SB 594

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 594 (Senator Currie)
Budget and Taxation Ways and Means

Work, Not Welfare, and Qualifying Employees with Disabilities Tax Credits

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This bill extends the sunset date for the Employment Opportunity Credit (Work, Not Welfare and Qualifying Employees with Disabilities Tax Credit) from June 30, 2003 to June 30, 2006. The credits are allowed for employees hired before July 1, 2006.

The bill takes effect July 1, 2003 and sunsets June 30, 2006. Credits may be carried forward for tax years beginning after January 1, 2009.

Fiscal Summary

State Effect: General fund and Transportation Trust Fund (TTF) revenues would continue to decrease after FY 2010 as a result of extending the sunset of the Employment Opportunity Tax Credit and the Disability Employment Tax Credit. The amount of the decrease cannot be reliably estimated and depends on the number of businesses that would use the credit, the number of jobs that would be created, and the wages paid to qualified employees, but could be significant.

Local Effect: Local government revenues would continue to decline after FY 2010 as a result of corporate taxpayers claiming the Employment Opportunity Tax Credit and the Disability Employment Tax Credit. Seventy-six percent of corporate tax revenues is distributed to the general fund and 24% is distributed to the TTF. Of the 24% distributed to the TTF, approximately 30% is distributed to local jurisdictions.

Small Business Effect: Small businesses that hire eligible employees would continue to benefit from reduced income tax liabilities resulting from the credit.

Analysis

Current Law/Background: See below.

State Tax Credit

Chapter 492 of 1995 complemented the General Assembly's welfare reform legislation by allowing a credit against the State income tax, the financial institution franchise tax, and the public service company franchise tax for wages paid by a business entity to a "qualified employment opportunity employee" and for child care expenses incurred by a business entity to enable a qualified employment opportunity employee to be gainfully employed.

As enacted by Chapter 492, the credit was allowed for an employee who is a resident of Maryland and who for six months before the employment commenced was a recipient of benefits under the Aid to Families with Dependent Children program. The amount of the credit for wages was 30%, 20%, and 10%, respectively, of up to the first $6,000 of the wages paid to the employee during the first year, second year, and third year, respectively, of employment. The amount of the credit for child care expenses is up to $600, $500, and $400, respectively, of the qualified child care expenses for the first year, second year, and third year, respectively, of employment. The credit is limited to the total tax owed for the taxable year, but unused credit may be carried over for five taxable years.

The credit is not allowed for an employee who is hired to replace a laid-off or striking employee, for an employee for whom the business simultaneously receives federal or State employment training benefits, or for an employee whose employment lasts for less than one year. If an employee's employment lasts less than one year because the employee voluntarily terminates employment, is terminated for cause, or is unable to continue employment due to death or disability, a pro-rata credit is allowed. As enacted under Chapter 492 of 1995, the credit was allowed only for employees hired on or after June 1, 1995, but before June 30, 1998. The provisions relating to the credit expire after three years except to the extent the unused credit may be carried forward.

Following up on the 1995 legislation, the 1996 General Assembly enacted legislation expanding the availability of the credit. Chapter 626 of 1996 made the credit available to nonprofit tax-exempt organizations that have unrelated business income subject to the income tax. Chapter 379 of 1996 extended eligibility for the employment opportunity credit to insurance companies subject to the insurance premiums tax. Chapter 379 also broadened the class of employees for whom a business is eligible for the credit, reducing from six to three the number of months prior to the employment for which an individual must have been a welfare recipient to qualify as an employee for whom the credit is allowed. The Act also provided that if an employee's employment lasts less than one year because the employee voluntarily terminates employment, the credit is not required to be prorated if the employee left to take another job.

The Work, Not Welfare Tax Credit law was originally enacted in 1995 with a three-year termination provision. Chapters 598 and 599 of 1998 modified the tax credit and extended the termination date for the program for three additional years so that the program applies to employees hired before July 1, 2001.

Under Chapters 598 and 599, the Work, Not Welfare Tax Credit is limited to the first two years of employment (three years under former law). The Acts added an enhanced credit for employment of individuals who have been on welfare for 18 of the last 48 months, equal to 40% of up to the first $10,000 in wages paid. In addition, the Acts added transportation expenses incurred on the employee's behalf as an eligible expense for which an employer is allowed a credit. The Acts also added several reporting requirements to enhance the program's accountability.

Chapter 448 of 2000 altered the definition of a qualified employment opportunity employee by changing the requirement that the individual must have been a recipient of Temporary Cash Assistance (TCA) from the State from three months to any three months during the 18-month period before the individual's employment.

Chapter 448 also transferred the responsibility for the determination of a qualified employee with a disability from the Division of Rehabilitative Services (DORS) of the Maryland State Department of Education (MSDE) to the Department of Labor, Licensing, and Regulation (DLLR) in consultation with MSDE.

