

# HOUSE BILL 363

C8, Q3, Q1

8lr0136  
CF SB 305

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By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Arentz, Aumann, Beitzel, Buckel, Carozza, Cassilly, Ciliberti, Clark, Cluster, Corderman, Flanagan, Folden, Ghrist, Glass, Grammer, Hornberger, S. Howard, Impallaria, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McConkey, McDonough, McKay, Metzgar, Miele, Morgan, Otto, Parrott, Reilly, Rey, Rose, Saab, Shoemaker, Szeliga, Vogt, West, Wilson, and Wivell**

Introduced and read first time: January 24, 2018

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **More Jobs for Marylanders Act 2.0**

3 FOR the purpose of altering the definition of “qualified distressed county” by altering  
4 certain income levels in the definition and renaming it to be “Tier I county”; altering  
5 the scope of eligible projects for which a business entity may apply to enroll in the  
6 More Jobs for Marylanders Program; altering the types of businesses authorized to  
7 receive certain credits and benefits under the Program; authorizing a certain county  
8 to select certain activities for eligibility for the Program; authorizing the Department  
9 of Commerce to require certain verification of certain information; altering the  
10 circumstances under which a business entity may receive certain benefits under the  
11 Program; requiring the Department to consider certain definitions in certain  
12 determinations; imposing a maximum amount that a certain business may receive  
13 as a credit against the State income tax under the Program; altering the date after  
14 which the Program may not provide a certain certificate of eligibility for Program  
15 benefits; altering the total credit amounts for which the Department may issue  
16 certain initial credit certificates for each fiscal year; requiring the Department to  
17 reserve a certain percentage of the More Jobs for Marylanders Tax Credit Reserve  
18 Fund for certain income tax credits; requiring the Department to reserve a certain  
19 percentage of the More Jobs for Marylanders Sales and Use Tax Refund Reserve  
20 Fund for refunds for certain business entities; altering the total refund amounts for  
21 which the Department may issue certain sales and use tax refunds for each fiscal  
22 year; requiring the publisher of the Annotated Code of Maryland, in consultation  
23 with and subject to the approval of the Department of Legislative Services, to correct  
24 any cross–references or terminology rendered incorrect by this Act and to describe  
25 any corrections made in an editor’s note following the section affected; altering

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain definitions; defining certain terms; making conforming changes; and  
2 generally relating to the More Jobs for Marylanders Program.

3 BY repealing and reenacting, without amendments,  
4 Article – Economic Development  
5 Section 1–101(a) and (b) and 6–802  
6 Annotated Code of Maryland  
7 (2008 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article – Economic Development  
10 Section 1–101(e), 6–801, 6–803(a), 6–804, and 6–805(b)  
11 Annotated Code of Maryland  
12 (2008 Replacement Volume and 2017 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Tax – General  
15 Section 10–741(b) and (d) and 11–411(d)  
16 Annotated Code of Maryland  
17 (2016 Replacement Volume and 2017 Supplement)

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

20 **Article – Economic Development**

21 1–101.

22 (a) In this division the following words have the meanings indicated.

23 (b) “County” means a county of the State or Baltimore City.

24 (e) (1) **[“Qualified distressed] “TIER I county”** means a county with:

25 (i) an average rate of unemployment for the most recent 24–month  
26 period for which data are available that exceeds 150% of the average rate of unemployment  
27 for the State during that period;

28 (ii) an average rate of unemployment for the most recent 24–month  
29 period for which data are available that exceeds the average rate of unemployment in the  
30 State by at least 2 percentage points; or

31 (iii) **[an average per capita personal] A MEDIAN HOUSEHOLD**  
32 **income** for the most recent 24–month period for which data are available that is equal to or  
33 less than **[67%] 75%** of the **[average per capita personal] MEDIAN HOUSEHOLD** income  
34 for the State during that period.

1           (2)    [“Qualified distressed] “TIER I county” includes a county that:

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

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

6 6–801.

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

8           (b)    “Benefit year” means a taxable year in which a qualified business entity  
9 claims a program benefit established under § 6–805 of this subtitle.

10           (c)    [(1)] “Business entity” means a person conducting or operating a trade or  
11 business [that is primarily engaged in activities that, in accordance with the North  
12 American Industrial Classification System (NAICS), United States Manual, United States  
13 Office of Management and Budget, 2012 Edition, would be included in Sector 31, 32, or 33.

