



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 19, 2020

Chair Dereck Davis
Economic Matters Committee

Vice Chair Kathleen Dumais
Economic Matters Committee

I am writing to you regarding a major discrepancy in fiscal analysis of HB204 due to a misunderstanding of the intent of the bill by the drafter of the fiscal notes.

The fiscal notes as drafted interpreted the bill as applicable to all DBEs registered in the state. It assumes about 20% of Maryland businesses pay the \$300 annual filing fee (based on the business type breakdown in Exhibit 1). **Based on more accurate information from MDOT and the US Department of Veterans Affairs, I project a \$259,078 net fiscal impact in FY2022. Fiscal impact likely to rise as more DBE and VOSBE eligible businesses see the exemption and utilize it to establish businesses more frequently.**

Legislative Services Fiscal Note

The fiscal summary provided by the Department of Legislative Services projects a \$3.6 million net loss in FY2021, \$2.2 million loss in FY2022, and \$2.2 million loss in FY2023. Future fiscal impacts depend on the number of businesses qualifying for the exemption.

(\$ in millions)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	\$0	(\$2.0)	(\$2.0)	(-)	(-)
SF Revenue	(\$3.5)	\$0	\$0	\$0	\$0
SF Expenditure	\$0.1	\$0.2	\$0.2	\$0.2	\$0.2
Net Effect	(\$3.6)	(\$2.2)	(\$2.2)	(\$0.2)	(\$0.2)

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

Increases in Special Fund expenditures (\$149,578 annually in combined salary and operational costs) are estimated from the creation of three new positions within SDAT: Two Charter Specialists and one Office Services Clerk. The losses in revenue from the General and Special Funds displayed above are products of businesses paying the \$300 filing fee per DBE or Veteran Owned Business that becomes exempt. These calculations were performed based on the

assumptions below.

- 6,800 DBE entities in Maryland;
- 51,000 veteran-owned businesses in Maryland;
- 20% of business entities pay the \$300 corporate filing fee; and
- beginning in fiscal 2022, 40% of business entities that pay the \$300 corporate filing fee would be exempt under current law (Chapters 323 and 324 of 2016).

The “20% of business entities pay the \$300 corporate filing fee” assumption comes from Exhibit 1 below and an unspecified report that estimates the breakdown of types of Maryland companies. The fiscal note assumes that 20% of Maryland companies have to pay \$300 annually and this assumption was transferred to DBEs. The FY2022 40% projection is a forecast of the Maryland Small Business Retirement Plan impact on filing fee exemption. This assumption says that 40% of businesses currently paying the fee will be exempt in 2022. Therefore, the calculations only account for 60% of business filing fees and that is reflected in the decrease from \$3.5 million to \$2.0 million Fund revenue loss in FY2022.

Exhibit 1 Annual Reporting Fee Requirement

<u>Business Entity</u>	<u>Fee</u>	<u>Business Entity</u>	<u>Fee</u>
Stock Corp	\$300	Domestic Statutory Trust	\$300
NonStock Corp	0	Foreign Statutory Trust	300
Foreign Insurance Corp	300	Real Estate Investment Trust	300
Foreign Interstate Corp	0	Certified Family Farm	100
Limited Liability Company	300	Sole Proprietorship	0
Limited Liability Partnership	300	General Partnership	0
Limited Partnership	300	Amended Return	0

In FY2021,

6,800 DBEs x .2 = 1,360 DBEs paying the filing fee that would now be exempt.

1,360 x 300 = \$408,000

51,000 VOBs x .2 = 10,200 VOBs paying the filing fee that would now be exempt.

10,200 x 300 = \$3,060,000

\$408,000 + \$3,060,000 = \$3,468,000

In FY2022,

1,360 + 10,200 = 11,560 DBEs and VOBs paying the filing fee that would now be exempt.

11,560 x .6 = 6,936 DBEs and VOBs that are not eligible for the Maryland Small Business Retirement Plan.

6,936 x 300 = \$2,080,000

In FY2023,

$1,360 + 10,200 = 11,560$ DBEs and VOBs paying the filing fee that would now be exempt.
 $11,560 \times .6 = 6,936$ DBEs and VOBs that are not eligible for the Maryland Small Business Retirement Plan.

$6,936 \times 300 = \$2,080,000$

Fiscal Note Reevaluation

The Legislative Services Fiscal Note made several errors in the assumptions of the HB204 fiscal summary. Primarily, the analysis misinterprets the effect date (FY2022) of the DBE filing fee exemption for the effect date (1 October 2020) of *Section 2*, the requirement that SDAT explore ways to make Maryland's filing fee practice competitive with other states. This results in an inaccurate Special Fund revenue loss of \$3.5 million in FY2021.

