HB 916

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 916 (Delegate B. Wilson, *et al.*)
Ways and Means

Economic Development - Community Revitalization and Improvement Zones

This bill establishes State tax benefits for counties with qualified businesses located in community revitalization and improvement zones. A county may issue bonds pledging specified income and sales tax revenues from businesses located or partially located in a zone. The bonds may only be used for (1) development or improvement within a zone and (2) specified types of construction. After the amount of eligible taxes paid by qualified business in each zone is certified, the Comptroller must transfer State general funds to each county's special fund, as provided in the State budget, to be used only for debt service on the bonds or for purposes for which bonds could be issued. State payments to counties continue for qualified businesses in the zones until the bonds or debt is retired and for no more than 30 years.

Fiscal Summary

State Effect: General fund expenditures increase significantly beginning in FY 2017 for up to 30 years to the extent that local governments pledge State tax revenues to improvements in zones. The amount cannot be reliably estimated at this time. General and special fund revenues increase to the extent that the bill leads to additional economic development. General fund expenditures for the Department of Business and Economic Development (DBED) increase by $129,400 in FY 2016 for staff and related expenses. Future year expenditures reflect additional staff for the Comptroller beginning in FY 2017, annualization, and the elimination of one-time costs.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	$0	-	-	-	-
SF Revenue	$0	-	-	-	-
GF Expenditure	$129,400	$230,600	$258,400	$270,500	$283,200
Net Effect	($129,400)	($230,600)	($258,400)	($270,500)	($283,200)

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

Local Effect: Local government revenues increase from bonds issued under the bill beginning as soon as FY 2016, with State payments beginning in FY 2017 for up to 30 years. Local government expenditures increase correspondingly for authorized purposes within community revitalization and improvement zones. County income tax revenues increase to the extent that the bill leads to additional economic development; however, the revenues dedicated to the special fund are unavailable for other uses. Local property tax revenues increase to the extent that the expenditures increase property values.

Small Business Effect: Meaningful.

Analysis

Bill Summary: "Eligible tax" means (1) the corporate income tax and personal income tax, including the county income tax, to the extent the tax is related to an activity of a qualified business within a community revitalization and improvement zone or work performed by an employee of a qualified business within a zone and (2) the sales and use tax to the extent the tax is related to an activity of a qualified business within a zone.

"Qualified business" means an entity located or partially located in a community revitalization and improvement zone that (1) conducts an active trade or business in the zone and (2) appears on the list of qualified entities required to be filed under the bill. It includes a contractor engaged in construction (including infrastructure or site preparation), reconstruction, or renovation of a facility located in or partially located in a community revitalization and improvement zone. It does not include an agent, a broker, or a representative of a business.

Community Revitalization and Improvement Zones

The governing body of a county *may* establish, by local law, a contracting authority for the purpose of designating a community revitalization and improvement zone. A contracting authority *may* apply to DBED for approval of a community revitalization and improvement zone plan. The application must include:

- an economic development plan to establish one or more facilities that will promote economic development;
- specific information relating to the facility or facilities that are affected by the plan;
- a description and map of the specific geographic area of the zone; and
- any other information required by DBED.

The application must be approved by DBED and the governing body of the county in which the zone is to be located. However, if an application is not disapproved by either DBED or the governing body of the county within 90 days, the application is deemed to be approved.

Tax Increment Financing

A governing body of a county that establishes a contracting authority must establish a special fund that may only be used to pay (1) debt service on bonds issued under the bill or (2) for purposes for which bonds could be issued under the bill. A member of the contracting authority may not receive money directly or indirectly from the special fund.

On approval of an application, a contracting authority may (1) designate a community revitalization and improvement zone where a facility may be constructed, reconstructed, or renovated and (2) apply to the county to issue bonds pledging revenue transferred to a special fund established by the county. The governing body of a county may then issue bonds pledging revenue transferred to the special fund for specified uses within a zone that will result in economic development in accordance with the contracting authority's plan.

"Baseline year" means the calendar year in which a community revitalization and improvement zone is established. By June 1 following the baseline year and annually thereafter, each contracting authority must file with DBED a list (1) of all businesses located in the zone and (2) of all contractors engaged in construction, reconstruction, or renovation of a facility in the zone. The list must include, for each business, the address, State tax identification number, and location within the zone. If the list is not provided to DBED in a timely manner, DBED may not certify any eligible tax for the prior calendar year.

By June 1 following the baseline year and annually thereafter, each qualified business must file a report with DBED that includes (1) the amount of each eligible tax that was paid to the State by the business in the prior calendar year and (2) the amount of eligible tax refund received from the State by the business in the prior calendar year. DBED may impose a specified penalty if the report is late.

By October 15 following the baseline year and annually thereafter, DBED must verify the baseline year tax amount, which consists of the amount of eligible tax paid during the baseline year, less eligible tax refunds. The bill specifies requirements for a business that is not included in the baseline tax year amount, either because the business moves into the zone or is not included in the calculation of the baseline tax year amount. Generally, the eligible taxes are added to the baseline tax amount.

By October 15 of the year following the baseline year and annually thereafter, DBED must make the following calculation for qualified businesses (separately for each zone) by:

- subtracting the amount of eligible tax refunds received from the State from the amount of eligible tax paid to the State; and
- subtracting the baseline tax amount for the community revitalization and improvement zone from the above amount.

DBED must then certify this amount to the Comptroller. The certification may include (1) an adjustment made to timely filed reports with DBED for eligible tax actually paid by a qualified business in the prior calendar year and (2) eligible tax refunds paid to a qualified business in the community revitalization and improvement zone in the prior calendar year. The certification may not include tax paid by a qualified business (1) that did not file a timely report or (2) if the tax was not included in the State baseline year tax amount.

