Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader - Revised

House Bill 161 (Chair, Economic Matters Committee)(By Request - Departmental - Commerce)

Economic Matters

Department of Commerce - Maryland Economic Development Assistance Authority and Fund - Renaming and Restructuring

---

This departmental bill renames and restructures the Maryland Economic Development Assistance Authority and Fund to be the Advantage Maryland Fund Authority and Fund (authority). Eligibility criteria for specific types of projects are repealed. To be eligible for financial assistance from the authority, an applicant must be an individual, private business, nonprofit entity, State instrumentality, or local government that intends to use the requested financial assistance for a project that is in an eligible industry sector and has a strong potential for expanding or retaining employment opportunities in the State.

Fiscal Summary

State Effect: The bill does not alter overall funding for the authority and has a minimal overall impact on State finances. However, project eligibility for financial assistance is affected. To the extent that projects with greater financial returns are funded than otherwise would have been, special fund revenues for the authority increase beginning as early as FY 2019. The amount cannot be reliably estimated at this time. The Department of Commerce (Commerce) can implement the bill with existing budgeted resources.

Local Effect: The bill specifically eliminates financial assistance for local government revolving loan funds and feasibility studies as well as more favorable assistance for qualified distressed counties relative to other projects. Instead, local governments generally may receive financial assistance in the same way as other eligible entities. The effect on local governments as a whole, or on any individual jurisdiction, cannot be estimated but may be significant.

Small Business Effect: Commerce has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) agrees with this assessment.

Analysis

Bill Summary: Several substantive changes are made to the laws governing the authority and the financial assistance it provides, including:

- The purpose of the fund, which is to expand employment opportunities in the State by providing financial assistance to businesses that are engaged in eligible industry sectors, is generalized to instead reference businesses, local governments, State instrumentalities, and individuals carrying out projects in eligible industry sectors.
- Financial assistance for aquaculture projects, child care facilities, and feasibility studies is no longer specifically authorized, and related provisions are repealed.
- Separate criteria for financial assistance to local governments, including those for qualified distressed counties, are repealed; instead local governments generally may receive financial assistance in the same way as other eligible entities.
- The process for determining eligible industry sectors for the purpose of receiving financial assistance from the authority is streamlined by removing requirements on the Department of Labor, Licensing, and Regulation and the Maryland Economic Development Commission.
- Financial assistance for any project may be up to $10 million. Limits on the amount of financial assistance for certain projects are eliminated.
- The percentage of the total costs that assistance from the authority generally may constitute is increased from 70% to 100%. Financial assistance can be for working capital for all projects, instead of a subset of projects.
- Specific requirements related to loans provided by the authority are repealed, and the authority is instead authorized to generally determine the terms of any financial assistance it provides, including establishing the terms of repayment and the interest rates of loans. The authority may issue zero-interest loans.

The bill also makes a number of conforming changes to generally rename, restructure, and streamline the processes of the authority. Commerce may adopt regulations to implement the bill.

Current Law/Background:

Maryland Economic Development Assistance Authority and Fund – Generally

The authority is the principal finance and incentive program for Commerce. The authority provides below-market, fixed-rate financing in the form of loans, grants, conditional loans, conditional grants, and direct investment to local jurisdictions and businesses. Businesses, in particular those in growth industries that are locating or expanding in priority funding areas, are targeted. Funds may be used for property acquisition, construction, renovation of buildings including tenant improvements, and capital equipment.

Financial Assistance Limits and Uses

Generally, financial assistance from the authority may not exceed 70% of the total costs of the project being financed, up to $10 million. Financial assistance may constitute 100% of the total costs of the project being financed for an arts and entertainment enterprise or project or a qualified distressed county project. Financial assistance from the fund is generally limited to 50% of eligible costs of capital improvements to a child care facility. Similarly, financial assistance is also limited to 50% of preparation costs of a strategy or plan for economic development of a county or municipality, up to $50,000 over a three-year period.

