Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 978 (Delegate Wilkins, *et al.*)
Ways and Means

State Income and Property Tax Credits - Purple Line Construction Zone

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This bill creates a tax credit against the State income tax for a qualified business that is impacted by the construction of the Purple Line light rail project in Montgomery and Prince George's counties. The refundable income tax credit is equal to the amount of business income lost during the taxable year as a result of the Purple Line construction. The State must also grant a property tax credit against the State property tax imposed on real property that is located in an impacted area and owned by a qualified business. **The bill takes effect June 1, 2018, and is applicable for tax year 2018 and beyond for the income tax credit and for fiscal 2019 and beyond for the property tax credit.**

Fiscal Summary

State Effect: Potential significant decrease in general and special fund revenues in FY 2019 through FY 2023. General fund and Transportation Trust Fund (TTF) expenditures increase by over $402,100 in FY 2019 and by over $173,700 in FY 2023.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF/SF Rev.	(-)	(-)	(-)	(-)	(-)
GF Expenditure	$33,000	-	-	-	-
SF Expenditure	$369,100	$314,600	$325,200	$336,100	$173,700
Net Effect	($402,100)	($314,600)	($325,200)	($336,100)	($173,700)

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

Local Effect: Adding the State property tax credit to the Montgomery and Prince George's counties real estate tax forms does not materially affect local finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The Maryland Department of Transportation (MDOT) must certify qualified businesses and determine the date on which the certification will expire. A qualified business is a business certified by MDOT as having established a loss of business income at a property located in an area impacted by the construction of the Purple Line light rail project. MDOT, in consultation with the Comptroller, must determine the amount of business income eligible for the credit. The bill specifies the application and certification processes for each credit. MDOT must adopt regulations to implement the bill.

Current Law: No similar State income or property tax credit exists. However, business losses can generally offset other types of income on federal and State income tax returns. A net operating loss (NOL) occurs when a taxpayer's business deductions exceeds income. Myriad special treatments occur; however, prior to the federal Tax Cuts and Jobs Act of 2017 (TCJA), those losses could generally be carried-back two years and carried-forward for twenty years. When carried back, the NOL results in an amended tax return and a refund. When carried forward, the NOL serves to reduce or eliminate taxable income, and therefore tax, in future years. Maryland has effectively decoupled from some of the special NOL provisions but permits the general circumstances above.

Under the TCJA, after tax year 2017, excess business losses above the specified limitations ($500,000 for married filing jointly, $250,000 for single) will no longer be allowed in a current taxable year, except in the case of corporations. However, these excess business losses will be allowed to be carried forward and treated as part of the taxpayer's NOL carryforward. The TCJA eliminates the carry-back provision and limits the deduction to 80% of taxable income therefore reducing a taxpayer's ability to fully reduce income in future years. For losses incurred after tax year 2017, the carry-forward provision is allowed indefinitely.

Property Taxes

The State property tax rate is $0.112 per $100 of an assessment. All State property tax revenues are credited to a special fund, the Annuity Bond Fund, dedicated exclusively to paying the debt service on State general obligation bonds. Local governments generally have the authority to set their own property tax rates.

Background: The Purple Line is a 16.2-mile light rail line that will extend from Bethesda, in Montgomery County, to New Carrollton, in Prince George's County. The Purple Line will operate largely at street level in a combination of dedicated and semi-exclusive right-of-way, and also includes segments on elevated structures and in tunnels. The alignment for the Purple Line will provide direct connections to Washington Metropolitan

Area Transit Authority at Bethesda, Silver Spring, College Park, and New Carrollton. The project will also connect to all three Maryland Area Regional Commuter rail lines, Amtrak, and local bus routes. The project includes 21 stations, 2 storage and maintenance facilities, and 25 light rail vehicles. The Purple Line Project is currently in the construction phase, with revenue operations scheduled for December 31, 2022. The estimated project cost is $2.4 billion.

State Fiscal Effect:

Income Tax Credit

Income tax credits can be claimed beginning in tax year 2018. The Department of Legislative Services assumes construction ends by December 31, 2022, thus businesses will not incur business losses as a direct result of the Purple Line construction after that date. As a result, general fund, TTF, and Higher Education Investment Fund revenues will decrease by a potential significant amount in fiscal 2019 through 2023. However, the amount of the revenue decrease depends on the amount of business losses that can be attributable to the Purple Line construction in Montgomery and Prince George's counties, which cannot be reliably estimated.

Property Tax Credit

Special fund revenue for the Annuity Bond Fund will decrease in fiscal 2019 through 2023 as a result of establishing a State property tax credit. The revenue loss depends on the State property tax imposed on real property that is located in an impacted area and owned by a qualified business, which cannot be reliably estimated.

Debt service payments on the State's general obligation bonds are paid from the Annuity Bond Fund. Revenue sources for the fund include State property taxes, premium from bond sales, and repayments from certain State agencies, subdivisions, and private organizations. General funds may be appropriated directly to the Annuity Bond Fund to make up any differences between the debt service payments and funds available from property taxes and other sources. The fiscal 2019 State budget includes $1.3 billion for general obligation debt service costs, including $289.0 million in general funds, $997.0 million in special funds from the Annuity Bond Fund, $7.1 million in transfer tax revenues, and $12.8 million in federal funds.

To offset the reduction in State property tax revenues, general fund expenditures could increase in an amount equal to the decrease in the Annuity Bond Fund revenues, or the State property tax rate would have to be increased to meet debt service payments. This assumes that the Annuity Bond Fund does not have an adequate fund balance to cover the reduction in State property tax revenues.

Administrative Expenses

The Comptroller's Office reports that it will incur a one-time expenditure increase of $33,000 in fiscal 2019 to add the income tax credit to the personal and corporate income tax credit forms. Additionally, the Comptroller's Office may incur additional costs to determine how much business loss is attributable to the Purple Line construction.

The State Department of Assessments and Taxation may need additional contractual employees to process the State property tax credit depending on the number of businesses that qualify for the credit.

MDOT must provide qualified businesses with an application to substantiate the business income lost during the Purple Line construction, provide certification to each qualified business, and coordinate with the Comptroller to determine the amount of business income eligible for credit. Thus, special fund expenditures increase by at least $369,148 in fiscal 2019, which accounts for a 30-day implementation delay from the bill's June 1, 2018 effective date. This estimate reflects the cost of hiring one contractual manager, two contractual administrators, and four contractual administrative officers to review applications; review, evaluate, and certify businesses; and oversee the program. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Positions	7
Salaries and Fringe Benefits	$330,543
Operating Expenses	38,605
MDOT Expenditures	**$369,148**
Comptroller's Expenditures	**33,000**
Total FY 2019 State Expenditures	**$402,148**

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

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Small Business Effect: Small businesses in Montgomery and Prince George's counties that experience business losses attributable to the Purple Line construction benefit from receiving an income tax credit and, if they own real property in the impacted area, a State property tax credit.

Additional Information

Prior Introductions: None.

Cross File: SB 624 (Senator Smith, *et al.*) - Budget and Taxation.

Information Source(s): Montgomery and Prince George's County; Comptroller's Office; Maryland Department of Transportation; State Department of Assessments and Taxation; Department of Legislative Services

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