

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 262

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Workman,” insert “Marriott, Heller, Beck, C. Davis, Holt,”; strike beginning with the second “the” in line 3 down through “approve” in line 4; in line 4, after “tax,” insert “insurance premiums tax,”; in line 5, strike “to” and substitute “for”; strike beginning with “limiting” in line 9 down through “Secretary;” in line 11 and substitute “providing for certification by the Secretary of Business and Economic Development of business entities as eligible for the credit; limiting the maximum credit that a business entity may be allowed for any credit year;”; in line 13, after the first “tax,” insert “insurance premiums tax,”; in line 18, after “certain” insert “studies and”; in line 19, after “reports;” insert “requiring the Governor to work with the chief executive officers of certain states and the District of Columbia to negotiate a certain agreement for the repeal of certain tax subsidy laws;”; in the same line, after “Act;” insert “providing for the termination of certain provisions of this Act; providing for the future codification of certain provisions of this Act;”.

AMENDMENT NO. 2

On page 1, in line 24, strike “and 5-1102” and substitute “through 5-1103”; and after line 27, insert:

“BY adding to

Article 48A - Insurance Code

Section 632(e)

Annotated Code of Maryland

(1994 Replacement Volume and 1995 Supplement)”.

On page 2, after line 1, insert:

“BY adding to

(Over)

Article - Insurance

Section 6-114

Annotated Code of Maryland

(1995 Volume)

(As enacted by Chapter 36 of the Acts of the General Assembly of 1995)”;

and after line 6, insert:

“BY adding to

Article 48A - Insurance Code

Section 632(f)

Annotated Code of Maryland

(1994 Replacement Volume and 1995 Supplement)”.

AMENDMENT NO. 3

On page 2, after line 23, insert:

“(B) “CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE SERVICES” MEANS THE PERFORMANCE OF CENTRAL MANAGEMENT OR ADMINISTRATIVE FUNCTIONS FOR A BUSINESS ENTITY ENGAGED IN FINANCIAL, REAL ESTATE, OR INSURANCE SERVICES, SUCH AS GENERAL MANAGEMENT, ACCOUNTING, COMPUTER TABULATING, DATA PROCESSING, PURCHASING, TRANSPORTATION OR SHIPPING, ADVERTISING, LEGAL, FINANCIAL, AND RESEARCH AND DEVELOPMENT.

(C) (1) “COMPANY HEADQUARTERS” MEANS A FACILITY WHERE THE MAJORITY OF THE BUSINESS ENTITY’S FINANCIAL, PERSONNEL, LEGAL, AND PLANNING FUNCTIONS ARE HANDLED EITHER ON A REGIONAL OR NATIONAL BASIS.

(2) “COMPANY HEADQUARTERS” DOES NOT INCLUDE THE HEADQUARTERS OF A PROFESSIONAL SPORTS ORGANIZATION.”;

in lines 24, 26, 29, and 32, strike “(B)”, “(C)”, “(D)”, and “(E) (1)”, respectively, and substitute, “(D)”, “(E)”, “(F)”, and “(G)”, respectively; in line 30, after “WHO” insert “:

(1) IS ENGAGED IN AN ACTIVITY SPECIFIED IN § 5-1102(B) OF THIS SUBTITLE; AND

(2)”;

in line 31, strike “HIRES” and substitute “CREATES”; in the same line, strike “EMPLOYEES” and substitute “POSITIONS”; strike beginning with “WHO” in line 32 down through “INTO” in line 33 and substitute “FILLING A QUALIFIED POSITION.”

(H) (1) “QUALIFIED POSITION” MEANS”;

and in line 36, strike “AND”.

On page 3, in line 2, after “FACILITY” insert “IN A SINGLE LOCATION”; in the same line, after “STATE” insert “; AND”

(V) IS FILLED”;

in line 3, strike “EMPLOYEE” and substitute “POSITION”; strike beginning with “AN” in line 3 down through “FILLS” in line 4; in line 4, after “POSITION” insert “THAT IS”; in line 7, strike “; OR” and substitute “TO ANOTHER BUSINESS FACILITY OF THE SAME BUSINESS ENTITY IF THE POSITION DOES NOT REPRESENT A NET NEW JOB IN THE STATE;”; in line 8, after “(II)” insert “CREATED THROUGH A CHANGE IN OWNERSHIP OF A TRADE OR BUSINESS;”

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

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

(V) FILLED”;

(Over)

in the same line, strike “6” and substitute “12”; in line 9, strike “(F)” and substitute “(I)”; and after line 13, insert:

“(J) “SECRETARY” MEANS THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT OR THE SECRETARY’S DESIGNEE.”.

