

HOUSE BILL 1089

C8

5lr2586
CF SB 196

By: **Delegates Beitzel, Buckel, Krebs, McKay, Otto, and B. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Economic Development – Rural Economic Development Program and One**
3 **Maryland Tax Credit**

4 FOR the purpose of establishing the Rural Economic Development Program to encourage
5 businesses to locate and expand in certain rural counties of the State and provide
6 certain rural counties of the State with funding for the expansion of infrastructure
7 necessary to encourage businesses to locate in those counties; providing that certain
8 provisions of the Program apply in certain counties; establishing an application
9 process for the Department of Business and Economic Development to certify
10 businesses that meet certain criteria as eligible for certain tax incentives; providing
11 that for a certain number of taxable years after a business is designated as a
12 qualified business, the business is eligible for a certain property tax exemption,
13 income tax subtraction modification, and sales and use tax exemption; prohibiting
14 the Department from designating a business as a qualified business after a certain
15 date; requiring the Department to adopt certain regulations; establishing the Rural
16 Economic Development Program Infrastructure Fund as a special, nonlapsing fund;
17 specifying the purpose of the Fund; requiring the Department to administer the
18 Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account
19 for the Fund; specifying the contents of the Fund; requiring the Governor, for certain
20 fiscal years, to include in the annual operating or capital budget an appropriation of
21 a certain amount to the Fund; specifying the purpose for which the Fund may be
22 used; requiring a county, under certain circumstances, to repay a grant from the
23 Fund; providing for the investment of money in and expenditures from the Fund;
24 altering the definition of a qualified distressed county for purposes of the One
25 Maryland Tax Credit program to provide that certain counties are not included as a
26 qualified distressed county for purposes of the program; allowing a subtraction
27 modification under the State income tax for certain income of certain qualified
28 businesses; exempting from the sales and use tax the sale of certain capital
29 equipment used by certain qualified businesses; exempting from property tax certain
30 property owned by certain qualified businesses; providing for the interpretation of a
31 certain provision of this Act; stating the intent of the General Assembly; defining

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain terms; and generally relating to establishing the Rural Economic
2 Development Program and economic development in the State.

3 BY repealing and reenacting, without amendments,
4 Article – Economic Development
5 Section 1–101(e)
6 Annotated Code of Maryland
7 (2008 Volume and 2014 Supplement)

8 BY adding to
9 Article – Economic Development
10 Section 5–1501 through 5–1503 to be under the new subtitle “Subtitle 15. Rural
11 Economic Development Program”
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
17 Annotated Code of Maryland
18 (2008 Volume and 2014 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Tax – General
21 Section 10–207(a)
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2014 Supplement)

24 BY adding to
25 Article – Tax – General
26 Section 10–207(cc) and 11–232
27 Annotated Code of Maryland
28 (2010 Replacement Volume and 2014 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article – Tax – General
31 Section 10–307(g)
32 Annotated Code of Maryland
33 (2010 Replacement Volume and 2014 Supplement)

34 BY adding to
35 Article – Tax – Property
36 Section 7–245
37 Annotated Code of Maryland
38 (2012 Replacement Volume and 2014 Supplement)

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

3 **Article – Economic Development**

4 1–101.

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

6 (i) an average rate of unemployment for the most recent 24–month
7 period for which data are available that exceeds:

8 1. 150% of the average rate of unemployment for the State
9 during that period; or

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

12 (ii) an average per capita personal income for the most recent
13 24–month period for which data are available that is equal to or less than 67% of the
14 average per capita personal income for the State during that period.

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

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

18 (ii) has met at least one of the criteria at some time during the
19 preceding 24–month period.

