

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 835

(Calvert County Delegation)

Health and Government Operations

Budget and Taxation

Calvert County - Procurement - Local Preference

This bill authorizes the Board of County Commissioners of Calvert County to enact an ordinance, following specified procedures, that gives a percentage preference to a resident business that submits a responsive bid or offer that exceeds the lowest responsive bid or offer by a nonresident business. With the preference, if the bid or offer by the resident business exceeds the bid or offer of the nonresident business by less than a specified percentage, the resident bidder or offeror may be awarded the contract. “Resident business” means a business whose principal office, as defined, is in Calvert County. A “nonresident business” means a business whose principal office is outside the county.

Fiscal Summary

State Effect: None. The bill pertains only to Calvert County.

Local Effect: Calvert County did not submit a response in time for consideration for this fiscal and policy note. However, the bill is not expected to have a direct effect on Calvert County as it is only authorizing in nature. If the Board of County Commissioners enacts an ordinance, procurement costs for Calvert County increase to the extent that it awards contracts to resident businesses that do not submit the lowest bid or proposal price. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: In enacting an ordinance under the bill, the Board of County Commissioners must first hold a public hearing and wait until 10 days have passed

after the hearing before adopting the ordinance. The board must publish notice of the public hearing and a summary of the ordinance in at least one newspaper in general circulation in the county once each week for two successive weeks. A copy of the ordinance must be filed with the clerk of the court of the county, as specified, and the ordinance may not take effect until a copy has been filed and a fair summary of the ordinance has been published, as described above. An ordinance enacted in this manner is admissible as evidence in any court proceeding on certification by the clerk of the court of the county.

Current Law: In general, Calvert County contracts for supplies or services involving at least \$30,000 must be awarded by formal bidding procedures. Contracts must be awarded (1) at a regularly scheduled meeting of the Board of County Commissioners or by an official authorized to contract for the county and (2) to the lowest responsible bidder or the most responsible offeror, as specified.

If another county or state in which a nonresident bidder has its principal office gives a preference to resident bidders, Calvert County must give a preference to a resident bidder over a nonresident bidder that is equal to the preference given by the other county or state. This is referred to as a reciprocal preference. Any increase in which a preference is given may not exceed \$25,000.

Small Business Effect: If the Calvert County Board of County Commissioners elects to enact a preference for resident businesses, small businesses located in Calvert County benefit to the extent they participate in county procurement. However, small businesses in other counties that want to do business with Calvert County are disadvantaged.

Moreover, reciprocal preferences like the one that Calvert County has are common in state and local procurement law (Maryland has a reciprocal preference that applies to other states). To the extent that other counties or nearby states have reciprocal preferences in their procurement codes, any preference for resident businesses enacted by Calvert County likely triggers those preferences in other jurisdictions. Thus, small businesses in Calvert County that want to do business in other jurisdictions are likely disadvantaged.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1177 of 2023 and HB 913 of 2022.

Designated Cross File: None.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2024
km/ljm Third Reader - March 18, 2024

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510