Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 707 (Montgomery County Delegation)
Ways and Means Budget and Taxation

Montgomery County - Tax Credit for Businesses That Create New Jobs – Qualifications
MC 212-02

This bill changes certain qualifications for the existing "Businesses that Create New Jobs" enhanced tax credit in Montgomery County.

The bill is effective July 1, 2002 and applicable to tax years after December 31, 2002.

Fiscal Summary

State Effect: Potential significant decreases in general and special fund revenues from property and income tax credits.

Local Effect: Potential significant decrease in property tax revenues in local governments that offer the regular tax credit.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that in Montgomery County, to qualify for an enhanced property tax credit, a business must expend $150 million to obtain at least 700,000 square feet of new premises and employ a total of 1,100 individuals in full-time positions including at least 500 new full-time positions. All positions must receive an employer subsidized health care benefits package and pay at least 150% of federal minimum wage. These employees must be located either in the new premises or in renovated premises adjoining or otherwise neighboring the new premises.

The bill also provides that, in Montgomery County, a new permanent full-time position includes a contract position of definite duration lasting at least 12 months with an unlimited renewal option. This change applies to both the regular and enhanced tax credits. The bill also provides that businesses that have already provided written notice of qualification for the existing businesses that create new jobs tax credit and that notice has been accepted before the effective date of the bill will remain in full force and effect.

Current Law: The "Businesses that Create New Jobs" credit was enacted by Chapters 623 and 624 of 1997, modified by Chapter 683 of 1998, and modified again by Chapters 510 and 492 of 1999. As modified, a county or municipality is authorized to grant property tax credits against real and personal property taxes of a business that locates or expands within its jurisdiction. In order to qualify for the tax credit, the business must locate in new or expanded office space of at least 5,000 square feet that has not been previously occupied and must create at least 25 new full-time jobs. The county and municipal governments provide a tax credit equal to a percentage of the amount of property tax imposed on the assessment of the new or expanded premises. The State participates by granting a credit against State taxes equal to 35% of the property tax credit granted by the county or municipality. Because this is enabling legislation for local governments, a State tax credit is only granted if a local jurisdiction first grants a credit.

A business can qualify for an enhanced property tax credit if it obtains at least 250,000 square feet of new or expanded premises, continues to employ at least 2,500 individuals in existing full-time positions, and employs at least 500 individuals in new permanent full-time positions or obtains 250,000 square feet of new or expanded premises and employs at least 1,250 individuals in new permanent full-time positions. The definition of full-time position is "a full-time position of indefinite duration." The definition of new or expanded premises is "real property, including a building or part of a building that has not been previously occupied, where a business entity or its affiliates locate to conduct business." An enhanced property tax credit provides a State, county, and municipal property tax credit for each of the first 12 taxable years after the business qualifies for the credit in an amount equal to 58.5% of the amount of property tax imposed on the increase in assessment. The business is also entitled to a credit against the individual or corporate income tax, insurance premiums tax, or financial institution franchise tax that would otherwise be due to equal 31.5% of the amount of property tax imposed on the increase in assessment of the real and personal property for each of the first 12 taxable years for which the credit is allowed.

Background: According to legislative testimony, Montgomery County has been at a disadvantage in competing with Northern Virginia for business locations because Northern Virginia has had a glut of vacant, new office buildings.

The cost of the enhanced credit is based on a 65% local/35% State split which is similar to the original credit. The existing credit equals 80% of property taxes that would have otherwise been due on the new space, phasing out over six years. The new enhanced credit equals 90% of property taxes that would have otherwise been due, phasing out over 12 years. Both the original and the new enhanced credits have five-year carryforwards.

State Fiscal Effect: For those qualified business expansions that would have occurred in the absence of this bill, the credit results in a loss of State revenues. The extent of the decrease depends on the number of businesses that are granted this tax credit, the value of the property eligible for the credit, and the applicable property tax rates.

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 income tax revenues are distributed to the TTF.

To the extent that new development and employment is generated due to the less stringent requirements for the credit in Montgomery County, general fund revenues could increase by an indeterminate amount through increased individual income tax and sales tax collections.

The impact of the changes in the bill related to the enhanced tax credit is expected to be minimal, as very few businesses would qualify. To the extent that an enhanced tax credit prohibits the business from claiming another property tax credit, such as an enterprise zone credit, the revenue loss would be mitigated by the decrease in other property tax credits that would have been granted in the absence of this bill. Under the current qualifications for the enhanced credit, in Montgomery County no businesses qualify and the county expects only two businesses to qualify, the first in fiscal 2005 and the second in fiscal 2006.

The Department of Legislative Services is only aware of one company that would qualify for the credit under this bill, Discover Communications, Inc. that has begun expansion in the Silver Spring Enterprise Zone. Based on information supplied by Montgomery County, which the department cannot verify, the State credit for Discovery Communications would total $10,023 in the first year and $2,989,310 over the life of the credit, i.e., 12 years. That cost is the difference between the credits provided under this bill and the enterprise zone credit for which the company currently qualifies.

Local Fiscal Effect:

Montgomery County

For those qualified business expansions that would have occurred in the absence of this bill, local revenues will decrease. The extent of the decrease will depend on the number of businesses that are granted this tax credit, the value of the property eligible for the credit, and the applicable property tax rates. Based on information supplied by Montgomery County, which the department cannot verify, the county property tax credit for Discovery Communications would total $545,376 in the first year and $10,169,516 over the life of the credit, i.e., 12 years. That cost is the difference between the credits provided under this bill and the enterprise zone credit for which the company currently qualifies.

If this legislation spurs new economic development and employment, local revenues would increase. In addition, property tax revenues could increase as a result of additional economic development.

Local revenues would decline for those credits claimed against the corporate income tax, since a portion of the TTF is distributed to local governments.

Additional Comments: Montgomery County advises that State and county revenues will increase as a result of this bill due to economic development from the relocation of Discovery Communications to the Silver Spring Enterprise Zone. However, it is the position of the Department of Legislative Services that since Discovery Communications is already in the process of expanding and relocating, the resultant economic development impact would not be a direct result of this bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Montgomery County, Comptroller's Office (Bureau of Revenue Estimates), Department of Legislative Services

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Analysis by: Karen S. Benton

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510