Within 10 days after receiving the certification from DBED, the Comptroller must transfer from the State general fund the amount of certified eligible tax to each county special fund established under the bill.

A community revitalization and improvement zone must be in effect for a period equal to the length of time necessary for repayment of the bonds issued or debt incurred on behalf of the zone. Bonds must be retired and all community revitalization and improvement zones must be dissolved no later than 30 years following the initial issuance of the bonds.

The amount transferred to the special fund must first be used to pay debt service on any outstanding bonds. It may then be used for other specified related purposes, including construction, improvement projects, and replenishment of debt service reserve funds. The transfer of money from the special fund utilized for construction, reconstruction, or renovation of facilities is subject to a match of private funds at a ratio of five fund dollars to one private dollar.

If the amount of money transferred to the special fund in any one calendar year exceeds the money utilized in that calendar year, the contracting authority must return the excess money to the Comptroller by January 15 for deposit into the general fund.

The contracting authority must file an annual report with DBED by April 1 of each year following the baseline year, which must contain a detailed account of fund expenditures and a calculation of the match ratio.

DBED, in consultation with the Comptroller, must adopt regulations to implement the bill.

A portion of a community revitalization and improvement zone in which a facility has not been constructed, reconstructed, or renovated using funds under the bill may be transferred out of the zone, subject to DBED approval and other specified requirements.

Current Law: All counties and municipalities are authorized to utilize tax increment financing (TIF) under Title 12, Subtitle 2 of the Economic Development Article (the Tax Increment Financing Act). In Baltimore City, the authority to use TIF is provided in the city charter. Different geographic areas are eligible for TIF under various State programs. The "original base" for a TIF district means the assessable base of the district:

- as of January 1 of the year preceding the effective date of the resolution creating the district; or
- if applicable, the original base for a brownfields site as determined by resolution of the political subdivision.

Background: The bill establishes a similar structure to that in current law for TIF, except that incremental income and sales tax revenues are pledged to debt service payments rather than incremental property tax revenues.

TIF is a public financing method that uses future gains in *property* tax revenues to finance current improvements. The increase in the property tax revenue generated by new commercial development in a specific area, the TIF district, pays for bonds issued to finance site improvements, infrastructure, and other project costs located on public property. In a TIF district, the local government "freezes" the existing property tax base and uses the property tax revenue from this base as it would normally use such funds. The difference between the current tax base and the frozen base in each future year is termed the incremental valuation. The local government apportions the property tax revenue on the incremental valuation to a special account for certain purposes, including to pay debt service on the bonds and to potentially pay for additional public expenditures in the TIF district. The TIF district ceases to exist upon the retirement of the bonds, and after that time, all property tax revenue may be appropriated by normal means.

State Fiscal Effect: General fund expenditures increase significantly beginning in fiscal 2017 for up to 30 years to the extent that local governments establish community revitalization and improvement zones and pledge State and local tax revenues to debt service on bonds issued or for the purposes for which bonds may be used under the bill. The amount cannot be reliably estimated at this time, but it is anticipated to be significant because the bill pledges future State tax revenues to repay debt service on bonds issued by local governments or funds used for those purposes. This is likely an attractive financing method for local governments and, therefore, would be used often.

Special fund revenues for the Annuity Bond Fund increase to the extent that the expenditures by local governments on infrastructure and construction increase property values. General and special fund revenues also increase to the extent the spending increases overall economic growth. These amounts cannot be reliably estimated at this time.

The bill creates additional administrative requirements for DBED and the Comptroller that are not absorbable within existing resources. Therefore, general fund expenditures increase by $129,441 in fiscal 2016, which accounts for the bill's October 1, 2015 effective date. This estimate reflects the cost of DBED hiring two staff to oversee the program and its administrative tasks.

The Comptroller also requires one additional staff to certify reported tax amounts and transfer funds to local governments. However, given the timing of any administrative duties for the Comptroller (the first certifications happen in late 2016 at the earliest), general fund expenditures increase by $230,578 in fiscal 2017, which accounts for the partially delayed implementation of the bill.

	FY 2016	FY 2017
New Positions	2	1
Salaries and Fringe Benefits	$119,993	$224,668
Other Operating Expenses	9,448	5,910
Total State Expenditures	**$129,441**	**$230,578**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DBED also indicates that it may require database upgrades to handle the additional data collected under the bill. That cost is not reflected in the above estimate.

Local Fiscal Effect: Local government revenues increase from bonds issued under the bill as soon as fiscal 2016, with State payments beginning in fiscal 2017 for up to 30 years. Local government expenditures increase correspondingly for authorized purposes within community revitalization and improvement zones. County income tax revenues increase to the extent that the bill leads to additional economic development; however, the revenues dedicated to the special fund are unavailable for other uses. Local property tax revenues increase to the extent that the expenditures increase property values.

Small Business Effect: Small businesses in community revitalization and improvement zones benefit from additional spending by local governments on infrastructure and construction; however, they are also burdened with an annual reporting requirement. Small businesses that provide construction and related services benefit from additional demand for their services.

Additional Comments: The bill authorizes a local government to issue bonds with State revenues pledged to their repayment. The bonds will almost certainly be construed as State debt by bond rating agencies and bondholders.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Comptroller's Office, Baltimore City, Montgomery County, Department of Legislative Services

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md/rhh

Analysis by: Stephen M. Ross

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