Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1052 (Delegate Walker)(By Request - Tax Credit Evaluation Committee)

Ways and Means Budget and Taxation

Economic Development - Job Creation Tax Credit - Alteration

This bill alters the Job Creation Tax Credit program by (1) increasing the value of the tax credit; (2) allowing a business to claim the full value of the credit in one tax year; (3) limiting to $4.0 million the annual amount of credits the Department of Commerce (Commerce) may award; (4) lowering the minimum number of qualifying jobs that must be created in order to claim the credit in certain counties; (5) requiring that each job that qualifies for the credit is paid at least 120% of the State minimum wage; and (6) altering certain tax credit verification and reporting requirements.

The bill takes effect July 1, 2017, and applies to all job creation tax credits certified after December 31, 2017.

Fiscal Summary

State Effect: General fund revenues decrease by $377,000 in FY 2019 due to the acceleration of tax credits claimed. Transportation Trust Fund (TTF) revenues decrease by $53,000 and Higher Education Investment Fund (HEIF) revenues decrease by $22,000 in FY 2019. Future year revenue losses reflect the net impact of accelerating tax credit claims and increased credits claimed. Expenditures are not affected.

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	$0	($0.4)	($0.6)	($1.9)	($2.6)
SF Revenue	$0	($0.1)	($0.1)	($0.4)	($0.5)
Expenditure	0	0	0	0	0
Net Effect	$0.0	($0.5)	($0.8)	($2.3)	($3.1)

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

Local Effect: Local highway user revenues will decrease by $5,000 in FY 2019 and by $35,000 in FY 2022. Local expenditures are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill:

- *Increases Credit Value:* Under current law, the value of the credit depends on the number of jobs created, the wages of those jobs in the year the credit was claimed, and whether the jobs are located in a revitalization area. The credit is equal to the lesser of $1,000 or 2.5% of the wages paid for the jobs in the year the credit was claimed (increased to $1,500 or 5.0% of the eligible wages for jobs located within a revitalization area). As shown in **Exhibit 1,** the bill increases the value of the credit to $3,000 per eligible job created ($5,000 if within a revitalization area).

Exhibit 1
Credit Value
Current Law and Proposed

Revitalization Area	Current Law	Proposed
Yes	Lesser of 5.0% of wages or $1,500	$5,000
No	Lesser of 2.5% of wages or $1,000	$3,000

- *Increases Credit in First Tax Year:* Current law requires that a company claim the value of the tax credit over two tax years – one-half can be claimed in the first year with the remaining one-half in the following year. The bill specifies that a company claims the full value of the credit in one tax year.

- *Alters Job Creation Thresholds:* Under current law, an eligible business must create at least 60 new jobs within a two-year period. The job creation threshold is lowered to (1) 30 new jobs if the average salaries of the new jobs are highly paid as determined by a sliding scale relative to the average State salary or (2) 25 new jobs if the new jobs are created within a State priority funding area (PFA). The bill eliminates the threshold for highly paid jobs and lowers the job creation threshold to 10 if the jobs are created within a county with (1) an annual average employment of less than 75,000 or (2) a median household income that is less than two-thirds of the statewide median household income. Baltimore City and Allegany, Calvert, Caroline, Carroll, Cecil, Charles, Dorchester, Garrett, Kent, Queen Anne's, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester counties currently meet one of these requirements. **Exhibit 2** compares the minimum job creation thresholds under current law and those proposed by the bill.

Exhibit 2
Minimum Job Creation Thresholds
Current Law and Proposed

Current Law	**Minimum Jobs**
Standard	60
Highly Paid	30
Priority Funding Area	25
Proposed	
Standard	60
Priority Funding Area	25
Certain Counties[1]	10

[1]County must either have an average annual employment of less than 75,000 or a median household income that is less than two-thirds of the statewide median household income.

- *Alters Eligibility Definitions:* The bill requires that, in order to qualify for the credit, an employer must pay a qualifying position at least 120% of the State minimum wage, instead of 150% of the federal minimum wage. In addition to other specified areas, current law allows a county to designate only one area as a State PFA for the purposes of the program's reduced minimum job creation threshold. The bill specifies that any area designated by a county as a PFA qualifies under the program.