20 **SUBTITLE 15. RURAL ECONOMIC DEVELOPMENT PROGRAM.**

21 **5–1501.**

22 **(A) THERE IS A RURAL ECONOMIC DEVELOPMENT PROGRAM.**

23 **(B) THE PURPOSE OF THE RURAL ECONOMIC DEVELOPMENT PROGRAM IS**
24 **TO:**

25 **(1) ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN THE RURAL**
26 **COUNTIES OF THE STATE; AND**

27 **(2) PROVIDE THE RURAL COUNTIES OF THE STATE WITH FUNDING**
28 **FOR THE EXPANSION OF INFRASTRUCTURE NECESSARY TO ENCOURAGE**
29 **BUSINESSES TO LOCATE IN THOSE COUNTIES.**

1 **5-1502.**

2 (A) THIS SECTION APPLIES TO THE FOLLOWING COUNTIES:

3 (1) ALLEGANY COUNTY;

4 (2) CALVERT COUNTY;

5 (3) CAROLINE COUNTY;

6 (4) CARROLL COUNTY;

7 (5) CECIL COUNTY;

8 (6) CHARLES COUNTY;

9 (7) DORCHESTER COUNTY;

10 (8) FREDERICK COUNTY;

11 (9) GARRETT COUNTY;

12 (10) HARFORD COUNTY;

13 (11) KENT COUNTY;

14 (12) QUEEN ANNE'S COUNTY;

15 (13) ST. MARY'S COUNTY;

16 (14) SOMERSET COUNTY;

17 (15) TALBOT COUNTY;

18 (16) WASHINGTON COUNTY;

19 (17) WICOMICO COUNTY; AND

20 (18) WORCESTER COUNTY.

21 (B) (1) THE DEPARTMENT MAY CERTIFY A BUSINESS AS A QUALIFIED
22 BUSINESS IN A COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION IF THE
23 BUSINESS MEETS THE REQUIREMENTS UNDER THIS SECTION.

1 **(2) TO BE ELIGIBLE FOR DESIGNATION AS A QUALIFIED BUSINESS, AN**
2 **APPLICANT SHALL:**

3 **(I) APPLY TO THE DEPARTMENT;**

4 **(II) PROVIDE EVIDENCE OF AN INTENTION:**

5 **1. TO EXPAND A BUSINESS IN A COUNTY LISTED UNDER**
6 **SUBSECTION (A) OF THIS SECTION; AND**

7 **2. TO HIRE AT LEAST 20 ADDITIONAL EMPLOYEES IN A**
8 **COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND**

9 **(III) MEET ANY OTHER REQUIREMENT THE DEPARTMENT**
10 **ESTABLISHES BY REGULATION.**

11 **(3) A BUSINESS MAY NOT BE DESIGNATED AS A QUALIFIED BUSINESS**
12 **IF THE ACTIVITIES OF THE BUSINESS ARE PRIMARILY RETAIL.**

13 **(4) WITHIN 60 DAYS AFTER SUBMISSION OF AN APPLICATION UNDER**
14 **PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL APPROVE OR**
15 **REJECT THE APPLICATION.**

16 **(5) THE DEPARTMENT MAY DESIGNATE A BUSINESS AS A QUALIFIED**
17 **BUSINESS FOR MORE THAN ONE COUNTY.**

18 **(C) FOR EACH OF THE 10 TAXABLE YEARS AFTER A BUSINESS IS**
19 **DESIGNATED A QUALIFIED BUSINESS UNDER SUBSECTION (B) OF THIS SECTION, A**
20 **QUALIFIED BUSINESS IS ENTITLED TO THE FOLLOWING TAX INCENTIVES:**

21 **(1) THE PROPERTY TAX EXEMPTION UNDER § 7-245 OF THE**
22 **TAX – PROPERTY ARTICLE;**

23 **(2) THE INCOME TAX SUBTRACTION MODIFICATION UNDER §§**
24 **10-207(CC) OR 10-307(G)(5) OF THE TAX – GENERAL ARTICLE; AND**

25 **(3) THE SALES AND USE TAX EXEMPTION UNDER § 11-232 OF THE TAX**
26 **– GENERAL ARTICLE.**

27 **(D) THE DEPARTMENT MAY NOT DESIGNATE A BUSINESS AS A QUALIFIED**
28 **BUSINESS UNDER THIS SECTION AFTER SEPTEMBER 30, 2025.**