AMENDMENT NO. 4

On page 3, strike in their entirety lines 15 through 29, inclusive, and substitute:

“(A) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE JOB CREATION TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE ARE FOR THE PURPOSE OF INCREASING THE NUMBER OF NEW JOBS IN THE STATE BY ENCOURAGING THE EXPANSION OF EXISTING PRIVATE SECTOR ENTERPRISES AND THE ESTABLISHMENT OR ATTRACTION OF NEW PRIVATE SECTOR ENTERPRISES.”;

strike beginning with “APPROVE” in line 30, down through “ENTITIES” in line 34 and substitute “CERTIFY A BUSINESS ENTITY AS QUALIFYING FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE IF THE BUSINESS ENTITY SATISFIES THE CRITERIA SET FORTH IN THIS SECTION.

(2) TO QUALIFY FOR THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE, A BUSINESS ENTITY MUST ESTABLISH OR EXPAND A BUSINESS FACILITY IN THE STATE THAT:

(I) RESULTS IN THE CREATION OF AT LEAST 50 QUALIFIED POSITIONS; AND

(II) IS”;

and after line 38, insert:

“5. BIOTECHNOLOGY;”.

On page 4, in lines 1, 3, 4, 6, and 7, strike “5.”, “6.”, “7.”, “8.”, and “9.”, respectively, and substitute “6.”, “7.”, “8.”, “9.”, and “10.”, respectively; in line 3, strike “FINANCIAL OR REAL ESTATE” and substitute “CENTRAL FINANCIAL, REAL ESTATE, OR INSURANCE”; in line 5, strike “WAREHOUSES” and substitute “A COMPANY HEADQUARTERS”; in line 6, strike “OR”; strike beginning with “ANY” in line 7 down through “COMMISSION” in line 8 and substitute “WAREHOUSING; OR”

11. OPERATION OF ENTERTAINMENT, RECREATION, CULTURAL, OR TOURISM-RELATED ACTIVITIES IN A MULTIUSE FACILITY LOCATED WITHIN A REVITALIZATION AREA IF THE FACILITY GENERATES A MINIMUM OF 1,000 NEW FULL-TIME EQUIVALENT FILLED POSITIONS IN A 24-MONTH PERIOD AND IS NOT PRIMARILY USED BY A PROFESSIONAL SPORTS FRANCHISE”;

in line 9, strike “(II)” and substitute “(3)”; in the same line, strike “THIS PARAGRAPH” and substitute “PARAGRAPH (2)(II) OF THIS SUBSECTION”; strike in their entirety lines 13 through 22, inclusive, and substitute:

“(C) (1) A BUSINESS ENTITY MAY CLAIM A TAX CREDIT IN THE AMOUNT DETERMINED UNDER THIS SECTION IF THE BUSINESS ENTITY IS CERTIFIED AS QUALIFYING BY THE SECRETARY.”;

in line 23, after “(I)” insert “EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,”; in line 24, strike “APPROVED”; in the same line, strike “SUBSECTION (A)(1) OF”; strike beginning with “SUBJECT” in line 26 down through “TAX” in line 27; in line 28, after “(II)” insert “IN THE CASE OF”; in the same line, after “ENTITY” insert “WHOSE NEWLY HIRED QUALIFIED EMPLOYEES ARE WORKING IN A FACILITY LOCATED IN A REVITALIZATION AREA, THE BUSINESS ENTITY”; in line 29, strike “APPROVED”; in the same line, strike “SUBSECTION (A)(2) OF”; strike beginning with “SUBJECT” in line 31 down through “TAX” in line 32; strike in their entirety lines 33 through 35, inclusive, and substitute:

“(3) TAX CREDITS UNDER THIS SECTION ARE FOR 1 TAXABLE YEAR ONLY AND MAY NOT BE TAKEN AGAIN FOR THE SAME QUALIFIED POSITION IN A SUCCEEDING TAXABLE YEAR.