- *Alters Certification and Reporting Requirements:* The bill requires Commerce to (1) certify the value of the credit and (2) report additional information on companies that claim the credit in its annual tax credit report submitted to the Governor and General Assembly. The Maryland Insurance Administration must report annually on the credits claimed against the insurance premium tax. Current law requires a company that claims the tax credit to submit verification of the claim by an independent certified public accountant (CPA). The bill eliminates this requirement and instead requires the Department of Labor, Licensing, and Regulation to verify the information submitted by the company.

Current Law: Created by Chapter 84 of 1996, the job creation tax credit provides a tax credit to businesses that expand or establish a facility in Maryland that results in the creation of new jobs. Businesses must be primarily engaged in a qualifying business activity. The new jobs must be full-time, permanent, filled, located in Maryland, and pay at least 150% of the federal minimum wage. Commerce certifies the number of qualifying jobs created by the business, and there is no limit on the amount of credits that can be awarded in each year.

A PFA includes (1) State enterprise zones; (2) federal empowerment zones; (3) Department of Housing and Community Development (DHCD) sustainable communities; (4) incorporated municipalities; (5) the area between the I-495 beltway and the District of Columbia or the I-695 beltway and Baltimore City; and (6) a growth area designated by each county for the purpose of the credit.

The value of the credit depends on the number of jobs created, the wages of those jobs in the year the credit was claimed, and whether the jobs are located in a revitalization area.

- *Standard Credit:* The credit is equal to the lesser of $1,000 or 2.5% of the wages paid for the jobs in the year the credit was claimed.

- *Enhanced Credit:* If the jobs are created within a revitalization area, the credit is equal to the lesser of $1,500 or 5% of the wages.

A revitalization area includes (1) State enterprise zones; (2) federal empowerment zones; and (3) sustainable communities as designated by DHCD.

Background:

Program Activity

From fiscal 2002 through 2016, Commerce issued 208 certifications to 101 businesses that reported creating 17,692 jobs. Tax credits totaled an estimated $21.8 million (in 2016 dollars). On average, Commerce issues 14 certifications each year and a total of $1.4 million in credits. A typical tax credit certification reports 51 jobs and has a value of $60,500. This translates to a credit of $1,200 for each job or 2.5% of the reported wages.

Most job creation tax credits have been claimed by businesses in the transportation and warehousing industries (about one-quarter) followed by manufacturing businesses (one-fifth). Anne Arundel County, with 3,194 jobs or a little less than one-fifth of all jobs, had the highest number of reported jobs, while Baltimore County had the most projects (43). Credit activity is not concentrated within these counties, however, as eight counties have 500 or more reported jobs. The prevalence of credit activity across the State, however, is not uniform. The variation in credit activity includes no projects in about one-quarter of all counties. Only 23 certifications to date have not been located within a PFA; as a result, about 90% of all credits have been certified for businesses in PFAs. Fewer credit certifications (just over one-third) have been within revitalization zones.

The job creation tax credit has a limited impact on overall job creation in the State. Moreover, its impact has decreased significantly over the last 15 years. Due to the Great Recession and long-term trends that predated the recession, the total number of jobs created in the State has slowed in the last several years. However, the number of job creations reported by businesses claiming the credit has decreased by a significantly greater amount. In fiscal 2002 through 2006, a business claimed a job creation tax credit for 1 out of every 189 jobs created in the State – this has subsequently decreased within the last five years to 1 out of every 380 job creations.

Tax Credit Evaluation

In its draft evaluation of the job creation tax credit issued in November 2016, the Department of Legislative Services (DLS) noted that:

- The job creation tax credit incentive is minor relative to the total cost of employing an individual, so the credit is unlikely to increase employment in most instances.

- There is a significant overlap between existing State employment tax credits and a lack of coordination in tax credit objectives, including for tax credits for employment within distressed areas of the State. The total amount of additional incentives provided by the job creation tax credit to these distressed areas is minor relative to the two State programs – enterprise zone and One Maryland – that specifically aim to increase economic activity and employment in distressed areas of the State. In addition, multiple programs providing inconsistent incentives do not provide clear signals that help influence business decisions in the desired manner.

