

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 27

(Delegates Luedtke and Smith)

Ways and Means

Budget and Taxation

Historic Revitalization and Enterprise Zone Tax Credits - Alterations and Eligibility

This bill alters the Historic Revitalization Tax Credit Program by (1) extending through fiscal 2031 the termination date of the program; (2) requiring the Governor to provide a minimum appropriation to the existing commercial credit program and the small commercial project trust account established by the bill; and (3) increasing the maximum value of the commercial tax credit. The bill also creates an enhanced enterprise zone property tax credit for certain properties that can be claimed over a 13-year period. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: General fund revenues decrease by \$1.0 million in FY 2025 and by \$2.0 million in FY 2027 due to residential credits claimed against the income tax. General fund expenditures increase by \$8.0 million in FY 2023 and by \$23.7 million in FY 2027 due to the tax credit appropriations required by the bill and enterprise zone property tax credit reimbursements. The FY 2023 budget includes \$10.0 million in the Dedicated Purpose Account to provide additional funding for the Historic Revitalization Tax Credit Program. Special fund revenues and expenditures increase by \$0.2 million in FY 2023 reflecting administrative fees and expenditures for the Maryland Historical Trust (MHT).

This bill modifies and establishes mandated appropriations beginning in FY 2024.

| (\$ in millions) | FY 2023 | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|------------------|---------|----------|----------|----------|----------|
| GF Revenue | \$0 | \$0 | (\$1.0) | (\$2.0) | (\$2.0) |
| SF Revenue | \$0.2 | \$0.6 | \$0.6 | \$0.6 | \$0.6 |
| GF Expenditure | \$8.0 | \$10.0 | \$22.0 | \$22.5 | \$23.7 |
| SF Expenditure | \$0.2 | \$0.6 | \$0.6 | \$0.6 | \$0.6 |
| Net Effect | (\$8.0) | (\$10.0) | (\$23.0) | (\$24.5) | (\$25.7) |

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

Local Effect: Local property tax revenues may decrease by \$532,000 and \$1.7 million in FY 2026 and 2027. Local highway user revenues decrease due to historic revitalization tax credits claimed against the corporate income tax. Local expenditures are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Historic Revitalization Tax Credit

The program's termination date is extended through fiscal 2031 for commercial, small commercial, and owner-occupied residential property rehabilitations. MHT can award credits through June 30, 2031.

The Governor must provide an annual appropriation to the commercial tax credit reserve fund that is at least \$20.0 million in fiscal 2023 through 2031.

The bill increases, to \$5.0 million, the maximum value of the commercial tax credit. The maximum enhanced credit that can be claimed within a federal opportunity zone is increased to \$5.5 million.

Under current law, MHT may award a total of \$5.0 million in small commercial tax credits through fiscal 2024. Of this amount, MHT may not issue more than \$1.0 million in credits each to certain agricultural and post-World War II structures. There is no reserve account to offset revenue losses occurring from small commercial tax credit claims.

Beginning with fiscal 2024, the bill establishes a small commercial project trust account within the reserve fund for commercial projects and requires the Governor to appropriate at least \$2.0 million to the account each year. In each fiscal year, MHT may award a maximum amount of small commercial tax credits based on the amount of money in the account. The trust account will offset revenue losses occurring from small commercial tax credit claims in the same manner as the reserve fund for commercial projects. The bill does not cap the amount of credit that can be provided to each type of small commercial structure.

Enterprise Zone Program

The bill establishes an enhanced enterprise zone property tax credit for newly constructed qualified property that provides both office space and retail space and became eligible for the property tax credit between January 1, 2019, and December 31, 2021. The property tax credit can be claimed for a 13-year period, an additional 3 years compared to current law. The percentage value of the credit is equal to 80% in the first 8 years and decreases by 10% annually to 30% in the thirteenth and final year.

