Maryland
DEPARTMENT OF COMMERCE

Larry Hogan | Governor
Boyd Rutherford | Lt. Governor
Kelly M. Schulz | Secretary of Commerce

DATE: **March 5, 2020** **COMMITTEE: House Ways and Means**
BILL NO: **House Bill 1089**
BILL TITLE: **Economic Development – Job Creation Tax Credit – Qualified Position**
POSITION: **OPPOSE**

The Maryland Department of Commerce opposes House Bill 1089 – Economic Development – Job Creation Tax Credit – Qualified Position.

Bill Summary:

HB 1089 changes the definition of a "qualified position" for the Job Creation Tax Credit (JCTC). The bill increases the wage requirement from 120% to 150% of the State minimum wage. A new provision would use the prevailing wage rate if the employee job classification has one.

In addition to the wage requirement there are several new requirements for a qualified position:

- Must provide career advancement training
- Affords collective bargaining rights on wages and benefits
- Provides fair scheduling and paid leave
- Is covered for unemployment insurance benefits
- Entitles to workers' compensation benefits
- Offers employer-provided health insurance with affordable deductibles and copayments
- Offers retirement benefits

Rationale:
JCTC helps Maryland be more cost-competitive versus other states.
Maryland generally has higher costs of doing business than our regional competitor states. Depending on the type of business and the state in question, higher costs could be attributed to real estate, wages, energy, taxes, or some combination thereof. Having the JCTC helps mitigate some of the cost disadvantages versus the other states, which encourages the business to look at the opportunity to invest in Maryland more positively and provide a greater chance for a favorable decision.

- *The bill will make Maryland less competitive with other states.*
  As a small state bordering four other states, Maryland must always remain aware of the regional competition. All four neighboring states (Virginia, West Virginia, Pennsylvania, Delaware) have a similar tax credit for new job creation, but none have the requirements proposed in this bill. Imposing tighter restrictions to qualify for Maryland's credit will put Maryland at a competitive disadvantage.

- *Small businesses will be hurt more than larger businesses*
  Large businesses that have received the credit likely already offer the benefits included in the proposed definition of a Qualified position. Going forward these businesses are less likely to be affected by this bill, except for documentation and compliance requirements. The businesses more likely to be affected are the smaller businesses. They are less likely to offer many of these benefits, and therefore will not qualify for the credit.

In addition to generally hurting small businesses more than large businesses, the impact is likely to be felt more so in rural counties and Baltimore City versus counties of greater population. In 17 of Maryland's 24 jurisdictions – those with less than 75,000 jobs or a median household income less than two-thirds of the state median – the job creation requirement is only 10 jobs. In the other seven jurisdictions the requirement is 25 jobs if in a Priority Funding Area, or 60 jobs if not in a PFA.

The lower job creation threshold in the rural counties and Baltimore City currently gives small businesses in these jurisdictions an advantage to qualify for JCTC – they can get the credit even though they create fewer jobs. But these proposed changes could cause that advantage to disappear for many small businesses in these jurisdictions if they can't afford the additional requirements such as offering retirement benefits or career advancement training.

- *Projects in certain industries may be priced out of the Credit because of the increased wage requirement, even when they pay a competitive wage for their industry.*
  The higher wage requirement (150% of state minimum) will disqualify certain projects that pay more modest wage rates. Some warehouse and distribution projects, for example, will not offer a wage of $20/hour, which roughly equates to 150% of the minimum wage in 2023. While the number of such projects today is likely small, the phased-in increase in the state minimum wage through 2025 combined with the requirement increasing the wage from 120% to 150% of the State minimum will render certain projects ineligible for JCTC.

  Maryland has an economy with many good, high-paying jobs. That's why we're first among states in median household income. A lot of these are in the technology sectors – information technology, cybersecurity, biotechnology and aerospace. But there is still a need in the market to incentivize lower-skilled jobs paying $15 to $20 an hour. Creating jobs like these at, for example, a distribution center enables a lower-skilled worker to advance from a job in retail (such as a restaurant or a convenience store) paying minimum wage to a better paying job with a more stable employment outlook. Of 69 projects for which certificates were issued since 2016, 14 projects are in the distribution and transportation industries, representing about one-half of the jobs created.

The Maryland Job Creation Tax Credit has been an important tool in the economic development toolbox since 1996. With many other states having a similar credit, including all our neighboring competitor states, Maryland needs to keep this credit as a meaningful incentive when competing against these states for job-creating projects. Business costs in Maryland are comparatively high, and this credit helps keep Maryland cost competitive.

The proposed to changes to the definition of "qualified worker" will put Maryland at a competitive disadvantage versus competitor states which do not impose such conditions. Benefits such as health insurance, retirement benefits and career advancement training – may already be present at most of the larger businesses which seek the credit. The concerns of these larger businesses will more likely relate to paperwork and compliance. But smaller businesses seeking the credit may have to consider whether they can afford to meet all these new conditions, or whether they should simply seek a more cost competitive location elsewhere.

Finally, an unintended consequence of this bill is that it would likely impact rural counties and Baltimore City more than the developed suburban counties due to the lower job creation threshold, as some small businesses that can only get the credit in those jurisdictions seem less likely to afford the required benefits.

Commerce respectfully requests an unfavorable report on HB 1089.