- Those businesses that do claim the job creation tax credit are generally not reflective of the overall Maryland economy. Most of the job creation tax credits have been claimed by businesses in the manufacturing, transportation and warehousing, and finance and insurance industries, so businesses in many industries have not benefited from the tax credit. Minimum job creation and other eligibility requirements limit the ability of new or smaller businesses to receive the credit, so participating businesses are much more likely to be large established companies.

DLS recommended that the General Assembly consider eliminating the job creation tax credit or consolidating the credit with other employment tax credits. If considering the consolidation of the employment tax credits, DLS recommended that the General Assembly consider one program to increase economic growth within distressed areas and one program to promote broad-based job creation across the State, including provisions that target job creation for small and newly established businesses and businesses in high-growth industries.

In addition, the report also made several recommended changes to the job creation tax credit. The bill's proposed changes to the program implement several of these recommendations. The DLS draft evaluation of the job creation tax credit can be found here.

State Revenues: The bill alters the job creation tax credit beginning with credits certified after December 31, 2017. State revenues will decrease due to the increase in the value of the tax credit. Under the existing program, the average credit per job was equal to $892 ($1,314 if within a revitalization area). The bill increases the value of the credit per job to $3,000 ($5,000 in revitalization areas). State revenues are also expected to decrease due to additional participation in the program resulting from (1) eliminating the requirement that businesses submit independent CPA verification of tax credit claims; (2) lowering the minimum job creation threshold in certain counties and Baltimore City; and (3) allowing additional areas to qualify as a PFA. Revenue losses will also be accelerated as businesses claim the credit in one tax year instead of two years. As a result, the bill is expected to decrease general fund revenues by $377,000 in fiscal 2019. TTF revenues decrease by $53,000 and HEIF revenues decrease by $22,000 in fiscal 2019. **Exhibit 3** shows the estimated impact on State and local revenues from fiscal 2018 through 2022.

Exhibit 3
State and Local Revenue Impacts
Fiscal 2018-2022

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
General Fund	$0	($377,000)	($647,000)	($1,941,000)	($2,588,000)
HEIF	0	(22,000)	(37,000)	(112,000)	(149,000)
TTF	0	(53,000)	(90,000)	(271,000)	(362,000)
MDOT	*0*	*(48,000)*	*(82,000)*	*(245,000)*	*(327,000)*
LHUR	*0*	*(5,000)*	*(8,000)*	*(26,000)*	*(35,000)*
Total Revenues	**$0**	**($452,000)**	**($774,000)**	**($2,324,000)**	**($3,099,000)**

HEIF: Higher Education Investment Fund
LHUR: local highway user revenues
MDOT: Maryland Department of Transportation
TTF: Transportation Trust Fund

Source: Department of Legislative Services

This estimate is based on the existing history of the credit, including the amount of credits claimed by local jurisdiction and the average number of jobs created within existing PFAs. Commerce issues a final certificate of eligibility to a business when it meets program requirements. It is assumed that one-half of the credits certified in each year applied to Commerce two years prior and the remaining half applied at least three years prior. Given recent program history and the proposed changes, it is estimated that the maximum $4.0 million in credits will be awarded in each year.

Local Revenues: Local highway user revenues decrease by $5,000 in fiscal 2019 and by $35,000 in fiscal 2022, as shown in Exhibit 3.

Small Business Effect: Small businesses may be meaningfully impacted by the proposed changes. Small businesses may benefit from (1) a reduction in the accounting costs associated with claiming the credit; (2) the increased credit value and claiming the credit in one tax year; and (3) increased participation due to lower job creation thresholds in certain counties and additional areas that qualify as a PFA.

Additional Information

Prior Introductions: None.

Cross File: SB 873 (Senator Madaleno, *et al.*) (By Request - Tax Credit Evaluation Committee) - Budget and Taxation.

Information Source(s): Department of Commerce; Department of Legislative Services

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Analysis by: Robert J. Rehrmann

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