Additionally, the \$3.5 million fiscal impact is severely inflated and based on faulty information. While there are around 6,800 DBEs in Maryland, this bill only applies to those that are created after it goes into effect in FY2022 and then only applies for the first 3 years of the DBE's existence.

51,000 Veteran Owned Businesses was pulled from an unspecified national report estimating the number of VOBs in each state. The Montgomery County Economic Development Council states there are 54,409 VOBs in Maryland. Both of these numbers are representing Veteran Owned Businesses and not Veteran Owned Small Businesses—to which this bill applies. The fiscal note does state that eMMA (the system that VOBs use to self-register in Maryland) has been recently overhauled and therefore cannot currently provide an accurate number of VOSBEs.

My understanding from the discussion with the fiscal note author is the 20% assumption is a transferred percentage from the total Maryland companies that must pay the \$300 filing fee (sole proprietorships, general partnerships, etc. are excluded (Exhibit 1)). This 20% was carried over to DBEs as a guess to the breakdown of types of DBE businesses in Maryland.

MDOT maintains a database of all DBEs, MBEs, and SBEs. After filtering out SBE only and MBE only businesses, there are approximately 6,800 entities in Maryland with at least DBE certification. One of the subset databases is for businesses with less than a year of certification. **There are 565 DBEs currently in Maryland that have had active certification for less than a year.**

The US Department of Veteran Affairs maintains a database for Veteran Owned Small Businesses nationwide. I filtered for VOSBEs that are based in Maryland and excluded any MBEs or Woman Owned Small Businesses in an effort to not double count any DBEs already accounted for in the previous 565. There are 520 VOSBEs in Maryland according to the VA. Furthermore, I took the percentage of Maryland DBEs that are less than a year old (565/6800 or 8%) and applied that to the 520 VOSBEs. **There are approximately 43 VOSBEs in Maryland that are less than a year old.**

Based on these updated numbers, I have developed a more realistic fiscal note for HB204:

In FY2021,

\$149,578 in staff and operational expenditures

In FY2022 projected,

565 + 43 = 608 DBEs and VOSBEs that would have certifications created after the bill takes effect.

608 x .6 = 365 DBEs and VOSBEs that would not qualify for exemption under the Maryland Small Business Retirement Program filing fee exemption.

365 x 300 = **\$109,500**

149,578 + 109,500 = **\$259,078**

2020 HB204: Disadvantaged Business Enterprises and Veteran-Owned Small Business Enterprises—Filing Fee Exemption Study

Current law requires registered business enterprises in Maryland pay a \$300 business filing fee to the State Department of Assessments and Taxation (SDAT) annually. HB204 waives the filing fee for the first three years a company is federally recognized as a Disadvantaged Business Enterprise (DBE) or a veteran-owned small business enterprise (VOSBE) starting in FY2022.

[Additionally, HB204 tasks SDAT with evaluating filing fees in other states to make recommendations before 2021 to the General Assembly on how to make Maryland more competitive.](#)

Questions

- **Who is eligible for DBE certification?**

African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other groups are evaluated on a case-by-case basis.

- **What are the requirements for DBE certification?**

Entity owned and controlled at least 51% by a disadvantaged individual. Economically disadvantaged is determined by a net worth less than \$1.32 million. To be considered a small business, average annual gross receipts (total amount received per year) may not exceed \$23.98 million.

- **How does a company register for DBE certification?**

The company fills out a Uniform Certification Application administered by the US Department of Transportation and submits it to the company's home state Department of Transportation (MDOT).

- **Does a DBE have to recertify annually?**

A DBE must submit a no change affidavit and documents proving no change to MDOT on or before the certification anniversary.

- **What are other states' business filing fees?**

Delaware also has \$300 annual filing fee but has a host of business incentives to lighten load. DC charges \$300 biannually. New Jersey businesses pay \$50 annually. Pennsylvania companies only pay \$70 every 10 years. Virginia businesses are not required to file annually but pay a \$50 registration fee. West Virginia charges \$25 annually.

State	Filing Fees
Maryland	\$300 every year
Delaware	\$300 every year (tax incentives)
Washington DC	\$300 every 2 years
Virginia	\$50 registration fee, no annual renewal
New Jersey	\$50 every year
Pennsylvania	\$70 every 10 years
West Virginia	\$25 every year

- **What benefits do DBEs receive?**

State agencies set goals to achieve DBE contract participation. MDOT agencies have goals between 26 and 32% as DBE certified small businesses.

- **How many DBEs are currently registered in Maryland?**

There are over 2,000 DBEs in Maryland.