
By: Delegate Busch (Co-Chairman, Joint Committee on State Economic Development Initiatives)

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Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 20, 1996

CHAPTER _____

1 AN ACT concerning

2 **Economic Development Opportunities Program Fund**

3 FOR the purpose of expanding the Department of Business and Economic
4 Development's annual report to the Governor and the General Assembly
5 concerning the Economic Development Opportunities Program Fund to include
6 certain information about approved Fund projects; providing that the Economic
7 Development Opportunities Program Fund may be used only when certain
8 performance requirements are negotiated with and agreed to by a Fund recipient;
9 requiring the Governor to provide certain information about a proposed Economic
10 Development Opportunities Program Fund project to the Legislative Policy
11 Committee prior to Legislative Policy Committee approval of a funds transfer to an
12 executive agency; providing that funds transferred to an executive agency from the
13 Economic Development Opportunities Program Fund will revert back to the Fund
14 under certain circumstances; allowing the Governor to resubmit a request for a
15 funds transfer for any funds that have reverted back to the Economic Development
16 Opportunities Program Fund; defining a certain term; and generally relating to the
17 Economic Development Opportunities Program Fund.

18 BY repealing and reenacting, with amendments,
19 Article - State Finance and Procurement
20 Section 7-314
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1995 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - State Finance and Procurement**

2 7-314.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Fund" means the Economic Development Opportunities Program
5 Fund.

6 (3) (I) "PERFORMANCE REQUIREMENT" MEANS A CONTRACTUAL
7 AGREEMENT BETWEEN AN EXECUTIVE AGENCY AND A FUND RECIPIENT THAT
8 REQUIRES THE FUND RECIPIENT TO MEET MINIMUM ECONOMIC DEVELOPMENT
9 OUTCOMES IN EXCHANGE FOR A GRANT OR A LOAN UNDER THIS SECTION.

10 (II) "PERFORMANCE REQUIREMENT" INCLUDES CLAW-BACK,
11 PENALTY, RECISION, AND RECALIBRATION CLAUSES THAT UTILIZE JOB CREATION,
12 CAPITAL INVESTMENT, AND OTHER MEASURES OF ECONOMIC DEVELOPMENT.

13 [(3)] (4) "Private sector enterprise" means any commercial, industrial,
14 educational, or research organization which is not a part of or controlled by a federal,
15 State, or local government agency.

16 [(4)] (5) "Executive agency" means an executive department or agency in
17 the Executive Branch of State government, including all offices of the Executive
18 Department or agency directly responsible to the Governor.

19 (b) Subject to the provisions of this section, the Economic Development
20 Opportunities Program Fund is established to maximize extraordinary economic
21 development opportunities.

22 (c) The Governor may provide an appropriation in the budget bill to the Fund for
23 a specific or general purpose or purposes.

24 (d) After notice to and approval by the Legislative Policy Committee, the
25 Governor may transfer funds by budget amendment from the Economic Development
26 Opportunities Program Fund to the expenditure account of the appropriate executive
27 agency.

28 (e) (1) The Fund is a continuing, nonlapsing fund which is not subject to §
29 7-302 of this subtitle.

30 (2) The Treasurer shall separately hold, and the Comptroller shall account
31 for, the Fund.

32 (3) The Fund shall be invested and reinvested in the same manner as other
33 State funds.

34 (4) Except as provided in paragraph (5) of this subsection, any investment
35 earnings shall be subject to § 7-311(d) of this subtitle.

36 (5) Any investment earnings on moneys transferred from the Fund to a
37 second continuing, nonlapsing fund may be retained to the credit of this second fund.

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1 (f) (1) Moneys appropriated or credited to the Fund do not revert to the
2 Revenue Stabilization Account.

3 (2) Except as provided in paragraph (3) of this subsection, repayments of
4 principal or interest on any loan from the Fund, as provided in subsection (h) of this
5 section, shall be retained to the credit of the Fund.

6 (3) Repayments of principal or interest on any loan made from moneys
7 transferred from the Fund to a second continuing, nonlapsing fund may be retained to the
8 credit of the second fund.

