HB 1152

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1152 (Delegate Chisholm, *et al.*)

Ways and Means and Economic Matters

Entrepreneurial Equity Act

This bill establishes several licensing and business fee exemptions, as specified, for a person establishing a new business whose principal place of business is located in the State. The bill also requires at least 10% of specified economic development, financial assistance, and workforce development funding be allocated to supporting organizations or programs that (1) assist individuals starting new businesses or (2) provide services to Maryland businesses that have been in operation for less than five years. It also requires that at least 10% of certain procurements be designated for small businesses that have been in operation for less than five years. The bill contains a related reporting requirement. **The bill generally takes effect July 1, 2023, but provisions unrelated to licensing and business fee exemptions take effect October 1, 2023.**

Fiscal Summary

State Effect: General/special fund revenues decrease by $14.4 million annually beginning in FY 2024 due to fee waivers, under the assumptions discussed below; the foregone revenue is primarily general funds. General fund expenditures increase for staff and various administrative costs by $0.3 million to $0.4 million annually beginning in FY 2024.

($ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	($13.5)	($13.5)	($13.5)	($13.5)	($13.5)
SF Revenue	($0.1)	($0.1)	($0.1)	($0.1)	($0.1)
GF/SF Rev.	($0.8)	($0.8)	($0.8)	($0.8)	($0.8)
GF Expenditure	$0.4	$0.3	$0.3	$0.4	$0.4
Net Effect	($14.8)	($14.7)	($14.8)	($14.8)	($14.8)

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

Local Effect: Overall funding for local governments, including workforce development boards, is generally unaffected, but the bill may alter the distribution of such funds.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Notwithstanding any other provision of law, the Secretary of Labor and any licensing board established under the Business Occupations and Professions Article or the Business Regulation Article must waive any license or registration fee imposed on a person establishing a new business, including a home-based business, whose principal place of business is located in the State.

Notwithstanding any other provision of law, the State Department of Assessments and Taxation (SDAT) must waive any recording or filing fee under Title 1 of the Corporations and Associations Article on a person establishing a new business, including a home-based business, whose principal place of business is located in the State.

The Department of Commerce must allocate at least 10.0% of the funding budgeted for the State's economic development and financial assistance programs, including Community Development Block Grants (CDBG), to supporting organizations or programs that assist individuals starting new businesses or provide services to businesses that have been in operation for less than five years and whose principal place of business is in the State.

The Division of Workforce Development and Adult Learning (DWDAL) in the Maryland Department of Labor (MDL) must allocate at least 10.0% of the funding budgeted for the State's workforce development programs, including funding allocated by workforce development boards across the State, to supporting organizations or programs that assist individuals starting new businesses or provide services to businesses that have been in operation for less than five years and whose principal place of business is in the State.

The Office of State Procurement (OSP) in the Department of General Services (DGS) must direct at least 10% of all open procurements designated for the Small Business Reserve (SBR) to businesses that have been in operation for less than five years and whose principal place of business is in the State. By July 1, 2025, and annually thereafter, DGS must submit a report on the General Assembly on procurement information related to businesses that have been in operation for less than five years, with recommendations to improve access to State contracts for such Maryland businesses.

Current Law: The bill affects several agencies and programs, described briefly below.

MDL's Division of Occupational and Professional Licensing includes boards and commissions that license, regulate, and monitor more than two dozen professions and trades. MDL's DWDAL supports the State's economic growth through a workforce development, education, and training system. The Governor's Workforce Development Board, housed within MDL, develops strategies and coordinates efforts among agencies to deliver education and training for anyone seeking employment. The board works with local workforce development boards throughout the State, which aim to ensure that each area's workforce is well prepared to meet the current and future needs of local businesses.

Commerce's Office of Finance Programs is charged with delivering and administering the department's financial incentive and tax credit programs. A comprehensive list of financial incentives available for Maryland businesses can be found on Commerce's website.

The Governor's Office of Small, Minority, and Women Business Affairs oversees SBR, which requires most State agencies to structure their procurements so that at least 15% of the total dollar value of their procurements is made directly to small businesses. Under regulations governing the program, each agency must prepare an annual forecast of its total procurement spending. The agency must then develop a plan to allocate at least 15% of its forecasted spending to contracts for small businesses serving as prime contractors. Subject to a waiver process, any procurement valued at between $50,000 and $500,000 is designated for SBR.

State Fiscal Effect: The bill has two parts: fee waivers and reallocations of State spending. The fee waivers have primarily revenue effects, although there are some operational effects. The reallocation of existing State spending has significant operational effects and, in the case of federal funds, is likely not permissible. Due to the broad language of the bill and a lack of clarity on how the provisions apply to certain programs and businesses, this estimate should be viewed as preliminary.

Fee Waivers

The bill does not indicate for how long new businesses are waived from having to pay licensing, registration, and other fees. This analysis assumes that the waiver applies to the initial term (typically one or two years) for a new license or registration.

