



Mel Franklin
Council Member
At-Large

PRINCE GEORGE'S COUNTY

Bringing the World to Prince George's County

SB 996 – Small Business Reserve Program

Written Testimony

MARYLAND SENATE BUDGET AND TAXATION COMMITTEE

March 16, 2022, 1:00 P.M.

Mel Franklin, Prince George's County Council, At-Large Member

Mister Chair and Members of the Committee, thank you for this opportunity to address the Senate Budget and Taxation Committee in my individual capacity as an at-large member of the Prince George's County Council, representing each of the nearly 1 million residents of Prince George's County. I am here to express my strong support for Senate Bill 996, legislation that would increase the State's Small Business Reserve requirement from 15% to 30% and require that it be met with Maryland-based small businesses. I especially want to thank Senator Obie Patterson for sponsoring this legislation in the Senate and for Delegate Darryl Barnes cross-filing it in the House.

Currently, the State's 15% small business reserve requirement for state agencies can be met with small businesses outside of Maryland, which means those businesses might not reflect Maryland's considerable diversity. According to information published by the Governor's Office on Small, Minority, and Women Business Affairs, about 70% of the state's small business population are minorities or women. So, when we empower small businesses in our state, we empower minority and women-owned businesses too. Thus, requiring the small business requirement to be met by Maryland-based small businesses will likely increase the diversity of the recipients.

Additionally, the State's 15% requirement for small businesses is woefully low. In fact, the state has a 29% goal for certified minority-owned businesses and every certified MBE in the state must also meet the state's small business size test. But, unlike the MBE goal, which can't be a hard set-aside due to it being a race-conscious standard, the small business reserve standard can be a hard set-aside since it is a race neutral classification. Thus, increasing and



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enforcing the small business reserve requirement could help the state reach its minority business enterprise goals.

Further, prior to 2017, the state had a 10% small business reserve requirement, resulting in 7.7% small business procurement in FY16 and 9.4% small business procurement in FY17. Since the state increased its requirement for the small business reserve requirement to 15% beginning for FY18, the state has seen a modest improvement in small business procurement performance, up to 11% in FY2020. Clearly, we can and should do better. By increasing the standard to 30%, near the state's MBE goal and by backing up the small business reserve requirement with strict enforcement, which should mean holding agencies more accountable for reserving 30% of their contract opportunities in advance solely for bidding by Maryland-based small businesses and requiring quarterly reporting by the agencies during the fiscal year to this committee on the agency's progress in meeting the state's small business reserve requirements and the MBE goals, we will have much better outcomes and stronger equity for Maryland's diverse business community. Currently, the state's reporting on reaching small and minority business requirements and goals can lag for more than a year, preventing any real ongoing enforcement.

Additionally, the analysts who produced the fiscal note attached to SB 996 do not mention the potential increase in the state's business tax base due to Maryland-based small businesses receiving more state contract awards. This is possibly due to insufficient state data collection. Nonetheless, it isn't rocket science to conclude that if Maryland-based small businesses experience a substantial increase in their revenues due to increased procurement spending, they will contribute significantly larger amounts to income taxes, sales taxes, and other tax revenues for the state.

The analysts who produced the fiscal note attached to SB 996 also indicate a concern that neighboring jurisdictions may also use similar advantages for their small businesses if Maryland enacts such incentives. That horse has already left the barn. The District of



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Columbia's Certified Business Enterprise (CBE) program is perhaps the most well-known and successful program in the nation for channeling its procurement opportunities to locally-based firms by enacting substantial District-based preferences, requirements, and incentives. In my conversations with District-based firms who also do business elsewhere in the region concerning whether they face correlating disadvantages in neighboring jurisdictions because of DC's CBE program, universally I am told that the advantages that the District provides DC-based businesses are so substantially beneficial that they outweigh any disadvantages that neighboring jurisdictions might impose. They also indicate that many procurement officers in neighboring jurisdictions, including Maryland, do not bother to follow-up on whether they come from a jurisdiction that provides local incentives and thus rarely apply those penalties.

In sum, SB 996 is pro-small business, pro-minority and woman-owned business, pro-jobs, and pro-Maryland. I respectfully ask for your favorable report and support for SB 996.

Thank you.

A handwritten signature in black ink that reads "Mel Franklin". The signature is written in a cursive, flowing style.

Mel Franklin
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Prince George's County Council