14                   (2)    “Business entity” does not include a refiner, as defined in § 10–101 of  
15 the Business Regulation Article].

16           **(D) “DESIGNATED BUSINESS ENTITY” MEANS A BUSINESS ENTITY**  
17 **PRIMARILY ENGAGED IN AT LEAST ONE QUALIFYING ACTIVITY THAT HAS BEEN**  
18 **SELECTED BY A TIER I COUNTY FOR ELIGIBILITY FOR THE PROGRAM.**

19           [(d)] **(E) “Eligible project” means a [facility operated by a business entity in a**  
20 **Tier I county or Tier II county] PROJECT CERTIFIED AS ELIGIBLE FOR THE BENEFITS**  
21 **UNDER THIS SUBTITLE IN ACCORDANCE WITH § 6–804 OF THIS SUBTITLE.**

22           [(e)] **(F) “Existing business entity” means a business entity that is located in the**  
23 **State at the time it notifies the Department under § 6–803(c) of this subtitle.**

24           **(G) (1) “MANUFACTURING BUSINESS ENTITY” MEANS A BUSINESS ENTITY**  
25 **PRIMARILY ENGAGED IN ACTIVITIES IN THE STATE OR OUT OF THE STATE THAT, IN**  
26 **ACCORDANCE WITH THE NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM**  
27 **(NAICS), UNITED STATES MANUAL, UNITED STATES OFFICE OF MANAGEMENT**  
28 **AND BUDGET, 2012 EDITION, WOULD BE INCLUDED IN SECTOR 31, 32, OR 33.**

29                   **(2) “MANUFACTURING BUSINESS ENTITY” DOES NOT INCLUDE A**  
30 **REFINER AS DEFINED IN § 10–101 OF THE BUSINESS REGULATION ARTICLE.**

31           [(f)] **(H) “New business entity” means a business entity that is not located in the**  
32 **State at the time it notifies the Department under § 6–803(b) of this subtitle.**



1 (iv) is newly created at a single facility in the State; and

2 (v) is filled.

3 (2) “Qualified position” does not include a position that is:

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

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

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

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

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

14 [(j) “Tier I county” means:

15 (1) a qualified distressed county, as defined in § 1–101 of this article; or

16 (2) a county designated by the Department that is not a county described  
17 in paragraph (1) of this subsection, not to exceed 3 counties.

18 [(k)] (M) “Tier II county” means a county that is not a **TIER I** county [described  
19 in subsection (j) of this section].

20 6–802.

21 There is a More Jobs for Marylanders Program in the Department.

22 6–803.

23 (a) A business entity may apply to the Department to enroll an eligible project in  
24 the Program if [the eligible project]:

25 (1) **(I) THE ELIGIBLE PROJECT** is in a Tier I county;

26 **(II) THE ELIGIBLE PROJECT IS A PROJECT OPERATED BY A**  
27 **MANUFACTURING BUSINESS ENTITY OR A DESIGNATED BUSINESS ENTITY;** and

28 **(III) the business entity intends to create at least five qualified**

1 positions at the project location; or

2 (2) (I) THE ELIGIBLE PROJECT is in a Tier II county;

3 (II) THE ELIGIBLE PROJECT IS A PROJECT OPERATED BY A  
4 MANUFACTURING BUSINESS ENTITY; and

5 (III) the business entity intends to create at least 10 qualified  
6 positions at the project location.

7 6–804.

8 (A) (1) (I) THIS PARAGRAPH APPLIES TO A BUSINESS ENTITY THAT IS  
9 RECEIVING AN ENTERPRISE ZONE INCOME TAX CREDIT UNDER § 10–702 OF THE  
10 TAX – GENERAL ARTICLE.

11 (II) A BUSINESS ENTITY MAY NOT SIMULTANEOUSLY RECEIVE  
12 BENEFITS UNDER THE PROGRAM.

13 (2) (I) THIS PARAGRAPH APPLIES TO A BUSINESS ENTITY OTHER  
14 THAN A MANUFACTURING BUSINESS ENTITY.

15 (II) TO BE ELIGIBLE FOR THE TAX BENEFITS UNDER THIS  
16 SUBTITLE, A BUSINESS ENTITY OTHER THAN A MANUFACTURING BUSINESS ENTITY  
17 SHALL ESTABLISH OR EXPAND IN A TIER I COUNTY A BUSINESS FACILITY THAT IS  
18 PRIMARILY ENGAGED IN A QUALIFIED ACTIVITY THAT HAS BEEN SELECTED BY THE  
19 TIER I COUNTY FOR ELIGIBILITY FOR THE PROGRAM.