Generally, financial assistance from the authority may be used only to finance costs incurred for (1) construction or acquisition of a building or real property, and associated development and carrying costs; (2) construction, acquisition, or installation of equipment, furnishings, fixtures, leasehold improvements, site improvements, or infrastructure improvements, and associated development and carrying costs; or (3) working capital for significant strategic economic development opportunities, arts and entertainment enterprises, or arts and entertainment projects. Other specified uses exist for the redevelopment of brownfields' sites, child care facilities, or local government economic development planning.

Qualified Distressed Counties

To qualify as a distressed county, a county must have:

- an average unemployment rate that exceeded the State's average during the preceding 24-month period by 150%; or

- a per capita personal income that may not exceed 67% of the State's average during the preceding 24-month period.

A distressed county also includes any county that no longer meets the unemployment or personal income criterion but has met at least one of the criteria at some point in the preceding 24-month period.

Baltimore City and Allegany, Dorchester, Somerset, and Worcester counties are currently considered qualified distressed counties. In these counties, under the One Maryland program, businesses that establish or expand a business facility in a priority funding area may be entitled to up to $5.5 million in tax credits for costs related to the new or expanded facility.

There are also more favorable terms for financial assistance provided by the authority in qualified distressed counties. For example, financial assistance may be up to 100% of a project's eligible costs, rather than 70%, and a project need not be in an eligible industry sector.

Flexibility to Refocus on Core Financial Assistance Activities

Commerce advises that the bill gives the authority flexibility to refocus on its core mission of financial assistance and eliminate or reposition noncore activities. The Financing Programs Consolidation Act of 2000 established the authority as Commerce's primary finance program by repealing outdated economic development assistance programs and merging standalone programs into the authority. As a result, the authority has become a "catch all" for a multitude of priorities, which stretches the fund's resources: approximately $37.1 million, or 55%, of total settled transactions between fiscal 2012 and 2016 went to capabilities in the authority that were not related to job creation or retention projects.

Commerce also advises that the current general limit on financial assistance of 70% of eligible capital expenditures makes the authority less competitive with surrounding states. Further, allowing funding for working capital enables the authority to assist companies with a host of operating needs not served through fixed-asset funding.

The Governor's proposed fiscal 2018 budget includes $30.1 million for the authority, a $10.2 million increase in general funds over fiscal 2017. The funding is not contingent on this bill.

State Fiscal Effect: The bill does not alter overall funding for the authority and has a minimal overall impact on State finances. Commerce can implement the bill with existing budgeted resources. However, financial assistance provided to eligible projects is affected, up to and including the elimination of all funding for certain projects. For example, authorization to provide grants to local governments for local revolving loan funds is repealed, as are requirements for the authority to fund feasibility studies. Both of these projects do not generate a financial return to the authority, and that funding may instead be directed to other projects. Therefore, to the extent that projects with greater financial returns are funded than otherwise would have been, special fund revenues for the authority increase beginning as early as fiscal 2019. The amount cannot be reliably estimated at this time.

Local Fiscal Effect: Under the bill, local governments are no longer specifically authorized to apply for matching grants for local economic development funds or funding for feasibility studies, and relatively more favorable financial assistance for qualified distressed counties is repealed. Eliminating funding from the authority for local government revolving loan funds and feasibility studies affects local governments, but the impact on local governments as a whole or on individual jurisdictions cannot be reliably estimated. Projects in qualified distressed counties, as identified above, no longer receive more favorable treatment for financial assistance from the authority relative to other projects. Instead, local governments generally may receive financial assistance in the same way as other eligible entities.

Commerce advises that the authority grants to local government revolving loan funds will be replaced with direct lending to eligible small businesses from the fund managers of the Small, Minority, and Women-Owned Business Account. DLS advises that the account does not provide funding directly to local governments. In addition, there are several restrictions on how funds from the account can be spent, including that 50% of funds be spent in the jurisdictions and communities surrounding video lottery facilities in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Commerce; Department of Natural Resources; Department of the Environment; Maryland State Department of Education; Maryland State Department of Assessments and Taxation; Department of Labor, Licensing, and Regulation; Maryland Economic Development Corporation; Baltimore City; Montgomery, Washington, and Worcester counties; City of College Park; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2017
md/rhh Revised - Clarification - February 8, 2017
Revised - Correction - February 8, 2017