Current Law:

Historic Revitalization Tax Credit

The Historic Revitalization Tax Credit Program provides tax credits for commercial, small commercial, and owner-occupied residential property rehabilitations. The value of the refundable credit is generally equal to 20% of the qualified rehabilitation expenditures.

The value of the tax credit may generally not exceed (1) for a commercial rehabilitation (any building that is not a single-family, owner-occupied residence, or a small commercial project), \$3 million or the maximum amount specified under the initial credit certificate or (2) for all other rehabilitations, \$50,000. Enhanced tax credits can be claimed by a commercial or small commercial rehabilitation if certain requirements are met.

Applying for the credit is a three-part process administered by MHT within the Maryland Department of Planning.

Commercial Program

The commercial program includes the rehabilitation of certified historic structures and is the largest component of the program. The commercial credit is a budgeted tax credit, and the Governor must appropriate funds to the program annually through fiscal 2024. MHT awards credits through a competitive process, with the amount awarded each year generally limited to the amount appropriated to the program. Prior to fiscal 2023, the Governor was not required to appropriate a specific amount to the reserve fund in each year. Chapter 332 of 2021 required the Governor to appropriate at least \$12.0 million in funding for commercial credits in fiscal 2023 and 2024.

Small Commercial Project Program

Chapter 601 of 2014 established credit eligibility for certain small commercial projects. Applicants must apply to MHT in order to qualify and receive an initial credit certificate. MHT may award a maximum of \$5.0 million in credits between January 1, 2015, and June 30, 2024.

A small commercial project is the rehabilitation of a structure if the qualified rehabilitation expenditures do not exceed \$500,000 and the structure is (1) primarily used for commercial, income-producing purposes; (2) a residential unit in a consecutive series of similar residential units that are arranged in a row, side-by-side, and is sold as part of a specified development project; or (3) an agricultural or post-World War II structure that meets certain requirements.

Residential Program

MHT can award tax credits for the rehabilitation of a single-family, owner-occupied residence through June 30, 2024. Subject to specified exceptions, a single-family, owner-occupied residence is a structure or a portion of a structure occupied by the owner and the owner's immediate family as their primary or secondary residence. There is no limit on the amount of tax credits that can be awarded; MHT typically awards about \$2.0 million annually in residential tax credits.

Enterprise Zone Program

The Enterprise Zone tax credit program is intended to encourage economic growth within economically distressed areas of the State and to increase employment of the chronically unemployed. Businesses located within an enterprise zone are eligible for local property tax credits and State income tax credits.

Real property tax credits are 10-year credits against local real property taxes on a portion of the qualifying real property improvements in the enterprise zone. The amount of the property tax credit is based on a specified percentage of assessment increases resulting from the value of real property improvements. The credit is applied to the tax imposed on 80% of the eligible assessment during the first 5 years and decreases by 10% annually to 30% in the final year. Within a focus area, a business can receive the 80% credit for the full 10-year period. In addition, businesses in a focus area may be eligible for a 10-year, 80% tax credit against local personal property taxes on new investment.

The State Department of Assessments and Taxation is responsible for reimbursing local governments (through the department's annual general fund budget) for 50% of the property tax revenue lost as a result of the credit.

State Fiscal Effect: The bill (1) extends and alters the historic revitalization tax credit and (2) establishes an enhanced enterprise zone property tax credit for certain properties. As a result, the net effect on State finances will be a decrease of \$8.0 million in fiscal 2023 and \$25.7 million in fiscal 2027.

Historic Revitalization Tax Credit

Appendix 1 details the fiscal impact of extending and altering the program in fiscal 2023 through 2027. In fiscal 2023 through 2032, the proposed extension will decrease State general fund finances by a total of \$186.0 million of which \$164.0 million is mandated general fund appropriations. The fiscal 2023 budget (specifically, Supplemental Budget No. 5) includes \$10.0 million in the Dedicated Purpose Account to provide continued and expanded funding for the program.

