

SB 438 Testimony (1).pdf

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Senate Bill 438: Minority Business Enterprises - Calculation of Participation Rates - Procurements
From Maryland Correctional Enterprises**

February 22, 2023

Dear Chairman Guzzone and Members of the Budget and Taxation Committee,

It is my pleasure to introduce Senate Bill 438: Minority Business Enterprises - Calculation of Participation Rates - Procurements From Maryland Correctional Enterprises. The Minority Business Enterprise Program (MBE) was created to help provide equitable opportunities for minorities in business after decades of discrimination and marginalization.

The MBE procurement spending requirements for state agencies was instituted with the same goal in mind, but the progress has been hindered by an exemption provided to agencies when they spend with Maryland Correctional Enterprise (MCE). Senate Bill 438 seeks to repeal an exemption that allows a procurement agency to exclude from its total annual procurements the annual dollar value of its contracts with MCE when calculating compliance with the certified MBE goals. If we truly would like to create equity in opportunity and see our minority businesses thrive, it is time that we close this loophole.

In the fiscal year of 2020, MCE's total sales were over \$55 million dollars. 99% of these sales were to State agencies. Additionally, inmates in Maryland make between \$0.17 - \$1.16 an hour while completing these contracts for MCE. This is a considerable amount of revenue that our minority businesses could have benefited from.

Senate Bill 438 will alter the procedure for calculating the minimum dollar amount paid to MBE organizations. Only procurement contracts from Blind Industries and Services of Maryland and the Employment Work Program will be deducted from the total dollar value of procurement contracts for the purpose of calculating the MBE minimum goal. MCE procurement contracts will instead be included in the MBE minimum goal calculations.

I strongly urge a favorable report on Senate Bill 438.

Respectfully,

A handwritten signature in blue ink, appearing to read "Antonio L. Hayes".

Senator Antonio L. Hayes
40th Legislative District - MD

Testimony, EMS, SB 438.pdf

Uploaded by: DONNA STEVENSON

Position: FAV



Early Morning Software, Inc.
227 North Holliday Street
Baltimore, MD 21202

February 21, 2023

The Senate of Maryland
James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Subject: Senate Bill 438 and House Bill 743: Minority Business Enterprises – Calculation of Participation Rates – Procurements From Maryland Correctional Enterprises

Early Morning Software, Inc. (EMS) is writing a testimony in favor of SB0348 - HB0743 - Calculation of MBE Participation Rates for MCE Procurements. EMS is headquartered in Baltimore, Maryland and certified by Maryland Department of Transportation as Minority, Woman, and Disadvantaged Business Enterprise. Our company was certified in 1995. We have expanded our offerings and services from a regional IT company to a national software manufacturer developing PRISMCompliance.com, a comprehensive Minority Business Enterprise Program and Compliance Management Software. Our customers include state and local governments, inclusive of several MD Departments, that utilize the PRISMCompliance.com portal to facilitate equitable opportunities for MBEs, as well as track and measure the MBE participation on their contracts.

Minority Business Enterprises legislation and program policies are vital to create opportunities for MBEs and eliminate systemic barriers to contracting opportunities. If not for robust MBE laws and monitoring processes, MBEs would have access to contract opportunities. The subject Senate Bill and House Bill advances the purpose of the MBE program. By including the Maryland Correctional Enterprises expenditures and increasing the total annual procurements, effectively expands the consideration for MBE participation for departments seeking to reach the state's overall MBE goal of 29%.

For years, the state of Maryland excluded select categories procurements from MBE participation. As the awareness of MBE firms available to provide products and services, the state of Maryland expanded its MBE goals and quickly received more competitive and financially viable offerings for the State. The same opportunity exists with the adoption of this Bill.

The Governor's Office of Small, Minority and Woman Business Affairs, annually reports the MBE Participation Rates by Agency (See Table on next page). Most Maryland departments do not reach the state's overall MBE of 29%. As an expert consultant and solution provider to numerous governments across the country, EMS has witnessed the expansion of MBE's access to equitable procurement opportunities and increase of MBE participation from *INTENTIONAL* legislation and actions. Senate Bill 438 and House Bill 743 is *INTENTIONAL* and may yield the following benefits:

- Departments will examine and identify new procurement categories for MBE participation.
- Maryland's MBE will have more procurement opportunities which may be the catalyst to business growth, as it was tantamount to Early Morning Software's success.