1 **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
2 **SECTION.**

3 **5-1503.**

4 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
5 **INDICATED.**

6 **(2) “ELIGIBLE COUNTY” MEANS:**

7 **(I) ALLEGANY COUNTY;**

8 **(II) CAROLINE COUNTY;**

9 **(III) DORCHESTER COUNTY;**

10 **(IV) GARRETT COUNTY;**

11 **(V) SOMERSET COUNTY;**

12 **(VI) WASHINGTON COUNTY;**

13 **(VII) WICOMICO COUNTY; AND**

14 **(VIII) WORCESTER COUNTY.**

15 **(3) “FUND” MEANS THE RURAL ECONOMIC DEVELOPMENT**
16 **PROGRAM INFRASTRUCTURE FUND.**

17 **(B) THERE IS A RURAL ECONOMIC DEVELOPMENT PROGRAM**
18 **INFRASTRUCTURE FUND.**

19 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE THE RURAL COUNTIES OF**
20 **THE STATE WITH A SOURCE OF FUNDING FOR THE EXPANSION OF INFRASTRUCTURE**
21 **NECESSARY TO ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN THOSE**
22 **COUNTIES.**

23 **(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.**

24 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
25 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

1 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
2 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

3 **(F) (1) THE FUND CONSISTS OF:**

4 **(I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE**
5 **FUND;**

6 **(II) INVESTMENT EARNINGS OF THE FUND; AND**

7 **(III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
8 **FOR THE BENEFIT OF THE FUND.**

9 **(2) FOR FISCAL YEARS 2017 THROUGH 2021, THE GOVERNOR SHALL**
10 **INCLUDE IN THE ANNUAL OPERATING OR CAPITAL BUDGET AN APPROPRIATION TO**
11 **THE FUND IN THE AMOUNT OF AT LEAST \$5,000,000.**

12 **(G) (1) THE FUND MAY BE USED ONLY FOR GRANTS TO ELIGIBLE**
13 **COUNTIES FOR THE PURCHASE OF LAND OR THE CONSTRUCTION OF PUBLIC**
14 **BUILDINGS, WATER AND SEWER PROJECTS, OR ROADS.**

15 **(2) IF A COUNTY SELLS AN ASSET THAT BENEFITS FROM A GRANT**
16 **RECEIVED UNDER THIS SECTION, THE COUNTY SHALL REIMBURSE THE FUND IN THE**
17 **AMOUNT OF THE GRANT RECEIVED.**

18 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
19 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

20 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED**
21 **TO THE FUND.**

22 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
23 **WITH THE STATE BUDGET.**

24 **(J) MONEY EXPENDED FROM THE FUND FOR GRANTS TO COUNTIES IS**
25 **SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT**
26 **OTHERWISE WOULD BE APPROPRIATED FOR INFRASTRUCTURE PROJECTS WITHIN A**
27 **COUNTY.**

28 6-401.

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

1 (b) “Eligible economic development project” means an economic development
2 project that:

3 (1) establishes or expands a business facility within a qualified distressed
4 county; and

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

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

10 (2) “Eligible project cost” includes:

11 (i) the cost of:

12 1. obligations for labor and payments made to contractors,
13 subcontractors, builders, and suppliers;

14 2. acquiring land, rights in land, and costs incidental to
15 acquiring land or rights in land;

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

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

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

23 6. installing water, sewer, sewer treatment, gas, electricity,
24 communications, railroads, and similar utilities; and

25 7. bond insurance, letters of credit, or other forms of credit
26 enhancement or liquidity facilities;

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

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

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

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

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

6 (ii) expenditures for moving costs, separation costs, and other costs
7 directly related to moving from outside of the State to a location in a qualified distressed
8 county.

9 (e) “Project tax credit” means a tax credit for eligible project costs allowed under
10 § 6–403 of this subtitle.

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

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

13 (ii) operates in the State and is exempt from taxation under §
14 501(c)(3) or (4) of the Internal Revenue Code; and

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

17 (g) **“QUALIFIED DISTRESSED COUNTY” DOES NOT INCLUDE A COUNTY**
18 **THAT:**

19 **(1) MET, DURING A PRIOR YEAR, THE DEFINITION OF A QUALIFIED**
20 **DISTRESSED COUNTY UNDER § 1–101(E) OF THIS ARTICLE;**

21 **(2) HAD A QUALIFIED BUSINESS ENTITY QUALIFY FOR A PROJECT TAX**
22 **CREDIT OR START–UP TAX CREDIT WITHIN THE COUNTY; AND**

23 **(3) DURING A SUBSEQUENT YEAR DID NOT MEET THE DEFINITION OF**
24 **A QUALIFIED DISTRESSED COUNTY UNDER § 1–101(E) OF THIS ARTICLE.**

25 **(H)** (1) “Qualified position” means a position that:

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

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

28 (iii) is in a qualified distressed county;

1 (iv) is newly created because a business facility begins or expands in
2 one location in a qualified distressed county; and

3 (v) is filled.

