

COMMITTEE INFORMATION REGARDING COUNCIL MEMBER MEL FRANKLIN'S BILLS FOR THE SEPTEMBER 27, 2022 COW MEETING

CB-101-2022 seeks to policies to expand opportunities in county government contracting for local, small, and minority-owned businesses by (1) strengthening race-neutral policies in county procurement and (2) updating and strengthening the race-conscious goals of the County's MBE program. After some negotiation with the Administration, Council Member Franklin, one of the two proposers of the bill, along with Council Chair Hawkins, has provided a Draft 2 of CB-101-2022. The highlighted sections of Draft 2 show the changes between the two versions. Some of the new policies within CB-101-2022 Draft 2 include requiring at least 50% of contracting dollars in county procurement above \$500,000 in value to be spent with County-based small businesses, Locally-owned and operated businesses, and/or County-based minority business enterprises, a proposal unchanged from Draft 1, and relaxing bonding requirements for small and locally-owned county-based businesses. The bonding provisions and thresholds were increased between Draft 1 and Draft 2 to address Administration concerns about procurement risk to the County, however, the Draft 2 provisions would still provide local firms a more favorable bonding environment than they face today. CB-101 also adds more transparency around the waiver process. Draft 2 provides quarterly notification to the Council of waivers granted in the previous quarter from any of the supplier diversity requirements. Responding to Administration concerns, the Council approval process for large projects in Draft 1 was removed in favor of the quarterly notification provision for all waivers in Draft 2. CB-101-2022 does require the Purchasing Agent to consider whether a mentor-protégé program requirement should be added to the procurement during the process of granting a waiver, which was unchanged from Draft 1. CB-101-2022 Draft 2 also authorizes the Purchasing Agent to require a mentor-protégé program requirement in any procurement, another provision unchanged from Draft 1. Additionally, CB-101-2022 strengthens the County's MBE program by utilizing the findings of the 2019 Disparity Study. A disparity study is the legal predicate for a race conscious MBE program. CB-101-2022 establishes recommended MBE goals and MBE subgoals based on the findings of disparities for racial and ethnic groups, but Draft 2 establishes a process of contract by contract review by the Purchasing Agent in order to determine if such goals are appropriate or achievable. This case by case process is designed to satisfy the legal requirement that any race conscious program be narrowly tailored to address the identified disparities. Draft 2 also clarifies that proprietary information technology products and services, like proprietary software licenses, would not be subject to CB-101-2022's provisions. And finally, Draft 2 has a modified effective date of February 1, 2023 to give more time for administrative adjustment and training.

CB-102-2022 updates the County's largely defunct first source and local hiring program established in CB-17-2011 by amending the law to replace the administering agency, the Workforce Services Division of the Economic Development Corporation, which technically no longer exists within the EDC, with its modern successor, Employ Prince George's. CB-102-2022 also narrows the application of the law to large projects, those \$5 million in value or more and thus more likely to have significant opportunities for local employment. This change is also to address concerns that the original program was never successfully implemented because it applied to too many smaller projects, making it unmanageable. Council Member Franklin, one of the bills co-proposers with Council Chair Hawkins, has offered a Draft 2 which modifies Draft 1's effective date, making it February 1, 2023 and includes consultation with Employ Prince George's in the waiver process.