

# HOUSE BILL 820

C8

5lr2476

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By: **Delegate Lafferty**

Introduced and read first time: February 13, 2015

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **One Maryland Economic Development Tax Credit – Distressed Municipal**  
3 **Corporations**

4 FOR the purpose of expanding the eligibility requirements for the One Maryland Economic  
5 Development Tax Credit to include certain qualified businesses that establish or  
6 expand a certain business facility that is located in a distressed municipal  
7 corporation; altering a certain definition; defining a certain term; and generally  
8 relating to the One Maryland Economic Development Tax Credit.

9 BY repealing and reenacting, without amendments,  
10 Article – Economic Development  
11 Section 1–101(e)  
12 Annotated Code of Maryland  
13 (2008 Volume and 2014 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Economic Development  
16 Section 6–401, 6–402(b), 6–403(a), 6–404, and 6–405  
17 Annotated Code of Maryland  
18 (2008 Volume and 2014 Supplement)

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

21 **Article – Economic Development**

22 1–101.

23 (e) (1) “Qualified distressed county” means a county with:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) an average rate of unemployment for the most recent 24-month  
2 period for which data are available that exceeds:

3 1. 150% of the average rate of unemployment for the State  
4 during that period; or

5 2. the average rate of unemployment for the State during  
6 that period by at least 2 percentage points; or

7 (ii) an average per capita personal income for the most recent  
8 24-month period for which data are available that is equal to or less than 67% of the  
9 average per capita personal income for the State during that period.

10 (2) “Qualified distressed county” includes a county that:

11 (i) no longer meets either criterion stated in paragraph (1) of this  
12 subsection; but

13 (ii) has met at least one of the criteria at some time during the  
14 preceding 24-month period.

15 6-401.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) “Eligible economic development project” means an economic development  
18 project that:

19 (1) establishes or expands a business facility within a qualified distressed  
20 [county] **POLITICAL SUBDIVISION**; and

21 (2) is approved for a project tax credit or a start-up tax credit in accordance  
22 with this subtitle.

23 (c) (1) “Eligible project cost” means the cost and expense a qualified business  
24 entity incurs to acquire, construct, rehabilitate, install, or equip an eligible economic  
25 development project.

26 (2) “Eligible project cost” includes:

27 (i) the cost of:

28 1. obligations for labor and payments made to contractors,  
29 subcontractors, builders, and suppliers;

30 2. acquiring land, rights in land, and costs incidental to  
31 acquiring land or rights in land;

1                   3.     contract bonds and insurance needed during the  
2 acquisition, construction, or installation of the project;

3                   4.     test borings, surveys, estimates, plans, specifications,  
4 preliminary investigations, environmental mitigation, supervision of construction, and  
5 other architectural and engineering services;

6                   5.     performing duties required by or consequent to the  
7 acquisition, construction, and installation of the project;

8                   6.     installing water, sewer, sewer treatment, gas, electricity,  
9 communications, railroads, and similar utilities; and

10                  7.     bond insurance, letters of credit, or other forms of credit  
11 enhancement or liquidity facilities;

12                   (ii)    the interest cost before and during the acquisition, construction,  
13 installation, and equipping of the project, and for up to 2 years after project completion;  
14 and

15                   (iii)  legal, accounting, financial, printing, recording, filing, and other  
16 fees and expenses incurred to finance the project.

17           (d)   (1)   “Eligible start–up cost” means a qualified business entity’s cost to  
18 furnish and equip a new location for ordinary business functions.

19                   (2)   “Eligible start–up cost” includes:

20                   (i)    the cost of computers, nonrecurring costs of fixed  
21 telecommunications equipment, furnishings, and office equipment; and

22                   (ii)  expenditures for moving costs, separation costs, and other costs  
23 directly related to moving from outside of the State to a location in a qualified distressed  
24 [county] **POLITICAL SUBDIVISION**.

25           (e)   “Project tax credit” means a tax credit for eligible project costs allowed under  
26 § 6–403 of this subtitle.

