HB 620

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 620 (Delegate Frick)
Ways and Means Budget and Taxation

Tax Credit Evaluation Act

This bill establishes a process for evaluating State tax credits. The bill provides for a legislative committee evaluation process in consultation with the Comptroller's Office, the Department of Budget and Management (DBM), and the Department of Legislative Services (DLS). The bill requires that specified tax credits must be reestablished by law before the evaluation dates established by the bill or the credits will terminate. The tax credit evaluation dates are staggered over a four-year period from July 1, 2012, through July 1, 2015.

The bill takes effect July 1, 2012, except for certain provisions regarding various tax credits that take effect July 1, 2011.

Fiscal Summary

State Effect: General fund expenditures increase by $293,700 in FY 2012 due to implementation costs at DLS. Future years reflect annualization, inflation, and ongoing costs. Revenues will be affected to the extent that tax credits are altered or terminated and cannot be estimated at this time.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	$0	$0	$0	$0	$0
GF Expenditure	293,700	297,900	305,100	312,600	320,400
Net Effect	($293,700)	($297,900)	($305,100)	($312,600)	($320,400)

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

Local Effect: Local highway user revenues may be impacted as a result of a change in the amount of tax credits claimed against the corporate tax. Local expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: This bill establishes a legislative process for evaluating tax credits. The bill provides that various existing tax expenditures will terminate unless renewed under a legislative process established by the bill. The evaluation process is conducted by a legislative evaluation committee and must be done in consultation with the Comptroller's Office, DBM, and DLS. The committee is appointed jointly by the President of the Senate and the Speaker of the House and must include at least one member of the Senate Budget and Taxation Committee and one member of the House Ways and Means Committee.

The following credits are required to be reviewed by the date indicated:

- *July 1, 2012:* (1) enterprise zone; (2) taxes paid to another state; (3) installment sales; (4) earned income; (5) Maryland-mined coal; (6) job creation; (7) sustainable communities; and (8) neighborhood and community assistance contributions.
- *July 1, 2013:* (1) qualified employees with disabilities; (2) long-term employment of ex-felons; (3) businesses that create new jobs; (4) certain residential real estate property; (5) telecommunication business property; (6) poverty level; and (7) employer-provided long-term care insurance.
- *July 1, 2014:* (1) work-based learning program; (2) one Maryland economic development; (3) employee commuter benefits; (4) child and dependent care expenses; (5) quality teacher incentive; (6) long-term care insurance; and (7) clean energy incentive.
- *July 1, 2015:* (1) research and development; (2) green buildings; (3) preservation and conservation easements; (4) aquaculture oyster floats; (5) biotechnology investment; (6) cellulosic ethanol technology; and (7) bio-heating oil.

By June 30 of the year prior to a tax credit's evaluation date, the evaluation committee is required to meet with the Comptroller's Office, DBM, and DLS to prepare a plan for evaluation. By October 31 of the same year, DLS is required to publish a report evaluating the tax expenditure. The report submitted by DLS must discuss (1) the purpose for which the tax expenditure was established; (2) whether the original intent of the tax expenditure is still appropriate; (3) whether the tax expenditure is meeting its objectives; (4) whether the goals of the tax expenditure could be more effectively carried out by other means; (5) the cost of the tax expenditure to the State and local governments; and (6) the number of beneficiaries of the tax credit and the distribution of the tax benefits by income class. By December 14 of the same year, the evaluation committee must hold a public hearing on the evaluation report.

By the twentieth day of the legislative session before the evaluation date of a tax credit, the committee is required to submit a report to the General Assembly that states whether or not the tax expenditure should be reestablished (including any alterations) or allowed to terminate.

A tax credit that is not renewed by an act of law before its evaluation date will terminate. If a credit is renewed, it will expire in five years unless specified otherwise in the law reestablishing the tax credit.

Current Law: Tax credits do not currently terminate through review by a legislative committee. Reporting requirements for State agencies vary by tax credit.

Background: Approximately 70 regulatory entities and activities are currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process, known as "sunset review," as most entities evaluated are also subject to termination. The sunset review process begins with a preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC). LPC then decides whether to waive an entity from further (or full) evaluation. If waived, legislation to reauthorize the entity is typically enacted. Otherwise, a full evaluation is usually undertaken the following year. The evaluation year is typically one year before the termination date of the regulatory entity.

Although the reduction in State revenues from tax credits are generally incorporated in the State budget, most tax credits are not subject to an annual appropriation required for other State programs. Tax credits that are subject to an annual appropriation in the budget include the biotechnology investment and sustainable communities credits, and State reimbursement for one-half of the local property tax revenue losses under the enterprise zone tax credit program. Reporting information for State tax credits varies. Under certain tax credit programs, agencies are required to publish specified information about the credit on an annual basis. The State Department of Assessments and Taxation reports information annually on State property tax expenditures. DBM is required to prepare every other year a statement of the estimated amount by which exemptions from all types of State taxation reduces revenues.

The federal Joint Committee on Taxation (JCT) publishes annually an estimate of the cost to the federal government from special income tax provisions. JCT notes that these provisions are referred to as tax expenditures because they may be considered analogous to direct outlay programs, and the two can be considered as alternative means of accomplishing similar budget objectives. According to JCT, tax expenditure analysis can help both policymakers and the public to understand the actual size of government, the uses for government resources, and the tax and economic policy consequences that follow from the implicit or explicit choices made in fashioning legislation.

State Fiscal Effect: General fund expenditures increase by $293,700 in fiscal 2012, which reflects a hiring date of July 1, 2011, for two full-time tax analysts in DLS and additional annual contracting costs for part-time employees and payments to consultants. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	$90,085
Equipment/Operating Expenses	203,620
FY 2012 DLS Expenditures	**$293,705**

Future year expenditures reflect a part-time salary with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

The Comptroller's Office and DBM report that it can handle any additional workload generated by the bill with existing budgeted resources.

Small Business Effect: Small businesses qualify for many of the tax credits specified by the bill. These small businesses will be impacted to the extent that tax credits are altered or terminated.

Additional Information

Prior Introductions: HB 998 of 2006, a similar bill, received a hearing in the House Ways and Means Committee but was subsequently withdrawn.

Cross File: None.

Information Source(s): Department of Budget and Management, Comptroller's Office, Joint Committee on Taxation, Department of Legislative Services

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