

HOUSE BILL 1508

C8, Q3

4lr0111
CF 4lr0112

By: **Chair, Ways and Means Committee (By Request – Departmental – Commerce)**

Introduced and read first time: February 21, 2024

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Commerce – Employer Tax Credit Programs – Alterations and**
3 **Establishment**

4 FOR the purpose of altering the termination date of the Job Creation Tax Credit Program;
5 providing for the termination date for the One Maryland Economic Development Tax
6 Credit Program; establishing the Maryland Jobs Development Tax Credit Program
7 in the Department of Commerce to allow certain qualified business entities to
8 receive, under certain circumstances and subject to certain limitations, credits
9 against the State income tax for creating a certain number of qualified positions or
10 for carrying out a high impact economic development project in the State; making
11 the credits refundable; authorizing the Department to revoke a certification for a tax
12 credit under the Maryland Jobs Development Tax Credit Program and the
13 Comptroller to recapture the tax credit under certain circumstances; and generally
14 relating to tax credit programs for employers.

15 BY repealing and reenacting, without amendments,
16 Article – Economic Development
17 Section 1–101(a), (c), (e), and (g)
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Economic Development
22 Section 6–309(a)
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2023 Supplement)

25 BY adding to
26 Article – Economic Development

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 6–407; and 6–701 through 6–708 to be under the new subtitle “Subtitle 7.
2 Maryland Jobs Development Tax Credits”
3 Annotated Code of Maryland
4 (2018 Replacement Volume and 2023 Supplement)

5 BY adding to

6 Article – Tax – General
7 Section 10–758
8 Annotated Code of Maryland
9 (2022 Replacement Volume and 2023 Supplement)

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

12 **Article – Economic Development**

13 1–101.

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

15 (c) “Department” means the Department of Commerce.

16 (e) “Secretary” means the Secretary of Commerce.

17 (g) (1) “Tier I county” means a county with:

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

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

24 (iii) a median household income for the most recent 24–month period
25 for which data are available that is equal to or less than 75% of the median household
26 income for the State during that period.

27 (2) “Tier I county” includes a county that:

28 (i) no longer meets any of the criteria stated in paragraph (1) of this
29 subsection; but

30 (ii) has met at least one of the criteria at some time during the
31 preceding 24–month period.

32 6–309.

1 (a) Subject to subsection (b) of this section, this subtitle and the tax credit
2 authorized under it shall terminate on January 1, [2027] **2025**.

3 **6-407.**

4 (A) **THIS SUBTITLE AND THE TAX CREDIT AUTHORIZED UNDER IT SHALL**
5 **TERMINATE ON JANUARY 1, 2025.**

6 (B) **AFTER THE TERMINATION OF THIS SUBTITLE, TAX CREDITS EARNED**
7 **MAY BE CARRIED FORWARD IN ACCORDANCE WITH § 6-403 OF THIS SUBTITLE.**

8 **SUBTITLE 7. MARYLAND JOBS DEVELOPMENT TAX CREDITS.**

9 **6-701.**

10 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
11 **INDICATED.**

12 (B) **“COMMISSION” MEANS THE MARYLAND ECONOMIC DEVELOPMENT**
13 **COMMISSION.**

14 (C) **“HIGH IMPACT ECONOMIC DEVELOPMENT PROJECT” MEANS A PROJECT**
15 **DESIGNATED BY THE SECRETARY UNDER § 6-705 OF THIS SUBTITLE AS HAVING A**
16 **SUBSTANTIAL EFFECT ON THE STATE AND LOCAL ECONOMY.**

17 (D) **“HIGH IMPACT ECONOMIC DEVELOPMENT TAX CREDIT” MEANS A**
18 **CREDIT ALLOWED UNDER § 6-705 OF THIS SUBTITLE AGAINST THE STATE INCOME**
19 **TAX IMPOSED UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE.**

20 (E) **“MARYLAND JOBS DEVELOPMENT TAX CREDIT” MEANS A CREDIT**
21 **ALLOWED UNDER § 6-704 OF THIS SUBTITLE AGAINST THE STATE INCOME TAX**
22 **IMPOSED UNDER TITLE 10 OF THE TAX – GENERAL ARTICLE.**

