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THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**HB1302-Minority Business Enterprises – Calculation of Participation Rates – Exemption  
for Procurements from Maryland Correctional Enterprises – Repeal**

**Bill Hearing: March 17th, 2021 Health and Government Operations Committee**

**Chairwoman Pendergrass, Vice Chair Pena-Melnyk, and members of the Government and  
Operations committee,**

HB 1302 seeks to repeal an unjust exemption to Minority Business Enterprise (MBE) law by amending the State Finance & Procurement Code. Current MBE law requires State agencies to make every effort to achieve an overall minimum goal of 29% of the total dollar value of their procurement contracts directly or indirectly from certified MBE firms. However, State procurement units are permitted to exclude the total dollar value of procurement contracts with Maryland Correctional Enterprises (MCE) when calculating their MBE goal.

MCE, the State's legally mandated "preferred provider", is a prison labor organization that pays their laborers as little as \$0.17/hour. HB 1302 would require the inclusion of MCE contracts in these calculations. The MBE Program was created in 1978 to help provide equitable opportunities for minority-owned businesses to rectify decades of discrimination that resulted in certain groups being socially and economically disadvantaged. Prior to each reauthorization of Maryland's MBE Program, the State conducts a disparity study to determine whether there is continued evidence that MBEs are underutilized in State contracting.

Unfortunately, the disparity study conducted prior to the most recent reauthorization of Maryland's MBE program found ongoing "large and statistically significant" disparities in the use of MBEs by the State compared to their availability in the marketplace. For example:

- African American-owned construction businesses were paid just 5.1% of State construction contract dollars, despite making up 10.3% of the construction sector.
- Non-Minority women-owned construction businesses were paid just 7.5% of State construction contract dollars, despite making up 13.7% of the construction sector.

Relevant to this discussion is the long and painful history of the American criminal justice system. A system that has victimized and imprisoned generations of minorities and exploited dirt-cheap prison labor to rake in untold profits. This victimization and exploitation continues to this day.

There is a sick irony in this system. The State claims a commitment to ensuring opportunity for minority-owned businesses through its MBE Program, but then designates MCE as its preferred provider and exempts any MCE contracts from counting towards its MBE Goal.

Finally, minority-owned businesses have been disproportionately impacted by the pandemic as compared to nonminority-owned businesses. They have faced higher rates of closures, sharper declines in cash balances, and more difficulty in accessing vital PPP funds.

It is more important now than ever before for Maryland to reaffirm its commitment to ensuring equity for minority-owned businesses. However, we cannot do this if we continue to undercut our pledge to equitable patronage of minority-owned businesses with unjust exemptions.

Thus, I urge a favorable report on HB 1302

Delegate Stephanie Smith