20 (III) A TIER I COUNTY MAY SELECT UP TO THREE QUALIFIED  
21 ACTIVITIES FOR ELIGIBILITY FOR THE PROGRAM.

22 (IV) THE DEPARTMENT MAY REQUIRE VERIFICATION OF ANY  
23 INFORMATION REGARDING WHETHER A BUSINESS ENTITY IS ENGAGED IN A  
24 QUALIFIED ACTIVITY BY THE DEPARTMENT OF LABOR, LICENSING, AND  
25 REGULATION.

26 (3) (I) THIS PARAGRAPH APPLIES TO A BUSINESS ENTITY  
27 ESTABLISHING OR EXPANDING A BUSINESS FACILITY IN A TIER I COUNTY.

28 (II) A BUSINESS ENTITY IS NOT ELIGIBLE FOR THE TAX  
29 BENEFITS UNDER THIS SUBTITLE IF THE BUSINESS IS PRIMARILY ENGAGED IN:

30 1. A RETAIL OPERATION;

1                   **2. THE PERFORMANCE OF PERSONAL SERVICES; OR**

2                   **3. HEALTH CARE SERVICES.**

3                   **(4) IN DETERMINING THE TYPE OF ACTIVITY A BUSINESS FACILITY IS**  
4 **ENGAGED IN UNDER PARAGRAPHS (2) OR (3) OF THIS SUBSECTION, THE**  
5 **DEPARTMENT SHALL CONSIDER THE DEFINITIONS SET FORTH IN THE NORTH**  
6 **AMERICAN INDUSTRY CLASSIFICATION SYSTEM.**

7                   **[(a)] (B)** The Program benefits authorized under this section may be claimed by  
8 a qualified business entity **THAT IS A MANUFACTURING BUSINESS ENTITY OR A**  
9 **DESIGNATED BUSINESS ENTITY** for up to 10 consecutive benefit years.

10                   **[(b)] (C) (1)** On enrollment in the Program[:

11                   **(1)], a new business entity [in a Tier I county] is eligible for[:] THE**  
12 **BENEFITS DESCRIBED UNDER PARAGRAPH (2) OF THIS SUBSECTION IF IT:**

13                   **(I) LOCATES IN A TIER I COUNTY;**

14                   **(II) IS A MANUFACTURING BUSINESS ENTITY OR A DESIGNATED**  
15 **BUSINESS ENTITY; AND**

16                   **(III) CREATES AT LEAST FIVE QUALIFIED POSITIONS.**

17                   **(2) A NEW BUSINESS ENTITY THAT SATISFIES THE CONDITIONS**  
18 **UNDER PARAGRAPH (1) OF THIS SUBSECTION IS ELIGIBLE FOR:**

19                   **(i) a credit against the State income tax, established under §**  
20 **10–741(b) of the Tax – General Article;**

21                   **(ii) a credit against the State property tax, established under §**  
22 **9–110 of the Tax – Property Article;**

23                   **(iii) a refund of sales and use tax paid during the immediately**  
24 **preceding taxable year, as provided under § 11–411 of the Tax – General Article; and**

25                   **(iv) a waiver of fees charged by the State Department of Assessments**  
26 **and Taxation, established under § 1–203.1 of the Corporations and Associations Article[;**  
27 **and**

28                   **(2) except as provided in subsection (c) of this section, an existing business**  
29 **entity that operates an eligible project is eligible for a credit against the State income tax,**  
30 **established under § 10–741(b) of the Tax – General Article.**

1 (c) The income tax credit established under § 10-741(b) of the Tax – General  
2 Article is not available to an existing business entity if the entity moves its facility to  
3 another county in the State on or after June 1, 2017].

4 (D) (1) ON ENROLLMENT IN THE PROGRAM, A BUSINESS ENTITY IS  
5 ELIGIBLE FOR THE BENEFITS DESCRIBED UNDER PARAGRAPH (2) OF THIS  
6 SUBSECTION IF IT IS:

7 (I) A NEW BUSINESS ENTITY OR AN EXISTING BUSINESS ENTITY  
8 THAT:

- 9 1. LOCATES IN A TIER II COUNTY;
- 10 2. IS A MANUFACTURING BUSINESS ENTITY; AND
- 11 3. CREATES AT LEAST 10 QUALIFIED POSITIONS; OR

12 (II) AN EXISTING BUSINESS ENTITY THAT:

- 13 1. LOCATES OR EXPANDS IN A TIER I COUNTY;
- 14 2. IS A MANUFACTURING BUSINESS ENTITY OR A  
15 DESIGNATED BUSINESS ENTITY; AND
- 16 3. CREATES AT LEAST FIVE QUALIFIED POSITIONS.