23 (F) **“QUALIFIED BUSINESS ENTITY” MEANS A PERSON CONDUCTING OR**
24 **OPERATING A TRADE OR BUSINESS IN THE STATE THAT IS CERTIFIED IN**
25 **ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE AS QUALIFYING FOR THE**
26 **MARYLAND JOBS DEVELOPMENT TAX CREDIT OR HIGH IMPACT ECONOMIC**
27 **DEVELOPMENT TAX CREDIT UNDER THIS SUBTITLE.**

28 (G) (1) **“QUALIFIED POSITION” MEANS A POSITION THAT:**

29 (I) **IS FULL-TIME AND OF INDEFINITE DURATION;**

- 1 (II) PAYS AT LEAST 150% OF THE STATE MINIMUM WAGE;
2 (III) IS LOCATED IN THE STATE;
3 (IV) IS NEWLY CREATED AT A SINGLE ESTABLISHMENT IN THE
4 STATE; AND
5 (V) IS FILLED.

6 (2) "QUALIFIED POSITION" DOES NOT INCLUDE A POSITION THAT IS:

7 (I) CREATED WHEN AN EMPLOYMENT FUNCTION IS SHIFTED
8 FROM AN EXISTING BUSINESS FACILITY OF A BUSINESS ENTITY IN THE STATE TO
9 ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION IS
10 NOT A NET NEW JOB IN THE STATE;

11 (II) CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE
12 OR BUSINESS;

13 (III) CREATED THROUGH A CONSOLIDATION, MERGER, OR
14 RESTRUCTURING OF A BUSINESS ENTITY IF THE POSITION IS NOT A NET NEW JOB IN
15 THE STATE;

16 (IV) CREATED WHEN AN EMPLOYMENT FUNCTION IS
17 CONTRACTUALLY SHIFTED FROM AN EXISTING BUSINESS ENTITY TO ANOTHER
18 BUSINESS ENTITY IN THE STATE IF THE POSITION IS NOT A NET NEW JOB IN THE
19 STATE; OR

20 (V) FILLED FOR A PERIOD OF LESS THAN 12 MONTHS.

21 (H) "TIER II COUNTY" MEANS ANY COUNTY THAT IS NOT A TIER I COUNTY.

22 6-702.

23 (A) (1) THERE IS A MARYLAND JOBS DEVELOPMENT TAX CREDIT
24 PROGRAM IN THE DEPARTMENT.

25 (2) THE DEPARTMENT MAY DESIGNATE ELIGIBLE TAX CREDIT
26 PROJECTS TO PERMIT QUALIFIED BUSINESS ENTITIES TO RECEIVE CREDITS
27 AGAINST THE STATE INCOME TAX FOR CREATING A MINIMUM NUMBER OF
28 QUALIFIED POSITIONS OR FOR CARRYING OUT A HIGH IMPACT ECONOMIC
29 DEVELOPMENT PROJECT IN THE STATE.

1 (B) A BUSINESS ENTITY THAT IS RECEIVING BENEFITS UNDER THE JOB
2 CREATION TAX CREDIT PROGRAM ESTABLISHED UNDER SUBTITLE 3 OF THIS TITLE
3 OR THE ONE MARYLAND ECONOMIC DEVELOPMENT TAX CREDIT PROGRAM
4 ESTABLISHED UNDER SUBTITLE 4 OF THIS TITLE IS NOT ELIGIBLE TO RECEIVE
5 BENEFITS UNDER THIS SUBTITLE FOR THE SAME PROJECT ACTIVITIES OR JOBS FOR
6 WHICH THE BUSINESS ENTITY IS CLAIMING BENEFITS UNDER THE JOB CREATION
7 TAX CREDIT PROGRAM OR THE ONE MARYLAND ECONOMIC DEVELOPMENT TAX
8 CREDIT PROGRAM.

