

SENATE BILL 819

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By: **Senators Roesser and McFadden**
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Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 29, 2001

CHAPTER _____

1 AN ACT concerning

2 **Enterprise Zones - Tax Credits**

3 FOR the purpose of altering the amount of certain income tax credits allowed to
4 certain business entities for certain wages paid to employees in an ~~enterprise~~
5 enterprise zone; altering the amount of certain income tax credits allowed to
6 certain business entities for certain wages paid to employees in a focus area;
7 requiring an employer to pay at least a certain wage to an employee being
8 claimed for an enterprise zone wage tax credit; raising, to a certain number, the
9 weekly number of hours required to be worked by an employee being claimed for
10 an enterprise zone wage tax credit; requiring the Department of Business and
11 Economic Development and the Comptroller of the Treasury to submit an
12 annual report to the General Assembly about the status of the State's enterprise
13 zone program by a certain date every year; and generally relating to enterprise
14 zones and tax credits.

15 BY repealing and reenacting, with amendments,
16 Article - Tax - General
17 Section 10-702
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2000 Supplement)

20 BY adding to
21 Article 83A - Department of Business and Economic Development
22 Section 5-405
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2000 Supplement)

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

3 **Article - Tax - General**

4 10-702.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) (i) "Business entity" means:

7 1. a person conducting or operating a trade or business; or

8 2. an organization that is exempt from taxation under §
9 501(c)(3) or (4) of the Internal Revenue Code.

10 (ii) "Business entity" does not include a person owning, operating,
11 developing, constructing, or rehabilitating property intended for use primarily as
12 single or multifamily residential property located within the enterprise zone.

13 (3) "Enterprise zone" means an area designated under Article 83A, §
14 5-402 of the Code.

15 (4) "Qualified employee" means an individual who:

16 (i) is a new employee or an employee rehired after being laid off for
17 more than one year by a business entity;

18 (ii) is employed by a business entity at least [25] 35 hours each
19 week for at least 6 months before or during the taxable year for which the entity
20 claims a credit;

21 (iii) spends at least 50% of the hours under item (ii) of this
22 paragraph, either in the enterprise zone or on activities of the business entity
23 resulting directly from its location in the enterprise zone; [and]

24 (IV) ~~IS PAID EARNNS AT LEAST 150% OF THE FEDERAL MINIMUM~~
25 ~~WAGE THROUGHOUT HIS OR HER EMPLOYMENT BY A BUSINESS ENTITY BEFORE OR~~
26 ~~DURING THE TAXABLE YEAR FOR WHICH THE ENTITY CLAIMS A CREDIT; AND~~

27 [(iv)] (V) is hired by the business entity after the later of:

28 1. the date on which the enterprise zone is designated; or

29 2. the date on which the business entity locates in the
30 enterprise zone.

31 (5) "Economically disadvantaged individual" means an individual who is
32 certified by provisions that the Department of Labor, Licensing, and Regulation
33 adopts as an individual who, before becoming employed by a business entity in an
34 enterprise zone:

1 (i) was both unemployed for at least 30 consecutive days and
2 qualified to participate in training activities for the economically disadvantaged
3 under Title II, Part B of the federal Job Training Partnership Act or its successor; or

4 (ii) in the absence of an applicable federal act, met the criteria for
5 an economically disadvantaged individual that the Secretary of Labor, Licensing, and
6 Regulation sets.

7 (6) "Focus area" has the meaning stated in Article 83A, § 5-401 of the
8 Code.

9 (7) "Focus area employee" means an individual who:

10 (i) is a new employee or an employee rehired after being laid off for
11 more than 1 year by a business entity;

12 (ii) is employed by a business entity at least 35 hours each week for
13 at least 12 months before or during the taxable year for which the entity claims a
14 credit;

15 (iii) spends at least 50 percent of the hours under item (ii) of this
16 paragraph either in the focus area or on activities of the business entity resulting
17 directly from its location in the focus area;

18 (iv) is hired by the business entity after the later of:

19 1. the date on which the focus area is designated; or

20 2. the date on which the business entity located in the focus
21 area; and

22 (v) earns at least 150 percent of the federal minimum wage.