Chapter 448 also added veterans that were discharged or released from active duty in the U.S. armed forces for a service-related disability to the definition of a qualified employee with a disability for the purposes of the credit for hiring a disabled individual. The percentage of the first $6,000 in wages paid to a disabled individual allowed as a credit increased from 20% to 30% for the first year.

The Employment Opportunity Credit (Work, Not Welfare and Qualifying Employees with Disabilities Tax Credit) sunsets June 30, 2003 and the credits are allowed for employees hired before July 1, 2003.

Federal Tax Credit

Employers may claim the State tax credit for an unlimited number of employees and claim the tax credit along with the Federal Work Opportunity Tax Credit (WOTC) and the Federal Empowerment Zone credits if the employee is qualified.

WOTC is a one-time federal tax credit available to employers who hire new employees from a qualified population of low-income groups, including workers with disabilities. The credit may be claimed on up to 40% of the first $6,000 in paid wages ($2,400 per employee) if the individual works a minimum of 180 days or 400 hours, and up to 25% of the first $6,000 in paid wages ($1,500 per employee) if the individual works a minimum of 120 hours but less than 400 hours. For qualified summer youth, the credit is 25% of the first $3,000 in first-year wages paid during the 90-day summer working period, allowing a maximum credit of $750.

Qualified individuals include temporary, seasonal, part-time, and full-time employees who fall under any of the following categories:

- recipients of TCA benefits;
- veterans;
- ex-felons;
- high-risk youth;
- vocational rehabilitation referral;
- summer youth;
- food stamp recipients; and
- Supplemental Security Income (SSI) recipients.

Employers may claim an unlimited number of employees, claim the tax credit along with Maryland's EOC, the Disability Employment Tax Credit (MDETC), and Enterprise Zone tax credits if the employee is qualified.

State Fiscal Effect: General fund and TTF revenues would continue to decrease beyond fiscal 2010 as a result of extending the sunset of the credit until June 30, 2006. Because the credit may not exceed the tax liability for the year and may be carried forward for up to five, the total amount of the credit earned in any given tax year could be greater than the actual amount that is taken on returns filed for the tax year.

As a point of reference, **Exhibit 1** shows the number of returns and the amount of Employment Opportunity Tax Credit earned.

Exhibit 1
Employment Opportunity Tax Credit Earned

Fiscal Year	Number of Returns	Individual Returns	Corporate Returns	Total
1995	8	$5,385	$30,519	$35,904
1996	35	$39,471	$133,392	$172,863
1997	60	$71,989	$68,271	$140,260
1998	46	$65,183	$13,881	$79,064
1999	58	$604,410	$318,696	$923,106
2000	71	$212,708	$219,455	$432,163
2001	31	$196,496	$58,221	$254,717

Exhibit 2 shows the number or returns and the amount of Disability Employment Tax Credit earned.

Exhibit 2
Disability Employment Tax Credit Earned

Fiscal Year	Number of Returns	Individual Returns	Corporate Returns	Total
1997	N/A	$--	$1,168	$1,168
1998	14	$3,357	$4,290	$7,647
1999	35	$28,211	$53,925	$82,136
2000	44	$25,646	$28,689	$54,335
2001	19	$14,302	$4,668	$18,970

It is estimated that the amount of credits claimed in future years would not exceed $1.0 million annually.

To the extent that: (1) the changes to the sunset extension generates economic activity that would otherwise not have taken place without the sunset extension; and (2) the additional economic activity generates additional sales tax, income tax, or property tax revenues, there may be some partial offset of the revenue loss resulting from the sunset extension. Legislative Services advises, however, that it cannot be determined how much of this economic activity would have taken place without the sunset extension, reducing the impact of any indirect tax revenue recoupment.

Credits taken on personal income tax returns reduce general fund revenues in the amount of the credits. Because 76% of all corporate income tax revenues is distributed to the general fund and 24% is distributed to the TTF, credits taken on corporate income tax returns reduce general fund revenues by 76% of the amount of the credits taken, and TTF revenues would be reduced by 24% of the credits taken. In addition, 30% of the 24% of revenue distributed to the TTF is distributed to local governments. At this time, the number of credits expected to be claimed on personal or corporate income tax returns cannot be reliably estimated.

Local Fiscal Effect: Local government revenues would continue to decline after fiscal 2010 as a result of corporate taxpayers claiming the Employment Opportunity Tax Credit and the Disability Employment Tax Credit. As mentioned above, 76% of corporate tax revenues is distributed to the general fund and 24% is distributed to the TTF. Of the 24% distributed to the TTF, approximately 30% is distributed to local jurisdictions.

Additional Information

Prior Introductions: None.

Cross File: HB 884 (Delegate Marriott) – Ways and Means.

Information Source(s): Comptroller's Office, Department of Legislative Services

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lc/jr

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