9 **6-703.**

10 (A) (1) TO QUALIFY FOR THE TAX CREDITS UNDER THIS SUBTITLE, A
11 BUSINESS ENTITY SHALL:

12 (I) APPLY TO THE DEPARTMENT FOR DESIGNATION OF A
13 PROJECT AS AN ELIGIBLE TAX CREDIT PROJECT; AND

14 (II) SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

15 (2) EACH YEAR THE DEPARTMENT SHALL ESTABLISH A LIST OF
16 ELIGIBLE INDUSTRY SECTORS AFTER CONSULTING THE LIST PROVIDED ANNUALLY
17 BY THE COMMISSION IN ACCORDANCE WITH § 5-321 OF THIS ARTICLE.

18 (3) SUBJECT TO THE LIMITATIONS UNDER §§ 6-704 AND 6-705 OF
19 THIS SUBTITLE, A BUSINESS ENTITY IS ELIGIBLE FOR THE TAX CREDITS
20 AUTHORIZED UNDER THIS SUBTITLE IF THE BUSINESS ENTITY:

21 (I) OPERATES OR WILL OPERATE A TRADE OR BUSINESS IN
22 CONNECTION WITH THE PROJECT IN AN ELIGIBLE INDUSTRY SECTOR, AS
23 DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION;

24 (II) 1. IN A TIER I COUNTY, DURING ANY 24-MONTH PERIOD
25 CREATES AT LEAST 10 QUALIFIED POSITIONS AT THE PROJECT LOCATION;

26 2. IN A TIER II COUNTY, DURING ANY 24-MONTH PERIOD
27 CREATES AT LEAST 20 QUALIFIED POSITIONS AT THE PROJECT LOCATION; OR

28 3. FOR A HIGH IMPACT ECONOMIC DEVELOPMENT
29 PROJECT, FULFILLS THE REQUIREMENTS DETERMINED BY THE SECRETARY UNDER
30 § 6-705 OF THIS SUBTITLE; AND

31 (III) SUBMITS AN APPLICATION CONTAINING SUFFICIENT
32 INFORMATION TO ALLOW THE DEPARTMENT TO DETERMINE IF THE PROPOSED
33 PROJECT MEETS THE CRITERIA SET FORTH IN THIS SUBTITLE.

1 **(4) THE APPLICATION SUBMITTED IN ACCORDANCE WITH**
2 **PARAGRAPH (3) OF THIS SUBSECTION SHALL SPECIFY:**

3 **(I) THE EFFECTIVE DATE OF THE START-UP OR EXPANSION OF**
4 **THE BUSINESS;**

5 **(II) THE NUMBER OF FULL-TIME EMPLOYEES EXISTING BEFORE**
6 **THE START-UP OR EXPANSION OF THE BUSINESS AND THE PAYROLL OF THE**
7 **EXISTING EMPLOYEES;**

8 **(III) THE NUMBER OF QUALIFIED POSITIONS CREATED AND**
9 **QUALIFIED EMPLOYEES HIRED AND THE PAYROLL OF THE NEW QUALIFIED**
10 **EMPLOYEES; AND**

11 **(IV) ANY OTHER INFORMATION THAT THE DEPARTMENT**
12 **REQUIRES.**

13 **(B) (1) A BUSINESS ENTITY MAY NOT BE CERTIFIED AS A QUALIFIED**
14 **BUSINESS ENTITY UNLESS THE BUSINESS ENTITY NOTIFIES THE DEPARTMENT OF**
15 **ITS INTENT TO SEEK DESIGNATION OF AN ELIGIBLE PROJECT AND TO HIRE ANY**
16 **EMPLOYEES TO FILL THE QUALIFIED POSITIONS NECESSARY TO MEET THE**
17 **REQUIREMENTS OF THIS SECTION.**

18 **(2) A BUSINESS ENTITY SHALL BEGIN TO HIRE THE EMPLOYEES TO**
19 **FILL THE QUALIFIED POSITIONS NECESSARY TO MEET THE REQUIREMENTS OF THIS**
20 **SECTION WITHIN 12 MONTHS AFTER THE BUSINESS ENTITY NOTIFIES THE**
21 **DEPARTMENT OF ITS INTENT TO SEEK DESIGNATIONS OF AN ELIGIBLE PROJECT.**