Commercial Credit Reserve Fund

The bill requires the Governor to appropriate at least \$20.0 million annually to the reserve fund each year. As a result, general fund expenditures increase by \$8.0 million annually in fiscal 2023 and 2024 and by \$20.0 million annually in fiscal 2025 through 2031.

Small Commercial Projects

Beginning in fiscal 2024, the bill requires the Governor to annually appropriate at least \$2.0 million to the small commercial project trust account established by the bill. Accordingly, general fund expenditures will increase by \$2.0 million annually in fiscal 2024 through 2031.

Residential Credits

The bill extends the residential tax credit program beginning with the second half of calendar 2024. Based on the history of the existing program, it is estimated that extending the program will decrease revenues by \$1.0 million in fiscal 2025, \$2.0 million annually in fiscal 2026 through 2031, and \$1.0 million in fiscal 2032.

Administrative Fees

The bill extends the authority of MHT to assess fees to pay the cost of administering the State and federal historic tax credits. Given the proposed increase in tax credit funding, MHT will be required to hire two additional tax credit employees in fiscal 2023 to administer the additional tax credit activity. Appendix 1 shows MHT projected fees and administrative expenses beginning with fiscal 2023.

Enterprise Zone Program

The bill establishes an enhanced enterprise zone property tax credit for certain properties that became eligible for the credit between January 1, 2019, and December 31, 2021. The Department of Legislative Services advises that data on these properties is not available. Based on the latest three years of properties that qualified for the program in fiscal 2021, general fund expenditures for local property tax reimbursements may increase by \$532,000 in fiscal 2026 and \$1.7 million in fiscal 2027. General fund expenditures may increase by a total of \$44.1 million through fiscal 2035.

Local Revenues: Based on the assumptions above, local property tax revenues may decrease by \$532,000 in fiscal 2026 and by \$1.7 million in fiscal 2027. Local property tax revenues may decrease by a total of \$44.1 million through fiscal 2035.

Small Business Effect: Any small business that benefits from the tax credit programs is positively impacted by the extension and enhanced program benefits.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 289 (Senators McCray and Hester) - Budget and Taxation.

Information Source(s): Comptroller's Office; Department of Planning; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2022
rh/jrb Third Reader - March 28, 2022
Revised - Amendment(s) - March 28, 2022
Enrolled - April 20, 2022
Revised - Amendment(s) - April 20, 2022
Revised - Clarification - July 27, 2022
Revised - Budget Information - July 27, 2022

Analysis by: Elizabeth J. Allison

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

Appendix 1 – Historic Revitalization Tax Credit
Fiscal 2023-2027
(\$ in Millions)

| | <u>FY 2023</u> | <u>FY 2024</u> | <u>FY 2025</u> | <u>FY 2026</u> | <u>FY 2027</u> |
|----------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Expenditures | | | | | |
| General Fund | | | | | |
| Reserve Fund Appropriations | \$8.0 | \$10.0 | \$22.0 | \$22.0 | \$22.0 |
| Special Fund | | | | | |
| MHT Administrative Expenses | 0.2 | 0.6 | 0.6 | 0.6 | 0.6 |
| <i>Total Expenditures</i> | <i>\$8.2</i> | <i>\$10.6</i> | <i>\$22.6</i> | <i>\$22.6</i> | <i>\$22.6</i> |
| Revenues | | | | | |
| General Fund | | | | | |
| Residential Credits | \$0.0 | \$0.0 | (\$1.0) | (\$2.0) | (\$2.0) |
| Special Fund | | | | | |
| MHT Certification Fees | 0.2 | 0.6 | 0.6 | 0.6 | 0.6 |
| <i>Total Revenues</i> | <i>\$0.2</i> | <i>\$0.6</i> | <i>(\$0.4)</i> | <i>(\$1.4)</i> | <i>(\$1.4)</i> |
| Net Effect | (\$8.0) | (\$10.0) | (\$23.0) | (\$24.0) | (\$24.0) |

MHT: Maryland Historical Trust

Source: Department of Legislative Services