



MARYLAND ECONOMIC DEVELOPMENT CORPORATION

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TESTIMONY OF

**J. Thomas Sadowski, Executive Director
Maryland Economic Development Corporation
Senate Bill 399**

State Government - Quasi-Governmental Units - Oversight and Governance

BEFORE

Senate Education, Health, and Environmental Affairs Committee

March 3, 2022

1:00pm

The Maryland Economic Development Corporation (MEDCO) supports SB 399 with amendment as detailed below.

MEDCO endorses the need for more transparency to ensure integrity and accountability in its mission, and MEDCO is willing to comply with the State's proposed oversight requirements to enhance transparency.

While MEDCO supports the proposed legislation's intent, we are concerned about how SB 399 may negatively affect MEDCO and the other instrumentalities' ability to fulfill their public purposes. SB 399 seeks to reclassify the entities listed therein, including MEDCO, as "quasi-governmental units" and proposes to change their oversight and governance. MEDCO proposes an alternative terminology be used to avoid unintended complications and consequences of this reclassification.

SB 399 classifies the listed State instrumentalities as "quasi-governmental units" without defining that term. MEDCO recognizes that the language in this legislation reflects that of Executive Order 01 .01 .2020.05, *State Transparency and Accountability Reform Commission*, which refers to listed State instrumentalities as "quasi government agencies." The executive Order states that "Maryland law has established quasi-governmental agencies that are designed to fulfill public purposes by operating with structures that provide managerial flexibility necessary for optimal performance," however the term "quasi-governmental unit" is not defined anywhere in the Maryland Code and is found only once in the Code, in §1-1303 (Local Government), yet it is not defined there either and appears from that statute to be different than a "unit of State government."

Changing the entities to “quasi-governmental units” may affect their ability to perform their legislative functions because the term is undefined and inconsistent with current statutes. Presently, the entities listed in the legislation are defined or described in particular ways under the respective enabling acts. For example, MEDCO is “a body politic and an instrumentality of the State,” and MEDCO’s actions are considered “essential governmental functions.” MEDCO’s enabling statute exempts it from State and local real estate taxes based on its status as an “instrumentality of the State.” Since 1984, MEDCO has used this exemption to engage in cost-effective economic development. Reclassifying MEDCO, and the other entities listed in SB 399 with similar tax exemptions, as “quasi-governmental units” may eliminate these tax exemptions. This would increase the costs of economic development projects MEDCO and the other entities affected by SB 399’s implementation.

Similarly, MEDCO finances many of its economic development projects by issuing bonds, the interest on which is exempt from federal income tax and State and local taxes. Changing the entities like MEDCO to “quasi-governmental units” may affect this exemption for both existing project bonds and future bond-funded projects. For example, this change may impact MEDCO’s outstanding tax-exempt bonds, and may put some of them into default. For future projects, this change may make the bonds MEDCO and other similarly situated entities seek to issue less marketable and would make MEDCO economic development projects more costly.

MEDCO recommends the following amendment be made to SB 399 to avoid the concerns referenced above. MEDCO proposes that rather than defining the listed entities as “quasi-governmental units”, that SB 399 contain an introductory sentence (without using the term “quasi-governmental units”, in the introductory sentence or throughout the legislation) declaring that:

“The following units are subject to the provisions of this Title.” (with “this title” referring to the State Government Article),

Further, MEDCO proposes including the following concluding provision at the end of SB 399, stating

“Nothing contained in the above provisions changes the listed entities’ status, powers, duties and obligations as set forth elsewhere in the Maryland Code.”

MEDCO anticipates that these two edits will allow the entities affected by this legislation to efficiently fulfill their missions while providing the transparency and accountability SB 399 seeks.

With the amendment recommended above, MEDCO supports a favorable report on SB 399.