4 (2) "Qualified position" does not include a position that is:

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

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

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

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

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

15 **[(h)] (I)** "Start-up tax credit" means a tax credit for eligible start-up costs
16 allowed under § 6-404 of this subtitle.

17 Article – Tax – General

18 10-207.

19 (a) To the extent included in federal adjusted gross income, the amounts under
20 this section are subtracted from the federal adjusted gross income of a resident to determine
21 Maryland adjusted gross income.

22 **(CC) (1) IN THIS SUBSECTION, "QUALIFIED BUSINESS" MEANS A BUSINESS**
23 **THAT IS CERTIFIED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC**
24 **DEVELOPMENT UNDER § 5-1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

25 **(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**
26 **INCLUDES THE AMOUNT OF INCOME A QUALIFIED BUSINESS RECEIVES THAT IS**
27 **ATTRIBUTABLE TO ACTIVITIES IN A COUNTY IN WHICH THE QUALIFIED BUSINESS**
28 **EXPANDED AS PART OF ITS APPLICATION UNDER § 5-1502(B) OF THE ECONOMIC**
29 **DEVELOPMENT ARTICLE.**

30 **(3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION**
31 **MAY BE CLAIMED ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR IN**

1 **WHICH THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 5-1502**
 2 **OF THE ECONOMIC DEVELOPMENT ARTICLE.**

3 10-307.

4 (g) The subtraction under subsection (a) of this section includes the amounts
 5 allowed to be subtracted for an individual under:

6 (1) § 10-207(i) of this title (Profits on sale or exchange of State or local
 7 bonds);

8 (2) § 10-207(k) of this title (Relocation and assistance payments);

9 (3) § 10-207(m) of this title (State or local income tax refunds); [or]

10 (4) § 10-207(c-1) of this title (State tax-exempt interest from mutual
 11 funds); **OR**

12 **(5) § 10-207(CC) OF THIS TITLE (INCOME FROM A QUALIFIED**
 13 **BUSINESS IN A RURAL COUNTY).**

14 **11-232.**

15 **(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS**
 16 **CERTIFIED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**
 17 **UNDER § 5-1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

18 **(B) THE SALES AND USE TAX DOES NOT APPLY TO A SALE OF CAPITAL**
 19 **EQUIPMENT USED AS PART OF THE ACTIVITIES OF A QUALIFIED BUSINESS IN A**
 20 **COUNTY IN WHICH THE QUALIFIED BUSINESS EXPANDED AS PART OF ITS**
 21 **APPLICATION UNDER § 5-1502(B) OF THE ECONOMIC DEVELOPMENT ARTICLE.**

22 **Article – Tax – Property**

23 **7-245.**

24 **(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS**
 25 **CERTIFIED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT**
 26 **UNDER § 5-1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

27 **(B) PROPERTY IS NOT SUBJECT TO PROPERTY TAX IF THE PROPERTY IS**
 28 **OWNED BY A QUALIFIED BUSINESS.**

29 **(C) A QUALIFIED BUSINESS IS ENTITLED TO THE EXEMPTION UNDER THIS**
 30 **SECTION ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR THE BUSINESS IS**

1 **DESIGNATED AS A QUALIFIED BUSINESS UNDER § 5-1502 OF THE ECONOMIC**
2 **DEVELOPMENT ARTICLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
4 Assembly that the cost savings from the change to the definition of a “qualified distressed
5 county” under § 6-401(g) of the Economic Development Article, as enacted by this Act, offset
6 the additional cost of the Rural Economic Development Program enacted by this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the change in the definition
8 of “qualified distressed county” under § 6-401(g) of the Economic Development Article, as
9 enacted by this Act, may not be construed to prohibit Baltimore City or Allegany, Caroline,
10 Dorchester, Somerset, Washington, or Worcester counties from participating in the One
11 Maryland Tax Credit program until the jurisdiction fails to meet the definition of a qualified
12 distressed county under § 1-101(e) of the Economic Development Article.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2015.