

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 839 (Delegate Jones, *et al.*)
Economic Matters

Economic Development and Fiscal Accountability Act

This bill requires the State Department of Assessments and Taxation (SDAT) to submit a Unified Property Tax Exemption and Credit Report to the General Assembly by December 31 of each year. It also requires the Department of Business and Economic Development (DBED) to submit a Unified Economic Development Report by December 31 of each year to the General Assembly. All reports must be published in written and electronic format on the respective departments' web sites. The bill also contains penalties (including fines and withholding of program funds) for any State agency, local jurisdiction, or subsidy recipient that fails to cooperate in preparing these reports.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: Significant general fund expenditures to comply with the bill's data collection and reporting requirements. Potentially significant increase in general fund revenues would increase due to the bill's penalty provisions.

Local Effect: Increase in local government expenditures to comply with the reporting requirements. The bill could also delay the receipt of revenues for any local government that is not compliant with the bill's requirements. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potentially meaningful. Any small business that receives a subsidy as defined by the bill would be subject to a fine for failing to assist with providing information.

Analysis

Bill Summary: The bill requires the submission and publication of the following reports:

Unified Economic Development Budget Report

The Unified Economic Development report to be prepared by DBED must list all types of State expenditures made for economic development purposes during the prior fiscal year, including the amount of uncollected State tax revenues resulting from every State or local corporate or other business tax credit, abatement, exemption, and reduction of the following taxes – gross receipts, income, sales and use, excise, property; and inventory.

The report must also include: (1) the name of each corporate or other business taxpayer who claimed a tax credit, abatement, exemption, or reduction worth \$5,000 or more and the dollar amount received by the taxpayer; and (2) State-appropriated expenditures for economic development, with line-item budgets for every State-funded entity or program concerned with economic development, including university research programs and vocational or job-skills training programs.

Unified Annual Development Subsidy Report

The bill also requires a granting body, defined as a State agency or local jurisdiction that provides a development subsidy, to file an annual development report with DBED by February 1 of each year for each project for which a subsidy was granted. The bill defines a development subsidy as an expenditure of at least \$25,000 of public funds for stimulating economic development within the State and includes items such as bonds, grants, loans, enterprise or empowerment zones, or tax credits.

Information required for the report includes:

- a summary of the jobs created or lost and the average hourly wage paid to all current and new employees at a project site according to ten specified wage groups;
- the type and amount of health care coverage provided to an employee at a project site, including any cost paid by the employee; and
- a comparison of the total employment in the State by the subsidy recipient on the date of the recipient's application for the development subsidy and at the end of the fiscal year covered by the annual report, broken down by full-time, part-time, and temporary positions.

The report must contain a statement as to whether the subsidy effectively increased employment and whether the recipient is in compliance with its job creation and wage and benefit goals. A granting body must file an annual report for each subsidy recipient for the duration of the development subsidy or five years, whichever is greater.

Unified Property Tax Exemption and Credit Report

The Unified Property Tax Exemption and Credit Report to be prepared by SDAT must contain a listing of all property tax exemptions or credits for the previous fiscal year that are development subsidies, including:

- the name and address of the property owner;
- each property tax exemption or credit for the property;
- the amount of property tax revenues not collected by the taxing authority as a result of the property tax exemption or credit; and
- the total property tax revenues not paid to the State and local jurisdictions in the previous fiscal year because of a property tax exemption or credit that is a development subsidy.

If a State agency or local jurisdiction does not cooperate with and assist with the preparation of these reports, the department responsible for the report must notify the Comptroller, who must withhold payment of all development subsidies to the agency or jurisdiction until assistance is provided. A noncompliant subsidy recipient is subject to a \$500 fine for each day the recipient does not comply with the requirements of the bill.

All of the reports described above must be made available to the public.

Current Law: Several State agencies track the information described in the bill in various forms; for example, the Department of Budget and Management (DBM) compiles a biennial Tax Expenditure Report. DBED is required by law to provide information to the General Assembly about the financing programs that it administers.

