

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 722 (Senator Hester)
Education, Health, and Environmental Affairs

Department of Small Business, Entrepreneurship, and Innovation - Established

This bill establishes the Department of Small Business, Entrepreneurship, and Innovation (DSBEI) as a principal department of the Executive Branch, composed of specified transferred entities, responsibilities, and staff, and makes related changes. Additional responsibilities for DSBEI, beyond those of the transferred entities, include establishing a small business issue-studying commission, meeting new reporting requirements, and evaluating agency regulations for their effects on small businesses.

Fiscal Summary

State Effect: State revenues and expenditures for DSBEI increase beginning in FY 2022 to reflect the required transfer, and additional expenditures are required. State revenues and/or expenditures for certain of the affected State entities decrease correspondingly, as discussed below. The Department of Legislative Services (DLS) can handle the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Transfers and Related Continuity Provisions

The following entities, responsibilities, appropriations, and related specified items are transferred to DSBEI, effective October 1, 2021: (1) the Governor's Office of Small,

Minority, and Women Business Affairs (GOSBA); (2) the responsibilities of the Department of Commerce (Commerce) to oversee the Maryland Small Business Development Financing Authority (MSBDFDA); and (3) the responsibilities of the Maryland Department of Labor (MDL) to oversee the Office of Small Business Regulatory Assistance. All GOSBA staff and those Commerce and MDL staff with more than 50% assigned time to the transferred responsibilities are transferred to DSBEI.

The following are also transferred to DSBEI: all of the functions, powers, duties, books and records (including electronic records), real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of GOSBA, Commerce and assigned for the use of MSBDFDA, or MDL and assigned for use of the Office of Small Business Regulatory Assistance.

Any recipient of a loan from MSBDFDA on or before the effective date of the bill may not have any change to the terms of the loan or loan status as a result of the bill. The bill specifies similar treatment of transactions affected by the transfer of a program managed by MSBDFDA.

All existing laws, regulations, proposed regulations, standards and guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, administrative and judicial responsibilities, rights to sue and be sued, and all other duties and responsibilities associated with the functions of the transferred entities prior to the effective date of the bill must continue and, as appropriate, are legal and binding on DSBEI until completed, withdrawn, canceled, modified, or otherwise changed under the law.

Department of Small Business, Entrepreneurship, and Innovation

DSBEI is established as a principal department of the Executive Branch; the head of DSBEI is the Secretary for Small Business. Subject to the limitations of any law that governs the activities of other units of the Executive Branch of State government, the Secretary must advise the Governor on specified matters and perform specified tasks as authorized, including creating a commission to study and address matters that affect small businesses in the State.

Also the Interdepartmental Advisory Committee on Small, Minority, and Women Business Affairs is renamed the Interdepartmental Advisory Committee on Entrepreneurship and Innovation. Committee responsibilities are unchanged, except that the committee advises and supports DSBEI instead of GOSBA.

Reporting Requirements

An annual GOSBA report is modified to explicitly include:

- an update on the status of small business in the State, including small business access to capital;
- scorecards for each unit on participation in the State Minority Business Enterprise (MBE) program and the Small Business Reserve program;
- an update on small business outreach and training efforts; and
- an update on projects undertaken in consultation with local economic development corporations to create small business ecosystems throughout the State.

Regulation Evaluation Process

DSBEI must prepare an economic impact analysis rating and an economic impact analysis, as appropriate, for each regulation that an agency proposes to adopt. The requirement parallels the existing requirement for DLS. DLS must in turn comment on DSBEI's rating and analysis as part of its existing responsibilities to the Joint Committee on Administrative, Executive, and Legislative Review (AELR Committee).

Current Law:

Governor's Office of Small, Minority, and Women Business Affairs

GOSBA is established in the Executive Department; the head of the office is a Special Secretary who is appointed by and serves at the pleasure of the Governor. The Special Secretary's general duties are to advise the Governor on activities to promote the employment of minority persons in the State and any other matters that affect the rights and interests of minority persons and the communities in which they live. GOSBA has designated oversight, reporting, and outreach responsibilities related to the State's MBE program and responsibility for overseeing the State's Small Business Reserve program.

Maryland Small Business Development Financing Authority

MSBDFFA provides financing options for small businesses that are not able to qualify for financing from private lending institutions or are owned by socially and economically disadvantaged persons. Subject to specified conditions, Commerce may (and does) contract for and engage the services of some or all of the MSBDFFA staff to administer the authority's programs. MSBDFFA has four programs: the Contract Financing Program; the Long-term Guaranty Program; the Surety Bond Program; and the Equity Participation Investment Program.

Office of Small Business Regulatory Assistance

The Office of Small Business Regulatory Assistance, created by executive order in 2018 in MDL, has several established purposes, including to (1) assist businesses with the implementation of the Maryland Healthy Working Families Act and other labor and licensing laws and regulations; (2) resolve problems encountered by businesses interacting with State agencies; and (3) serve as a central clearinghouse of information for business assistance programs and services available in the State. Responsibilities of the office generally relate to its established purposes. The office also administers the State Customer Service and Business Development Efforts Training Program.

Regulations with Meaningful Impacts on Small Businesses

Generally, a State agency must submit proposed regulations to the AELR Committee and DLS 15 days prior to publication in the *Maryland Register*. There are specific requirements for proposed regulations with different effects, such as those that will have a significant or meaningful impact on small businesses. For determinations of a meaningful impact, which are those affected by the bill, if the appropriate State agency or DLS determines that a proposed regulation will have a meaningful economic impact on small businesses, the agency or DLS must develop a complete written economic impact analysis, as specified, unless the agency or DLS is unable to do so, in which case the agency or DLS must provide a written explanation of why the regulation will have a meaningful economic impact.

State Fiscal Effect: A precise estimate of the effect on State finances due to the bill cannot be determined at this time. At a minimum, the bill:

- transfers 11 GOSBA staff, 6 Commerce staff, and 5 MDL staff and associated Commerce/MDL programmatic expenditures to the new DSBEI;
- requires the hiring of sufficient administrative, finance, human resources, and information technology staff for DSBEI, or an agreement with a different State agency to provide those services;
- requires MDL and Commerce to hire replacement staff to cover the remaining responsibilities of the transferred staff;
- creates moving and related administrative expenses, including, potentially, new rent and information technology expenses;
- potentially requires the hiring of additional staff at DSBEI, depending on the ultimate purview of the department and the skills of transferred staff; and
- potentially requires an increased salary for a cabinet-level Secretary.

Therefore, beginning in fiscal 2022, State revenues and expenditures increase for DBSEI to reflect the required transfers, and expenditures further increase for additional required

expenses. General fund expenditures decrease for GOSBA, as that entity is transferred in its entirety, but are generally unchanged for MDL due to hiring replacement staff. Special fund revenues and expenditures decrease for Commerce due to the transfer of MSBFDA responsibilities, once again reflecting the need to hire replacement staff with general funds.

It is assumed that the effect in fiscal 2022 is about three-quarters of the effect in future years, reflecting the bill's October 1, 2021 effective date.

For context as to the eventual size of the new DSBEI, GOSBA's budget is about \$1.4 million; the transferred Commerce and MDL staff account for about \$1.2 million in salary and benefits annually; and MSBDFA's special fund expenditures are \$5.5 million to \$6.0 million annually.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 62 (Delegate J. Lewis) - Health and Government Operations.

Information Source(s): Governor's Office of Small, Minority, and Women Business Affairs; Department of Commerce; Department of Budget and Management; Maryland Department of Labor; Department of Legislative Services

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