MDL's Division of Occupational and Professional Licensing estimates foregone revenue of approximately $800,000 each year due to fee waivers beginning in fiscal 2024, based on an average license cost of $114 and assuming 25% of the 28,000 new licenses issued every year are eligible for the waiver. The foregone revenue is a combination of general and special funds, as the division includes multiple special fund boards, and many have general fund reversion requirements.

The amount of foregone revenue is assumed to be mitigated somewhat in future years as MDL raises any allowable fees in regulation to offset the foregone revenue; however, some fees are specified in statute and some fees have limits to annual increases, so revenues do not necessarily increase to cover the entire amount. Many of the licensing boards and commissions have narrow caps on the fund balances they can carry over year-to-year (with any excess reverting to the general fund), so they do not have substantial fund balances that they can rely on to cover foregone revenue. As a result, some individual boards may become insolvent. The Department of Legislative Services (DLS) notes that foregone revenue may vary substantially from MDL's estimate, based on the number of new licensees eligible for the waiver, so $800,000 is provided as an annual estimate of the foregone revenue under the bill.

General fund expenditures increase by $100,000 in fiscal 2024 for a one-time programming expense to incorporate the fee waiver into MDL's licensing system.

SDAT estimates approximately $13.5 million in foregone general fund revenue annually based on the number of new businesses formed each year and the associated filing and expediting fees that would be expected. This *does not include* revenue associated with the $300 annual report filing fee, which would significantly increase foregone general fund revenue. Special fund revenues for the Maryland Non-For-Profit Development Center Program Fund also decrease by $125,000 annually, assuming certain nonstock corporations have their fee waived as well.

Reallocation of Existing Funds

Generally, the reallocation of funds from one type of recipient to another does not affect overall State expenditures for assistance provided under those programs, although there are additional operational costs and considerations, described below.

The administration of Commerce's economic development programs can continue to be performed by existing staff. However, it should be noted that the bill also requires Commerce to direct 10% of CDBG to specific entities. That program is administered by the Department of Housing and Community Development (DHCD), and Commerce cannot control funding administered by another agency. DHCD further advises that CDBG is a federal program designed to assist county and municipal governments with certain eligible activities. Most CDBG funding goes directly to local jurisdictions, and the State is not allowed to use CDBG for its own purposes, programs, or initiatives. Therefore, this estimate assumes the bill has no effect on CDBG funding allocations.

DWDAL primarily administers federal funds, although there are general and special funds in the agency's budget. In the absence of specific information from MDL, DLS advises that, generally, federal funds must be used for specific purposes and the bill is unlikely to effectuate their reallocation. General and special funds may be reallocated, provided that the funding is not tied to federal funds – as matching funds, for example. Local workforce development boards likewise receive federal funds through the State, which may or may not be able to be reallocated for the purposes specified under the bill. In any case, general fund expenditures may increase to account for any incremental operational effects on the division, as federal funds would be unavailable for such purposes.

DGS advises that the bill has an operational impact on OSP and may affect the cost of future procurements. The bill establishes a preference for in-state new businesses under the SBR program. A preference of any kind has the potential to increase the cost of procurements by basing the contract award on factors other than lowest price (*i.e.*, a contract may be awarded to an in-state bidder rather than an out-of-state bidder with a lower price). Any such effect cannot be reliably estimated. Also, creating a preference for Maryland businesses results in bordering states applying reciprocal preferences for resident bidders, which may disadvantage Maryland firms seeking to do business in those states. The data tracking involved with this preference is time intensive and also requires technology support. DGS advises that it requires three additional staff to handle the additional requirements, which does not include any programming costs.

Accordingly, general fund expenditures increase by $268,402 in fiscal 2024, which accounts for the provision's October 1, 2023 effective date. This estimate reflects the cost of hiring two procurement officers and a database specialist to handle the requirements related to the mandated SBR allocation. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3.0
Salaries and Fringe Benefits	$246,175
Operating Expenses	22,227
Total FY 2024 State Expenditures	**$268,402**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The additional staff are assumed to be sufficient to produce the annual report required under the bill without further expenditures. This estimate does not include any programming costs, which would further increase general fund expenditures.

Small Business Effect: New small businesses benefit from the waiver of certain fees, and generally benefit from funding allocations under specified economic development, financial incentive, and workforce development programs, and procurement preferences. However, the reallocations and procurement preferences may alter recipients of State funds from one small business to another, or from one small business to a relatively new, but not small, business. Although new small businesses benefit from the bill's set-aside under SBR, all Maryland-based small businesses are disadvantaged in competing for contracts in other states with reciprocal preferences.

Additional Comments: The bill requires the Secretary (assumed to be only the Secretary of Labor) and each professional licensing board to waive any license or registration fee, as specified. DLS advises that MDL is not the regulatory entity for several professions that require licensure or registration and are encompassed within the Business Occupations and Professions Article or the Business Regulation Article.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Commerce; Judiciary (Administrative Office of the Courts); Department of General Services; Maryland Department of Labor; Department of State Police; State Department of Assessments and Taxation; Department of Housing and Community Development; Department of Legislative Services

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