27           (f)   “Qualified business entity” means a person that:

28                   (1)   (i)    conducts or operates a trade or business in the State; or

29                   (ii)  operates in the State and is exempt from taxation under §  
30 501(c)(3) or (4) of the Internal Revenue Code; and

1 (2) is certified in accordance with § 6–402 of this subtitle as qualifying for  
2 a project tax credit or a start–up tax credit under this subtitle.

3 **(G) “QUALIFIED DISTRESSED POLITICAL SUBDIVISION” MEANS:**

4 **(1) A QUALIFIED DISTRESSED COUNTY; OR**

5 **(2) A MUNICIPAL CORPORATION THAT, IF IT WERE A COUNTY, WOULD**  
6 **MEET THE QUALIFICATIONS SPECIFIED IN § 1–101(E) OF THIS ARTICLE FOR A**  
7 **QUALIFIED DISTRESSED COUNTY.**

8 **[(g)] (H) (1) “Qualified position” means a position that:**

9 (i) is a full–time position and is of indefinite duration;

10 (ii) pays at least 150% of the federal minimum wage;

11 (iii) is in a qualified distressed [county] **POLITICAL SUBDIVISION;**

12 (iv) is newly created because a business facility begins or expands in  
13 one location in a qualified distressed [county] **POLITICAL SUBDIVISION;** and

14 (v) is filled.

15 (2) “Qualified position” does not include a position that is:

16 (i) created when an employment function is shifted from an existing  
17 business facility of a business entity in the State to another business facility of the same  
18 business entity if the position is not a net new job in the State;

19 (ii) created through a change in ownership of a trade or business;

20 (iii) created through a consolidation, merger, or restructuring of a  
21 business entity if the position is not a net new job in the State;

22 (iv) created when an employment function is contractually shifted  
23 from an existing business entity in the State to another business entity if the position is  
24 not a net new job in the State; or

25 (v) filled for a period of less than 12 months.

26 **[(h)] (I) “Start–up tax credit” means a tax credit for eligible start–up costs**  
27 **allowed under § 6–404 of this subtitle.**

28 6–402.

1 (b) To be eligible for a project tax credit or a start-up tax credit, a person shall:

2 (1) establish or expand a business facility that:

3 (i) is located in a qualified distressed [county] **POLITICAL**  
4 **SUBDIVISION**; and

5 (ii) 1. is located in a priority funding area under § 5-7B-02 of  
6 the State Finance and Procurement Article; or

7 2. is eligible for funding outside of a priority funding area  
8 under § 5-7B-05 or § 5-7B-06 of the State Finance and Procurement Article;

9 (2) during any 24-month period, create at least 25 qualified positions at  
10 the new or expanded business facility; and

11 (3) be primarily engaged at the new or expanded business facility in any  
12 combination of:

13 (i) manufacturing or mining;

14 (ii) transportation or communications;

15 (iii) filmmaking, resort business, or recreational business;

16 (iv) agriculture, forestry, or fishing;

17 (v) research, development, or testing;

18 (vi) biotechnology;

19 (vii) computer programming, information technology, or other  
20 computer-related services;

21 (viii) central services for a business entity engaged in financial  
22 services, real estate services, or insurance services;

23 (ix) the operation of central administrative offices;

24 (x) the operation of a company headquarters other than the  
25 headquarters of a professional sports organization;

26 (xi) the operation of a public utility;

27 (xii) warehousing; or

28 (xiii) other business services.

1 6-403.

2 (a) (1) A qualified business entity may claim a project tax credit for the cost of  
3 an eligible economic development project in a qualified distressed [county] **POLITICAL**  
4 **SUBDIVISION** if the total eligible project cost for the eligible economic development project  
5 is at least \$500,000.

6 (2) A qualified business entity is not entitled to a project tax credit for a  
7 cost incurred before notifying the Department of its intent to seek certification as qualifying  
8 for the project tax credit.

9 6-404.