22 **6-704.**

23 **(A) A QUALIFIED BUSINESS ENTITY MAY CLAIM A MARYLAND JOBS**
24 **DEVELOPMENT TAX CREDIT IN THE AMOUNT DETERMINED UNDER THIS SECTION.**

25 **(B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A QUALIFIED BUSINESS**
26 **ENTITY OPERATING AN ELIGIBLE PROJECT IS ELIGIBLE FOR THE GREATER OF THE**
27 **FOLLOWING MARYLAND JOBS DEVELOPMENT TAX CREDITS:**

28 **(1) AN AMOUNT EQUAL TO 5% OF THE WAGES PAID TO EMPLOYEES IN**
29 **QUALIFIED POSITIONS DURING THE TAXABLE YEAR;**

30 **(2) AN AMOUNT EQUAL TO 6% OF THE WAGES PAID TO EMPLOYEES IN**
31 **QUALIFIED POSITIONS DURING THE TAXABLE YEAR, IF THE QUALIFIED BUSINESS**
32 **ENTITY HAS INVESTED AT LEAST \$75,000,000 IN THE ELIGIBLE PROJECT; OR**

1 **(3) AN AMOUNT EQUAL TO 7% OF THE WAGES PAID TO EMPLOYEES IN**
2 **QUALIFIED POSITIONS DURING THE TAXABLE YEAR, IF THE QUALIFIED BUSINESS**
3 **ENTITY HAS INVESTED AT LEAST \$150,000,000 IN THE ELIGIBLE PROJECT.**

4 **(C) THE CREDIT ALLOWED UNDER THIS SECTION FOR EACH DESIGNATED**
5 **ELIGIBLE PROJECT:**

6 **(1) SHALL BE CLAIMED IN CONSECUTIVE TAXABLE YEARS; AND**

7 **(2) MAY NOT:**

8 **(I) EXCEED \$1,000,000 FOR ANY TAXABLE YEAR; OR**

9 **(II) BE CLAIMED FOR MORE THAN 3 TAXABLE YEARS.**

10 **(D) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE**
11 **TOTAL TAX OTHERWISE DUE FROM A QUALIFIED BUSINESS ENTITY IN A TAXABLE**
12 **YEAR, THE QUALIFIED BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT OF**
13 **THE EXCESS.**

14 **(2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE**
15 **CARRIED BACK TO A PRECEDING TAXABLE YEAR.**

16 **6-705.**

17 **(A) (1) THE SECRETARY MAY DESIGNATE A PROJECT TO BE A HIGH**
18 **IMPACT ECONOMIC DEVELOPMENT PROJECT IF THE SECRETARY FINDS THAT THE**
19 **PROJECT IS EXPECTED TO HAVE A SUBSTANTIAL POSITIVE IMPACT ON THE STATE**
20 **AND LOCAL ECONOMY.**

21 **(2) IN MAKING THE DETERMINATION THAT A PROJECT IS A HIGH**
22 **IMPACT ECONOMIC DEVELOPMENT PROJECT, THE SECRETARY MAY CONSIDER ALL**
23 **RELEVANT FACTORS, INCLUDING:**

24 **(I) THE NUMBER AND TYPE OF JOBS TO BE CREATED OR**
25 **RETAINED BY THE PROJECT;**

26 **(II) THE CAPITAL INVESTMENT TO BE EXPENDED IN**
27 **CONNECTION WITH THE PROJECT;**

28 **(III) THE IMPACT THAT THE PROJECT WOULD HAVE ON THE**
29 **LOCAL ECONOMY AND THE COMMUNITY; AND**

1 (IV) THE LIKELIHOOD THAT THE PROJECT WILL SPUR
2 ADDITIONAL ECONOMIC DEVELOPMENT IN THE REGION AND THE STATE.

3 (3) THE SECRETARY MAY NOT APPROVE MORE THAN THREE HIGH
4 IMPACT ECONOMIC DEVELOPMENT PROJECTS IN ANY TAXABLE YEAR.

