HB 540

Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 540 (Delegate Wilkins, *et al.*)

Ways and Means Budget and Taxation

Purple Line Construction Zone – State Income Tax Credit and Grant Program

This bill creates a refundable credit against the State income tax for a qualified small business that is impacted by the construction of the Purple Line light rail project in Montgomery and Prince George's counties. The credit is equal to the amount of business revenue lost during the taxable year as a result of the Purple Line construction, capped at $25,000 per qualified small business. The Department of Commerce (Commerce) may certify up to $1.0 million of business revenue losses in a calendar year. Additionally, the bill establishes a grant program for qualified small businesses impacted by the Purple Line construction. **The bill takes effect July 1, 2020, is applicable beginning in tax year 2020 for the income tax credit, and terminates June 30, 2025.**

Fiscal Summary

State Effect: General fund revenues decrease by up to $1.0 million annually in FY 2021 through FY 2025 due to credits claimed against the income tax. General fund expenditures increase by $103,600 in FY 2021 due to administrative costs at Commerce and the Comptroller's Office, plus by an additional unknown amount for grants. Future year estimates reflect ongoing operating expenditures.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	($1,000,000)	($1,000,000)	($1,000,000)	($1,000,000)	($1,000,000)
GF Expenditure	$103,600	$57,500	$59,100	$61,100	$63,200
Net Effect	($1,103,600)	($1,057,500)	($1,059,100)	($1,061,100)	($1,063,200)

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

Local Effect: To the extent that income tax credits are claimed against the corporate income tax, local highway user revenues decrease from FY 2021 through 2025.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Commerce must certify qualified small businesses. A qualified small business is a specified business entity that employs 20 or fewer employees, is independently owned and operated, is not a subsidiary of another business, is not dominant in its field, and is impacted by the construction of the Purple Line light rail project. Commerce, in consultation with the Maryland Department of Transportation (MDOT), must determine the amount of business revenue eligible for the credit. If the total amount of credits applied for in the application period exceeds the total amount available, Commerce must reduce the amount of the credit by the proportionate amount of the excess.

The bill specifies the application and certification processes for the credit and the grant program. If a qualified small business is required to be registered with the State and is registered, the qualified small business may apply for the tax credit and the grant program regardless of ownership or location. Commerce must establish by regulations a guideline to calculate the amount of a grant awarded under the bill, and a grant may not exceed $50,000. Commerce may award grants until the earlier of when all the money allotted for the grant program has been awarded or December 31, 2024. Any money not awarded by December 31, 2024, must revert to the Maryland Economic Development Assistance Fund. Commerce, in consultation with MDOT, must adopt regulations to implement the bill.

Current Law: No similar State income 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 exceed 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 2 years and carried-forward for 20 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.

Under the TCJA, after tax year 2017, excess business losses above specified limitations are no longer 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.

Maryland has effectively decoupled from some of the special NOL provisions but generally permits the federal NOL deduction.

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 stations at Bethesda, College Park, New Carrollton, and Silver Spring. 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 project is currently in the construction phase, with construction scheduled to be completed in calendar 2023.

State Fiscal Effect:

Income Tax Credit

Income tax credits can be claimed beginning in tax year 2020. Commerce must certify by December 31 each year the amount of business revenue lost during the taxable year. As a result, general fund revenues decrease by $1.0 million annually in fiscal 2021 through fiscal 2025. This estimate assumes that Commerce awards the maximum authorized amount of credits in each tax year and tax credits are claimed against the personal income tax. To the extent tax credits are claimed against the corporate income tax, a portion of the tax credits claimed will decrease revenues for the Transportation Trust Fund (TTF) and the Higher Education Investment Fund.

A portion of TTF revenues are used to provide capital transportation grants to local governments. To the extent that TTF revenues decrease as a result of taxpayers claiming the tax credit against the corporate income tax, TTF expenditures decrease by 13.5% of the TTF revenue decrease. TTF revenues also fund the State capital program; thus, a decrease in TTF revenues decreases expenditures for the State capital program.

Grant Program

General fund expenditures increase for Commerce to award grants to qualified small businesses. The increase in general fund expenditures depends on how much money is allotted for the grant program, which is unknown.

Administrative Expenses

The Comptroller's Office reports that it will incur a one-time expenditure increase of $36,000 in fiscal 2021 to add the income tax credit to the personal and corporate income tax credit forms.

Commerce must award grants and provide certification to each qualified small business of the amount of business revenue lost during the taxable year as a result of the construction of the Purple Line light rail project. Thus, general fund expenditures increase by at least $67,556 in fiscal 2021, which accounts for the bill's July 1, 2020 effective date. This estimate reflects the cost of hiring one contractual manager to certify businesses and oversee the grant program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1
Salary and Fringe Benefits	$62,031
Operating Expenses	5,525
Commerce Expenditures	**$67,556**
Comptroller Expenditures	**36,000**
Total FY 2021 State Expenditures	**$103,556**

Future year expenditures reflect a full salary 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.

Local Fiscal Effect: To the extent that income tax credits are claimed against the corporate income tax, local highway user revenues decrease in fiscal 2021 through 2025.

Small Business Effect: A qualified small business that experiences business losses attributable to the Purple Line construction benefits from receiving an income tax credit of up to $25,000 and a grant of up to $50,000.

Additional Information

Prior Introductions: Similar bills, HB 313 of 2019 and HB 978 of 2018, received a hearing in the House Ways and Means Committee, but no further action was taken. The cross file of HB 978, SB 624, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Designated Cross File: SB 645 (Senator Smith) - Budget and Taxation.

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

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