10 (a) (1) A qualified business entity that locates in a qualified distressed  
11 [county] **POLITICAL SUBDIVISION** may claim a start-up tax credit in the amount provided  
12 in subsection (b) of this section.

13 (2) A qualified business entity is not entitled to a start-up tax credit for a  
14 cost incurred before notifying the Department of its intent to seek certification as qualifying  
15 for the start-up tax credit.

16 (b) The start-up tax credit allowed under this section for each taxable year equals  
17 the least of:

18 (1) the qualified business entity's total eligible start-up cost associated  
19 with establishing or expanding a business facility in the qualified distressed [county]  
20 **POLITICAL SUBDIVISION**, less the amount of the credit previously taken for the project;

21 (2) the product of multiplying \$10,000 times the number of qualified  
22 employees employed at the new or expanded business facility; or

23 (3) \$500,000.

24 (c) (1) Subject to paragraph (2) of this subsection, if the start-up tax credit  
25 allowed under subsection (b) of this section for the taxable year in which a qualified  
26 business entity locates in a qualified distressed [county] **POLITICAL SUBDIVISION** exceeds  
27 the total tax otherwise due from the qualified business entity for that taxable year, the  
28 qualified business entity may apply the excess as a credit for succeeding taxable years until  
29 the earlier of:

30 (i) the full amount of the excess is used; or

31 (ii) the expiration of the 14th taxable year following the taxable year  
32 in which the qualified business entity locates in a qualified distressed [county] **POLITICAL**  
33 **SUBDIVISION**.

1                   (2)   (i)    A qualified business entity may claim a prorated share of the  
2 credit under this subsection if:

3                               1.    during any taxable year after the qualified business entity  
4 is certified for the tax credit, the number of qualified positions filled by the qualified  
5 business entity falls below 25, but does not fall below 10; and

6                               2.    the qualified business entity has maintained at least 25  
7 qualified positions for at least 5 years.

8                               (ii)   The prorated share of the credit is calculated based on the  
9 number of qualified positions filled for the taxable year divided by 25.

10           (d)   (1)   Subject to the limitation in paragraph (3) of this subsection and subject  
11 to § 6–405 of this subtitle, this subsection applies to any taxable year after the 4th but  
12 before the 15th taxable year following the taxable year in which the qualified business  
13 entity locates in a qualified distressed [county] **POLITICAL SUBDIVISION**.

14                   (2)   A qualified business entity may claim a refund in the amount, if any,  
15 by which the qualified business entity’s eligible start–up cost exceeds the cumulative  
16 amount used as a start–up tax credit for the taxable year and all prior taxable years.

17                   (3)   For any taxable year, the total amount claimed as a refund under this  
18 subsection may not exceed the amount of tax that the qualified business entity is required  
19 to withhold for the taxable year from the wages of qualified employees under § 10–908 of  
20 the Tax – General Article.

21                   (4)   (i)    A qualified business entity may claim a prorated share of the  
22 credit under this subsection if:

23                               1.    during any taxable year after the qualified business entity  
24 is certified for the tax credit, the number of qualified positions filled by the qualified  
25 business entity falls below 25, but does not fall below 10; and

26                               2.    the qualified business entity has maintained at least 25  
27 qualified positions for at least 5 years.

28                               (ii)   The prorated share of the credit is calculated based on the  
29 number of qualified positions filled for the taxable year divided by 25.

30           (e)   A qualified business entity shall attach the certification required under §  
31 6–402(a) of this subtitle to the tax return on which the start–up tax credit is claimed.

32 6–405.

1           If the pay for the majority of the qualified positions created from the establishment  
2 or expansion of a business facility is at least 250% of the federal minimum wage, §§ 6–403(f)  
3 and 6–404(d) of this subtitle apply beginning with the taxable year after the 2nd taxable  
4 year that follows the taxable year when the qualified business entity locates in a qualified  
5 distressed [county] **POLITICAL SUBDIVISION.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
7 1, 2015.