

SENATE BILL 737

C8

6lr2251

By: **Senators Edwards, Eckardt, Hershey, Manno, Mathias, and Serafini**

Introduced and read first time: February 5, 2016

Assigned to: Budget and Taxation

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 Economic Competitiveness and Commerce 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 exempting the Fund from a certain provision of law requiring interest on State
25 money in special funds to accrue to the General Fund of the State; altering the
26 definition of a qualified distressed county for purposes of the One Maryland Tax
27 Credit program to provide that certain counties are not included as a qualified
28 distressed county for purposes of the program; allowing a subtraction modification
29 under the State income tax for certain income of certain qualified businesses;
30 exempting from the sales and use tax the sale of certain capital equipment used by
31 certain qualified businesses; exempting from property tax certain property owned by

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain qualified businesses; providing for the interpretation of a certain provision of
2 this Act; stating the intent of the General Assembly; defining certain terms; and
3 generally relating to establishing the Rural Economic Development Program and
4 economic development in the State.

5 BY repealing and reenacting, without amendments,
6 Article – Economic Development
7 Section 1–101(e)
8 Annotated Code of Maryland
9 (2008 Volume and 2015 Supplement)

10 BY adding to
11 Article – Economic Development
12 Section 5–1501 through 5–1503 to be under the new subtitle “Subtitle 15. Rural
13 Economic Development Program”
14 Annotated Code of Maryland
15 (2008 Volume and 2015 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Economic Development
18 Section 6–401
19 Annotated Code of Maryland
20 (2008 Volume and 2015 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Tax – General
23 Section 10–207(a)
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2015 Supplement)

26 BY adding to
27 Article – Tax – General
28 Section 10–207(cc) and 11–232
29 Annotated Code of Maryland
30 (2010 Replacement Volume and 2015 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article – Tax – General
33 Section 10–307(g)
34 Annotated Code of Maryland
35 (2010 Replacement Volume and 2015 Supplement)

36 BY adding to
37 Article – Tax – Property
38 Section 7–245
39 Annotated Code of Maryland
40 (2012 Replacement Volume and 2015 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(i)
4 Annotated Code of Maryland
5 (2015 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article – State Finance and Procurement
8 Section 6–226(a)(2)(ii)84. and 85.
9 Annotated Code of Maryland
10 (2015 Replacement Volume)

11 BY adding to
12 Article – State Finance and Procurement
13 Section 6–226(a)(2)(ii)86.
14 Annotated Code of Maryland
15 (2015 Replacement Volume)

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

18 **Article – Economic Development**

19 1–101.

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

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

23 1. 150% of the average rate of unemployment for the State
24 during that period; or

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

27 (ii) an average per capita personal income for the most recent
28 24–month period for which data are available that is equal to or less than 67% of the
29 average per capita personal income for the State during that period.

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

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

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

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

4 **5-1501.**

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

6 (B) **THE PURPOSE OF THE RURAL ECONOMIC DEVELOPMENT PROGRAM IS**
7 **TO:**

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

10 (2) **PROVIDE THE RURAL COUNTIES OF THE STATE WITH FUNDING**
11 **FOR THE EXPANSION OF INFRASTRUCTURE NECESSARY TO ENCOURAGE**
12 **BUSINESSES TO LOCATE IN THOSE COUNTIES.**

13 **5-1502.**

14 (A) **THIS SECTION APPLIES TO THE FOLLOWING COUNTIES:**

15 (1) **ALLEGANY COUNTY;**

16 (2) **CALVERT COUNTY;**

17 (3) **CAROLINE COUNTY;**

18 (4) **CARROLL COUNTY;**

19 (5) **CECIL COUNTY;**

20 (6) **CHARLES COUNTY;**

21 (7) **DORCHESTER COUNTY;**

22 (8) **FREDERICK COUNTY;**

23 (9) **GARRETT COUNTY;**

24 (10) **HARFORD COUNTY;**

25 (11) **KENT COUNTY;**

1 **(12) QUEEN ANNE’S COUNTY;**

2 **(13) ST. MARY’S COUNTY;**

3 **(14) SOMERSET COUNTY;**

4 **(15) TALBOT COUNTY;**

5 **(16) WASHINGTON COUNTY;**

6 **(17) WICOMICO COUNTY; AND**

7 **(18) WORCESTER COUNTY.**

8 **(B) (1) THE DEPARTMENT MAY CERTIFY A BUSINESS AS A QUALIFIED**
9 **BUSINESS IN A COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION IF THE**
10 **BUSINESS MEETS THE REQUIREMENTS UNDER THIS SECTION.**

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

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

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

15 **1. TO EXPAND A BUSINESS IN AN INDUSTRIAL OR**
16 **BUSINESS PARK THAT WAS BUILT WITH STATE OR FEDERAL MONEY AND IS IN A**
17 **COUNTY LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND**

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

20 **(III) MEET ANY OTHER REQUIREMENT THE DEPARTMENT**
21 **ESTABLISHES BY REGULATION.**

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

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

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

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

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

8 **(2) THE INCOME TAX SUBTRACTION MODIFICATION UNDER §**
9 **10-207(CC) OR § 10-307(G)(5) OF THE TAX – GENERAL ARTICLE; AND**

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

12 **(D) THE DEPARTMENT MAY NOT DESIGNATE A BUSINESS AS A QUALIFIED**
13 **BUSINESS UNDER THIS SECTION AFTER SEPTEMBER 30, 2026.**

14 **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
15 **SECTION.**

16 **5-1503.**

17 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(2) “ELIGIBLE COUNTY” MEANS:**

20 **(I) ALLEGANY COUNTY;**

21 **(II) CAROLINE COUNTY;**

22 **(III) DORCHESTER COUNTY;**

23 **(IV) GARRETT COUNTY;**

24 **(V) SOMERSET COUNTY;**

25 **(VI) WASHINGTON COUNTY;**

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

1 (VIII) WORCESTER COUNTY.