23 (b) (1) Any business entity that is located in an enterprise zone and satisfies
24 the requirements of Article 83A, § 5-404 of the Code may claim a credit only against
25 the State income tax for the wages specified in subsections (c) and (d) of this section
26 that are paid in the taxable year for which the entity claims the credit.

27 (2) A business entity that is located in a focus area and satisfies the
28 requirements of Article 83A, § 5-404 of the Code may claim a credit only against the
29 State income tax for the wages specified in subsection (e) of this section that are paid
30 to a focus area employee in the taxable year for which the entity claims the credit.

31 (3) An organization that is exempt from taxation under § 501(c)(3) or (4)
32 of the Internal Revenue Code may apply the credit under this section as a credit
33 against income tax due on unrelated business taxable income as provided under §§
34 10-304 and 10-812 of this title.

35 (c) If a business entity does not claim an enhanced tax credit under subsection
36 (e) of this section for a focus area employee, for the taxable year in which a business

1 entity satisfies the requirements of Article 83A, § 5-404 of the Code, a credit is
2 allowed that equals:

3 (1) up to [\$1,500] \$3,000 of the wages paid to each qualified employee
4 who:

5 (i) is an economically disadvantaged individual; and

6 (ii) is not hired to replace an individual whom the business entity
7 employed in that or any of the 3 preceding taxable years; and

8 (2) up to [\$500] \$1,000 of the wages paid to each qualified employee who:

9 (i) is not an economically disadvantaged individual; and

10 (ii) is not hired to replace an individual whom the business entity
11 employed in that or any of the 3 preceding taxable years.

12 (d) (1) If a business entity does not claim an enhanced tax credit under
13 subsection (e) of this section for a focus area employee, for each taxable year after the
14 taxable year described in subsection (c) of this section, while the area is designated an
15 enterprise zone, a credit is allowed that equals:

16 (i) up to [\$1,500] \$3,000 of the wages paid to each qualified
17 employee who:

18 1. is an economically disadvantaged individual

19 2. became a qualified employee during the taxable year to
20 which the credit applies; and

21 3. is not hired to replace an individual whom the business
22 entity employed in that or any of the 3 preceding taxable years;

23 (ii) up to [\$1,000] \$2,000 of the wages paid to each qualified
24 employee who is an economically disadvantaged individual, if the business entity
25 received a credit under subsection (c)(1) of this section for the qualified employee in
26 the immediately preceding taxable year; and

27 (iii) up to [\$500] \$1,000 of the wages paid to each qualified employee
28 who is not hired to replace an individual whom the business entity employed in that
29 or any of the 3 preceding taxable years if the qualified employee:

30 1. is an economically disadvantaged individual for whom the
31 business entity received a credit under subsection (c)(1) of this section or item (i) of
32 this paragraph and a credit under item (ii) of this paragraph in the 2 immediately
33 preceding taxable years; or

34 2. is not an economically disadvantaged individual but
35 became a qualified employee during the taxable year to which the credit applies.

1 (2) A business entity that hires a qualified employee to replace another
2 qualified employee for whom the business entity received a credit under subsection
3 (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately
4 preceding taxable year may treat the new qualified employee as the replacement for
5 the other qualified employee to determine any credit that may be available to the
6 business entity under paragraph (1)(ii) or (iii) of this subsection.

7 (e) (1) For the taxable year in which a business entity satisfies the
8 requirements of Article 83A, §§ 5-402(k) and 5-404 of the Code, a credit is allowed
9 that equals:

10 (i) up to [\$3,000] \$4,500 of the wages paid to each focus area
11 employee who:

- 12 1. is an economically disadvantaged individual; and
- 13 2. is not hired to replace an individual whom the business
14 entity employed in that year or any of the 3 preceding taxable years; and

15 (ii) up to [\$1,000] \$1,500 of the wages paid to each focus area
16 employee who:

- 17 1. is not an economically disadvantaged individual; and
- 18 2. is not hired to replace an individual whom the business
19 entity employed in that year or any of the 3 preceding taxable years.

