



## State of Maryland - 2011 MBE Legislation

### MBE PROGRAM REAUTHORIZATION

**Senate Bill 120/House Bill 456**  
**Procurement - Minority Business Participation**  
**(Effective July 1, 2011)**

The State's law that authorizes implementation of Maryland's MBE Program operates on a 5-year sunset expiring on July 1, 2011. After receipt of the February 17, 2011 Disparity Study, the general assembly enacted legislation to continue the MBE Program.

The 2011 MBE Legislation:

**Extends the MBE program for 1 year and maintains the current 25% statewide goal**, which ensures the continuation of Maryland's MBE program while providing sufficient time to review the recent disparity study (completed on February 17, 2011) and propose additional changes that may be required.

**Eliminates statutory subgoals and authorizes the Governor's Office of Minority Affairs (GOMA) to issue guidance for setting subgoals** in a manner that complies with the laws affecting federal/state race conscious MBE programs.

**Increases Transparency for the Good Faith Waiver Process**, which provides clarity regarding how, when and why waivers are granted by requiring that all final waiver determinations be made in writing and reported to GOMA and the Board of Public Works.

**Clarifies Process for Setting Contract Goals** by explicitly stating that MBE contract goals must be set on a case by case basis and must be tailored to the individual circumstances of each contract and the availability of MBEs to perform on those contracts.

**Institutes Control Contracts** requiring the Board of Public Works and GOMA to identify a small number of contracts to be issued without goals so that the State may assess the levels of MBE participation occurring in the absence of contract goals.

**Ensures that MBEs are not used as "Passthroughs"** by requiring that the Board of Public Works issue regulations to clarify that MBEs must serve a commercially useful function.

Senate / House Bill No.	TITLE & SUMMARY
<b>SB 558</b>	<p><b>Minority Business Enterprise Program - Amendments to MBE Participation Schedule and Extension of Task Force</b></p> <p>This Bill requires a bidder/offeror on a state procurement contract to submit a written request to amend MBE participation schedules submitted with the bid/offer, if a listed MBE has become or will become unavailable, or is ineligible to perform the work required by the contract. The request must indicate the bidder's/offeror's efforts to substitute another certified MBE to perform the work that the unavailable/ineligible MBE would have performed. Such requests must be approved by the procurement officer after consultation with the MBE liaison. After the contract has been executed, a MBE participation schedule may only be amended upon approval by the agency head and upon amending the contract.</p> <p>The Bill also extends the termination date of the <i>Task Force on The MBE Program and Equity Investment Capital</i> to May 31, 2012. The Task Force is required to submit a report of its recommendations and drafts of proposed legislation for the 2012 Legislative Session to the Governor, on or before December 1, 2011.</p> <p>(Effective July 1, 2011)</p>
<b>SB 638</b>  <b>HB 1209</b>	<p><b>Video Lottery Terminal Applicants and Licensees - Minority Business Participation - Modifications and Sunset Extension</b></p> <p>This Bill extends the sunset date for monitoring MBE participation and efforts on the construction and procurement related to the operation of video lottery terminals from July 1, 2011 to July 1, 2018.</p> <p>(Effective June 1, 2011)</p>
<b>SB 834</b>  <b>HB 914</b>	<p><b>Minority Business Enterprise Participation - Application for Certification as a Minority Business Enterprise and Termination Extension</b></p> <p>This Bill requires that the MDOT grant decisions on completed certification applications within 90 days of submission. A completed application is defined applications that are completed on the form provided by the agency, along with any required supporting documentation that is listed on the form.</p> <p>(Effective July 1, 2011)</p>

To review Bills in their entirety, visit the Maryland General Assembly website and enter the bill number under Bill Information and Status at: <http://mlis.state.md.us/#bill>.