17 (2) A BUSINESS ENTITY THAT SATISFIES THE CONDITIONS UNDER  
18 PARAGRAPH (1) OF THIS SUBSECTION IS ELIGIBLE FOR A CREDIT AGAINST THE  
19 STATE INCOME TAX, ESTABLISHED UNDER § 10-741(B) OF THE TAX – GENERAL  
20 ARTICLE.

21 (E) THE INCOME TAX CREDIT ESTABLISHED UNDER § 10-741(B) OF THE  
22 TAX – GENERAL ARTICLE IS AVAILABLE TO AN EXISTING BUSINESS ENTITY THAT  
23 MOVES ITS FACILITY TO ANOTHER COUNTY IN THE STATE IF:

24 (1) THE FACILITY IS OPERATED BY A MANUFACTURING BUSINESS  
25 ENTITY; AND

26 (2) THE EXISTING BUSINESS ENTITY CREATES AT LEAST 10  
27 ADDITIONAL QUALIFIED POSITIONS AT THE NEW LOCATION.

28 (F) A QUALIFIED BUSINESS ENTITY IS ELIGIBLE TO RECEIVE A MAXIMUM OF  
29 \$11,250 PER BENEFIT YEAR AS A CREDIT AGAINST THE STATE INCOME TAX FOR  
30 EACH QUALIFIED POSITION.



1 by the Treasurer, and interest and earnings shall be credited to the General Fund.

2 (3) (i) Subject to the limitations of this subsection, the Department  
3 shall issue an initial tax credit certificate in an amount equal to a percentage of total wages  
4 paid for each qualified position at an eligible project as calculated under subsection (b)(2)  
5 of this section.

6 (ii) An initial tax credit certificate issued under this subsection shall  
7 state the maximum amount of tax credit for which the qualified business entity is eligible.

8 (iii) 1. Except as otherwise provided in this subparagraph, for  
9 any fiscal year, the Department may not issue initial tax credit certificates for credit  
10 amounts in the aggregate totaling more than ~~[\$9,000,000]~~ **\$13,000,000** in a fiscal year.

11 2. If the aggregate credit amounts under initial tax credit  
12 certificates issued in a fiscal year total less than the maximum provided under  
13 subparagraph 1 of this subparagraph, any excess amount shall remain in the Reserve  
14 Fund and may be issued under initial tax credit certificates for the next fiscal year.

15 3. For any fiscal year, if funds are transferred from the  
16 Reserve Fund under the authority of any provision of law other than under paragraph (4)  
17 of this subsection, the maximum credit amounts in the aggregate for which the Department  
18 may issue initial tax credit certificates shall be reduced by the amount transferred.

19 (IV) 1. **EXCEPT AS OTHERWISE PROVIDED IN THIS**  
20 **SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE DEPARTMENT SHALL RESERVE 50%**  
21 **OF THE FUNDS IN THE RESERVE FUND FOR INITIAL CREDITS FOR BUSINESS**  
22 **ENTITIES THAT ARE MANUFACTURING BUSINESS ENTITIES.**

23 2. **IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**  
24 **TAX CREDIT CERTIFICATES ISSUED THROUGH THE LAST QUARTER OF A FISCAL YEAR**  
25 **TOTAL LESS THAN THE AMOUNT RESERVED UNDER SUBSUBPARAGRAPH 1 OF THIS**  
26 **SUBPARAGRAPH, THE DEPARTMENT MAY USE THE REMAINDER OF THOSE**  
27 **RESERVED FUNDS TO ISSUE TAX CREDIT CERTIFICATES TO BUSINESS ENTITIES**  
28 **THAT ARE NOT MANUFACTURING BUSINESS ENTITIES.**

29 [(iv)] (V) For fiscal year 2019 and each fiscal year thereafter, the  
30 Governor shall include in the annual budget bill an appropriation to the Reserve Fund in  
31 an amount that is no less than the amount the Department reports is necessary under  
32 subsection (e) of this section to:

33 1. maintain the current level of manufacturing activity in the  
34 State; and

35 2. attract new manufacturing activity to the State.