Analysis by: Stephen M. Ross

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES (SFY 2015)

TITLE OF BILL: ADVANTAGE MARYLAND FUND

BILL NUMBER: HB 161

PREPARED BY: Mikra Krasniqi (Department of Commerce)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

X WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

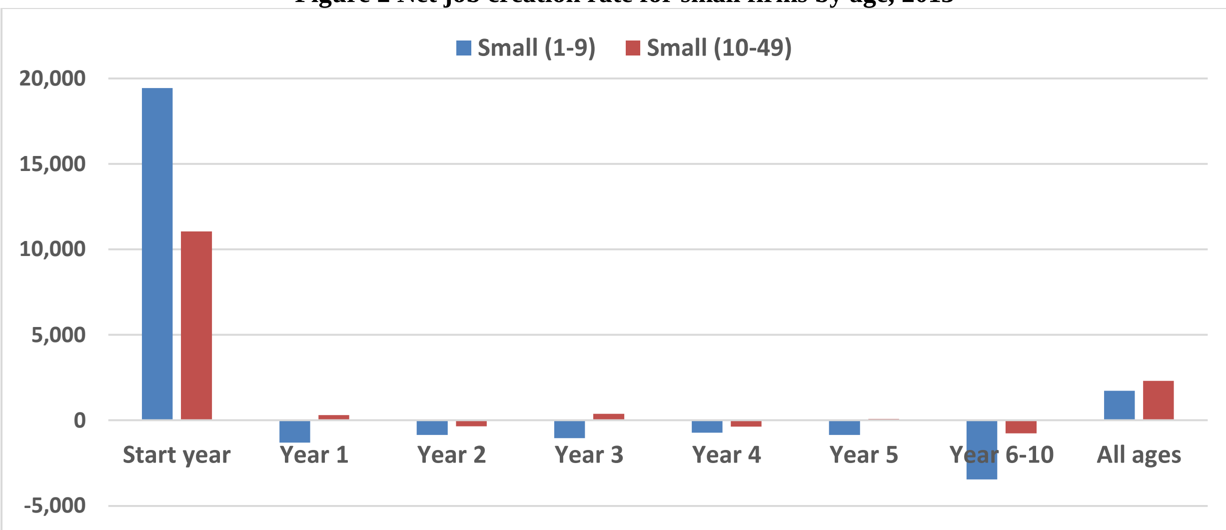
This legislative proposal aims to replace MEDAAF with a new Fund called the Advantage Maryland Fund. The proposal focuses on Commerce's core mission "to create, attract, retain, and expand commercial and industrial business resulting in significant employment and private investment." MEDAAF assistance in its presence form limits its assistance to firms with capital expenditures not more than 70%. This statute skews resources toward companies that have large fixed capital investments at the expense of startups and small firms that lack large-scale fixed capital investments.

Advantage Maryland Fund will address these shortcomings by streamlining the process, removing restrictions on capital, and allowing for greater funding flexibility and faster response, which is important for startups and young/ small businesses. Advantage Maryland aims to also focus on providing capital to help firms with non-capital assets, such as R&D, intellectual property, training, and access to technological resources. In this manner, Advantage Maryland is a program that is best positioned to assist small and young firms that are crucial to job growth. Given the above reasons, the new program is expected to have a significant positive impact on Maryland small businesses.

Role of small businesses in firm creation

Small business establishments are the bread and butter of firm creation. The annual average of new business establishments for very small firms in Maryland during 2010-13 was 8,221. To put this in perspective, it is important to note that out of 9,485 new firms formed in 2013, in Maryland, 8,912 or 94% were establishments with 1-9 workers. Similarly, evidence shows startups and young companies are the most vibrant in creating new jobs (see Figure 1) but a significant number of them fail to grow beyond the first year. And while these young firms may need more than just financial assistance to expand, the availability of startup capital to address workforce needs, physical infrastructure, and other basic investments that enable business growth is critical for these firms to be able to weather challenges of expansion.

Figure 2 Net job creation rate for small firms by age, 2013



Source: U.S. Census, Business Dynamic Statistics (BDS)