

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1315
Economic Matters

(Delegates Clagett and Zucker)

Finance

Economic Development Programs - Data Collection and Tracking (Maryland Jobs Development Act)

This bill requires the Department of Business and Economic Development (DBED) to compile data and report annually on specified economic development programs administered by the department. If a recipient of assistance from an economic development program is not meeting the requirements of the program, DBED must implement a process to assist the recipient in meeting the requirements.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: DBED can handle the bill's requirements with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By December 31, 2013, and annually thereafter, DBED must report to the Governor and the General Assembly on economic development programs administered by the department during the previous fiscal year. The report must include specified jobs and revenue data, if applicable, and be disaggregated by each program and each recipient of assistance from a program.

“Economic development program” means (1) each of the economic and financial assistance programs established under Title 5 of the Economic Development Article and (2) each of the tax credit programs administered by DBED, including the:

- Film Production Activity Tax Credit;
- Job Creation Tax Credit;
- One Maryland Economic Development Tax Credit;
- Invest Maryland Program;
- Biotechnology Investment Incentive Tax Credit; and
- Research and Development Tax Credit.

Current Law/Background: DBED administers many economic and financial assistance programs under Title 5 of the Economic Development Article. They include the following programs.

- *Maryland Economic Adjustment Fund:* makes loans to new or existing companies in communities suffering dislocation due to defense adjustments and is intended to serve small and minority businesses that are unable to qualify for loans from traditional sources.
- *Maryland Economic Development Assistance Authority and Fund:* provides below-market, fixed-rate financing in the form of loans, grants, conditional loans, conditional grants, and direct investment to local jurisdictions and businesses.
- *Maryland Industrial Development Financing Authority:* issues bonds and provides credit enhancements that increase access to capital for small and medium-sized businesses.
- *Maryland Small Business Development Financing Authority:* provides financial assistance to eligible businesses in the form of direct loans and loan guarantees and assists eligible small businesses in obtaining bid, performance, or payment bonds necessary to perform on certain contracts.
- *Military Personnel and Service-Disabled Veterans No-Interest Loan Program:* makes loans to provide financial support for military personnel, service-disabled veterans, and the businesses that employ them.
- *BRAC Revitalization and Incentive Zone Program:* provides funds for infrastructure improvements in designated Base Realignment and Closure (BRAC) zones.

The Maryland Enterprise Zone Program is established under Title 5 of the Economic Development Article. The program is a joint effort between the State and local governments to provide tax incentives to businesses and property owners located in economically distressed communities.

In addition, DBED administers various tax credit programs. DBED currently prepares an annual report for the tax credit programs listed in the bill, which are discussed in further detail below.

Film Production Activity Tax Credit

Chapter 516 of 2011 (SB 672) converted an existing Film Production Rebate Program to a tax credit. A qualified film production entity that meets specified requirements and is approved by DBED may receive a tax credit equal to 25% of qualified film production costs incurred in the State. For a television series, the value of the credit is increased to 27%. DBED can award a maximum of \$7.5 million in credits each fiscal year from fiscal 2012 through 2014. The credit terminates July 1, 2014, and DBED may not issue a tax credit certificate for any fiscal year after fiscal 2014.

Job Creation Tax Credit

Businesses that expand or establish a facility in Maryland resulting in the creation of at least 60 new jobs within a two-year period may be eligible to claim the job creation tax credit. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 150% of the federal minimum wage. The value of the credit depends on the number of jobs created, the wages of those jobs in the year the credit is claimed, and whether the jobs were created in a revitalization area. The total credit claimed cannot exceed \$1 million for any one business.

One Maryland Economic Development Credit

Businesses that establish or expand a business facility in a priority funding area or as part of a project approved by the Board of Public Works and are located in a “distressed” Maryland county may be entitled to a tax credit for costs related to the new or expanded facility. The credit for start-up costs is the lesser of 100% of eligible start-up costs (up to \$500,000), less any credits taken in prior years, or \$10,000 multiplied by the number of employees that have filled the newly created, qualified positions. The credit for project costs is the lesser of 100% of eligible project costs (up to \$5 million), less any credits taken in prior years, or the State income tax liability for the taxable year from the project. An expanded credit is available if the created positions are paid 250% or more of the minimum wage.

Invest Maryland Program

Chapter 409 of 2011 (HB 173) established the Invest Maryland Program, a State-supported venture capital program, and increased funding for the Enterprise Fund and Maryland Small Business Development Financing Authority (MSBDF) within DBED. Funding is provided through tax credits against the insurance premium tax for insurance companies that make qualified contributions to the program. The Maryland Venture Fund Authority (MVFA) solicits cash (designated capital) from insurance companies through a competitive process overseen by an independent third party.

In exchange for the cash received from the insurance companies, DBED provides insurance companies with tax credits that can be used to offset insurance premium taxes over a five-year period. DBED can award a maximum of \$100.0 million in tax credits, which can be claimed beginning in tax year 2014. The cash or designated capital received from insurance companies is to be deposited into the Enterprise Fund within DBED in three annual installments, with the first installment made in 2012. Of the auction proceeds, 24.75% will be retained by the Enterprise Fund, 67.0% will be distributed to eligible private venture firms, and 8.25% will be distributed to MSBDF.

Biotechnology Investment Incentive Tax Credit

Chapter 99 of 2005 (HB 664) established the biotechnology investment tax credit. An investor who invests at least \$25,000 in a qualified Maryland biotechnology company can claim a credit equal to 50% of the investment, not to exceed \$250,000.

Research and Development Tax Credit

Chapters 515 and 516 of 2000 (SB 309/HB 14) established the Maryland Research and Development Tax Credit. Companies that incur qualified research and development expenses in Maryland are entitled to the credit. The total credits approved may not exceed \$6 million each year. Research and development expenses are typically counted as a business expense and are deducted from State tax liability. The credit terminates June 30, 2021.

Tax Credit Evaluation Act

Chapters 568 and 569 of 2012 (SB 739/HB 764) established a legislative process for evaluating certain tax credits. The evaluation process is conducted by a legislative evaluation committee and must be done in consultation with the Comptroller's Office, the Department of Budget and Management (DBM), the Department of Legislative Services (DLS), and the agency that administers the credit. 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.

Except as otherwise provided, the following credits are required to be reviewed by the date indicated:

- *July 1, 2014:* enterprise zone and One Maryland economic development credits;
- *July 1, 2015:* earned income and film production activity credits;
- *July 1, 2016:* sustainable communities and research and development credits; and
- *July 1, 2017:* businesses that create new jobs and biotechnology investment credits.

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, DLS, and the agency that administers the credit to prepare a plan for evaluation. By October 31 of the same year, DLS is required to publish a report evaluating the tax credit.

The report submitted by DLS must discuss (1) the purpose for which the tax credit was established; (2) whether the original intent of the tax credit is still appropriate; (3) whether the tax credit is meeting its objectives; (4) whether the goals of the tax credit could be more effectively carried out by other means; and (5) the cost of the tax credit to the State and local governments. 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 in the year of 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 credit should be continued, with or without changes, or terminated.

State Expenditures: DBED currently prepares an annual report for many of the economic development programs and tax credit programs specified in the bill, which contains detailed information that generally meets the requirements of the bill. Therefore, the additional operational burden on the department is absorbable within existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development; Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Maryland Energy Administration; Public Service Commission; University System of Maryland; Maryland Higher Education Commission; Baltimore City Community College; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2013
ncs/rhh Revised - House Third Reader - March 26, 2013

Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510