryland Small Business Retirement Savings Program. Assuming that 40% of DBE's and VSOBE's that currently pay the \$300 filing fee are eligible for the current exemption, general fund revenues decrease by approximately \$2.0 million in fiscal 2022 and 2023. Beginning in fiscal 2024, the actual revenue decrease will depend on the number of newly eligible DBEs and VOSBEs that are created in any year.

State Expenditures: Special fund expenditures increase by \$149,700 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost of hiring two Charter Specialists and one Office Services Clerk to review applications for the exemption, track compliance, answer customer inquiries regarding the exemption, and assist in tracking any exemption related information and documents as SDAT receives them. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position(s)	3
Salaries and Fringe Benefits	\$133,578
Operating Expenses	16,099
Total FY 2021 State Expenditures	\$149,677

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 204 (Delegate Qi, *et al.*) - Economic Matters.

Information Source(s): State Department of Assessments and Taxation; Maryland Department of Transportation; Governor's Office of Small, Minority, and Women Owned Business Affairs; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2020
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