The Maryland Public Information Act requires any records made or received by a public agency in connection with the transaction of public business to be considered public records. However, State and federal laws protect the disclosure of taxpayer information and some company-specific data such as inventions and research. The DC Circuit Court ruled in *National Parks and Conservation Association v. Morton* that financial or commercial information a person is required to give the government should be considered confidential if disclosure would impair the government's ability to obtain the necessary information in the future or it would cause substantial harm to the person's competitive position.

Federal law allows tax returns and return information to be open to inspection by any State agency charged with administration of State tax laws only for the administration of such laws. SDAT advises that business information on business personal property returns, such as exemption amounts for inventory and research and development, has been considered proprietary.

Background: The State provides an array of economic development incentives to businesses that include: (1) loans, grants, and loan guarantees to small businesses; (2) loans to local governments in distressed jurisdictions; (3) loans to businesses in specific industry sectors for capital projects; and (4) conditional grants and loans and job training fund for businesses that are proposing a project that meets the statutory criteria of a significant economic development opportunity. DBED provides loans or grants that exceed \$25,000 to about 325 businesses. The Department of Housing and Community Development provides loans, grants, and tax credits to small businesses under its Neighborhood Business Development program and other programs. Local governments also provide loans, grants, and workforce developing training assistance.

Businesses are also eligible for a multitude of State tax credits, including those for heritage structure rehabilitation, research and development, job creation, hiring people with disabilities, and location in a designated enterprise zone or One Maryland area (an economically distressed area). Local jurisdictions may offer tax increment financing, property tax exemptions, and other tax incentives. According to SDAT, 531 businesses located in empowerment or enterprise zones will receive property tax credits in fiscal 2004. The State's cost will be \$4.9 million.

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) has promoted model legislation, also entitled the Economic Development and Accountability Act, that closely resembles the proposed requirements of the bill. According to the AFL-CIO, at least seven states have disclosure laws or procedures that generate annual, company-specific data about state subsidies.

Maine requires a business receiving certain economic development incentives that exceed \$10,000 in one year to submit a written report by August 1 of the following year that describes the number and wage level of jobs created or retained as a result of the incentive, the total amount of assistance received from all economic assistance programs, and the business's performance with respect to the public purpose identified with the incentive. State agencies, including the State Tax Assessor, the Commissioner of Labor, and Maine Technical College, are required to report annually to the legislature regarding State workforce development and training expenditures, public funds and foregone revenues associated with economic incentives, and public funds spent for the direct benefit of businesses.

State Fiscal Effect: The bill requires State agencies (including universities) to expand their data collection and develop the necessary procedures and infrastructure to collect information in the format required by the bill. DBED gathers some of the information required, such as the name and address of each subsidy recipient, a summary of the number of jobs created or lost during the past year, and a comparison of the total employment on the date of the application and at the end of the fiscal year. It does not collect the specified development subsidy information from the 24 local jurisdictions or from other State agencies.

Both DBED and the Comptroller's Office will need considerable additional staff to collect and coordinate the amount of information required by the bill. While the number of staff that would be needed cannot be readily quantified, the cost could be significant as some of the work would likely require professional fiscal staff.

General fund revenues would increase to the extent that any jurisdiction or subsidy recipient does not comply with the reporting requirements and pays the \$500 daily fine imposed by the bill. This increase could be significant.

Local Fiscal Effect: Local governments may incur expenditures or additional workload to comply with the reporting requirements of the bill. Some of the information, such as property tax information and utility taxes, is already collected. However, Montgomery County advises that it gathers overall employment data, but not wage data separated in \$1 increments as required by the bill. The county also advises that it could be more difficult to recruit companies to relocate if those businesses were required to report information not collected by competing jurisdictions. The county provided \$2.5 million in financial assistance in fiscal 2001, which was leveraged with \$9.5 million in State funds.

Small Business Effect: The bill affects any small business that received any type of grant, loan, or tax credit from the State or a local jurisdiction. Many small businesses may have to report information that is not currently tabulated.

Companies that are reluctant to disclose certain information may also incur the fine required under the bill, as well as legal fees.

Additional Information

Prior Introductions: None.

Cross File: SB 628 (Senator Della) – Budget and Taxation.

Information Source(s): Department of Assessments and Taxation, Board of Public Works, Comptroller's Office, Maryland Public Information Act Manual, Montgomery County, Department of Legislative Services

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