Early Morning Software, Inc.
227 North Holliday Street
Baltimore, MD 21202

- Maryland MBEs will produce greater economic impact through increased tax and income revenues, and job creation which stimulates sales and property tax base.

Early Morning Software, Inc. strongly urges favorable support for Senate Bill 438 and House Bill 743.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Donna S. Stevenson'.

Donna S. Stevenson

President/CEO

Attachment



**Minority Business Enterprise Participation Rates, by Agency
Fiscal 2021**

| <u>Cabinet Agency</u> | <u>% Participation</u> |
|---|-------------------------------|
| Aging | 0.1% |
| Agriculture | 5.0% |
| Budget and Management | 1.0% |
| Commerce | 2.2% |
| Education | 4.4% |
| Environment | 33.4% |
| Executive Department | 2.2% |
| General Services | 15.3% |
| Health | 3.6% |
| Higher Education Commission | 0.7% |
| Housing and Community Development | 22.6% |
| Human Services | NA |
| Information Technology | 6.0% |
| Juvenile Services | 12.6% |
| Labor | 3.3% |
| Military | 1.4% |
| Natural Resources | 1.2% |
| Planning | 1.2% |
| State Police | 8.2% |
| Public Safety and Correctional Services | 33.3% |
| Transportation – Aviation Administration | 21.5% |
| Transportation – Motor Vehicle Administration | 32.8% |
| Transportation – Office of the Secretary | 28.20% |
| Transportation – Port Administration | 17.8% |
| Transportation – State Highway Administration | 24.5% |
| Transportation – Transit Administration | 23.9% |
| Transportation – Transportation Authority | 19.3% |
| Statewide Total¹ | 17.2% |

¹ Includes the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and non-Cabinet agencies.

NA: Not Available/Did Not Report

Source: Governor's Office of Small, Minority, and Women Business Affairs

SB0438_GOSBA_LOI (Updated).pdf

Uploaded by: Davon Gardner

Position: INFO



**GOVERNOR'S OFFICE OF
SMALL, MINORITY & WOMEN
BUSINESS AFFAIRS**

Governor Wes Moore

Lt. Governor Aruna Miller

February 22, 2023

The Honorable Senator Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Letter of Information – Senate Bill 438 – Minority Business Enterprises - Calculation of Participation Rates - Procurements from Maryland Correctional Enterprises

The Governor's Office of Small, Minority and Women Business Affairs (GOSBA) thanks the Committee for the opportunity to provide written testimony for Senate Bill 438 (SB 438). SB 438 requires a state procurement unit to include the dollar value of its contracts with Maryland Correctional Enterprises in the total dollar value of its procurements for the purpose of calculating the unit's Minority Business Enterprise (MBE) Program participation rate.

As drafted, SB 438 includes the dollar value of MCE contracts in the total dollar value of all awards, thus increasing the denominator used to calculate each agency's (and the State's) performance relative to the MBE goal. Units are required to use MCE as a preferred provider within the state's procurement process. This gives them a position of first right of refusal. As such, there is no open competition for services offered by MCE. Furthermore, these contracts are not evaluated for MBE inclusion during the procurement process.

In the 2013 legislative session, House Bill 48 (HB48) removed nonprofit organizations from the MBE Program expressly for the purpose of insuring that only small, for-profit businesses can perform in the MBE arena. As a result, awards to MCE, among others, are exempt from the calculation of total dollar value of all awards for the purpose of calculating MBE participation rates.

The bill has no effect on MCE sales as the procurement units will continue purchasing applicable goods and services as mandated.

The bill has no effect on the numerator (value of MBE awards). As a result, it lowers each agency's (and the State's) performance relative to the MBE goal.

GOSBA respectfully submits this letter of information for SB 438.

Respectfully,

A handwritten signature in blue ink that reads "Davon Gardner".

Davon K. Gardner
Director, Policy & Legislative Affairs
Governors' Office of Small, Minority and Women Business Affairs