(4) THE CREDIT ALLOWED TO A BUSINESS ENTITY UNDER THIS SUBTITLE MAY NOT EXCEED \$1,000,000 FOR ANY CREDIT YEAR.”;
in lines 36 and 38, strike “(4)”, and “(5)”, respectively, and substitute “(5)”, and “(7)”, respectively;
after line 37, insert:

“(6) (I) IN ORDER TO RECEIVE CERTIFICATION THAT A BUSINESS ENTITY IS ELIGIBLE TO RECEIVE THE TAX CREDIT PROVIDED UNDER THIS SUBTITLE, A BUSINESS ENTITY SHALL SUBMIT THE FOLLOWING TO THE DEPARTMENT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT:

1. THE EFFECTIVE DATE OF THE START-UP OR EXPANSION;
2. THE NUMBER OF FULL-TIME EMPLOYEES PRIOR TO THE START-UP OR EXPANSION AND THE PAYROLL OF THE EXISTING EMPLOYEES;
3. THE NUMBER OF QUALIFIED POSITIONS CREATED, QUALIFIED EMPLOYEES HIRED, AND THE PAYROLL OF THOSE EMPLOYEES; AND
4. ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES BY REGULATION.

(II) THE DEPARTMENT MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS PARAGRAPH TO BE VERIFIED BY AN INDEPENDENT AUDITOR SELECTED BY THE BUSINESS ENTITY.”;

and in line 39, strike “COMPTROLLER” and substitute “APPROPRIATE STATE AGENCY”.

On page 5, in line 3, strike “(E)” and substitute “(D)”; in line 13, strike “(F)” and substitute “(E)(1)”; in the same line, strike “5” and substitute “3”; in line 14, strike “EMPLOYEES EMPLOYED BY” and substitute “POSITIONS OF”; in line 16, strike “EMPLOYEES EMPLOYED” and substitute “POSITIONS”; in lines 18, 20 and 22, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; strike beginning with “ON” in line 23 down through “YEAR” in line 24 and substitute “FOR THE TAXABLE YEAR IN WHICH THE NUMBER OF QUALIFIED POSITIONS FALLS MORE THAN 5% BELOW THE AVERAGE”

NUMBER OF QUALIFIED POSITIONS DURING THE CREDIT YEAR.

(2) (I) DURING THE 3 TAXABLE YEARS SUCCEEDING THE CREDIT YEAR, THE QUALIFIED BUSINESS ENTITY SHALL SUPPLY INFORMATION REQUIRED BY THE DEPARTMENT IN REGULATION TO VERIFY THAT THE BUSINESS ENTITY IS NOT SUBJECT TO PARAGRAPH (1) OF THIS SUBSECTION.

(II) THE DEPARTMENT MAY REQUIRE ANY INFORMATION REQUIRED UNDER THIS PARAGRAPH TO BE VERIFIED BY AN INDEPENDENT AUDITOR SELECTED BY THE BUSINESS ENTITY”;

in lines 25 and 33 strike “(G)” and “(I)”, respectively, and substitute “(F)” and “(H)”, respectively; in lines 25, 27, and 30, in each instance, after “COMPTROLLER” insert “OR THE APPROPRIATE AGENCY”; strike in their entirety lines 31 and 32, inclusive, and substitute:

“(G) (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(2) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER §10-704.4 OF THE TAX - GENERAL ARTICLE.

(3) THE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER §§ 8-214 AND 8-411 OF THE TAX - GENERAL ARTICLE.

(4) THE MARYLAND INSURANCE COMMISSIONER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE COMPUTATION, CARRYOVER, AND RECAPTURE OF THE CREDIT UNDER ARTICLE 48A, § 6-114 OF THE INSURANCE ARTICLE.”;

in line 35, after “ON” insert “THE BUSINESS ENTITIES CERTIFIED AS ELIGIBLE FOR”; and in the same line, strike “APPROVED”.

AMENDMENT NO. 5

On page 5, after line 36, insert:

“5-1103.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE PROVISIONS OF THIS SUBTITLE AND THE TAX CREDIT AUTHORIZED UNDER THIS SUBTITLE SHALL TERMINATE AS OF JANUARY 1, 2004.

(B) (1) THE TAX CREDITS AUTHORIZED UNDER THIS SUBTITLE:

(I) MAY BE CLAIMED ONLY FOR QUALIFIED POSITIONS AT A NEWLY ESTABLISHED OR EXPANDED FACILITY THAT COMMENCES OPERATIONS BEFORE JANUARY 1, 2003; AND

(II) MAY NOT BE EARNED FOR ANY CREDIT YEAR BEGINNING ON OR AFTER JANUARY 1, 2004.

(2) SUBJECT TO THE LIMITATIONS UNDER THIS SUBTITLE, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2004, TAX CREDITS EARNED IN CREDIT YEARS BEGINNING BEFORE JANUARY 1, 2004:

(I) MAY BE CARRIED FORWARD AS PROVIDED IN § 5-1102 OF THIS SUBTITLE; AND

(II) ARE SUBJECT TO RECAPTURE AS PROVIDED IN § 5-1102 OF THIS SUBTITLE.

