HB 1148

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

House Bill 1148 (Delegate Hixson, *et al.*) (Montgomery County Administration)
Ways and Means

Tax Credits - New or Expanded Business Premises

This bill creates an enhanced Businesses that Create New Jobs Tax Credit for business entities that substantially expand their businesses. The total amount of the credit claimed by the qualifying business is 90% of the property tax imposed on the increase in the assessment of the new or expanded premises and the credit is available for 12 years.

For the enhanced tax credit, the bill requires that the business entity provide written notification to the county or municipal corporation of its intent to claim the credit before it obtains the new or expanded business premises or hires new employees who meet specified job creation requirements. However, if a business entity gives required written notification by December 31, 1999 to the appropriate county or municipal corporation, the notification shall be deemed to be timely given with regard to employees hired and premises obtained from December 31, 1998 until the notification date.

The bill also repeals the December 31, 2002 termination date applicable to the existing Businesses that Create New Jobs Tax Credit and alters the definition of a new permanent position under the existing credit.

The bill is effective July 1, 1999 and is applicable for all tax years beginning after December 31, 1998.

Fiscal Summary

State Effect: Indeterminate but potentially significant effect on State revenues. General fund expenditures could decrease by an indeterminate amount.
Local Effect: Indeterminate but potentially significant effect on county and municipal revenues. Expenditures would not be affected.

Small Business Effect: None.

Fiscal Analysis

Background: Under current law, if a business entity expands or constructs at least 5,000 square feet on its premises and employs at least 25 individuals in new permanent full-time positions in the new or expanded premises, and meets other specified requirements, the business entity may be granted a local property tax credit equal to 52% of the amount of property tax imposed on the assessed value of the new or expanded premises in the first and second taxable years. If granted, the business also qualifies for a State tax credit equal to 28% of the amount of property tax of the new or expanded premises for the first and second taxable years. Combined, the expanded business qualifies for a credit of 80% of property taxes that may be claimed against local and State taxes. The credit phases-out over seven years. Under current law, the credit may be claimed against the individual or corporate income tax, the insurance premium tax, the financial institution franchise tax, or the public service company franchise tax. Also, if the business entity claims the above credit, it may not claim the Job Creation Tax Credit.

Bill Summary: The enhanced Businesses that Create New Jobs Tax Credit is increased for those business entities that meet the following requirements:

1. obtain at least 250,000 square feet of new or expanded premises;

2. continue to employ at least 2,500 individuals in existing permanent full-time positions paying at least 150% of the federal minimum wage and located at the premises in the State where the business entity, along with its affiliates, is primarily engaged in one or more specified industries or activities; and

3. employ at least 500 individuals in new permanent full-time positions paying at least 150% of the federal minimum wage and located in the new or expanded premises and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises, during each year in which the credit is claimed;

OR

4. obtain at least 250,000 square feet of new or expanded premises; and

5. employ at least 1,250 individuals in new permanent full-time positions paying at least 150% of the federal minimum wage and located in the new or expanded

premises and, if applicable, in newly renovated premises adjoining or otherwise neighboring the new or expanded premises.

If the business entity (or group of business entities) meets the above requirements, the entity will be granted a local property tax credit equal to 58.5% of the amount of property tax imposed on the assessment of the new or expanded premises for 12 years, beginning in the tax year following the date on which the credit requirements are met. In addition, the business may claim a credit against certain State taxes equal to 31.5% of its property tax amount for 12 years. Combined, the business would qualify for a 90% property tax credit for 12 years. Under the bill, the credit may not be claimed against the public service company franchise tax.

In addition, the business entity, along with its affiliates, must be primarily engaged in one or more of the industries or activities at the qualifying premises that qualify under the State Job Creation Tax Credit such as: manufacturing or mining; transportation or communications; agriculture, forestry, or fishing; research and development or testing; biotechnology; computer programming, data processing, or other computer-related services; central financial, real estate, or insurance services; the operation of central administrative offices or a company headquarters; a public utility; warehousing; or business services.