2 (3) "FUND" MEANS THE RURAL ECONOMIC DEVELOPMENT
3 PROGRAM INFRASTRUCTURE FUND.

4 (B) THERE IS A RURAL ECONOMIC DEVELOPMENT PROGRAM
5 INFRASTRUCTURE FUND.

6 (C) THE PURPOSE OF THE FUND IS TO PROVIDE THE RURAL COUNTIES OF
7 THE STATE WITH A SOURCE OF FUNDING FOR THE EXPANSION OF INFRASTRUCTURE
8 NECESSARY TO ENCOURAGE BUSINESSES TO LOCATE AND EXPAND IN THOSE
9 COUNTIES.

10 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

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

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

15 (F) (1) THE FUND CONSISTS OF:

16 (I) MONEY APPROPRIATED IN THE STATE BUDGET TO THE
17 FUND;

18 (II) INVESTMENT EARNINGS OF THE FUND; AND

19 (III) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED
20 FOR THE BENEFIT OF THE FUND.

21 (2) FOR FISCAL YEARS 2018 THROUGH 2022, THE GOVERNOR SHALL
22 INCLUDE IN THE ANNUAL OPERATING OR CAPITAL BUDGET AN APPROPRIATION TO
23 THE FUND IN THE AMOUNT OF AT LEAST \$5,000,000.

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

27 (2) IF A COUNTY SELLS AN ASSET THAT BENEFITS FROM A GRANT
28 RECEIVED UNDER THIS SECTION, THE COUNTY SHALL REIMBURSE THE FUND IN THE
29 AMOUNT OF THE GRANT RECEIVED.

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

3 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED**
4 **TO THE FUND.**

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

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

11 6-401.

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

13 (b) “Eligible economic development project” means an economic development
14 project that:

15 (1) establishes or expands a business facility within a qualified distressed
16 county; and

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

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

22 (2) “Eligible project cost” includes:

23 (i) the cost of:

24 1. obligations for labor and payments made to contractors,
25 subcontractors, builders, and suppliers;

26 2. acquiring land, rights in land, and costs incidental to
27 acquiring land or rights in land;

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

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

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

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

8 7. bond insurance, letters of credit, or other forms of credit
9 enhancement or liquidity facilities;

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

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

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

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

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

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

23 (e) “Project tax credit” means a tax credit for eligible project costs allowed under
24 § 6–403 of this subtitle.

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

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

27 (ii) operates in the State and is exempt from taxation under §
28 501(c)(3) or (4) of the Internal Revenue Code; and

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

31 (g) **“QUALIFIED DISTRESSED COUNTY” DOES NOT INCLUDE A COUNTY**
32 **THAT:**

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

4 **(CC) (1) IN THIS SUBSECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS**
5 **THAT IS CERTIFIED BY THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND**
6 **COMMERCE UNDER § 5–1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

7 **(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**
8 **INCLUDES THE AMOUNT OF INCOME A QUALIFIED BUSINESS RECEIVES THAT IS**
9 **ATTRIBUTABLE TO ACTIVITIES IN A COUNTY IN WHICH THE QUALIFIED BUSINESS**
10 **EXPANDED AS PART OF ITS APPLICATION UNDER § 5–1502(B) OF THE ECONOMIC**
11 **DEVELOPMENT ARTICLE.**

12 **(3) THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION**
13 **MAY BE CLAIMED ONLY FOR THE 10 TAXABLE YEARS FOLLOWING THE YEAR IN**
14 **WHICH THE BUSINESS IS DESIGNATED AS A QUALIFIED BUSINESS UNDER § 5–1502**
15 **OF THE ECONOMIC DEVELOPMENT ARTICLE.**

16 10–307.

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

19 (1) § 10–207(i) of this title (Profits on sale or exchange of State or local
20 bonds);

21 (2) § 10–207(k) of this title (Relocation and assistance payments);

22 (3) § 10–207(m) of this title (State or local income tax refunds); [or]

23 (4) § 10–207(c–1) of this title (State tax–exempt interest from mutual
24 funds); OR

25 **(5) § 10–207(CC) OF THIS TITLE (INCOME FROM A QUALIFIED**
26 **BUSINESS IN A RURAL COUNTY).**

27 11–232.

28 **(A) IN THIS SECTION, “QUALIFIED BUSINESS” MEANS A BUSINESS THAT IS**
29 **CERTIFIED BY THE DEPARTMENT OF ECONOMIC COMPETITIVENESS AND**
30 **COMMERCE UNDER § 5–1502 OF THE ECONOMIC DEVELOPMENT ARTICLE.**

1 county” under § 6–401(g) of the Economic Development Article, as enacted by this Act, offset
2 the additional cost of the Rural Economic Development Program enacted by this Act.

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

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2016.