Article 48A - Insurance Code

632.

(E) AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR

WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER ARTICLE 83A, § 5-1102 OF THE CODE.”.

AMENDMENT NO. 6

On page 6, after line 13, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Insurance

6-114.

(A) AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER ARTICLE 83A, § 5-1102 OF THE CODE.

(B) AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER § 21-307 OF THE EDUCATION ARTICLE.”.

AMENDMENT NO. 7

On page 6, in line 14, strike “2.” and substitute “3.”; in line 30, after “REHABILITATION” insert “OR TRANSITION”; in the same line, strike “PROVIDED BY THE DIVISION”; after line 31, insert:

“(6) “TRANSITION SERVICES” MEANS A COORDINATED SET OF ACTIVITIES FOR A STUDENT THAT PROMOTE MOVEMENT FROM SCHOOL TO CAREER.”;

and in line 32, strike “(6)” and substitute “(7)”.

On page 7, in line 5, strike “FOR ONE TAXABLE YEAR ONLY,”; and in the same line, after “A” insert “ONE-TIME”.

(Over)

On page 8, after line 5, insert:

“Article 48A - Insurance Code

632.

(F) AN INSURER MAY CLAIM A CREDIT AGAINST THE PREMIUM TAX FOR WAGES PAID TO QUALIFIED EMPLOYEES AS PROVIDED UNDER § 21-307 OF THE EDUCATION ARTICLE.”.

AMENDMENT NO. 8

On page 8, after line 33, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Fiscal Services, based on information provided by and in consultation with the Department of Business and Economic Development, the Department of Budget and Fiscal Planning, the Comptroller, the Department of Assessments and Taxation, the Insurance Commissioner, and appropriate representatives of private employers, shall conduct a study of the efficacy and effectiveness of the tax credit program established under Section 1 of this Act in increasing the number of net jobs in the State. The Department of Fiscal Services shall conduct an analysis of the profile of employers having taken advantage of these credits in hiring new employees, cost effectiveness of the subsidy in reaching State goals, and the appropriateness of the level of the tax credits. The study shall also include an analysis of the potential effectiveness of the program based on varying the size, duration, and structure of the subsidy. The Department shall complete and present the results of the study to the Senate Budget and Taxation Committee and the House Committee on Ways and Means by September 1, 2002.

SECTION 5. AND BE IT FURTHER ENACTED, That the Department of Fiscal Services, based on information provided by and in consultation with the Department of Education, the Governor’s Office for Individuals with Disabilities, the Developmental Disabilities Administration, the Department of Assessments and Taxation and the Comptroller, shall conduct a study of the efficacy and effectiveness of the tax credit program established under Section 3 of this Act in

increasing the employment and prospects for self-sufficiency of the target population including an analysis of the profile of employers having taken advantage of these credits in hiring new employees, cost effectiveness of the subsidy in reaching State goals, and the appropriateness of the level of the tax credits. The study shall also include an analysis of the potential effectiveness of the program based on varying the size, duration, and structure of the subsidy. The Department shall complete and present the results of the study to the Senate Budget and Taxation Committee and the House Committee on Ways and Means by December 1, 1999.

SECTION 6. AND BE IT FURTHER ENACTED, That the General Assembly finds that the widespread adoption of tax subsidies intended to move jobs from one state to another reduces revenues in all participating states without increasing the total number and quality of jobs. Therefore, the Governor shall work with chief executive officers of Delaware, the District of Columbia, North Carolina, Pennsylvania, Virginia, and West Virginia to negotiate an agreement among all of these states by July 1, 1998, for the repeal of any law in each state that provides a tax subsidy, including any tax credit, deduction, exemption, or other modification, that is intended to create new jobs or entice new jobs to the state. The agreement shall specify the sections of the laws of each state that allow for such a tax subsidy and shall provide that each state will adopt legislation to repeal those sections of the laws of that executive's state, contingent on the enactment of the corresponding legislation by each of the other states. In connection with the agreement, the executives shall propose approaches for ensuring continuing compliance with the terms of the agreement. The Governor shall report to the Senate Budget and Taxation Committee and the House Ways and Means Committee of the Maryland General Assembly on or before September 15, 1998 on the status of reaching an agreement.

If an agreement has not been reached, the Governor shall include in the report alternatives to encourage agreement among the respective states, including but not limited to, increasing the amount of the job creation tax credit.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 1997.”;

in line 34, strike “3.” and substitute “8.”; in the same line, after “That” insert “, except as provided in Section 7 of this Act.”.