5 (B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A QUALIFIED
6 BUSINESS ENTITY THAT CARRIES OUT A HIGH IMPACT ECONOMIC DEVELOPMENT
7 PROJECT IN THE STATE IS ELIGIBLE TO RECEIVE A TAX CREDIT IN ACCORDANCE
8 WITH THIS SECTION.

9 (C) THE SECRETARY MAY DETERMINE THE AMOUNT AND TERM OF THE
10 HIGH IMPACT ECONOMIC DEVELOPMENT PROJECT TAX CREDIT THAT THE
11 QUALIFIED BUSINESS ENTITY MAY CLAIM.

12 (D) FOR ANY TAXABLE YEAR, A BUSINESS ENTITY MAY NOT QUALIFY FOR
13 MORE THAN ONE HIGH IMPACT ECONOMIC DEVELOPMENT PROJECT.

14 (E) (1) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
15 TOTAL TAX OTHERWISE DUE FROM A QUALIFIED BUSINESS ENTITY IN A TAXABLE
16 YEAR, THE QUALIFIED BUSINESS ENTITY MAY CLAIM A REFUND IN THE AMOUNT OF
17 THE EXCESS.

18 (2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE
19 CARRIED BACK TO A PRECEDING TAXABLE YEAR.

20 **6-706.**

21 (A) THE DEPARTMENT MAY REVOKE ITS CERTIFICATION OF A CREDIT
22 UNDER THIS SUBTITLE, IN WHOLE OR IN PART, IF ANY REPRESENTATION IN
23 CONNECTION WITH THE APPLICATION FOR THE CERTIFICATION IS DETERMINED BY
24 THE DEPARTMENT TO HAVE BEEN FALSE WHEN MADE.

25 (B) THE COMPTROLLER MAY MAKE AN ASSESSMENT AGAINST THE
26 QUALIFIED BUSINESS ENTITY TO RECAPTURE ANY AMOUNT OF THE TAX CREDIT
27 THAT THE BUSINESS ENTITY HAS CLAIMED.

28 **6-707.**

29 (A) THE DEPARTMENT MAY REQUIRE THAT ANY INFORMATION PROVIDED
30 UNDER THIS SUBTITLE BE VERIFIED BY AN INDEPENDENT CERTIFIED PUBLIC
31 ACCOUNTANT THAT THE QUALIFIED BUSINESS ENTITY AND THE DEPARTMENT
32 SELECT.

1 (B) (1) ACCEPTANCE OF A TAX CREDIT UNDER THIS SUBTITLE BY A
2 QUALIFIED BUSINESS ENTITY SHALL BE DEEMED TO AUTHORIZE THE
3 COMPTROLLER OR OTHER APPROPRIATE UNIT TO SHARE WITH THE DEPARTMENT
4 ANY INFORMATION RECEIVED BY A QUALIFIED BUSINESS ENTITY ABOUT
5 ELIGIBILITY FOR A TAX CREDIT UNDER THIS SUBTITLE.

6 (2) INFORMATION THAT IS RECEIVED BY THE DEPARTMENT IS
7 SUBJECT TO THE CONFIDENTIALITY REQUIREMENTS ESTABLISHED BY STATUTE OR
8 REGULATION THAT APPLY TO THE COMPTROLLER OR UNIT THAT RECEIVES THAT
9 INFORMATION.

10 **6-708.**

11 THE SECRETARY MAY ESTABLISH BY REGULATION ANY OTHER
12 REQUIREMENTS NECESSARY AND APPROPRIATE TO CARRY OUT THIS SUBTITLE.

13 **Article - Tax - General**

14 **10-758.**

15 AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE
16 STATE INCOME TAX UNDER THE MARYLAND JOBS DEVELOPMENT TAX CREDIT
17 PROGRAM IN AN AMOUNT CERTIFIED BY THE DEPARTMENT OF COMMERCE UNDER
18 TITLE 6, SUBTITLE 7 OF THE ECONOMIC DEVELOPMENT ARTICLE.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2024, and shall be applicable to all taxable years beginning after December 31, 2023.