9 (g) (1) The Department of Business and Economic Development shall report to
10 the Governor and, subject to § 2-1312 of the State Government Article, to the General
11 Assembly before January 1 of each year:

12 (I) the financial status of the program and a summary of its operations
13 for the preceding fiscal year;

14 (II) FOR THE PREVIOUS 3 FISCAL YEARS, THE STATUS OF FUND
15 DISBURSEMENTS FOR ECONOMIC DEVELOPMENT PROJECTS APPROVED BY THE
16 LEGISLATIVE POLICY COMMITTEE UNDER THIS SECTION; AND

17 (III) FOR THE PREVIOUS 3 FISCAL YEARS, THE STATUS OF JOB
18 CREATION, CAPITAL INVESTMENT, AND OTHER MEASURES OF ECONOMIC
19 DEVELOPMENT FOR EACH ECONOMIC DEVELOPMENT PROJECT APPROVED BY THE
20 LEGISLATIVE POLICY COMMITTEE UNDER THIS SECTION.

21 (2) IF THE JOB CREATION, CAPITAL INVESTMENT, AND OTHER
22 MEASURES OF ECONOMIC DEVELOPMENT DESCRIBED IN PARAGRAPH (2) OF THIS
23 SUBSECTION ARE LOWER THAN NEGOTIATED ACCORDING TO SUBSECTION (H)(1) OF
24 THIS SECTION, THE REPORT SHALL CONTAIN AN EXPLANATION.

25 (h) Any funds transferred from the Economic Development Opportunities
26 Program Fund shall be used only for extraordinary economic development opportunities
27 that:

28 (1) meet the criteria provided in this section; AND

29 (2) INCLUDE PERFORMANCE REQUIREMENTS.

30 (i) Subject to the provisions of this subtitle, funds transferred from the Economic
31 Development Opportunities Program Fund, to an executive agency, may be loaned or
32 granted for:

33 (1) assisting in the retention or expansion of existing private sector
34 enterprises, public or private institutions, or federal research and development institutes;

35 (2) assisting in the establishment or attraction of private sector enterprises,
36 public or private institutions, or federal research and development institutes new to this
37 State; or

38 (3) providing assistance where existing State or local programs lack
39 sufficient resources or are constrained by timing or program design from being utilized.

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1 (j) Upon request for approval for the transfer of funds by budget amendment
2 from the Fund, the Governor shall provide, subject to § 2-1312 of the State Government
3 Article, to the Legislative Policy Committee:

4 (1) a detailed description of:

5 (i) the proposed use of the funds;

6 (ii) the manner in which the proposed use meets the criteria as set
7 forth in this section;

8 (iii) the degree to which the proposed use of funds will advance
9 statewide or local economic development strategies and objectives; and

10 (iv) the degree to which available sources of federal, State, local, and
11 private financial support has been sought and will be utilized;

12 (2) the [terms and conditions] TERMS, CONDITIONS, AND
13 PERFORMANCE REQUIREMENTS of any grant or loan for which the funds are to be used;

14 (3) a comprehensive economic analysis of the proposed use of the funds
15 which estimates:

16 (i) the economic impact to the State and the local jurisdictions
17 affected;

18 (ii) a minimum level of net economic benefits to the public sector; and

19 (iii) any other appropriate financial or economic benefits; [and]

20 (4) any other analysis or information that is requested by the Legislative
21 Policy Committee; AND

22 (5) THE DATE ON WHICH THE EXECUTIVE AGENCY EXPECTS TO
23 DISBURSE THE FUNDS TO THE PROPOSED RECIPIENT.

24 (K) IF AN EXECUTIVE AGENCY FAILS TO DISBURSE TRANSFERRED FUNDS TO
25 A RECIPIENT WITHIN 1 YEAR AFTER THE EXPECTED DISBURSEMENT DATE
26 PRESENTED TO THE LEGISLATIVE POLICY COMMITTEE UNDER SUBSECTION (J) OF
27 THIS SECTION, THE FUNDS WILL REVERT BACK TO THE FUND AND THE GOVERNOR
28 SHALL:

29 (1) RESUBMIT THE REQUEST TO THE LEGISLATIVE POLICY COMMITTEE
30 TO TRANSFER FUNDS BY BUDGET AMENDMENT TO THE FUND; AND

31 (2) PROVIDE THE LEGISLATIVE POLICY COMMITTEE WITH THE
32 INFORMATION REQUIRED UNDER SUBSECTION (J) OF THIS SECTION.

33 [(k)] (L) Funds appropriated to the Economic Development Opportunities
34 Program Fund may not be loaned or granted for:

35 (1) substituting for funds from other State or local programs for which a
36 project may be eligible and sufficient resources exist;

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1 (2) projects which are not likely to attract or retain employment
2 opportunities;

3 (3) funding projects located outside the State;

4 (4) construction or land acquisition by the Maryland Stadium Authority; or

5 (5) funding for any sports activity or facility.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1996.