1                    [(v)] (VI) Notwithstanding the provisions of § 7–213 of the State  
2 Finance and Procurement Article, the Governor may not reduce an appropriation to the  
3 Reserve Fund in the State budget as approved by the General Assembly.

4                    [(vi)] (VII) Based on an amount equal to a percentage of the total  
5 actual wages paid for each qualified position at an eligible project as calculated under  
6 subsection (b)(2) of this section, the Department shall issue a final tax credit certificate to  
7 the qualified business entity.

8                    (4) (i) Except as provided in this paragraph, money appropriated to the  
9 Reserve Fund shall remain in the Fund.

10                    (ii) 1. Within 15 days after the end of each calendar quarter, the  
11 Department shall notify the Comptroller as to each final credit certificate issued during the  
12 quarter:

13                    A. the maximum credit amount stated in the initial tax credit  
14 certificate for the qualified business entity; and

15                    B. the final certified credit amount for the qualified business  
16 entity.

17                    2. On notification that a final credit amount has been  
18 certified, the Comptroller shall transfer an amount equal to the credit amount stated in the  
19 initial tax credit certificate for the qualified business entity from the Reserve Fund to the  
20 General Fund.

21 11–411.

22                    (d) (1) There is a More Jobs for Marylanders Sales and Use Tax Refund  
23 Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 of  
24 the State Finance and Procurement Article.

25                    (2) The money in the Reserve Fund shall be invested and reinvested by the  
26 State Treasurer, and interest and earnings shall be credited to the General Fund.

27                    (3) (I) [The] **SUBJECT TO THE LIMITATIONS IN SUBPARAGRAPH (II)**  
28 **OF THIS PARAGRAPH, THE** Department shall issue a refund in an amount equal to the  
29 amount claimed by the qualified business entity under subsection (c) of this section.

30                    (II) 1. **EXCEPT AS OTHERWISE PROVIDED IN THIS**  
31 **SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE DEPARTMENT SHALL RESERVE 50%**  
32 **OF THE MONEY IN THE RESERVE FUND FOR REFUNDS FOR BUSINESS ENTITIES THAT**  
33 **ARE MANUFACTURING BUSINESS ENTITIES.**

34                    2. **IF THE AGGREGATE REFUND AMOUNTS ISSUED**

1 THROUGH THE LAST QUARTER OF A FISCAL YEAR TOTAL LESS THAN THE AMOUNT  
2 RESERVED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE  
3 DEPARTMENT MAY USE THE REMAINDER OF THOSE RESERVED FUNDS TO ISSUE  
4 REFUNDS TO BUSINESS ENTITIES THAT ARE NOT MANUFACTURING BUSINESS  
5 ENTITIES.

6 (4) (i) Except as otherwise provided in this subparagraph, for any fiscal  
7 year, the Department may not issue sales and use tax refunds in amounts in the aggregate  
8 totaling more than ~~[\$1,000,000]~~ **\$2,000,000** in a fiscal year.

9 (ii) if the aggregate amount of sales and use tax refunds issued in a  
10 fiscal year totals less than the maximum provided under subparagraph (i) of this  
11 paragraph, any excess amount shall be transferred to the More Jobs for Marylanders Tax  
12 Credit Reserve Fund established under § 10-741 of this article.

13 (iii) For any fiscal year, if funds are transferred from the Reserve  
14 Fund under authority of any provision of law, the maximum amounts in the aggregate for  
15 which the Department may issue sales and use tax refunds shall be reduced by the amount  
16 transferred.

17 (5) For fiscal year 2019 and each fiscal year thereafter, the Governor shall  
18 include in the annual budget bill an appropriation to the Reserve Fund.

19 (6) Notwithstanding the provisions of § 7-213 of the State Finance and  
20 Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund  
21 in the State budget as approved by the General Assembly.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the  
23 Annotated Code of Maryland, in consultation with and subject to the approval of the  
24 Department of Legislative Services, shall correct, with no further action required by the  
25 General Assembly, cross-references and terminology rendered incorrect by this Act or by  
26 any other Act of the General Assembly of 2018 that affects provisions enacted by this Act.  
27 The publisher shall adequately describe any correction that is made in an editor's note  
28 following the section affected.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2018.