

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1165 (Senator Waugh)
 Education, Health, and Environmental Affairs

Procurement – Veteran–Owned Small Business Enterprise Participation

This bill establishes that, for the purpose of determining whether a business is a veteran-owned small business (VSB) under State procurement law, a “veteran” is an individual who is verified by the Maryland Department of Veterans Affairs (MDVA) as having served on active duty in the armed forces of the United States. The bill also transfers authority for administering the State’s veteran-owned small business preference program from the Board of Public Works (BPW) to the Governor’s Office of Small, Minority, and Women Business Affairs (GOMA).

Fiscal Summary

State Effect: General fund expenditures increase by \$64,100 in FY 2019 for GOMA to administer the VSB preference program. Out-year expenditures reflect annualization and ongoing operating expenses. No effect on revenues.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	64,100	79,400	81,700	84,700	87,700
Net Effect	(\$64,100)	(\$79,400)	(\$81,700)	(\$84,700)	(\$87,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Unless the requirement is in conflict with any federal program, State agencies must structure their procurement procedures to try to achieve an overall minimum of 1% of their total procurement spending to be made directly or indirectly to VSBs.

Chapters 708 and 709 of 2017 defined a veteran as an individual who served on active duty in the armed forces of the United States, other than for training, and was discharged or released under conditions other than dishonorable. They also repealed a requirement that a VSB be certified as being owned by a veteran by the federal government. Instead, they defined a VSB as any business that meets federal standards for the size of small businesses and is at least 51% owned by one or more individuals who are veterans and who control the management and daily operations of the business. They specified that a person that willfully misrepresents a business as a VSB for the purpose of obtaining or retaining a contract or subcontract may be subject to (1) suspension or debarment or (2) civil penalties under the Maryland False Claims Act.

Background: Since 1950, a service member who performs active duty or completes at least 90 consecutive days of active duty training receives a Report of Separation from the armed services on a federal DD-214 form. The DD-214 includes information about the period of service, including date and place of entry into service, date and place of release from duty, last duty assignment and rank, and the reason for separation from service.

Chapter 119 of 2016 transferred authority to administer the State's Small Business Reserve (SBR) program from the Department of General Services to GOMA, which already administers the State's Minority Business Enterprise (MBE) program (except for the certification of MBEs).

State Expenditures: MDVA advises that it will review DD-214s for any individual claiming to be a veteran who owns a VSB, and that it can do so with existing resources.

BPW never had dedicated staff to administer the VSB program; instead, it incorporated its oversight and reporting responsibilities into other procurement-related reporting and oversight functions by the Procurement Advisor. Therefore, transferring the VSB program from BPW to GOMA has no practical effect on BPW expenditures.

However, as GOMA's staffing capacity has been stretched thin with the addition of the SBR program and other procurement-related responsibilities, the addition of another procurement preference program to GOMA's portfolio requires one staff person to track participation, report on the application of the VSB preference in State procurement, and otherwise manage the VSB preference program. Therefore, general fund expenditures increase by \$64,141 in fiscal 2019, which accounts for the bill's October 1, 2018 effective

date. This estimate reflects the cost of hiring one compliance manager to oversee the VSB preference program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$58,782
Operating Expenses	<u>5,359</u>
Total FY 2019 State Expenditures	\$64,141

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: HB 1760 (Delegate Carozza, *et al.*) - Health and Government Operations.

Information Source(s): Governor's Office of Small, Minority, and Women Business Affairs; Department of General Services; U.S. Archives; Maryland Department of Transportation; Maryland Department of Veterans Affairs; Department of Legislative Services

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