20 (2) For each taxable year after the taxable year described in paragraph
21 (1) of this subsection, while the area is designated a focus area, a credit is allowed
22 that equals:

23 (i) up to [\$3,000] \$4,500 of the wages paid to each focus area
24 employee who:

- 25 1. is an economically disadvantaged individual;
- 26 2. became a focus area employee during the taxable year to
27 which the credit applies; and
- 28 3. is not hired to replace an individual whom the business
29 entity employed in that year or any of the 3 preceding taxable years;

30 (ii) up to [\$2,000] \$3,000 of the wages paid to each focus area
31 employee who is an economically disadvantaged individual, if the business entity
32 received a credit under paragraph (1)(i) of this subsection for the focus area employee
33 in the immediately preceding taxable year; and

34 (iii) up to [\$1,000] \$1,500 of the wages paid to each focus area
35 employee who is not hired to replace an individual whom the business entity

1 employed in that year or any of the 3 preceding taxable years if the focus area
2 employee:

3 1. is an economically disadvantaged individual for whom the
4 business entity received a credit under item (ii) of this paragraph in the 2
5 immediately preceding taxable years and under:

6 A. paragraph (1)(i) of this subsection; or

7 B. item (i) of this paragraph; or

8 2. is not an economically disadvantaged individual but
9 became a focus area employee during the taxable year to which the credit applies.

10 (3) A business entity that hires a focus area employee to replace another
11 focus area employee for whom the business entity received a credit under paragraph
12 (1)(i) of this subsection and paragraph (2)(ii) of this subsection in the immediately
13 preceding taxable year may treat the focus area employee as the replacement for the
14 other focus area employee to determine any credit that may be available to the
15 business entity under paragraph (2)(ii) or (iii) of this subsection.

16 (f) If the credit allowed under this section in any taxable year exceeds the
17 State income tax for that taxable year, a business entity may apply the excess as a
18 credit against the State income tax for succeeding taxable years until the earlier of:

19 (1) the full amount of the excess is used; or

20 (2) the expiration of the 5th taxable year from the date on which the
21 business entity hired the qualified employee to whom the credit first applies.

22 (g) If a credit is claimed under this section, the claimant must make the
23 addition required in § 10-205, § 10-206, or § 10-306 of this title.

24 **Article 83A - Department of Business and Economic Development**

25 5-405.

26 (A) THE DEPARTMENT AND THE COMPTROLLER OF THE TREASURY JOINTLY
27 SHALL ASSESS THE EFFECTIVENESS OF THE TAX CREDITS PROVIDED TO
28 BUSINESSES IN ENTERPRISE ZONES AND FOCUS AREAS WITHIN ENTERPRISE ZONES,
29 INCLUDING THE NUMBER AND AMOUNTS OF CREDITS ANNUALLY GRANTED AND THE
30 SUCCESS OF THE TAX CREDITS IN ATTRACTING AND RETAINING BUSINESSES WITHIN
31 ENTERPRISE ZONES AND FOCUS AREAS WITHIN ENTERPRISE ZONES.

32 (B) ON OR BEFORE DECEMBER 15, 2002, AND ON OR BEFORE DECEMBER 15 OF
33 EACH SUBSEQUENT YEAR, THE DEPARTMENT AND THE COMPTROLLER SHALL
34 SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT
35 ARTICLE, TO THE GENERAL ASSEMBLY A REPORT OUTLINING THE FINDINGS OF THE
36 DEPARTMENT AND THE COMPTROLLER AND ANY OTHER INFORMATION OF VALUE IN
37 DETERMINING THE EFFECTIVENESS OF THESE TAX CREDITS.

1 ~~ON OR BEFORE JULY 15, 2002, AND ON OR BEFORE JULY 15 EVERY YEAR~~
2 ~~THEREAFTER, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE~~
3 ~~DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY~~
4 ~~REGARDING THE STATUS OF THE ENTERPRISE ZONES ESTABLISHED UNDER THIS~~
5 ~~SUBTITLE.~~

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2001 and shall be applicable to all taxable years beginning after December 31,
8 2000.