The bill authorizes a county or a municipal corporation to enact either the existing tax credit or the enhanced tax credit, or both. However, if a business entity or any of its affiliates claim the enhanced credit, it may not claim the existing credit.

The prohibition against granting the above credit to a business entity that has been certified for the Job Creation Tax Credit is also eliminated.

In addition, the bill directs the Department of Business and Economic Development (DBED) to initiate and negotiate with other states the development of an interstate compact to prohibit or reduce corporate raiding by states of other states' corporations, and the enactment of federal legislation to prohibit or reduce corporate raiding by states of other state's corporations. DBED shall be required to report to the Governor and the General Assembly on its progress in developing an interstate compact and the progress of any federal legislation.

State Effect: Currently, there is one known business entity that is planning on expanding their premises in a manner that qualifies the business for the new enhanced Businesses that Create New Jobs Tax Credit. If the affected county or municipal corporation grants the enhanced credit, the business will only be able to utilize the enhanced credit beginning in fiscal 2006, when the new facilities are projected to be operational.

The table below presents the total value of the credits for this particular business under current law and under this bill. The range indicates the credits available under three different location and expansion options that are currently being considered. The estimates represent the total credits over the 12-year period and assumes 3% growth in the assessment.

Value of Credits for Potential Business Expansion
12-Year Period

	Under Current Law	Under HB 1148
Total Value of Credits	\$2.7 - \$8.3 million	\$12.7 - \$23.9 million
Amount Claimed against State Taxes	\$0.95 - \$2.9 million	\$4.4 - \$8.4 million
Amount Claimed against Local Taxes	\$1.8 - \$5.4 million	\$8.3 - \$15.5 million

Because this is enabling legislation, its impact statewide depends on whether the counties decide to grant this credit to business entities that meet the requirements of either the existing or enhanced tax credit. Therefore, the effect of either property tax credit on State finances cannot be reliably estimated at this time.

For qualified businesses that would have expanded their facilities substantially in the absence of the bill, the enhanced credit provides an additional credit of 3.5% of the amount of property tax that may be claimed against certain State taxes in the first and second year. The extent of the resulting decrease in State revenues will depend on the number of businesses that are granted this expanded tax credit by local governments, the value of the eligible property for the credit, and the applicable property tax rates. General fund revenues will further decline as these business entities qualify for the Job Creation Tax Credit.

If the State credit is claimed against the corporate income tax, special fund revenues to the Transportation Trust Fund (TTF) would decrease since about 25% of corporate tax revenues are distributed to the TTF.

Since the bill allows the qualifying business to claim the full enhanced credit every year for 12 years, whereas the current credit phases out the credit over 7 years, future year revenue losses will increase significantly over time. For example, the additional credit qualifying businesses may claim increases to 31.5% of the property tax amount beginning in the seventh year.

To the extent that new development and employment is generated due to the enhanced credit, general fund revenues could increase through increased individual income tax and sales tax collections. This revenue increase, if any, cannot be reliably estimated at this time. In addition, expenditures on certain assistance programs could decrease.

The net effect of this bill on State revenues is indeterminate.

Local Effect: For qualified businesses that would have expanded their facilities in the absence of this bill, the bill provides an additional credit of 6.5% of the amount of property tax that may be claimed against local property taxes. Consequently, local revenues will decrease for every credit that is granted for these business expansions. The extent of the decrease will depend on the number of businesses that are granted this tax credit by local governments, the value of the eligible property for the credit, and the applicable property tax rates. Based on the information provided in the table above, the loss over time could be potentially significant. However, revenue losses could be offset to some degree by gains in employment and increased economic activity if new business expansions occur as a result of this bill.

Information Source(s): Prince George's County, City of Rockville, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 1999
nncsjr Revised - House Third Reader - March 29, 1999
Revised - Enrolled Bill - April 29, 1999

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